

ORDERS FOR OCTOBER 1, 1990, THROUGH
FEBRUARY 28, 1991

OCTOBER 1, 1990

Certiorari Granted—Vacated and Remanded

No. 89-1915. ARTHUR *v.* HILLSBOROUGH COUNTY BOARD OF CRIMINAL JUSTICE. Dist. Ct. App. Fla., 2d Dist. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Howlett v. Rose*, 496 U. S. 356 (1990). Reported below: 563 So. 2d 94.

No. 89-7022. STONE *v.* UNITED STATES. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Hughey v. United States*, 495 U. S. 411 (1990). Reported below: 896 F. 2d 558.

No. 89-7271. TIDWELL *v.* UNITED STATES. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Grady v. Corbin*, 495 U. S. 508 (1990). Reported below: 896 F. 2d 554.

No. 89-7362. HILL *v.* BLACK, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS, ET AL. C. A. 5th 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 *Clemons v. Mississippi*, 494 U. S. 738 (1990). Reported below: 887 F. 2d 513 and 891 F. 2d 89.

No. 89-7665. MARTIN *v.* VIRGINIA. Sup. Ct. Va. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Grady v. Corbin*, 495 U. S. 508 (1990).

No. 90-168. LARSON *v.* MINNESOTA. Sup. Ct. Minn. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Idaho v. Wright*, 497 U. S. 805 (1990). Reported below: 453 N. W. 2d 42.

October 1, 1990

498 U. S.

No. 90-5045. *PRICE v. NORTH CAROLINA*. Sup. Ct. N. C. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *McKoy v. North Carolina*, 494 U. S. 433 (1990). Reported below: 326 N. C. 56, 388 S. E. 2d 84.

Certiorari Dismissed

No. 89-7043. *KUDLER v. JUDICIAL COUNCIL OF THE SECOND CIRCUIT*. C. A. 2d Cir. Certiorari dismissed for want of jurisdiction.

Miscellaneous Orders

No. — — ——. *DABISH v. CHRYSLER MOTORS CORP.*;

No. — — ——. *GOLUB v. UNIVERSITY OF CHICAGO ET AL.*; and

No. — — ——. *SPAIN v. METRO MACHINES CORP. ET AL.*

Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. D-808. *IN RE DISBARMENT OF ADDAMS*. Disbarment entered. [For earlier order herein, see 492 U. S. 941.]

No. D-837. *IN RE DISBARMENT OF MARCONE*. Motion for reinstatement to the Bar of this Court denied without prejudice to seeking reinstatement following the completion of the proceedings before the Disciplinary Board of Pennsylvania. [For earlier order herein, see, *e. g.*, 493 U. S. 1066.]

No. D-905. *IN RE DISBARMENT OF HANNA*. Disbarment entered. [For earlier order herein, see 496 U. S. 902.]

No. D-907. *IN RE DISBARMENT OF RICHMAN*. Disbarment entered. [For earlier order herein, see 496 U. S. 923.]

No. D-908. *IN RE DISBARMENT OF NEISTEIN*. Disbarment entered. [For earlier order herein, see 496 U. S. 923.]

No. D-914. *IN RE DISBARMENT OF WATKINS*. Disbarment entered. [For earlier order herein, see 497 U. S. 1002.]

No. 65, Orig. *TEXAS v. NEW MEXICO*. Final Report of the River Master for Accounting Year 1990 adopted. Motion of the River Master for approval of fees and expenses granted, and the River Master is awarded \$5,063.44 for the period April 1 through June 30, 1990, to be paid equally by the parties. [For earlier order herein, see, *e. g.*, 495 U. S. 901.]

498 U. S.

October 1, 1990

No. 106, Orig. ILLINOIS *v.* KENTUCKY. Report of the Special Master received and ordered filed. Exceptions to the Report, with supporting briefs, may be filed by the parties within 45 days. Replies, if any, may be filed by the parties within 30 days. Motion of the Special Master for compensation and reimbursement of expenses granted, and the Special Master is awarded \$108,838.95 for the period June 27, 1988, through July 6, 1990, to be paid equally by the parties. [For earlier order herein, see, *e. g.*, 487 U. S. 1215.]

No. 111, Orig. DELAWARE *v.* NEW YORK. Motion of New Jersey, North Dakota, and Wyoming for leave to file complaint in intervention referred to the Special Master. [For earlier order herein, see, *e. g.*, 493 U. S. 989.]

No. 112, Orig. WYOMING *v.* OKLAHOMA. Report of the Special Master received and ordered filed. Exceptions to the Report, with supporting briefs, may be filed by the parties within 45 days. Replies, if any, may be filed by the parties within 30 days. [For earlier order herein, see, *e. g.*, 489 U. S. 1063.]

No. 89-680. JAMES B. BEAM DISTILLING CO. *v.* GEORGIA ET AL. Sup. Ct. Ga. [Certiorari granted, 496 U. S. 924.] Motion of Council of State Governments et al. for leave to file a brief as *amici curiae* granted.

No. 89-1298. INGERSOLL-RAND CO. *v.* MCCLENDON. Sup. Ct. Tex. [Certiorari granted, 494 U. S. 1078.] Motion of respondent for divided argument denied.

No. 89-1330. INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS ET AL. *v.* BROWN. C. A. 4th Cir. [Certiorari granted, 496 U. S. 935.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 89-1416. AIR COURIER CONFERENCE OF AMERICA *v.* AMERICAN POSTAL WORKERS UNION, AFL-CIO, ET AL. C. A. D. C. Cir. [Certiorari granted, 496 U. S. 904.] Motion of respondents American Postal Workers Union, AFL-CIO, et al. to dismiss the writ of certiorari for lack of jurisdiction denied. Motion of the Acting Solicitor General for divided argument granted.

No. 89-1452. MOBIL OIL EXPLORATION & PRODUCING SOUTHEAST, INC., ET AL. *v.* UNITED DISTRIBUTION COS. ET AL.; and

October 1, 1990

498 U. S.

No. 89-1453. *FEDERAL ENERGY REGULATORY COMMISSION v. UNITED DISTRIBUTION COS. ET AL.* C. A. 5th Cir. [Certiorari granted, 496 U. S. 904.] Motion of petitioners for divided argument granted.

No. 89-1541. *DOLE, SECRETARY OF LABOR v. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION ET AL.* C. A. 10th Cir. [Certiorari granted, 497 U. S. 1002.] Motion of the Solicitor General to dispense with printing the joint appendix granted. Motion of Occupational Safety and Health Review Commission for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 89-1629. *SALVE REGINA COLLEGE v. RUSSELL.* C. A. 1st Cir. [Certiorari granted, 497 U. S. 1023.] Motion of Ford Motor Co. for leave to file a brief as *amicus curiae* granted.

No. 89-1717. *FLORIDA v. BOSTICK.* Sup. Ct. Fla. Motion of respondent for leave to proceed *in forma pauperis* granted.

No. 89-1836. *GENTILE v. STATE BAR OF NEVADA.* Sup. Ct. Nev.;

No. 89-1895. *ASTORIA FEDERAL SAVINGS & LOAN ASSN. v. SOLIMINO.* C. A. 2d Cir.;

No. 89-1905. *WISCONSIN PUBLIC INTERVENOR ET AL. v. MORTIER ET AL.* Sup. Ct. Wis.;

No. 89-1949. *TILGHMAN ET AL. v. KOLKHORST.* C. A. 4th Cir.;

No. 89-1973. *JOSLYN MANUFACTURING CO. v. T. L. JAMES & CO., INC.* C. A. 5th Cir.;

No. 90-69. *POWERLINE SUPPLY CO., INC., ET AL. v. T. L. JAMES & CO., INC.* C. A. 5th Cir.;

No. 89-2008. *CLINTON, GOVERNOR OF ARKANSAS, ET AL. v. JEFFERS ET AL.* Appeal from D. C. E. D. Ark.;

No. 89-2026. *MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE UNITED STATES, INC., ET AL. v. ABRAMS, ATTORNEY GENERAL OF NEW YORK.* C. A. 2d Cir.;

No. 90-34. *EXXON CORP. v. CENTRAL GULF LINES, INC., ET AL.* C. A. 2d Cir.;

No. 90-95. *PUBLIC UTILITIES COMMISSION OF OHIO ET AL. v. CSX TRANSPORTATION, INC., ET AL.* C. A. 6th Cir.; and

No. 90-102. *LIBERTY COUNTY, FLORIDA, ET AL. v. SOLOMON ET AL.* C. A. 11th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

498 U. S.

October 1, 1990

No. 89-1927. UNITED STATES *v.* FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF TEMPLE. C. A. 5th Cir. Motion of respondent to substitute Resolution Trust Corporation in place of First Federal Savings & Loan Association, Temple, Texas, granted.

No. 89-5867. IRWIN *v.* DEPARTMENT OF VETERANS AFFAIRS ET AL. C. A. 5th Cir. [Certiorari granted, 493 U. S. 1069.] Motion of petitioner for divided argument denied.

No. 89-6332. MINNICK *v.* MISSISSIPPI. Sup. Ct. Miss. [Certiorari granted, 495 U. S. 903.] Motion of Mississippi State Bar for leave to file an amended *amicus curiae* brief granted.

No. 89-7063. LANDES *v.* JOOST. C. A. 3d Cir. Motion of petitioner to reconsider order denying leave to proceed *in forma pauperis* [496 U. S. 934] denied.

No. 89-7370. GOZLON-PERETZ *v.* UNITED STATES. C. A. 3d Cir. [Certiorari granted, 496 U. S. 935.] Motion for appointment of counsel granted, and it is ordered that Peter Goldberger, Esq., of Philadelphia, Pa., be appointed to serve as counsel for petitioner in this case.

No. 89-7594. PLETTEN *v.* NEWMAN ET AL. C. A. 6th Cir.;

No. 89-7826. TURNER *v.* DISTRICT BOARD OF TRUSTEES OF MIAMI-DADE COMMUNITY COLLEGE. C. A. 11th Cir.; and

No. 90-5032. COBB *v.* CITY OF DETROIT COMMON COUNCIL ET AL. C. A. 6th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until October 22, 1990, within which to pay the docketing fee required by Rule 38(a) and to submit petitions in compliance with Rule 33 of the Rules of the Court.

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. 89-7518. IN RE FLOWERS;

No. 89-7752. IN RE WILKERSON;

No. 89-7754. IN RE COFIELD;

October 1, 1990

498 U. S.

No. 90-5044. IN RE GILL;
No. 90-5078. IN RE SILVERBURG;
No. 90-5104. IN RE ANTONELLI;
No. 90-5132. IN RE BROWN;
No. 90-5218. IN RE MCKNIGHT; and
No. 90-5333. IN RE HARRISON. Petitions for writs of habeas corpus denied.

No. 90-5369 (A-88). IN RE VEY. Application for bail, addressed to JUSTICE O'CONNOR and referred to the Court, denied. Petition for writ of habeas corpus denied.

No. 89-7455. IN RE ARCHIE;
No. 89-7621. IN RE CEDILLO;
No. 89-7639. IN RE HAYDEN;
No. 89-7682. IN RE TAYLOR;
No. 89-7740. IN RE CARSON;
No. 89-7755. IN RE COOK;
No. 89-7785. IN RE COLLIER;
No. 89-7880. IN RE KALTENBACH;
No. 90-155. IN RE MILLAN;
No. 90-184. IN RE ROYCE;
No. 90-5108. IN RE CEDILLO;
No. 90-5317. IN RE HEGWOOD;
No. 90-5325. IN RE GRAY; and
No. 90-5372. IN RE ABDUL-AKBAR. Petitions for writs of mandamus denied.

No. 89-1849. MANSELL *v.* MANSELL. Ct. App. Cal., 5th App. Dist. Petition for writ of mandamus or certiorari denied. Reported below: 217 Cal. App. 3d 219, 265 Cal. Rptr. 227.

No. 89-7667. IN RE MAGEE;
No. 89-7768. IN RE ELDRIDGE; and
No. 89-7773. IN RE JORDAN. Petitions for writs of mandamus and/or prohibition denied.

Certiorari Granted

No. 89-1322. OKLAHOMA TAX COMMISSION *v.* CITIZEN BAND POTAWATOMI INDIAN TRIBE OF OKLAHOMA. C. A. 10th Cir. Certiorari granted. Reported below: 888 F. 2d 1303.

No. 89-1493. AIR LINE PILOTS ASSN., INTERNATIONAL *v.* O'NEILL ET AL. C. A. 5th Cir. Certiorari granted. Reported below: 886 F. 2d 1438.

498 U. S.

October 1, 1990

No. 89-1782. HOFFMAN, COMMISSIONER, DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS OF ALASKA *v.* NATIVE VILLAGES OF NOATAK ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 896 F. 2d 1157.

No. 89-1918. MCCORMICK *v.* UNITED STATES. C. A. 4th Cir. Certiorari granted. Reported below: 896 F. 2d 61.

No. 89-1940. ERICKSON ET AL. *v.* MAINE CENTRAL RAILROAD CO. ET AL. C. A. 1st Cir. Certiorari granted. Reported below: 898 F. 2d 5.

No. 90-26. BARNES, PROSECUTING ATTORNEY OF ST. JOSEPH COUNTY, INDIANA, ET AL. *v.* GLEN THEATRE, INC., ET AL. C. A. 7th Cir. Certiorari granted. Reported below: 904 F. 2d 1081.

No. 90-79. KAY *v.* EHRLER ET AL. C. A. 6th Cir. Certiorari granted. Reported below: 900 F. 2d 967.

No. 90-256. CHAMBERS *v.* NASCO, INC. C. A. 5th Cir. Certiorari granted. Reported below: 894 F. 2d 696.

No. 89-1632. CALIFORNIA *v.* HODARI D. Ct. App. Cal., 1st App. Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted.

No. 89-1690. CALIFORNIA *v.* ACEVEDO. Ct. App. Cal., 4th App. Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 216 Cal. App. 3d 586, 265 Cal. Rptr. 23.

No. 89-1862. MCCARTHY, DIRECTOR, CALIFORNIA DEPARTMENT OF CORRECTIONS *v.* BLAIR. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 881 F. 2d 602 and 896 F. 2d 436.

No. 89-1944. OHIO *v.* HUERTAS. Sup. Ct. Ohio. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 51 Ohio St. 3d 22, 553 N. E. 2d 1058.

No. 89-1647. CARNIVAL CRUISE LINES, INC. *v.* SHUTE ET VIR. C. A. 9th Cir. Motions of International Committee of Pas-

October 1, 1990

498 U. S.

senger Lines and Chamber of Commerce of the United States for leave to file briefs as *amici curiae* granted. Certiorari granted. Reported below: 897 F. 2d 377.

No. 89-1799. *MASSON v. NEW YORKER MAGAZINE, INC., ET AL.* C. A. 9th Cir. Motions of Journalists and Academics Concerned About Media Integrity and Mountain States Legal Foundation for leave to file briefs as *amici curiae* granted. Certiorari granted. Reported below: 895 F. 2d 1535.

No. 89-1817. *COUNTY OF RIVERSIDE ET AL. v. McLAUGHLIN ET AL.* C. A. 9th Cir. Certiorari granted limited to Questions 1 and 3 presented by the petition. Reported below: 888 F. 2d 1276.

No. 89-1838. *EQUAL EMPLOYMENT OPPORTUNITY COMMISSION v. ARABIAN AMERICAN OIL CO. ET AL.*; and

No. 89-1845. *BOURESLAN v. ARABIAN AMERICAN OIL CO. ET AL.* C. A. 5th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 892 F. 2d 1271.

No. 89-1909. *FEIST PUBLICATIONS, INC. v. RURAL TELEPHONE SERVICE CO., INC.* C. A. 10th Cir. Motion of Association of North American Directory Publishers et al. for leave to file a brief as *amici curiae* granted. Certiorari granted limited to Question 3 presented by the petition. Reported below: 916 F. 2d 718.

No. 89-1926. *UNITED STATES v. CENTENNIAL SAVINGS BANK FSB (RESOLUTION TRUST CORPORATION, RECEIVER).* C. A. 5th Cir. Certiorari granted and case set for oral argument in tandem with No. 89-1965, *Cottage Savings Assn. v. Commissioner of Internal Revenue*, immediately *infra*. Reported below: 887 F. 2d 595.

No. 89-1965. *COTTAGE SAVINGS ASSN. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 6th Cir. Certiorari granted and case set for oral argument in tandem with No. 89-1926, *United States v. Centennial Savings Bank FSB*, immediately *supra*. Reported below: 890 F. 2d 848.

No. 89-7376. *WILSON v. SEITER ET AL.* C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 893 F. 2d 861.

498 U. S.

October 1, 1990

No. 89-7691. *YATES v. EVATT, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL.* Sup. Ct. S. C. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 301 S. C. 214, 391 S. E. 2d 530.

No. 89-7743. *EDMONSON v. LEESVILLE CONCRETE CO., INC.* C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 895 F. 2d 218.

No. 90-18. *GILMER v. INTERSTATE/JOHNSON LANE CORP.* C. A. 4th Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 895 F. 2d 195.

No. 90-29. *PLEDGER, COMMISSIONER OF REVENUES OF ARKANSAS v. MEDLOCK ET AL.*; and

No. 90-38. *MEDLOCK ET AL. v. PLEDGER, COMMISSIONER OF REVENUES OF ARKANSAS, ET AL.* Sup. Ct. Ark. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 301 Ark. 483, 785 S. W. 2d 202.

No. 90-143. *CONNECTICUT ET AL. v. DOEHR.* C. A. 2d Cir. Motion of Connecticut Bankers Association et al. for leave to file a brief as *amici curiae* granted. Certiorari granted. Reported below: 898 F. 2d 852.

Certiorari Denied. (See also No. 89-1849, *supra.*)

No. 89-1427. *PATE v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 856 F. 2d 181.

No. 89-1428. *SCHWARTZ v. HUNGATE, UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI.* C. A. 8th Cir. Certiorari denied. Reported below: 889 F. 2d 1090.

No. 89-1435. *AMERICAN RAILWAY & AIRWAY SUPERVISORS ASSN. ET AL. v. SOO LINE RAILROAD CO.* C. A. 8th Cir. Certiorari denied. Reported below: 891 F. 2d 675.

No. 89-1505. *DIPLARAKOS v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-1517. *LINN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 889 F. 2d 1369.

October 1, 1990

498 U. S.

No. 89-1566. *SEJMAN ET AL. v. WARNER-LAMBERT CO., INC.* C. A. 4th Cir. Certiorari denied. Reported below: 889 F. 2d 1346.

No. 89-1573. *ALABAMA v. MCDANIEL.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 555 So. 2d 1145.

No. 89-1582. *CONNECTICUT ET AL. v. UNITED STATES MERIT SYSTEMS PROTECTION BOARD.* C. A. 2d Cir. Certiorari denied. Reported below: 896 F. 2d 543.

No. 89-1584. *DEAN WITTER REYNOLDS INC. ET AL. v. COFFEY.* C. A. 10th Cir. Certiorari denied. Reported below: 891 F. 2d 261.

No. 89-1588. *WRENN v. OHIO ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 889 F. 2d 1089.

No. 89-1603. *CHEW v. CALIFORNIA.* C. A. Fed. Cir. Certiorari denied. Reported below: 893 F. 2d 331.

No. 89-1604. *OREGON STATE POLICE OFFICERS ASSN., INC., ET AL. v. OREGON ET AL.* Sup. Ct. Ore. Certiorari denied. Reported below: 308 Ore. 531, 783 P. 2d 7.

No. 89-1605. *NELSON v. JONES.* Sup. Ct. Alaska. Certiorari denied. Reported below: 781 P. 2d 964.

No. 89-1620. *INDEPENDENT INSURANCE AGENTS OF AMERICA, INC., ET AL. v. BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 890 F. 2d 1275.

No. 89-1622. *SALEH v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 893 F. 2d 1335.

No. 89-1633. *ODOM, AKA KELLY v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 888 F. 2d 1014.

No. 89-1634. *LYMAN v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 892 F. 2d 751.

No. 89-1640. *SLUDER ET UX. v. UNITED MINE WORKERS OF AMERICA, INTERNATIONAL UNION, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 892 F. 2d 549.

No. 89-1648. *SANDOZ PHARMACEUTICALS CORP. v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 894 F. 2d 825.

498 U. S.

October 1, 1990

No. 89-1654. *ALABAMA v. FREEMAN*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 553 So. 2d 145.

No. 89-1656. *GOOT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 894 F. 2d 231.

No. 89-1672. *POWELL v. PARSONS ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 89-1675. *CARTER ET AL. v. GOLDBERG, COMMISSIONER OF INTERNAL REVENUE, ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 909 F. 2d 1452.

No. 89-1683. *WATER POWER CO., INC., ET AL. v. PACIFICORP ET AL.* Ct. App. Ore. Certiorari denied. Reported below: 99 Ore. App. 125, 781 P. 2d 860.

No. 89-1691. *DUNN ET AL. v. FLORIDA BAR ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 889 F. 2d 1010.

No. 89-1705. *ATLAS CORP. ET AL. v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 895 F. 2d 745.

No. 89-1707. *LANDANO v. RAFFERTY, SUPERINTENDENT, RAHWAY STATE PRISON, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 897 F. 2d 661.

No. 89-1708. *KOUNO v. OREGON STATE BOARD OF HIGHER EDUCATION ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 889 F. 2d 1095.

No. 89-1711. *SMITH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 891 F. 2d 703.

No. 89-1716. *PUEBLO OF SANTO DOMINGO v. RAEI ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-1721. *COX v. KEYSTONE CARBON CO. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 894 F. 2d 647.

No. 89-1723. *JONES v. BASKIN FLAHERTY ELLIOTT & MAN-
NINO, P. C.* C. A. 3d Cir. Certiorari denied. Reported below:
897 F. 2d 522.

No. 89-1728. *WESTERN FUELS-UTAH, INC. v. LUJAN, SEC-
RETARY OF THE INTERIOR; and*

October 1, 1990

498 U. S.

No. 89-1958. *COLOWYO COAL CO. ET AL. v. LUJAN, SECRETARY OF THE INTERIOR*. C. A. D. C. Cir. Certiorari denied. Reported below: 282 U. S. App. D. C. 375, 895 F. 2d 780.

No. 89-1731. *PATTERSON v. FEDERAL BUREAU OF INVESTIGATION ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 893 F. 2d 595.

No. 89-1734. *CASSIDY v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 7th Cir. Certiorari denied. Reported below: 892 F. 2d 637.

No. 89-1735. *POZSGAI v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 897 F. 2d 524.

No. 89-1737. *EMMENS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 893 F. 2d 1292.

No. 89-1744. *BISHOP, PERSONAL REPRESENTATIVE AND SOLE SURVIVING HEIR FOR THE ESTATE OF BISHOP v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 884 F. 2d 582.

No. 89-1758. *PENNY v. TEXAS*. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 89-1765. *FLORIDA DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY v. UNITED STATES DEPARTMENT OF LABOR*. C. A. 11th Cir. Certiorari denied. Reported below: 893 F. 2d 1319.

No. 89-1770. *TELESTAR, INC. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 281 U. S. App. D. C. 24, 886 F. 2d 442.

No. 89-1773. *GWIN v. G. D. SEARLE & CO.* C. A. 9th Cir. Certiorari denied. Reported below: 889 F. 2d 1094.

No. 89-1774. *KERSTING v. UNITED STATES ET AL.*; and

No. 89-1775. *HONGSERMEIER ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 891 F. 2d 1407.

No. 89-1778. *BROWN ET AL. v. GOULD ET AL., JUDGES, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH*. C. A. 10th Cir. Certiorari denied.

498 U. S.

October 1, 1990

No. 89-1779. *BOOKER v. RILEY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 898 F. 2d 153.

No. 89-1781. *ESTATE OF MANNO ET AL. v. NEW YORK STATE TAX COMMISSION.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 147 App. Div. 2d 805, 537 N. Y. S. 2d 683.

No. 89-1786. *RUSSELL v. DUNSTON, INDIVIDUALLY AND AS DIRECTOR OF THE NEW YORK STATE DIVISION FOR YOUTH, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 896 F. 2d 664.

No. 89-1787. *NEBRASKA PUBLIC POWER DISTRICT v. NUCOR CORP.* C. A. 8th Cir. Certiorari denied. Reported below: 891 F. 2d 1343.

No. 89-1788. *FLETCHER v. SAN JOSE MERCURY NEWS, INC.* Ct. App. Cal., 6th App. Dist. Certiorari denied. Reported below: 216 Cal. App. 3d 172, 264 Cal. Rptr. 699.

No. 89-1789. *ZETUNE v. AGAMI.* Ct. App. Tex., 5th Dist. Certiorari denied. Reported below: 774 S. W. 2d 387.

No. 89-1790. *MCCAIN, A MINOR, BY HER NEXT FRIEND, MCCAIN, ET AL. v. HOUSTON INDEPENDENT SCHOOL DISTRICT ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 888 F. 2d 1390.

No. 89-1794. *SCHULMAN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 889 F. 2d 1097.

No. 89-1795. *BLUNT, ELLIS & LOEWI INC. ET AL. v. HLAVINKA ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 896 F. 2d 240.

No. 89-1798. *FAUSTO v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 895 F. 2d 1421.

No. 89-1800. *ASSAY PARTNERS v. CITY OF NEW YORK ET AL.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 149 App. Div. 2d 63, 544 N. Y. S. 2d 1008.

No. 89-1802. *GREENE v. ARMCO, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 893 F. 2d 1338.

October 1, 1990

498 U. S.

No. 89-1804. *CORRIGAN ET AL. v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 75 N. Y. 2d 434, 553 N. E. 2d 965.

No. 89-1807. *BROWN v. CITY OF SEATTLE*. Super. Ct. Wash., King County. Certiorari denied.

No. 89-1808. *WILSON v. SECURITY INSURANCE CO.* Sup. Ct. Conn. Certiorari denied. Reported below: 213 Conn. 532, 569 A. 2d 40.

No. 89-1810. *SAUL v. PENNSYLVANIA CIVIL SERVICE COMMISSION ET AL.* Commw. Ct. Pa. Certiorari denied.

No. 89-1811. *ATLANTIC RICHFIELD CO., INC. v. KIMBRO*. C. A. 9th Cir. Certiorari denied. Reported below: 889 F. 2d 869.

No. 89-1813. *JOHN v. JOHN ET AL.* Ct. App. Wis. Certiorari denied. Reported below: 153 Wis. 2d 343, 450 N. W. 2d 795.

No. 89-1814. *ESTEP v. LIBERTY HOMES, INC., ET AL.* Sup. Ct. Va. Certiorari denied.

No. 89-1815. *TOZZI v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 893 F. 2d 40.

No. 89-1816. *USX CORP. v. GREEN ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 896 F. 2d 801.

No. 89-1818. *SMITH v. McDONALD*. C. A. 4th Cir. Certiorari denied. Reported below: 895 F. 2d 147.

No. 89-1819. *MCCABE v. PELIZZONI ET AL.* Ct. App. Okla. Certiorari denied.

No. 89-1820. *TRENT, EXECUTRIX OF THE ESTATE OF COLLINS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 893 F. 2d 846.

No. 89-1822. *MADARANG ET AL. v. BERMUDEZ, EXECUTIVE DIRECTOR, COMMONWEALTH HEALTH PLANNING AND DEVELOPMENT AGENCY, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 889 F. 2d 251.

No. 89-1824. *HARMATH v. GOLER ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 49 Ohio St. 3d 62, 550 N. E. 2d 476.

498 U. S.

October 1, 1990

No. 89-1827. *COUNTS v. BURLINGTON NORTHERN RAILROAD CO.* C. A. 9th Cir. Certiorari denied. Reported below: 896 F. 2d 424.

No. 89-1828. *GILTNER ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 2d 1334.

No. 89-1831. *WALKER v. CONSUMERS POWER CO.* C. A. 6th Cir. Certiorari denied. Reported below: 896 F. 2d 554.

No. 89-1832. *HEALTHCARE INTERNATIONAL, INC., ET AL. v. L & B HOSPITAL VENTURES, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 2d 150.

No. 89-1833. *MARVIN v. GRAND LODGE IOOF OF NEBRASKA ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 894 F. 2d 1342.

No. 89-1835. *KEITH v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 897 F. 2d 1499.

No. 89-1837. *UNITED TRANSPORTATION UNION v. GRAND TRUNK WESTERN RAILROAD CO.* C. A. 6th Cir. Certiorari denied. Reported below: 901 F. 2d 489.

No. 89-1840. *KULALANI, LTD., ET AL. v. COREY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 892 F. 2d 829.

No. 89-1842. *BAKER ET AL. v. MAYOR AND CITY COUNCIL OF BALTIMORE.* C. A. 4th Cir. Certiorari denied. Reported below: 894 F. 2d 679.

No. 89-1846. *SCHWARCZ v. SCHWARCZ.* Super. Ct. Pa. Certiorari denied. Reported below: 378 Pa. Super. 170, 548 A. 2d 556.

No. 89-1847. *JONES v. TURNER BROADCASTING SYSTEM, INC.* Ct. App. Ga. Certiorari denied. Reported below: 193 Ga. App. 768, 389 S. E. 2d 9.

No. 89-1848. *THOMAN v. CONCEPT, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 2d 1333.

No. 89-1850. *HORN ET UX. v. SMITH & MERONEY ET AL.* Ct. App. Ga. Certiorari denied. Reported below: 194 Ga. App. 298, 390 S. E. 2d 272.

October 1, 1990

498 U. S.

No. 89-1852. *FURRH v. SABINE TOWING & TRANSPORTATION Co., INC.* C. A. 5th Cir. Certiorari denied. Reported below: 897 F. 2d 526.

No. 89-1853. *SNEPP v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 897 F. 2d 138.

No. 89-1856. *SCARPA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 897 F. 2d 63.

No. 89-1857. *GALLOWAY, ON BEHALF OF GALLOWAY ET AL., MINORS v. LORIMAR MOTION PICTURE MANAGEMENT, INC., ET AL.* Ct. App. Ohio, Richland County. Certiorari denied. Reported below: 55 Ohio App. 3d 78, 562 N. E. 2d 949.

No. 89-1859. *DEANGELIS v. SECURITIES AND EXCHANGE COMMISSION.* C. A. 2d Cir. Certiorari denied. Reported below: 898 F. 2d 138.

No. 89-1861. *MIC MAC NATION v. GIESLER ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 216 Cal. App. 3d 156, 264 Cal. Rptr. 623.

No. 89-1863. *HENRY & WARREN CORP. v. COBBLE HILL NURSING HOME, INC., ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 74 N. Y. 2d 475, 548 N. E. 2d 203.

No. 89-1865. *GUADALUPE COUNTY v. LORELEI CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 895 F. 2d 1070.

No. 89-1866. *FRANKLIN PIERCE LAW CENTER v. GEORGETOWN UNIVERSITY.* C. A. Fed. Cir. Certiorari denied. Reported below: 895 F. 2d 1421.

No. 89-1868. *OULO O/Y ET AL. v. CALLEN.* C. A. 3d Cir. Certiorari denied. Reported below: 897 F. 2d 520.

No. 89-1869. *INDEPENDENCE BLUE CROSS ET AL. v. U. S. HEALTHCARE, INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 898 F. 2d 914.

No. 89-1871. *BURK v. BURK.* Sup. Ct. N. H. Certiorari denied.

No. 89-1875. *CITY OF SANTA ANA v. CONNER ET UX.* C. A. 9th Cir. Certiorari denied. Reported below: 897 F. 2d 1487.

498 U. S.

October 1, 1990

No. 89-1877. *NULL v. CITY OF LANSING, MICHIGAN*. C. A. 6th Cir. Certiorari denied. Reported below: 893 F. 2d 1334.

No. 89-1878. *REITER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 897 F. 2d 639.

No. 89-1879. *FRIEDRICH v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 6th Cir. Certiorari denied. Reported below: 894 F. 2d 829.

No. 89-1880. *CONSOLIDATED FREIGHTWAYS v. NATIONAL LABOR RELATIONS BOARD*. C. A. D. C. Cir. Certiorari denied. Reported below: 282 U. S. App. D. C. 118, 892 F. 2d 1052.

No. 89-1881. *MCDONALD ET AL. v. OKLAHOMA EX REL. ROBERTS, DISTRICT ATTORNEY, PITTSBURG COUNTY*. Ct. App. Okla. Certiorari denied. Reported below: 787 P. 2d 466.

No. 89-1883. *TRUCKEE-CARSON IRRIGATION DISTRICT ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 887 F. 2d 207.

No. 89-1884. *SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 147.

No. 89-1885. *CARRIERE, INDIVIDUALLY AND ON BEHALF OF CARRIERE ET AL. v. SEARS, ROEBUCK & CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 893 F. 2d 98.

No. 89-1886. *HERBERGER, TRUSTEE FOR LEE OPTICAL AND ASSOCIATED COMPANIES PENSION PLAN TRUST v. SHANBAUM*. C. A. 5th Cir. Certiorari denied. Reported below: 897 F. 2d 801.

No. 89-1887. *TEXAS v. BRANDLEY*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 781 S. W. 2d 886.

No. 89-1888. *CITY OF SOUTH EUCLID v. RICHARDSON ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 49 Ohio St. 3d 147, 551 N. E. 2d 606.

No. 89-1889. *PINHAS v. SUMMIT HEALTH, LTD., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 894 F. 2d 1024.

October 1, 1990

498 U. S.

No. 89-1891. *RANKIN v. ILLINOIS*. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 189 Ill. App. 3d 1116, 573 N. E. 2d 395.

No. 89-1892. *GONZALES v. NEW MEXICO EDUCATIONAL RETIREMENT BOARD ET AL.* Sup. Ct. N. M. Certiorari denied. Reported below: 109 N. M. 592, 788 P. 2d 348.

No. 89-1894. *COLOMA v. DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 897 F. 2d 394.

No. 89-1896. *AVONDALE SHIPYARDS, INC. v. ORGERON ET UX.* Sup. Ct. La. Certiorari denied. Reported below: 556 So. 2d 582.

No. 89-1898. *OKEN v. MAINE*. Super. Ct. Me., Knox County. Certiorari denied.

No. 89-1899. *RYPKEMA, DBA LAUREL HILL TRUCKING CO. v. CALURI*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 570 A. 2d 830.

No. 89-1903. *FLEMINGS ET AL. v. DINKINS, MAYOR OF THE CITY OF NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 898 F. 2d 138.

No. 89-1906. *DEUTSCH v. FLANNERY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 2d 60.

No. 89-1907. *MANFREDI v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 213 Conn. 500, 569 A. 2d 506.

No. 89-1908. *CONNECTICUT v. KRISTY*. App. Ct. Conn. Certiorari denied. Reported below: 20 Conn. App. 495, 568 A. 2d 809.

No. 89-1910. *LIMBACH, TAX COMMISSIONER OF OHIO v. AMERICAN HOME PRODUCTS CORP.* Sup. Ct. Ohio. Certiorari denied. Reported below: 49 Ohio St. 3d 158, 551 N. E. 2d 201.

No. 89-1911. *BELL v. LYDEN*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 89-1912. *BRICK v. TEXAS*. Ct. App. Tex., 14th Dist. Certiorari denied.

498 U. S.

October 1, 1990

No. 89-1913. *JOHNPOLL v. THORNBURGH, ATTORNEY GENERAL OF THE UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 898 F. 2d 849.

No. 89-1914. *DOWNIE ET AL. v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied. Reported below: 117 N. J. 450, 569 A. 2d 242.

No. 89-1916. *VERNA v. COLER, SECRETARY, FLORIDA DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES*. C. A. 11th Cir. Certiorari denied. Reported below: 893 F. 2d 1238.

No. 89-1917. *KAY ET AL. v. CELLAR DOOR PRODUCTIONS, INC. OF MICHIGAN*. C. A. 6th Cir. Certiorari denied. Reported below: 897 F. 2d 1375.

No. 89-1919. *BARTH v. SILVER*. App. Ct. Conn. Certiorari denied. Reported below: 20 Conn. App. 827, 570 A. 2d 243.

No. 89-1920. *REWALD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 889 F. 2d 836.

No. 89-1923. *HENDRICK v. AVENT ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 891 F. 2d 583.

No. 89-1930. *POWELL v. ELLISON (POWELL)*. Ct. App. N. C. Certiorari denied. Reported below: 96 N. C. App. 275, 385 S. E. 2d 818.

No. 89-1932. *SEALEY, A MINOR, BY AND THROUGH HIS GUARDIAN AD LITEM, SEALEY, ET AL. v. TOYOTA MOTOR CORP.* Sup. Ct. Ore. Certiorari denied. Reported below: 309 Ore. 387, 788 P. 2d 435.

No. 89-1933. *CHESAPEAKE PUBLISHING & ADVERTISING, INC., T/A THE MILITARY NEWS, ET AL. v. EASTERN PUBLISHING & ADVERTISING, INC., T/A ARMED FORCES NEWS*. C. A. 4th Cir. Certiorari denied. Reported below: 895 F. 2d 971.

No. 89-1934. *BAYERLE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 28.

No. 89-1935. *DAMON v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 214 Conn. 146, 570 A. 2d 700.

No. 89-1936. *STEVENS ET UX. v. TAX ASSESSOR OF MAINE*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 571 A. 2d 1195.

October 1, 1990

498 U. S.

No. 89-1937. *QUANTUM CHEMICAL CORP. v. DISTILLERY, WINE & ALLIED WORKERS INTERNATIONAL UNION, LOCAL UNION No. 32, AFL-CIO*. C. A. 6th Cir. Certiorari denied. Reported below: 894 F. 2d 850.

No. 89-1938. *KIRCHDORFER ET AL. v. SECRETARY OF LABOR*. C. A. 6th Cir. Certiorari denied. Reported below: 895 F. 2d 1413.

No. 89-1939. *TRI-STATE MOTOR TRANSIT CO. v. ATKINSON ET AL.* Ct. App. Okla. Certiorari denied.

No. 89-1941. *BAKER v. AUBRY, CALIFORNIA STATE LABOR COMMISSIONER, ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 216 Cal. App. 3d 1259, 265 Cal. Rptr. 381.

No. 89-1942. *BLOOM v. UNITED STATES*; and *FISHER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 898 F. 2d 142 (first case) and 143 (second case).

No. 89-1943. *KLEASNER v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 89-1945. *BROWN (LaMAR) v. FOX VALLEY & VICINITY CONSTRUCTION WORKERS PENSION FUND ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 897 F. 2d 275.

No. 89-1946. *BERGMAN v. DEPARTMENT OF COMMERCE ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-1947. *GRAHAM v. WERNZ*. Sup. Ct. Minn. Certiorari denied. Reported below: 453 N. W. 2d 313.

No. 89-1948. *ENCORE ASSOCIATES, INC., ET AL. v. SHINER ET UX*. Super. Ct. Pa. Certiorari denied. Reported below: 384 Pa. Super. 647, 551 A. 2d 599.

No. 89-1950. *PHILLIPS v. UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE*. C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 146.

No. 89-1953. *AMERICAN POSTAL WORKERS UNION, AFL-CIO v. UNITED STATES POSTAL SERVICE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 893 F. 2d 1117.

498 U. S.

October 1, 1990

No. 89-1954. *SANTIAGO v. UNITED STATES*; and

No. 89-7702. *LIFFITON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 894 F. 2d 533.

No. 89-1955. *ALASKA AIRLINES, INC. v. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 896 F. 2d 555.

No. 89-1956. *WEIL v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 283 U. S. App. D. C. 184, 898 F. 2d 198.

No. 89-1957. *ISELL ET AL. v. SMITH ET AL.* Sup. Ct. Ala. Certiorari denied. Reported below: 558 So. 2d 877.

No. 89-1959. *SHYRES ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 898 F. 2d 647.

No. 89-1961. *JOHN ET AL. v. BARRON, INDIVIDUALLY AND AS JUDGE OF THE CIRCUIT COURT OF MILWAUKEE COUNTY, WISCONSIN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 897 F. 2d 1387.

No. 89-1962. *HANNON v. DERWINSKI, ADMINISTRATOR OF THE VETERANS ADMINISTRATION, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 892 F. 2d 653.

No. 89-1963. *ROBERTS v. OHIO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 89-1964. *MELIKIAN ET AL. v. CORRADETTI ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 893 F. 2d 1330.

No. 89-1966. *BANKS v. GARRETT, SECRETARY OF THE NAVY*. C. A. Fed. Cir. Certiorari denied. Reported below: 901 F. 2d 1084.

No. 89-1967. *BURNETTE v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 29 M. J. 473.

No. 89-1968. *COATS v. PIERRE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 890 F. 2d 728.

No. 89-1969. *MCMAHON v. KENT, JUDGE, CIRCUIT COURT FOR THE CITY OF ALEXANDRIA, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 146.

October 1, 1990

498 U. S.

No. 89-1970. *CARTER v. ANTOCI*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 89-1971. *GISH ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 89-1975. *JUISTER v. BECHTEL POWER CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 893 F. 2d 1334.

No. 89-1976. *AURICCHIO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 898 F. 2d 142.

No. 89-1977. *LEMAK v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 902 F. 2d 1562.

No. 89-1978. *SHARP ET AL. v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 245 Kan. 749, 783 P. 2d 343.

No. 89-1980. *STONE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 895 F. 2d 1415.

No. 89-1981. *WILLIAMS v. CITY OF NORTHPORT*. Ct. Civ. App. Ala. Certiorari denied. Reported below: 557 So. 2d 1272.

No. 89-1982. *MONROE ET AL. v. CITY OF WOODVILLE, MISSISSIPPI, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 881 F. 2d 1327 and 897 F. 2d 763.

No. 89-1984. *WHITMER ET UX. v. JOHN HANCOCK MUTUAL LIFE INSURANCE CO. ET AL.* (two cases). C. A. 7th Cir. Certiorari denied.

No. 89-1985. *CALIFORNIA DIVISION OF APPRENTICESHIP STANDARDS ET AL. v. HYDROSTORAGE, INC.* C. A. 9th Cir. Certiorari denied. Reported below: 891 F. 2d 719.

No. 89-1991. *HOCHHEISER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 897 F. 2d 1227.

No. 89-1992. *AANERUD ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 893 F. 2d 956.

No. 89-1993. *LARSEN v. DEPARTMENT OF THE NAVY*. C. A. Fed. Cir. Certiorari denied. Reported below: 899 F. 2d 1227.

No. 89-1994. *MASTANDREA ET UX. v. NEWS HERALD ET AL.* Ct. App. Ohio, Lake County. Certiorari denied. Reported below: 65 Ohio App. 3d 221, 583 N. E. 2d 984.

498 U. S.

October 1, 1990

No. 89-1995. *SEXTON, INDIVIDUALLY AND AS LIMITED GUARDIAN OF THE SEPARATE ESTATE OF SEXTON, AN INCAPACITATED PERSON v. LONE STAR LIFE INSURANCE CO. ET AL.* C. A. 5th Cir. Certiorari denied.

No. 89-1996. *ROBINSON, ADMINISTRATRIX OF THE ESTATE OF ROBINSON, ET AL. v. MTD PRODUCTS, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 2d 758.

No. 89-1998. *SLOMNICKI v. ALLEGHENY COUNTY HEALTH DEPARTMENT.* Commw. Ct. Pa. Certiorari denied. Reported below: 555 A. 2d 319.

No. 89-1999. *DIEBOLD, INC. v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 891 F. 2d 1579.

No. 89-2002. *GAMEZ v. STATE BAR OF TEXAS.* Sup. Ct. Tex. Certiorari denied.

No. 89-2003. *MASSACHUSETTS BOARD OF REGISTRATION IN MEDICINE v. KVITKA.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 407 Mass. 140, 551 N. E. 2d 915.

No. 89-2005. *CARLE v. WOODS, POSTMASTER.* C. A. 10th Cir. Certiorari denied.

No. 89-2006. *ROSCOE v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 34.

No. 89-2009. *LANE ET UX. v. PETERSON ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 899 F. 2d 737.

No. 89-2010. *COUNTY OF ALBEMARLE, VIRGINIA v. SMITH ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 895 F. 2d 953.

No. 89-2011. *CITY VENDING OF MUSKOGEE, INC. v. OKLAHOMA TAX COMMISSION.* C. A. 10th Cir. Certiorari denied. Reported below: 898 F. 2d 122.

No. 89-2012. *SMITH v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 898 F. 2d 137.

No. 89-2014. *ORTHOPEDIC EQUIPMENT CO., INC. v. PIETZ.* Sup. Ct. Ala. Certiorari denied. Reported below: 562 So. 2d 152.

October 1, 1990

498 U. S.

No. 89-2015. *SISSETON-WAHPETON SIOUX TRIBE ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 895 F. 2d 588.

No. 89-2018. *MURRAY ET AL. v. TRAVIS COUNTY DISTRICT COURT ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 898 F. 2d 150.

No. 89-2019. *SCHEIDEGG v. FERGUSON.* Sup. Ct. N. H. Certiorari denied.

No. 89-2020. *WORLEY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 896 F. 2d 68.

No. 89-2022. *VOGEL v. ELLIS* (three cases). Ct. App. Ohio, Wyandot County. Certiorari denied.

No. 89-2023. *RICHIE v. COUGHLIN, INDIVIDUALLY AND AS COMMISSIONER OF THE DEPARTMENT OF CORRECTIONAL SERVICES, ET AL.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 148 App. Div. 2d 178, 544 N. Y. S. 2d 230.

No. 89-2024. *MUNOZ-FABELA v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 896 F. 2d 908.

No. 89-2025. *FIREMAN'S INSURANCE CO. ET AL. v. ARKANSAS STATE CLAIMS COMMISSION ET AL.* Sup. Ct. Ark. Certiorari denied. Reported below: 301 Ark. 451, 784 S. W. 2d 771.

No. 89-2028. *SANDS v. KENTUCKY.* Ct. App. Ky. Certiorari denied.

No. 89-2030. *COMMISSIONER OF REVENUE SERVICES OF CONNECTICUT v. CALLY CURTIS CO.* Sup. Ct. Conn. Certiorari denied. Reported below: 214 Conn. 292, 572 A. 2d 302.

No. 89-2031. *CHUANG v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 897 F. 2d 646.

No. 89-2032. *KERN ET AL. v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 75 N. Y. 2d 638, 554 N. E. 2d 1235.

No. 89-6604. *STRAND v. DEFENSE LOGISTIC AGENCY.* C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 2d 1024.

498 U. S.

October 1, 1990

No. 89-6677. *WHITE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 890 F. 2d 1413.

No. 89-6813. *TURNBULL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 888 F. 2d 636.

No. 89-6881. *JOHNSON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 893 F. 2d 347.

No. 89-6943. *ADAIR v. UNITED STATES*; and

No. 89-7687. *TOOMER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 282 U. S. App. D. C. 74, 892 F. 2d 90.

No. 89-6967. *BURKE v. BEYER*. C. A. 3d Cir. Certiorari denied.

No. 89-7010. *BRAMBLETT v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 889 F. 2d 1088.

No. 89-7025. *MOUNT v. GORELICK ET AL.* Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 89-7036. *TIBESAR v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 894 F. 2d 317.

No. 89-7136. *MILLER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 283 U. S. App. D. C. 9, 895 F. 2d 1431.

No. 89-7138. *JOHNSON v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 282 U. S. App. D. C. 404, 895 F. 2d 809.

No. 89-7149. *MARSH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 89-7156. *STONE v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 547 So. 2d 158.

No. 89-7174. *MINTON v. KEY SERVE GROUP*. C. A. 5th Cir. Certiorari denied. Reported below: 889 F. 2d 272.

No. 89-7183. *HOYOS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 892 F. 2d 1387.

No. 89-7185. *HRIVNAK v. NEW JERSEY*. Super. Ct. N. J., App. Div. Certiorari denied.

October 1, 1990

498 U. S.

No. 89-7195. *VASQUEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 896 F. 2d 543.

No. 89-7206. *PALOMO v. WASHINGTON*. Sup. Ct. Wash. Certiorari denied. Reported below: 113 Wash. 2d 789, 783 P. 2d 575.

No. 89-7208. *THOMAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 893 F. 2d 1066.

No. 89-7215. *SHENDOCK v. DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS*. C. A. 3d Cir. Certiorari denied. Reported below: 893 F. 2d 1458.

No. 89-7241. *JONES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 893 F. 2d 1335.

No. 89-7248. *LETIZIA v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 155 App. Div. 2d 952, 547 N. Y. S. 2d 767.

No. 89-7249. *JOHNSON v. ALEXANDER, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 895 F. 2d 1413.

No. 89-7251. *CASEY ET UX. v. KEMP, SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT*. C. A. 3d Cir. Certiorari denied. Reported below: 898 F. 2d 139.

No. 89-7281. *SCHMIDT v. TEXAS*. Ct. App. Tex., 1st Dist. Certiorari denied. Reported below: 778 S. W. 2d 549.

No. 89-7282. *REARDON v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied. Reported below: 897 F. 2d 526.

No. 89-7284. *BUTLER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 895 F. 2d 1016.

No. 89-7287. *NICHOLAS v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 559 So. 2d 135.

No. 89-7290. *LEWIS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-7292. *JOHNSON v. TEXAS*. Ct. App. Tex., 14th Dist. Certiorari denied. Reported below: 709 S. W. 2d 345.

498 U. S.

October 1, 1990

No. 89-7298. *DAVIS v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 98 Ore. App. 752, 780 P. 2d 807.

No. 89-7300. *BRITTON v. CENTRAL BANK*. Ct. App. La., 2d Cir. Certiorari denied. Reported below: 552 So. 2d 508.

No. 89-7319. *DE NARDO v. ALASKA*. Sup. Ct. Alaska. Certiorari denied.

No. 89-7320. *GIARRATANO ET AL. v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied.

No. 89-7328. *MCCOURT v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 89-7336. *CARDINE v. PARKE, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 879 F. 2d 864.

No. 89-7345. *ROSSBACH v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 701 F. 2d 713.

No. 89-7348. *TELLO v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 89-7349. *WILLIS v. FIRST BANK NATIONAL ASSN.* Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 89-7354. *STIGLER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 898 F. 2d 151.

No. 89-7357. *ROGERS v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 133 Ill. 2d 1, 549 N. E. 2d 226.

No. 89-7366. *RUTLEDGE v. MARTINEZ, GOVERNOR OF FLORIDA, ET AL.* Sup. Ct. Fla. Certiorari denied. Reported below: 558 So. 2d 19.

No. 89-7383. *MEYER v. ZEIGLER COAL CO. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 894 F. 2d 902.

No. 89-7405. *STARKS v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 190 Ill. App. 3d 503, 546 N. E. 2d 71.

No. 89-7406. *TURNER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 898 F. 2d 143.

October 1, 1990

498 U. S.

No. 89-7411. *VAIL v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 899 F. 2d 21.

No. 89-7413. *SHAW v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 2d 689.

No. 89-7414. *SILVERS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 891 F. 2d 287.

No. 89-7425. *SMITH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 149.

No. 89-7432. *COMBS v. UNITED STATES ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 900 F. 2d 265.

No. 89-7436. *POLCHLOPEK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 897 F. 2d 997.

No. 89-7439. *PERRY v. RICE, SECRETARY OF THE AIR FORCE*. C. A. 4th Cir. Certiorari denied. Reported below: 883 F. 2d 69.

No. 89-7456. *HUNLEY v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 189 Ill. App. 3d 24, 545 N. E. 2d 188.

No. 89-7464. *TURNER v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 786 P. 2d 1251.

No. 89-7477. *ADAMS v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 89-7478. *GROCHOWSKI v. CUPP, SUPERINTENDENT, OREGON STATE PENITENTIARY*. C. A. 9th Cir. Certiorari denied. Reported below: 892 F. 2d 83.

No. 89-7479. *ROWLEE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 899 F. 2d 1275.

No. 89-7480. *WHITE v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied.

No. 89-7481. *GIBSON v. MOORE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 251.

No. 89-7482. *GIBSON v. CLONTZ ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 251.

498 U. S.

October 1, 1990

No. 89-7484. *BROWN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 896 F. 2d 1368.

No. 89-7486. *STROUT v. VERMONT*. Sup. Ct. Vt. Certiorari denied.

No. 89-7487. *WOODARD v. COUGHLIN ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-7488. *WRIGHT v. UNITED STATES ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-7489. *GREEN v. LYNN, SECRETARY, LOUISIANA DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 89-7490. *RUTTER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 897 F. 2d 1558.

No. 89-7493. *GOAD v. MORRIS, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 887 F. 2d 1087.

No. 89-7495. *BONDZIE v. WOODLEY & SIMON ET AL.* Cir. Ct. City of Richmond, Va. Certiorari denied.

No. 89-7502. *ABBOTT v. CLAIBORNE PARISH SCHOOL BOARD*. Ct. App. La., 2d Cir. Certiorari denied. Reported below: 550 So. 2d 294.

No. 89-7511. *MARTINEZ v. WHITE, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 895 F. 2d 1414.

No. 89-7513. *MORGAN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 257.

No. 89-7517. *BAILEY v. RYAN STEVEDORING CO., INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 2d 157.

No. 89-7520. *WRIGHT v. OREGON*. Sup. Ct. Ore. Certiorari denied. Reported below: 309 Ore. 37, 785 P. 2d 340.

No. 89-7521. *SIMS v. WALKER, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 898 F. 2d 137.

No. 89-7525. *WRIGHT v. RODRIGUEZ*. C. A. 2d Cir. Certiorari denied.

October 1, 1990

498 U. S.

No. 89-7526. *EVANS v. UNITED STATES POSTAL SERVICE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 891 F. 2d 294.

No. 89-7527. *FERRYMAN v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 897 F. 2d 584.

No. 89-7530. *MURRELL v. UNITED STATES POSTAL SERVICE.* C. A. Fed. Cir. Certiorari denied. Reported below: 892 F. 2d 1051.

No. 89-7534. *MCRAE v. MARYLAND.* C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 146.

No. 89-7535. *MULLEN v. SMITH.* C. A. 5th Cir. Certiorari denied.

No. 89-7536. *KLACSMANN v. JESS PARISH HOSPITAL.* C. A. 11th Cir. Certiorari denied.

No. 89-7537. *HARRIS v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 901 F. 2d 1114.

No. 89-7540. *WINSTON v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 283 U. S. App. D. C. 85, 896 F. 2d 1383.

No. 89-7541. *NICKENS v. LEWIS.* C. A. 6th Cir. Certiorari denied. Reported below: 898 F. 2d 154.

No. 89-7542. *NOE v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 888 F. 2d 1383.

No. 89-7543. *CAMP v. VIRGINIA.* Cir. Ct., Pulaski County, Va. Certiorari denied.

No. 89-7546. *KOSEK v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 896 F. 2d 557.

No. 89-7547. *MARLOW v. NEW YORK CITY BOARD OF EXAMINERS.* C. A. 2d Cir. Certiorari denied. Reported below: 898 F. 2d 138.

No. 89-7548. *HAUSMAN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 2d 686.

No. 89-7549. *ROBINSON v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

498 U. S.

October 1, 1990

No. 89-7550. *EGGER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 898 F. 2d 159.

No. 89-7551. *TRENIER v. MYERS, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 89-7554. *RATCLIFF v. ROWLAND, DIRECTOR, CALIFORNIA DEPARTMENT OF CORRECTIONS*. C. A. 9th Cir. Certiorari denied.

No. 89-7555. *PAGAN CENTENO v. LOPEZ ET AL.* Super. Ct. P. R. Certiorari denied.

No. 89-7558. *ROGERS-BEY v. MCGINNIS, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS*. C. A. 7th Cir. Certiorari denied. Reported below: 896 F. 2d 279.

No. 89-7559. *TAYLOR v. FIRST BANK OF INDIANTOWN*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 555 So. 2d 865.

No. 89-7561. *SUD v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 889 F. 2d 1029.

No. 89-7564. *BROWN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 894 F. 2d 1341.

No. 89-7565. *DAVIDSON-EL v. UNITED STATES DEPARTMENT OF JUSTICE ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-7569. *BREWINGTON v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied. Reported below: 896 F. 2d 551.

No. 89-7571. *DOTSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 895 F. 2d 263.

No. 89-7572. *CHASE v. OREGON ET AL.* Ct. App. Ore. Certiorari denied.

No. 89-7574. *PRYOR v. ALLEN*. C. A. 8th Cir. Certiorari denied. Reported below: 894 F. 2d 1341.

No. 89-7576. *MOLINA-IGUADO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 2d 1452.

No. 89-7578. *HARRIS v. BURDORFF*. C. A. 6th Cir. Certiorari denied. Reported below: 895 F. 2d 1413.

October 1, 1990

498 U. S.

No. 89-7582. *LEPISCOPO v. HOPWOOD ET AL.* Sup. Ct. N. M. Certiorari denied. Reported below: 110 N. M. 72, 792 P. 2d 49.

No. 89-7583. *JONES v. MEYERS, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 899 F. 2d 883.

No. 89-7584. *COOK v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 89-7586. *BALLARD v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied.

No. 89-7587. *GREATHOUSE v. MARSHALL, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 896 F. 2d 553.

No. 89-7591. *PINA v. MASSACHUSETTS.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 406 Mass. 540, 549 N. E. 2d 106.

No. 89-7592. *TOWNSEND v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 283 U. S. App. D. C. 72, 896 F. 2d 599.

No. 89-7593. *HARMON v. BARTON, SUPERINTENDENT, FLORIDA STATE PRISON, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 894 F. 2d 1268.

No. 89-7595. *GOMEZ v. UNITED STATES;* and

No. 89-7602. *MARTINEZ v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 89-7598. *JACKSON v. DEPARTMENT OF TRANSPORTATION.* C. A. Fed. Cir. Certiorari denied. Reported below: 892 F. 2d 1050.

No. 89-7599. *HARRISON v. STALLINGS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 145.

No. 89-7603. *LEPPALUOTO ET UX. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 891 F. 2d 295.

No. 89-7604. *MANUEL S. P. v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 215 Cal. App. 3d 48, 263 Cal. Rptr. 447.

No. 89-7607. *WALKER v. PEOPLE EXPRESS AIRLINES, INC., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 898 F. 2d 143.

498 U. S.

October 1, 1990

No. 89-7609. *RILEY v. SULLIVAN ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-7610. *FRANKLIN v. CASPARI, SUPERINTENDENT, MISSOURI EASTERN CORRECTIONAL CENTER.* C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 1572.

No. 89-7613. *WILSON v. WILSON ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 897 F. 2d 530.

No. 89-7614. *WYATT v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 9th Cir. Certiorari denied.

No. 89-7615. *WILLIS v. FIRST BANK NATIONAL ASSN.* Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 89-7618. *MARTIN v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 282 U. S. App. D. C. 255, 893 F. 2d 1404.

No. 89-7623. *VALDEZ v. BRITTAIN, SUPERINTENDENT, ARKANSAS VALLEY CORRECTIONAL FACILITY, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-7625. *AYLETT v. CALIFORNIA.* Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 89-7626. *BUNION v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 901 F. 2d 1114.

No. 89-7627. *VIDAURRI v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1569.

No. 89-7628. *GONZALES v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 75 N. Y. 2d 938, 554 N. E. 2d 1269.

No. 89-7629. *MAUGERI v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 892 F. 2d 87.

No. 89-7633. *CHIPP v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 75 N. Y. 2d 327, 552 N. E. 2d 608.

No. 89-7637. *HOLMES v. GENCO ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-7641. *BRANNAN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 898 F. 2d 107.

October 1, 1990

498 U. S.

No. 89-7642. *STRINGER v. JOHNSON ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 89-7643. *VAUGHN v. BOSWELL, SHERIFF.* Cir. Ct. Henrico County, Va. Certiorari denied.

No. 89-7644. *JAGER v. LAFAYETTE TOWNSHIP ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 888 F. 2d 1380.

No. 89-7647. *McFADDEN v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY.* Cir. Ct. Sunflower County, Miss. Certiorari denied.

No. 89-7648. *NICKENS v. CITY OF MARKS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 901 F. 2d 1111.

No. 89-7649. *HARRELL v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 2d 120.

No. 89-7652. *HOLLINGSWORTH v. SUPREME COURT OF NEVADA.* Sup. Ct. Nev. Certiorari denied. Reported below: 106 Nev. 1026.

No. 89-7653. *LINDER v. VAUGHN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD.* C. A. 3d Cir. Certiorari denied.

No. 89-7654. *McCOY v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied.

No. 89-7655. *LITTLEJOHN v. GEORGIA.* Sup. Ct. Ga. Certiorari denied.

No. 89-7656. *AHMAD JAMAHL A. v. LOS ANGELES COUNTY SUPERIOR COURT.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 215 Cal. App. 3d 528, 263 Cal. Rptr. 747.

No. 89-7657. *WHIDDON v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 894 F. 2d 1266.

No. 89-7658. *BROWN v. McWHERTER, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 894 F. 2d 407.

No. 89-7663. *FRAZIER v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* Sup. Ct. Fla. Certiorari denied. Reported below: 559 So. 2d 1121.

498 U. S.

October 1, 1990

No. 89-7668. *HARRIS v. ALUMAX MILL PRODUCTS, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 897 F. 2d 400.

No. 89-7669. *MARTIN v. UNITED STATES DEPARTMENT OF EDUCATION ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 89-7674. *WILLIAMS v. SOLANO, ACTING EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS.* C. A. 10th Cir. Certiorari denied.

No. 89-7675. *PIMENTAL v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 896 F. 2d 544.

No. 89-7676. *DIEHL v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 897 F. 2d 530.

No. 89-7678. *SAUCIER ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 899 F. 2d 12.

No. 89-7681. *STRONG v. BLUTCHER ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 873 F. 2d 299.

No. 89-7685. *BASHAM v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied.

No. 89-7686. *EVANS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 15.

No. 89-7689. *ELROD v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 898 F. 2d 60.

No. 89-7692. *COURTNEY v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 561 So. 2d 607.

No. 89-7694. *GREEN v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 897 F. 2d 530.

No. 89-7695. *FROST v. CALIFORNIA.* App. Dept., Super. Ct. Cal., Los Angeles County. Certiorari denied.

No. 89-7696. *HISLOP v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 148.

No. 89-7697. *MAHDAVI v. CENTRAL INTELLIGENCE AGENCY.* C. A. 9th Cir. Certiorari denied. Reported below: 898 F. 2d 156.

October 1, 1990

498 U. S.

No. 89-7698. *IN RE MAHDAVI*. C. A. 9th Cir. Certiorari denied. Reported below: 899 F. 2d 19.

No. 89-7699. *MCCOLPIN v. OWENS*. C. A. 10th Cir. Certiorari denied.

No. 89-7700. *MARTIN v. FARNAN*. C. A. 3d Cir. Certiorari denied.

No. 89-7701. *MORTON v. MICHIGAN*. Sup. Ct. Mich. Certiorari denied. Reported below: 434 Mich. 881, 462 N. W. 2d 749.

No. 89-7703. *MALTBY v. UTAH NON-PROFIT HOUSING CORP. ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-7704. *MCGUIRE v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 188 Ill. App. 3d 1107, 571 N. E. 2d 1223.

No. 89-7705. *MOORE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1569.

No. 89-7706. *VISSER v. UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT*. C. A. D. C. Cir. Certiorari denied.

No. 89-7707. *STORY v. WYOMING*. Sup. Ct. Wyo. Certiorari denied. Reported below: 788 P. 2d 617.

No. 89-7708. *AYERS ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 894 F. 2d 981.

No. 89-7710. *LOCKLEAR v. DELAWARE ET AL.* Sup. Ct. Del. Certiorari denied. Reported below: 577 A. 2d 753.

No. 89-7711. *ALVAREZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 899 F. 2d 1225.

No. 89-7712. *BENITEZ v. ARIZONA*. Ct. App. Ariz. Certiorari denied.

No. 89-7713. *SCOTT v. SINGLETON, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 255.

No. 89-7714. *STEDMAN v. FARM CREDIT BANK OF ST. PAUL ET AL.* Sup. Ct. N. D. Certiorari denied. Reported below: 453 N. W. 2d 830.

498 U. S.

October 1, 1990

No. 89-7715. *OLIVIER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 894 F. 2d 41.

No. 89-7717. *DERMOTA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 895 F. 2d 1324.

No. 89-7718. *GARAVENTI v. BOARD OF REVIEW ET AL.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 89-7720. *GERMAN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 148.

No. 89-7721. *FOSTER v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 190 Ill. App. 3d 1018, 547 N. E. 2d 478.

No. 89-7723. *RUAN-ESPARZA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1567.

No. 89-7725. *VICKERS v. UNITED PARCEL SERVICE, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 898 F. 2d 155.

No. 89-7726. *PURK v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 895 F. 2d 1414.

No. 89-7727. *FERNANDEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 33.

No. 89-7728. *QUICK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 892 F. 2d 84.

No. 89-7729. *ROSS v. MINNESOTA*. Ct. App. Minn. Certiorari denied. Reported below: 451 N. W. 2d 231.

No. 89-7733. *CONLEY v. JOHNSON*. Ct. App. Wash. Certiorari denied.

No. 89-7734. *COWDEN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 89-7735. *BOWLING v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 900 F. 2d 926.

No. 89-7736. *COOPER v. JACKSON COUNTY DEPARTMENT OF CORRECTIONS ET AL.* C. A. 8th Cir. Certiorari denied.

No. 89-7737. *CHASE v. OREGON*. Ct. App. Ore. Certiorari denied.

October 1, 1990

498 U. S.

No. 89-7738. *ASH v. MACKIN ET AL.* Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 89-7739. *ELLIOTT v. WASHINGTON.* Sup. Ct. Wash. Certiorari denied. Reported below: 114 Wash. 2d 6, 785 P. 2d 440.

No. 89-7741. *ARNOLD v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 786 S. W. 2d 295.

No. 89-7742. *BENDINGFIELD v. PARKE, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 1221.

No. 89-7744. *ANDERSON v. BORG, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 89-7746. *SKEETER v. CITY OF NORFOLK ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 147.

No. 89-7747. *SNELL v. CITY AND COUNTY OF DENVER ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-7748. *JONES v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 898 F. 2d 1461.

No. 89-7749. *HIGGINBOTHAM v. KOEHLER, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 1221.

No. 89-7750. *STILLWELL ET AL. v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 900 F. 2d 1104.

No. 89-7751. *LUCAS v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 898 F. 2d 606.

No. 89-7756. *THOMPSON v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 898 F. 2d 659.

No. 89-7757. *VAN DYKE v. UNITED STATES; and PLUMMER v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 895 F. 2d 984 (first case); 902 F. 2d 1567 (second case).

No. 89-7758. *SOWELL v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 896 F. 2d 1368.

No. 89-7759. *RAINS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 896 F. 2d 842.

498 U. S.

October 1, 1990

No. 89-7760. *PETITTA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 899 F. 2d 1226.

No. 89-7761. *ROSS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 900 F. 2d 260.

No. 89-7762. *GRANT v. GAITHER, WARDEN*. C. A. 11th Cir. Certiorari denied. Reported below: 900 F. 2d 266.

No. 89-7763. *ROGERS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 899 F. 2d 917.

No. 89-7764. *TRAYER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 283 U. S. App. D. C. 208, 898 F. 2d 805.

No. 89-7765. *ALTHOFF v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 147.

No. 89-7766. *BAYLIES ET AL. v. PRINCE GEORGE'S COUNTY, MARYLAND, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 249.

No. 89-7767. *CULVER v. COUNTY OF RENSSELAER, NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-7769. *JONES v. MICHIGAN*. Sup. Ct. Mich. Certiorari denied.

No. 89-7770. *McGLAMRY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 148.

No. 89-7771. *MANNING v. NIX, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 901 F. 2d 671.

No. 89-7772. *JAMES v. WALLACE, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF PROBATION, PAROLE, AND PARDON SERVICES, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 252.

No. 89-7774. *HOFFMAN v. COHN, SUPERINTENDENT, INDIANA STATE REFORMATORY*. C. A. 7th Cir. Certiorari denied.

No. 89-7776. *HENDERSON v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 89-7778. *COLLIER v. DOWDEN ET AL.* C. A. 11th Cir. Certiorari denied.

October 1, 1990

498 U. S.

No. 89-7780. *EVANS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 902 F. 2d 959.

No. 89-7783. *BLACKMON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 898 F. 2d 155.

No. 89-7784. *RATLIFF v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 893 F. 2d 161.

No. 89-7790. *HARDING v. ALLEN, COMMISSIONER, MAINE DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 907 F. 2d 142.

No. 89-7791. *MILNE v. NEW JERSEY*. Super. Ct. N. J., App. Div. Certiorari denied.

No. 89-7792. *PIOTROWSKI v. MINNESOTA*. Sup. Ct. Minn. Certiorari denied. Reported below: 453 N. W. 2d 689.

No. 89-7794. *HUARD v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 1575.

No. 89-7795. *MACK v. UNITED STATES*; and

No. 89-7811. *MACKLIN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 900 F. 2d 948.

No. 89-7796. *KLEIN v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 156 App. Div. 2d 385, 548 N. Y. S. 2d 337.

No. 89-7797. *MALDONADO v. SENKOWSKI, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied.

No. 89-7798. *JEFFERSON v. JOHNSON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1529.

No. 89-7799. *HENRY v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 89-7800. *MOORE v. FICQUETTE ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 900 F. 2d 265.

No. 89-7801. *LEWIS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 900 F. 2d 877.

498 U. S.

October 1, 1990

No. 89-7802. *HUDSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1567.

No. 89-7803. *POPE v. ALABAMA*. Sup. Ct. Ala. Certiorari denied. Reported below: 562 So. 2d 131.

No. 89-7804. *ARBEL v. TURGEON RESTAURANTS OF NIAGARA FALLS, INC.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 155 App. Div. 2d 1003, 548 N. Y. S. 2d 835.

No. 89-7805. *BAILEY v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 319 Md. 392, 572 A. 2d 544.

No. 89-7807. *WILDER v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 560 So. 2d 791.

No. 89-7808. *WILLIAMS v. CHRANS, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 902 F. 2d 37.

No. 89-7809. *SARTI-TINOCO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 899 F. 2d 13.

No. 89-7810. *HERRON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 900 F. 2d 263.

No. 89-7812. *MILTON v. YINGST ET AL.* C. A. 11th Cir. Certiorari denied.

No. 89-7813. *HEDERSON v. TATE, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 898 F. 2d 153.

No. 89-7814. *OSORIO v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 900 F. 2d 247.

No. 89-7815. *LOCKLEAR v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 257.

No. 89-7816. *BRECKENRIDGE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 540.

No. 89-7817. *MARTIN v. FARNAN*. C. A. 3d Cir. Certiorari denied.

No. 89-7818. *MACGUIRE v. RASMUSSEN*. C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 253.

No. 89-7819. *CHRISTENSEN v. CITY OF MONTICELLO*. Sup. Ct. Utah. Certiorari denied. Reported below: 788 P. 2d 513.

October 1, 1990

498 U. S.

No. 89-7820. *WILLIAMS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 900 F. 2d 260.

No. 89-7821. *PETIT v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 89-7822. *GREEN ET AL. v. LAW FIRM OF WISEMAN, BLACKBURN, FUTRELL & COHEN ET AL.* Sup. Ct. Ga. Certiorari denied.

No. 89-7823. *ABDUL-MATIYN v. CITY OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied.

No. 89-7824. *WILLIAMS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 89-7825. *SELLERS v. ECHOLS, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 898 F. 2d 154.

No. 89-7827. *RIGNEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 30.

No. 89-7829. *WEYCHERT v. PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE*. Commw. Ct. Pa. Certiorari denied. Reported below: 122 Pa. Commw. 6, 551 A. 2d 605.

No. 89-7830. *BUGARIN v. TEXAS*. Ct. App. Tex., 8th Dist. Certiorari denied.

No. 89-7831. *PETREE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 897 F. 2d 526.

No. 89-7832. *GIBSON v. HOFFMAN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 1565.

No. 89-7834. *CROSS v. ILLINOIS*. C. A. 7th Cir. Certiorari denied. Reported below: 896 F. 2d 1099.

No. 89-7836. *REASONER v. CORBIN, ATTORNEY GENERAL OF ARIZONA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 899 F. 2d 1225.

No. 89-7837. *SCHUELLER v. TRW, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 892 F. 2d 1046.

No. 89-7840. *WASHINGTON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 898 F. 2d 439.

498 U. S.

October 1, 1990

No. 89-7841. *PERKINS v. PETSOCK, SUPERINTENDENT, STATE CORRECTIONAL (AND DIAGNOSTIC AND CLASSIFICATION CENTER) AT PITTSBURGH, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 899 F. 2d 1218.

No. 89-7843. *STAMEY v. GEORGIA.* Ct. App. Ga. Certiorari denied. Reported below: 194 Ga. App. 305, 390 S. E. 2d 409.

No. 89-7844. *SINCLAIR v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 902 F. 2d 1557.

No. 89-7845. *VILLARRUBIA v. UNITED STATES POSTAL SERVICE ET AL.* C. A. 5th Cir. Certiorari denied.

No. 89-7846. *PEASE v. HARGETT, WARDEN.* C. A. 10th Cir. Certiorari denied.

No. 89-7847. *SINDRAM v. N. RICHARD KIMMEL PROPERTIES ET AL.* Ct. Sp. App. Md. Certiorari denied.

No. 89-7848. *SINDRAM v. WASHINGTON SUBURBAN SANITARY COMMISSION.* Cir. Ct. Montgomery County, Md. Certiorari denied.

No. 89-7849. *PATTON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 898 F. 2d 157.

No. 89-7850. *DUQUE v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 900 F. 2d 1064.

No. 89-7851. *COCHRAN v. CONROY ET AL.* C. A. 8th Cir. Certiorari denied.

No. 89-7852. *FORD v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 35.

No. 89-7853. *DANFORTH v. WISCONSIN.* Ct. App. Wis. Certiorari denied.

No. 89-7854. *BRADIN v. TURNER, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 89-7855. *GRAY v. SMITH, WARDEN.* C. A. 5th Cir. Certiorari denied.

No. 89-7856. *HURLEY v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 899 F. 2d 1217.

October 1, 1990

498 U. S.

No. 89-7857. *BRADDOCK v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 897 F. 2d 300.

No. 89-7858. *MILES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 896 F. 2d 547.

No. 89-7859. *HERNANDEZ-GARCIA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 901 F. 2d 875.

No. 89-7860. *JOHN v. IMMIGRATION AND NATURALIZATION SERVICE ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89-7861. *HART v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 89-7862. *HARVEY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 900 F. 2d 265.

No. 89-7864. *NOBLE v. SULLIVAN, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 1575.

No. 89-7865. *LEWIS v. VASQUEZ, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 895 F. 2d 1417.

No. 89-7866. *NUBINE v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 89-7868. *CECCATO v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 89-7869. *RODRIGUEZ-GONZALEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 899 F. 2d 177.

No. 89-7870. *BREWER ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 503.

No. 89-7871. *CAMPBELL v. INGERSOLL MILLING MACHINE CO. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 893 F. 2d 925.

No. 89-7872. *HOSCH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1567.

No. 89-7874. *LAMB v. SOWDERS, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 1222.

No. 89-7875. *GAINES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 902 F. 2d 1562.

498 U. S.

October 1, 1990

No. 89-7876. *LINTON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 15.

No. 89-7877. *MCCARTY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 704.

No. 89-7878. *LANGSTON ET UX. v. DODSON ET AL.* C. A. 5th Cir. Certiorari denied.

No. 89-7879. *HATCH v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 190 Ill. App. 3d 1004, 547 N. E. 2d 1264.

No. 89-7881. *SMALLEN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 149.

No. 89-7883. *JOHNSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 41.

No. 89-7885. *ZENNER v. POWERS ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-2. *SAFIR v. PRUDENTIAL INSURANCE COMPANY OF AMERICA ET AL.* C. A. 2d Cir. Certiorari denied.

No. 90-3. *WOLF v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 869 F. 2d 1288.

No. 90-5. *CHICAGO HOUSING AUTHORITY ET AL. v. TRIAD ASSOCIATES, INC., DBA GUARDIAN SECURITY, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 892 F. 2d 583.

No. 90-6. *BLOCK 173 ASSOCIATES v. CITY AND COUNTY OF DENVER ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 900 F. 2d 1434.

No. 90-7. *BELCHER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 898 F. 2d 158.

No. 90-8. *WRENN v. BOARD OF DIRECTORS, WHITNEY M. YOUNG, JR., HEALTH CENTER, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 891 F. 2d 278.

No. 90-10. *GRANITO v. UNITED STATES*; and

No. 90-46. *ANGIULO ET AL. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 897 F. 2d 1169.

October 1, 1990

498 U. S.

No. 90-11. *ARGUELLO v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 30 M. J. 219.

No. 90-12. *ROUNDS v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 30 M. J. 76.

No. 90-14. *RECKMEYER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 257.

No. 90-15. *GORDON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 895 F. 2d 932.

No. 90-16. *SHENANDOAH BAPTIST CHURCH v. DOLE, SECRETARY OF LABOR, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 899 F. 2d 1389.

No. 90-17. *BROTHERHOOD OF RAILWAY CARMEN (DIVISION OF T. C. U.) ET AL. v. ATCHISON, TOPEKA & SANTA FE RAILWAY CO.* C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 2d 1463.

No. 90-19. *JONES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 900 F. 2d 512.

No. 90-21. *MARTINSON v. FARM CREDIT BANK OF ST. PAUL, FKA FEDERAL LAND BANK OF ST. PAUL*. Sup. Ct. N. D. Certiorari denied. Reported below: 453 N. W. 2d 816.

No. 90-22. *THOMPSON v. WISE GENERAL HOSPITAL ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 896 F. 2d 547.

No. 90-23. *FOOD CHEMICAL NEWS, INC., ET AL. v. BENSON, ACTING COMMISSIONER, FOOD AND DRUG ADMINISTRATION*. C. A. D. C. Cir. Certiorari denied. Reported below: 283 U. S. App. D. C. 344, 900 F. 2d 328.

No. 90-24. *GREENSPAN, JAFFE & ROSENBLATT ET AL. v. SARA LEE CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 900 F. 2d 522.

No. 90-27. *HECK ET AL. v. ANDERSON ET AL.* Ct. App. La., 1st Cir. Certiorari denied. Reported below: 554 So. 2d 695.

No. 90-28. *NEWTON v. W. R. GRACE & CO. ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 877 F. 2d 973.

498 U. S.

October 1, 1990

No. 90-30. *WILLIAMS v. MOSBACHER, SECRETARY OF COMMERCE*. C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 258.

No. 90-31. *CROSS ET UX., INDIVIDUALLY AND AS ADMINISTRATORS OF THE ESTATE OF THEIR MINOR CHILD, CROSS v. SHELL OIL CO.* C. A. 5th Cir. Certiorari denied. Reported below: 871 F. 2d 118.

No. 90-32. *SECRETARY OF STATE OF FLORIDA ET AL. v. WALKER ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 893 F. 2d 1189.

No. 90-33. *CORNING NATURAL GAS CORP. v. NORTH PENN GAS CO.* C. A. 3d Cir. Certiorari denied. Reported below: 897 F. 2d 687.

No. 90-35. *FORETICH v. LIFETIME CABLE ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 90-37. *MALCOMSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 896 F. 2d 68.

No. 90-39. *FRAZIER v. OHIO*. Ct. App. Ohio, Medina County. Certiorari denied.

No. 90-40. *FOSTER ET VIR v. STEIN ET UX.* Sup. Ct. Fla. Certiorari denied. Reported below: 557 So. 2d 861.

No. 90-42. *LANE, TRUSTEE, ET AL. v. SULLIVAN ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 900 F. 2d 1247.

No. 90-48. *SEELIG ET AL. v. KOEHLER, CORRECTION COMMISSIONER OF THE CITY OF NEW YORK, ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 76 N. Y. 2d 87, 556 N. E. 2d 125.

No. 90-49. *LOCKARD ET UX. v. MISSOURI PACIFIC RAILROAD CO. ET AL.*; and

No. 90-117. *MISSOURI PACIFIC RAILROAD CO. v. RAY, DBA ROSELLA RAY'S BOARDING HOUSE, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 894 F. 2d 299.

No. 90-52. *ALUMINUM COMPANY OF AMERICA v. ALM.* Sup. Ct. Tex. Certiorari denied. Reported below: 785 S. W. 2d 137.

October 1, 1990

498 U. S.

No. 90-53. *TUCKER v. BIEBER ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 900 F. 2d 973.

No. 90-55. *ILLINOIS WINE & SPIRITS CO. v. COUNTY OF COOK, BUREAU OF ADMINISTRATION, ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 191 Ill. App. 3d 924, 548 N. E. 2d 416.

No. 90-57. *UNITED STATES FIDELITY & GUARANTY CO. ET AL. v. ST. JOHN MORTGAGE CO., INC.* C. A. 3d Cir. Certiorari denied. Reported below: 897 F. 2d 1266.

No. 90-58. *SMITH v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 564.

No. 90-59. *CASKIE v. HECHINGER.* C. A. 9th Cir. Certiorari denied. Reported below: 890 F. 2d 202.

No. 90-60. *UNION TEXAS PETROLEUM CORP. ET AL. v. STATE SERVICE CO., INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 895 F. 2d 1043.

No. 90-62. *MANZO ET AL. v. MANZO ET AL.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 90-63. *FLORAMERICA, S. A., ET AL. v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 901 F. 2d 1089.

No. 90-64. *ALLMAN v. WESTMORELAND COAL CO.* C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 144.

No. 90-65. *GLASS, TRANSFEREE, ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 33.

No. 90-67. *BUCKNER v. CITY OF HIGHLAND PARK, MICHIGAN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 901 F. 2d 491.

No. 90-72. *BROWN ET VIR, INDIVIDUALLY AND AS NEXT FRIENDS OF BROWN ET AL., MINORS v. GRANATELLI, AS TRUSTEE OF TUNEUP MASTERS, INC., EMPLOYEE BENEFIT PLAN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 897 F. 2d 1351.

No. 90-74. *JACKSON v. HARVARD UNIVERSITY ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 900 F. 2d 464.

498 U. S.

October 1, 1990

No. 90-75. *BARTON ET AL. v. CREASEY COMPANY OF CLARKSBURG ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 249.

No. 90-77. *CLINCHFIELD COAL CO. v. FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 282 U. S. App. D. C. 368, 895 F. 2d 773.

No. 90-78. *ADOBE WESTERN & CASUAL, INC. v. LOUISIANA (THROUGH DEPARTMENT OF REVENUE AND TAXATION).* Ct. App. La., 1st Cir. Certiorari denied.

No. 90-81. *WESTON v. BANKS ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 896 F. 2d 1557.

No. 90-82. *VIDEO NEWS, INC. v. TEXAS.* Ct. App. Tex., 1st Dist. Certiorari denied. Reported below: 781 S. W. 2d 411.

No. 90-83. *SMITH v. ROOSEVELT COUNTY, MONTANA, ET AL.* Sup. Ct. Mont. Certiorari denied. Reported below: 242 Mont. 27, 788 P. 2d 895.

No. 90-85. *CROSS v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 893 F. 2d 1287.

No. 90-86. *POLYAK v. HAMILTON, JUDGE, CHANCERY COURT OF LAWRENCE COUNTY, TENNESSEE.* Sup. Ct. Tenn. Certiorari denied.

No. 90-87. *WARD v. HILLHAVEN, INC., ET AL.* Ct. App. N. C. Certiorari denied. Reported below: 97 N. C. App. 143, 388 S. E. 2d 246.

No. 90-88. *PETERSON v. KING TREE CENTER, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 896 F. 2d 1369.

No. 90-91. *BOYLAN ET AL. v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 898 F. 2d 230.

No. 90-92. *AMERICAN PETROLEUM INSTITUTE v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 280 U. S. App. D. C. 338, 886 F. 2d 355.

No. 90-94. *FLORIDA DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 902 F. 2d 959.

October 1, 1990

498 U. S.

No. 90-100. *SEGRAVES v. RALPH M. PARSONS CO. ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-101. *PHELPS v. O'DONNELL, TRUSTEE.* C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 254.

No. 90-103. *PENNHURST STATE SCHOOL & HOSPITAL ET AL. v. HALDERMAN ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 901 F. 2d 311.

No. 90-104. *JOHN M. v. PAULA T. ET AL.* Sup. Ct. Pa. Certiorari denied. Reported below: 524 Pa. 306, 571 A. 2d 1380.

No. 90-105. *CATLETT v. LIVELY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 899 F. 2d 12.

No. 90-106. *MORALES v. KANSAS STATE UNIVERSITY ET AL.* Sup. Ct. Kan. Certiorari denied. Reported below: 246 Kan. xxviii, 790 P. 2d 947.

No. 90-108. *AUSTERN ET UX. v. CHICAGO BOARD OPTIONS EXCHANGE, INC.* C. A. 2d Cir. Certiorari denied. Reported below: 898 F. 2d 882.

No. 90-109. *FERRIS v. COUNTY OF SANTA CLARA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 891 F. 2d 715.

No. 90-110. *ROMEO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 902 F. 2d 1556.

No. 90-111. *WOERNER v. BRUNT ET AL.* Super. Ct. N. J., Law Div., Middlesex County. Certiorari denied.

No. 90-115. *DONIA v. CEREBRAL PALSY COLLINGSWOOD ACTIVITY CENTER, AKA CEREBRAL PALSY ADULT ACTIVITY CENTER, ET AL.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 90-116. *HELM, DBA BILLS GREEN LIGHT AUTO PARTS v. MID-AMERICA INDUSTRIES, INC.* Sup. Ct. Ark. Certiorari denied. Reported below: 301 Ark. 521, 785 S. W. 2d 209.

No. 90-118. *RHINEHART ET AL. v. KIRO, INC., ET AL.* Ct. App. Wash. Certiorari denied.

No. 90-122. *SALDIVAR v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

498 U. S.

October 1, 1990

No. 90-123. *WILSON ET VIR v. DARROW ET AL.* Ct. App. Ky. Certiorari denied.

No. 90-124. *HYDE ATHLETIC INDUSTRIES, INC., ET AL. v. BADALAMENTI.* C. A. Fed. Cir. Certiorari denied. Reported below: 896 F. 2d 1359.

No. 90-126. *GAJDOS v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 697.

No. 90-127. *INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, LODGE NO. 1777 v. FANSTEEL, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 900 F. 2d 1005.

No. 90-128. *GREB ET AL. v. UNIVERSAL PICTURES, INC., ET AL.* Super. Ct. Pa. Certiorari denied. Reported below: 394 Pa. Super. 619, 565 A. 2d 824.

No. 90-129. *KANE v. SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA.* Sup. Ct. Pa. Certiorari denied. Reported below: 525 Pa. 134, 578 A. 2d 407.

No. 90-130. *AMERICAN MANUFACTURERS MUTUAL INSURANCE CO. ET AL. v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 901 F. 2d 370.

No. 90-132. *ZACHARKIEWICZ v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-133. *SCHWARTZ ET AL. v. HARRISON ET AL.* Ct. App. Md. Certiorari denied. Reported below: 319 Md. 360, 572 A. 2d 528.

No. 90-135. *PLEASANT, PERSONAL REPRESENTATIVE OF THE ESTATE OF PLEASANT, DECEASED v. ZAMIESKI.* C. A. 6th Cir. Certiorari denied. Reported below: 895 F. 2d 272.

No. 90-136. *FRAIGE ET AL. v. AMERICAN NATIONAL WATER-MATTRESS CORP.* C. A. Fed. Cir. Certiorari denied. Reported below: 902 F. 2d 43.

No. 90-137. *TRANS PACIFIC BANCORP ET AL. v. SCHEY.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-138. *BENNETT v. ARKANSAS.* Sup. Ct. Ark. Certiorari denied. Reported below: 302 Ark. 179, 789 S. W. 2d 436.

October 1, 1990

498 U. S.

No. 90-141. *HARDEN v. HOOSIER*. C. A. 6th Cir. Certiorari denied. Reported below: 898 F. 2d 154.

No. 90-146. *WALKER v. BOARD OF COUNTY COMMISSIONERS OF MUSKOGEE COUNTY, OKLAHOMA, ET AL.* Sup. Ct. Okla. Certiorari denied. Reported below: 788 P. 2d 957.

No. 90-148. *KLEIN v. IOWA DEPARTMENT OF REVENUE AND FINANCE*. Sup. Ct. Iowa. Certiorari denied. Reported below: 451 N. W. 2d 837.

No. 90-150. *FORDHAM v. OFFICE OF PERSONNEL MANAGEMENT*. C. A. Fed. Cir. Certiorari denied. Reported below: 889 F. 2d 1100.

No. 90-154. *DAVIS v. UNITED STATES POSTAL SERVICE*. C. A. 5th Cir. Certiorari denied. Reported below: 896 F. 2d 551.

No. 90-156. *MACHEN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 1567.

No. 90-157. *TRUSTEES OF THE CENTENNIAL STATE CARPENTERS PENSION TRUST FUND v. CENTRIC CORP.* C. A. 10th Cir. Certiorari denied. Reported below: 901 F. 2d 1514.

No. 90-158. *BOURKE v. SCHUMAN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 895 F. 2d 1416.

No. 90-159. *TOWN OF BABYLON, NEW YORK, ET AL. v. NATIONAL ADVERTISING CO. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 900 F. 2d 551.

No. 90-160. *SMITH v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied. Reported below: 788 S. W. 2d 266.

No. 90-161. *MPM CONTRACTORS, INC. v. DEPARTMENT OF HEALTH AND ENVIRONMENT OF KANSAS*. Ct. App. Kan. Certiorari denied. Reported below: 14 Kan. App. 2d xxxi, 788 P. 2d 1344.

No. 90-163. *EVERETT v. I-NET, INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 251.

No. 90-164. *STRUBINGER v. UNITED STATES POSTAL SERVICE*. C. A. Fed. Cir. Certiorari denied. Reported below: 899 F. 2d 1228.

498 U. S.

October 1, 1990

No. 90-165. *WISE v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 326 N. C. 421, 390 S. E. 2d 142.

No. 90-167. *FREEDLAND v. MICHIGAN*. Ct. App. Mich. Certiorari denied. Reported below: 178 Mich. App. 761, 444 N. W. 2d 250.

No. 90-170. *MAGNONE ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 902 F. 2d 192.

No. 90-173. *SWANK v. SMART, INDIVIDUALLY AND AS CITY MARSHAL OF CARTHAGE, ILLINOIS, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 898 F. 2d 1247.

No. 90-174. *POKORNY, ADMINISTRATRIX OF THE ESTATE OF DUFFY, DECEASED v. FORD MOTOR CO.* C. A. 3d Cir. Certiorari denied. Reported below: 902 F. 2d 1116.

No. 90-175. *DENNIS v. CITY OF MIDDLETON, WISCONSIN, ET AL.* (two cases). C. A. 7th Cir. Certiorari denied. Reported below: 902 F. 2d 37 (second case).

No. 90-177. *DOUTHWAITE v. VIRGINIA*. C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 1564.

No. 90-178. *AUBIN ET AL. v. E. F. HUTTON GROUP, INC., ET AL.* C. A. 5th Cir. Certiorari denied.

No. 90-179. *INDEPENDENCE FEDERAL SAVINGS BANK v. HUNTLEY*. Ct. App. D. C. Certiorari denied. Reported below: 573 A. 2d 787.

No. 90-180. *COOPER v. UNITED STATES ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 896 F. 2d 543.

No. 90-183. *GOODEN v. TOWN OF CLARKTON, NORTH CAROLINA, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 145.

No. 90-185. *DISTRICT 2 MARINE ENGINEERS BENEFICIAL ASSN. ET AL. v. DELTA QUEEN STEAMBOAT CO.* C. A. 5th Cir. Certiorari denied. Reported below: 889 F. 2d 599.

No. 90-186. *JAMAIL v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 787 S. W. 2d 380.

October 1, 1990

498 U. S.

No. 90-187. *EWEN v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 194 Ill. App. 3d 404, 551 N. E. 2d 426.

No. 90-188. *INTERNATIONAL CONSULTING SERVICES, INC. v. GILBERT*. C. A. D. C. Cir. Certiorari denied.

No. 90-192. *UNIVERSAL HEALTH SERVICES OF NEVADA, INC. v. AEROSPATIALE HELICOPTER CORP.* Ct. App. Tex., 5th Dist. Certiorari denied. Reported below: 778 S. W. 2d 492.

No. 90-195. *SORO, AKA CITICORP MORTGAGE CO., INC. v. CITICORP ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 898 F. 2d 158.

No. 90-197. *UBEROI v. RICHTEL*. C. A. 10th Cir. Certiorari denied.

No. 90-199. *TELEDYNE, INC. v. DATSKOW ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 899 F. 2d 1298.

No. 90-204. *DUMFORD v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 30 M. J. 137.

No. 90-207. *BALL ET AL. v. METALLURGIE HOBOKEN-OVERPELT, S. A.* C. A. 2d Cir. Certiorari denied. Reported below: 902 F. 2d 194.

No. 90-208. *HENNEPIN TECHNICAL CENTER ET AL. v. HAWKINS*. C. A. 8th Cir. Certiorari denied. Reported below: 900 F. 2d 153.

No. 90-210. *JIM BOUTON CORP. v. WM. WRIGLEY JR. CO. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 902 F. 2d 1074.

No. 90-211. *STALLINGS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1532.

No. 90-212. *HAYTON v. GRAYSON*. C. A. 6th Cir. Certiorari denied.

No. 90-214. *FAHRIG ET UX. v. DODGE, JUDGE*. Sup. Ct. Ohio. Certiorari denied. Reported below: 46 Ohio St. 3d 715, 546 N. E. 2d 1333.

No. 90-215. *STROMAN v. WEST COAST GROCERY CO.* C. A. 9th Cir. Certiorari denied. Reported below: 884 F. 2d 458.

498 U. S.

October 1, 1990

No. 90-216. *MOELLER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 509.

No. 90-219. *RIVERVIEW INVESTMENTS, INC., ET AL. v. OTTAWA COMMUNITY IMPROVEMENT CORP. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 474.

No. 90-222. *COOK ET AL. v. MCCULLOUGH ET AL.* Ct. App. Tenn. Certiorari denied.

No. 90-226. *DAVIS v. CITY OF SPOKANE*. Super. Ct. Wash., County of Spokane. Certiorari denied.

No. 90-227. *ATWAL v. CITY OF RIVERSIDE*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-229. *LLOYD v. LONG*. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 216 Cal. App. 3d 1287, 265 Cal. Rptr. 96.

No. 90-230. *EHRHARDT v. PENN MUTUAL LIFE INSURANCE CO. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 664.

No. 90-231. *FLORIDA v. OWEN*. Sup. Ct. Fla. Certiorari denied. Reported below: 560 So. 2d 207.

No. 90-233. *RYANS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 903 F. 2d 731.

No. 90-234. *CITY OF SEAFORD, DELAWARE v. DELMARVA POWER & LIGHT Co.* Sup. Ct. Del. Certiorari denied. Reported below: 575 A. 2d 1089.

No. 90-235. *WASTE CONTRACTORS, INC. v. LAUDERDALE COUNTY COMMISSION ET AL.* Sup. Ct. Ala. Certiorari denied. Reported below: 565 So. 2d 623.

No. 90-238. *CITY OF DALLAS v. ROSENSTEIN*. C. A. 5th Cir. Certiorari denied. Reported below: 901 F. 2d 61.

No. 90-241. *RHODES v. NEBRASKA STATE BAR ASSN.* Sup. Ct. Neb. Certiorari denied. Reported below: 234 Neb. 799, 453 N. W. 2d 73.

No. 90-242. *DABNEY ET AL. v. SOUTH CAROLINA*. Sup. Ct. S. C. Certiorari denied. Reported below: 301 S. C. 271, 391 S. E. 2d 563.

October 1, 1990

498 U. S.

No. 90-243. *BURT ET UX. v. MAUI ARCHITECTURAL GROUP, INC., ET AL.* Sup. Ct. Haw. Certiorari denied. Reported below: 71 Haw. 650.

No. 90-250. *PERKINS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 897 F. 2d 530.

No. 90-251. *FIGUEROA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 907 F. 2d 144.

No. 90-252. *FERDINAND DREXEL INVESTMENT CO., INC., ET AL. v. ALIBERT ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 694.

No. 90-260. *WAGNER v. PENNSYLVANIA REAL ESTATE COMMISSION.* Commw. Ct. Pa. Certiorari denied. Reported below: 126 Pa. Commw. 368, 559 A. 2d 999.

No. 90-261. *OLSON v. MARSTON ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-264. *STERNER v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 30.

No. 90-265. *STACK v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 894 F. 2d 1338.

No. 90-267. *CULPEPPER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 898 F. 2d 65.

No. 90-283. *SCHWARK v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 904 F. 2d 714.

No. 90-306. *STROH v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 509.

No. 90-312. *DAVIS v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 900 F. 2d 1524.

No. 90-5001. *SCHIEMAN v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 894 F. 2d 909.

No. 90-5002. *MOORE v. TRUMP CASINO-HOTEL.* C. A. 3d Cir. Certiorari denied. Reported below: 897 F. 2d 522.

No. 90-5004. *CHASE v. PETERSON ET AL.* C. A. 9th Cir. Certiorari denied.

498 U. S.

October 1, 1990

No. 90-5005. *ROBINSON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 902 F. 2d 959.

No. 90-5006. *DECHaine v. MAINE*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 572 A. 2d 130.

No. 90-5007. *FOX v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 892 F. 2d 1047.

No. 90-5008. *WEXLER v. CITICORP MORTGAGE, INC., ET AL.* C. A. 3d Cir. Certiorari denied.

No. 90-5009. *HODGES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 15.

No. 90-5010. *MOLNAR v. UNEMPLOYMENT COMPENSATION BOARD OF REVIEW*. Sup. Ct. Pa. Certiorari denied. Reported below: 525 Pa. 590, 575 A. 2d 119.

No. 90-5012. *MALLORY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 904 F. 2d 37.

No. 90-5013. *KIRK v. KEOHANE, WARDEN*. C. A. 3d Cir. Certiorari denied. Reported below: 899 F. 2d 1218.

No. 90-5014. *HAACKE v. LEAPLEY, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 90-5017. *BURTON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 894 F. 2d 188.

No. 90-5018. *STRICKLAND v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 557 So. 2d 771.

No. 90-5019. *MITAN v. MITAN*. C. A. 6th Cir. Certiorari denied. Reported below: 894 F. 2d 1336.

No. 90-5020. *HOMAYOUNI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 33.

No. 90-5021. *GUZMAN v. FLICKINGER*. C. A. D. C. Cir. Certiorari denied.

No. 90-5022. *SHIELDS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 257.

No. 90-5023. *RODRIGUEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 897 F. 2d 1324.

October 1, 1990

498 U. S.

No. 90-5024. *SEENEY v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 563 A. 2d 1081.

No. 90-5025. *SCROGGINS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-5026. *ROSAS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 903 F. 2d 828.

No. 90-5028. *STOIANOFF v. NEW AMERICAN LIBRARY ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 75 N. Y. 2d 766, 551 N. E. 2d 108.

No. 90-5030. *TAYLOR v. CUMBERLAND COUNTY DISTRICT ATTORNEY'S OFFICE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 1566.

No. 90-5031. *CURTIS ENRIQUE T. v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 214 Cal. App. 3d 1391, 263 Cal. Rptr. 296.

No. 90-5033. *HERNANDEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 896 F. 2d 513.

No. 90-5034. *KEYS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 899 F. 2d 983.

No. 90-5035. *HOLLAND v. SOWDERS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 898 F. 2d 154.

No. 90-5036. *JAANKOLA v. SNYDER ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 889 F. 2d 1087.

No. 90-5037. *BYRUM ET AL. v. GRIMES ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 900 F. 2d 265.

No. 90-5038. *WHITNEY v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied.

No. 90-5039. *STINYARD v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 901 F. 2d 1114.

No. 90-5040. *VALENCIA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 901 F. 2d 1114.

No. 90-5041. *RUBIO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 901 F. 2d 1111.

498 U. S.

October 1, 1990

No. 90-5042. *GRAY v. CITY OF HOUSTON ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 956.

No. 90-5043. *CAMPBELL v. FLATHEAD COUNTY SHERIFF ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 894 F. 2d 1344.

No. 90-5046. *DURAN v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 90-5048. *ERWIN v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 902 F. 2d 510.

No. 90-5049. *FRANCO v. ARIZONA ET AL.* Ct. App. Ariz. Certiorari denied.

No. 90-5052. *MADDEN v. THORBURN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 889 F. 2d 1087.

No. 90-5053. *MACK v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 892 F. 2d 134.

No. 90-5054. *NETELKOS v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 902 F. 2d 1563.

No. 90-5055. *MYERS v. CALLAHAN, SUPERINTENDENT, MC-NEIL ISLAND CORRECTIONS CENTER.* C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 40.

No. 90-5056. *HURD v. HURD ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 881 F. 2d 1084.

No. 90-5057. *MUNIYR, AKA GREEN v. EVATT, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 253.

No. 90-5058. *HARRISON v. WATTS.* C. A. 5th Cir. Certiorari denied. Reported below: 899 F. 2d 13.

No. 90-5059. *HUGHES v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 901 F. 2d 830.

No. 90-5062. *SHANLEY v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 90-5063. *PRINCE v. ROGERS.* C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 696.

October 1, 1990

498 U. S.

No. 90-5064. *VELASQUEZ v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 697.

No. 90-5067. *TURNER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 149.

No. 90-5068. *WINSTON v. KOSSOFF*. C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 33.

No. 90-5069. *THIEMECKE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 896 F. 2d 1368.

No. 90-5070. *SHERRILLS v. McMACKIN, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 90-5072. *BELGARD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 894 F. 2d 1092.

No. 90-5074. *BOGGESS v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 704.

No. 90-5075. *BEDONY v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied.

No. 90-5076. *STREET v. FOLTZ, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 90-5077. *PROFFIT ET AL. v. KOZLOWSKI ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 254.

No. 90-5080. *BELLO v. VIRGINIA EMPLOYMENT COMMISSION*. Ct. App. Va. Certiorari denied.

No. 90-5081. *DAVIS v. PHARIES ET AL.* C. A. 5th Cir. Certiorari denied.

No. 90-5082. *GREEN v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 75 N. Y. 2d 902, 553 N. E. 2d 1331.

No. 90-5083. *SCOTT v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 904 F. 2d 713.

No. 90-5084. *CHURCH v. THOMPSON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1137.

498 U. S.

October 1, 1990

No. 90-5085. *GRIFFIN v. FULCOMER*, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION, HUNTINGDON, PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 902 F. 2d 1559.

No. 90-5087. *SAUNDERS v. VERMONT DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES*. Sup. Ct. Vt. Certiorari denied. Reported below: 153 Vt. 504, 572 A. 2d 884.

No. 90-5089. *JENKINS v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 90-5090. *MILLER v. ROWLAND*, DIRECTOR, CALIFORNIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 895 F. 2d 1417.

No. 90-5091. *MOORE v. ANDERSON ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1568.

No. 90-5092. *MCCONNELL v. MARTIN*, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 896 F. 2d 441.

No. 90-5094. *OCANAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 900 F. 2d 263.

No. 90-5095. *MAY v. FEDERAL COMMUNICATIONS COMMISSION*. C. A. 6th Cir. Certiorari denied. Reported below: 894 F. 2d 407.

No. 90-5096. *MCCORVEY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 907 F. 2d 1143.

No. 90-5097. *HALL v. CONGER ET AL.* C. A. 11th Cir. Certiorari denied.

No. 90-5098. *LIDMAN v. NEWARK REDEVELOPMENT AND HOUSING AUTHORITY ET AL.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 90-5102. *WOOD v. COLLINS*, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE. C. A. 5th Cir. Certiorari denied.

No. 90-5105. *SCOTT v. MURRAY*, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 255.

October 1, 1990

498 U. S.

No. 90-5106. *BORRERO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 901 F. 2d 1112.

No. 90-5107. *BRUCHHAUSEN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 897 F. 2d 536.

No. 90-5110. *BAGGETT v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 901 F. 2d 1546.

No. 90-5111. *CAMACHO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 900 F. 2d 571.

No. 90-5113. *NEAL v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 90-5114. *RICE v. DOYLE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 1569.

No. 90-5117. *NATAL v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 75 N. Y. 2d 379, 553 N. E. 2d 239.

No. 90-5118. *KERAN v. MORRIS, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 900 F. 2d 259.

No. 90-5119. *MCGANN v. CUNNINGHAM, WARDEN, ET AL.* C. A. 1st Cir. Certiorari denied.

No. 90-5120. *MCLEE v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 904 F. 2d 700.

No. 90-5121. *MOORE v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY*. C. A. 5th Cir. Certiorari denied.

No. 90-5122. *MARGETIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1569.

No. 90-5124. *ALTON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 696.

No. 90-5125. *BRAWLEY v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE*. C. A. 5th Cir. Certiorari denied.

No. 90-5126. *TRAVERSO v. ISRAEL ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 30.

498 U. S.

October 1, 1990

No. 90-5127. *WATSON v. GARDNER ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 1223.

No. 90-5128. *WOODS v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 697.

No. 90-5129. *FREDERICK v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 897 F. 2d 490.

No. 90-5130. *SILVER v. VERMONT ET AL.* Sup. Ct. Vt. Certiorari denied.

No. 90-5131. *ALLUSTIARTE ET AL. v. COOPER.* C. A. 9th Cir. Certiorari denied. Reported below: 892 F. 2d 1045.

No. 90-5133. *CARVALHO v. NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION ET AL.* C. A. 2d Cir. Certiorari denied.

No. 90-5135. *SMITH v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 64, 901 F. 2d 1116.

No. 90-5136. *VENIE v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 902 F. 2d 1563.

No. 90-5137. *ROSS v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 905 F. 2d 1050.

No. 90-5138. *OWENS v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1531.

No. 90-5139. *WOOTEN v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1533.

No. 90-5144. *PATTERSON v. UNITED STATES.* Ct. App. D. C. Certiorari denied. Reported below: 575 A. 2d 305.

No. 90-5145. *HEWLETT v. BEARD ET AL.* C. A. 3d Cir. Certiorari denied.

No. 90-5146. *USMAN v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 896 F. 2d 1476.

No. 90-5147. *PANICO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 35.

October 1, 1990

498 U. S.

No. 90-5149. *CITRO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 879 F. 2d 514.

No. 90-5150. *SANCHEZ-ORTIZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 900 F. 2d 263.

No. 90-5151. *SCHMITZ v. GIBBS*. Ct. Sp. App. Md. Certiorari denied.

No. 90-5154. *BALASCSAK v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 902 F. 2d 1562.

No. 90-5155. *BEVERLY ET UX. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 32.

No. 90-5157. *RAINES v. SINGLETON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 254.

No. 90-5158. *WELLER v. WATERS, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1141.

No. 90-5159. *WAFER v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE*. C. A. 5th Cir. Certiorari denied.

No. 90-5160. *AGHA v. DEPARTMENT OF THE ARMY ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-5165. *HALL v. JORDAN ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 901 F. 2d 1115.

No. 90-5166. *MCDONALD v. DEMERSON*. C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 958.

No. 90-5167. *LOTERO-NUNEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 904 F. 2d 713.

No. 90-5168. *HOSTETLER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-5169. *GANEY v. CHESTER*. C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 28.

No. 90-5170. *AARON v. JONES, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 90-5172. *BUCHANAN v. MEDLOCK ET AL.* Sup. Ct. S. C. Certiorari denied.

498 U. S.

October 1, 1990

No. 90-5174. *MARSHALL v. OHIO*. Ct. App. Ohio, Columbiana County. Certiorari denied.

No. 90-5175. *CUEVAS HERNANDEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 901 F. 2d 1112.

No. 90-5179. *IBARGUEN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 889 F. 2d 272.

No. 90-5180. *LACY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 256.

No. 90-5182. *CLARK v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-5184. *SMITH v. TANDY ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 897 F. 2d 355.

No. 90-5185. *PEREZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 897 F. 2d 751.

No. 90-5186. *SMITH v. CADAGIN, JUDGE, SEVENTH JUDICIAL CIRCUIT, MORGAN COUNTY, ILLINOIS, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 902 F. 2d 553.

No. 90-5187. *GILBERT v. BEN-ASHER ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 900 F. 2d 1407.

No. 90-5188. *HENTHORN ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 90-5189. *JANNEH v. GAF CORP. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 887 F. 2d 432.

No. 90-5190. *MYERS v. MARTINEZ, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 880 F. 2d 1323.

No. 90-5191. *MAYERS v. UNITED STATES*; and

No. 90-5506. *MAYERS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 897 F. 2d 1126.

No. 90-5192. *JOHNSON v. BURKE*. C. A. 6th Cir. Certiorari denied. Reported below: 903 F. 2d 1056.

No. 90-5194. *JOFFRE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 894 F. 2d 403.

October 1, 1990

498 U. S.

No. 90-5196. *COFIELD v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied. Reported below: 904 F. 2d 699.

No. 90-5197. *BRITTON v. GODWIN ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 903 F. 2d 824.

No. 90-5200. *PETRARCA v. PICERNE ET AL.* Sup. Ct. R. I. Certiorari denied.

No. 90-5201. *AUDINOT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 901 F. 2d 1201.

No. 90-5202. *DIXON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 511.

No. 90-5203. *PHILLIPS v. SHAWANO COUNTY, WISCONSIN, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 90-5205. *RICHARDSON v. STALDER, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 90-5208. *CAMPINO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 890 F. 2d 588.

No. 90-5214. *QADHAFI v. VIRGINIA*. Ct. App. Va. Certiorari denied.

No. 90-5216. *GIOVANNI v. WHITLEY, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1568.

No. 90-5219. *MORRIS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 183, 902 F. 2d 1009.

No. 90-5221. *RASHE v. BUSH, PRESIDENT OF THE UNITED STATES, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-5223. *RODRIGUEZ v. LOPEZ ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 898 F. 2d 1014.

No. 90-5224. *SMITH v. BARNETT, ATTORNEY GENERAL OF NORTH CAROLINA*. C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1531.

No. 90-5225. *FERRER-MAZORRA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

498 U. S.

October 1, 1990

No. 90-5226. *THOMAS v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. Reported below: 235 Neb. 129, 453 N. W. 2d 752.

No. 90-5227. *ROLLE v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 560 So. 2d 1154.

No. 90-5228. *DUNCAN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-5229. *SCHROEDER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 902 F. 2d 1469.

No. 90-5230. *CHRISTY v. ALEXANDER ET AL.* Ct. App. La., 1st Cir. Certiorari denied. Reported below: 551 So. 2d 73.

No. 90-5231. *STEPHENS v. HEAD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 2d 1333.

No. 90-5232. *SANTIAGO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 901 F. 2d 1112.

No. 90-5233. *BENEDICT v. HENDERSON, WARDEN, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 34.

No. 90-5235. *MEADOR, ON BEHALF OF HIS DAUGHTERS, MEADOR ET AL. v. CABINET FOR HUMAN RESOURCES OF KENTUCKY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 474.

No. 90-5237. *ANDERSON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 902 F. 2d 1105.

No. 90-5238. *SETLIFF v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 30.

No. 90-5239. *TOLIVER v. JACKSON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 904 F. 2d 701.

No. 90-5240. *TURNER v. FALK, DIRECTOR, HAWAII DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-5241. *KIRK v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 893 F. 2d 1325.

No. 90-5242. *LAROQUE v. QANTAS AIRWAYS, LTD.* C. A. 9th Cir. Certiorari denied. Reported below: 900 F. 2d 263.

October 1, 1990

498 U. S.

No. 90-5243. *JONES v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 897 F. 2d 536.

No. 90-5244. *LE WARD v. HUNT ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 896 F. 2d 558.

No. 90-5245. *LEE v. ARMONTROUT, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 1574.

No. 90-5247. *GRAHAM v. WARNER, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 90-5250. *BERMAN v. GRIFFITHS ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 899 F. 2d 21.

No. 90-5251. *ANTOLIN v. DEPARTMENT OF JUSTICE*. C. A. Fed. Cir. Certiorari denied. Reported below: 895 F. 2d 1395.

No. 90-5252. *HARTLEY v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 90-5253. *MELVIN v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 33.

No. 90-5254. *GREEN v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 90-5255. *BURKE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 900 F. 2d 260.

No. 90-5256. *THORPE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 291.

No. 90-5258. *GRAVES v. UNITED STATES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 145.

No. 90-5259. *ENGEL v. SISSEL ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 508.

No. 90-5260. *CACERAS-GARCIA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 34.

No. 90-5261. *BROWN v. ARMONTROUT, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 898 F. 2d 84.

No. 90-5262. *CLARKE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 897 F. 2d 639.

498 U. S.

October 1, 1990

No. 90-5264. *COTTON v. NEW MEXICO*. Ct. App. N. M. Certiorari denied.

No. 90-5265. *CRUZ v. MCCARTHY, DIRECTOR, CALIFORNIA DEPARTMENT OF CORRECTIONS*. C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 38.

No. 90-5267. *TADROS v. COLEMAN ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 898 F. 2d 10.

No. 90-5268. *CASAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 898 F. 2d 150.

No. 90-5269. *WANG v. CALIFORNIA STATE UNIVERSITY BOARD OF TRUSTEES ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-5271. *SANCHEZ v. SULLIVAN, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 90-5272. *BONACCI v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-5273. *BAUTISTA-GARCIA v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 1374.

No. 90-5274. *PIERCE v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied.

No. 90-5276. *BALAWAJDER v. JONES*. Sup. Ct. Tex. Certiorari denied.

No. 90-5277. *VINSON v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE*. C. A. 5th Cir. Certiorari denied.

No. 90-5278. *GORDON v. AGNOS ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-5279. *GORDON v. BOWERS*. C. A. 11th Cir. Certiorari denied.

No. 90-5280. *BRAKKE ET AL. v. DAKOTA BANK & TRUST CO. OF FARGO ET AL.* Sup. Ct. N. D. Certiorari denied. Reported below: 453 N. W. 2d 610.

No. 90-5281. *TYLER v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 3d Cir. Certiorari denied. Reported below: 899 F. 2d 1219.

October 1, 1990

498 U. S.

No. 90-5282. *CORONA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 904 F. 2d 41.

No. 90-5283. *BOLT v. BLACKBURN ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1567.

No. 90-5284. *ANDRADE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 859 F. 2d 1067.

No. 90-5285. *BIFIELD v. HENMAN, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 90-5286. *THURMAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 903 F. 2d 829.

No. 90-5287. *DODSON v. ALTOONA MIRROR PUBLISHERS*. C. A. 3d Cir. Certiorari denied. Reported below: 899 F. 2d 1216.

No. 90-5288. *GRIFFIN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 903 F. 2d 828.

No. 90-5289. *BACKAS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 901 F. 2d 1528.

No. 90-5291. *BARNER v. HOFFMAN, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 894 F. 2d 401.

No. 90-5296. *FRAZIER v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 90-5298. *BROWN v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 158 App. Div. 2d 461, 550 N. Y. S. 2d 913.

No. 90-5299. *CHOU v. UNIVERSITY OF MARYLAND*. C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 250.

No. 90-5300. *SHAW v. VAUGHN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION (AND DIAGNOSTIC AND CLASSIFICATION CENTER) AT GRATERFORD, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 90-5302. *GAERTTNER v. FULCOMER ET AL.* C. A. 3d Cir. Certiorari denied.

No. 90-5303. *ARMSTRONG v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 909 F. 2d 1238.

498 U. S.

October 1, 1990

No. 90-5304. *CHANDLER v. WHITE ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 1574.

No. 90-5306. *MAYFIELD v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 90-5307. *MCGANN v. BIDERMAN ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 896 F. 2d 543.

No. 90-5310. *HAMMAD ET AL. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 902 F. 2d 1062.

No. 90-5311. *HAGOOD v. VAUGHN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD.* C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 694.

No. 90-5312. *LAWSON v. SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 2d Cir. Certiorari denied. Reported below: 888 F. 2d 126.

No. 90-5313. *NABORS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 901 F. 2d 1351.

No. 90-5314. *MURRAY v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1532.

No. 90-5315. *LEROUX v. NORTH CAROLINA.* Sup. Ct. N. C. Certiorari denied. Reported below: 326 N. C. 368, 390 S. E. 2d 314.

No. 90-5316. *KELLY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 41.

No. 90-5318. *MECKLEY v. WEST VIRGINIA DEPARTMENT OF CORRECTIONS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1530.

No. 90-5320. *KONTAKIS v. KONTAKIS.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 90-5323. *ARMSTRONG v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1568.

No. 90-5324. *VALDEZ v. COLORADO.* Sup. Ct. Colo. Certiorari denied. Reported below: 789 P. 2d 406.

October 1, 1990

498 U. S.

No. 90-5326. *FULGHAM v. GOMEZ, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 904 F. 2d 40.

No. 90-5329. *MAGEE v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 558 So. 2d 569.

No. 90-5330. *MICHEL v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari denied.

No. 90-5331. *HALE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 35.

No. 90-5335. *SINDRAM v. GARABEDI*. Cir. Ct. Montgomery County, Md. Certiorari denied.

No. 90-5336. *GARCIA-VADA v. UNITED STATES*; and

No. 90-5398. *MORAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 903 F. 2d 828.

No. 90-5337. *MORALES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 697.

No. 90-5338. *HENDRIX v. BOARD OF EDUCATION, CITY OF CHICAGO, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 90-5339. *JACKSON v. OTEY*. C. A. 10th Cir. Certiorari denied.

No. 90-5340. *MCGLODY v. NEW ORLEANS LOCAL 124 WELFARE FUND OF THE TILE, MARBLE, TERRAZO FINISHERS & SHOPMEN INTERNATIONAL INC. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1568.

No. 90-5341. *LEPPALUOTO ET UX. v. NAZARIAN, DBA THE LAW CLINIC*. C. A. 9th Cir. Certiorari denied. Reported below: 895 F. 2d 1417.

No. 90-5342. *HOLLORAN v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 252.

No. 90-5344. *PARKER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 903 F. 2d 91.

No. 90-5345. *SINGLETON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 471.

498 U. S.

October 1, 1990

No. 90-5346. *WELLINGTON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 895 F. 2d 1335.

No. 90-5347. *GRASTY v. QUARLES, SUPERINTENDENT, RIVERSIDE CORRECTIONAL FACILITY*. C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 1568.

No. 90-5348. *GETROST v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 90-5349. *KNOTT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 894 F. 2d 1119.

No. 90-5350. *TAYLOR v. EIGHTH JUDICIAL DISTRICT COURT OF NEVADA, CLARK COUNTY, ET AL.* Sup. Ct. Nev. Certiorari denied. Reported below: 106 Nev. 1043.

No. 90-5351. *SINDRAM v. STEUBEN COUNTY, NEW YORK, ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 281 U. S. App. D. C. 24, 886 F. 2d 442.

No. 90-5354. *SHIPES v. GALLEY, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 1566.

No. 90-5355. *PETTIT v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 903 F. 2d 1336.

No. 90-5357. *FRAZIER v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 159 App. Div. 2d 1017, 552 N. Y. S. 2d 467.

No. 90-5359. *BISHOP v. DOE ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 902 F. 2d 809.

No. 90-5360. *CARLTON v. JABE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 904 F. 2d 706.

No. 90-5361. *BURTON v. NAULT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 4.

No. 90-5364. *TATE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 900 F. 2d 265.

No. 90-5365. *SCOTT v. JAMES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 672.

October 1, 1990

498 U. S.

No. 90-5366. *WOOD v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 10th Cir. Certiorari denied.

No. 90-5367. *GARZA v. TEXAS*. Ct. App. Tex., 1st Dist. Certiorari denied.

No. 90-5368. *STODDARD v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 726.

No. 90-5370. *TATLIS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-5371. *SINDRAM v. CONSUMER PROTECTION COMMISSION OF PRINCE GEORGE'S COUNTY ET AL.* Ct. Sp. App. Md. Certiorari denied.

No. 90-5373. *SINDRAM v. ABRAMS ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 90-5377. *FOX v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 902 F. 2d 1508.

No. 90-5378. *AUSTIN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 743.

No. 90-5379. *ANTONELLI v. ARIZONA*. Ct. App. Ariz. Certiorari denied.

No. 90-5384. *EAST v. HOLMES*. Ct. Crim. App. Tex. Certiorari denied.

No. 90-5388. *BEAS v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 90-5389. *CHADWICK v. ACCO-BABCOCK, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 250.

No. 90-5391. *FIELDS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 906 F. 2d 139.

No. 90-5394. *HOUGHTON v. OSBORNE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 898 F. 2d 156.

No. 90-5396. *KENDRICK v. BLANKENSHIP, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 1565.

No. 90-5397. *MOON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 903 F. 2d 91.

498 U. S.

October 1, 1990

No. 90-5401. *NA'IM v. MARTIN, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 898 F. 2d 151.

No. 90-5402. *MATHIS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 908 F. 2d 969.

No. 90-5404. *PATTERSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 511.

No. 90-5406. *CLARK v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied.

No. 90-5407. *GARDNER v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 905 F. 2d 1432.

No. 90-5409. *GUARACINO v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 3d Cir. Certiorari denied. Reported below: 908 F. 2d 962.

No. 90-5418. *BARTON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1140.

No. 90-5419. *LEWIS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 902 F. 2d 576.

No. 90-5424. *BORSELLO v. MAZURKIEWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ROCKVIEW*. C. A. 3d Cir. Certiorari denied.

No. 90-5425. *ALVAREZ v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 576 A. 2d 713.

No. 90-5427. *MCLEAN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 904 F. 2d 216.

No. 90-5428. *HARRIS v. ALEXANDER, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 33.

No. 90-5429. *ALVAREZ-QUIROGA v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 901 F. 2d 1433.

No. 90-5435. *RUTLEDGE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 900 F. 2d 1127.

No. 90-5436. *WHITTON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 903 F. 2d 825.

October 1, 1990

498 U. S.

No. 90-5440. *HENDRICKS v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 158 App. Div. 2d 715, 552 N. Y. S. 2d 162.

No. 90-5443. *O'DELL v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 509.

No. 90-5445. *COLIN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 907 F. 2d 1142.

No. 90-5458. *MAYBERRY v. KEOHANE, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 90-5461. *REYES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 907 F. 2d 144.

No. 90-5465. *GRILLO v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 904 F. 2d 708.

No. 90-5466. *EVANS v. BUREAU OF PRISONS ET AL.* C. A. 7th Cir. Certiorari denied.

No. 90-5470. *LOPEZ-ZERATO v. UNITED STATES*; and
No. 90-5511. *MITOREN-VIRGEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 1580.

No. 90-5474. *MCCABE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 41.

No. 90-5476. *PENA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 904 F. 2d 714.

No. 90-5479. *RODRIGUEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 905 F. 2d 1535.

No. 90-5480. *LOWDEN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 900 F. 2d 213 and 905 F. 2d 1448.

No. 90-5482. *ALLEN v. ESTELLE, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-5486. *DENNIS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 902 F. 2d 591.

No. 90-5500. *BAKER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 905 F. 2d 1100.

498 U. S.

October 1, 1990

No. 90-5501. *BAUGH v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-5502. *DOBYNES v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 905 F. 2d 1192.

No. 90-5507. *NEWSOME v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 898 F. 2d 119.

No. 90-5508. *JUNG v. MILLER, SUPERINTENDENT, CORRECTIONAL INDUSTRIAL COMPLEX, PENDLETON*. C. A. 7th Cir. Certiorari denied.

No. 90-5513. *AGUIRRE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 1580.

No. 90-5516. *TRAMMELL v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 905 F. 2d 1542.

No. 90-5526. *SULLIVAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 895 F. 2d 1030.

No. 90-5527. *BYRD v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 90-5531. *LONGBEHN, AKA SISSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 898 F. 2d 635.

No. 90-5540. *KAUFHOLD v. JACKSON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 29.

No. 90-5554. *MORALES v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-5560. *HOLLOWELL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-5566. *CUEVAS-ESQUIVEL v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 905 F. 2d 510.

No. 89-1560. *MORRISON v. MAINE*. Sup. Jud. Ct. Me. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 567 A. 2d 1350.

No. 89-1661. *NORTHERN CALIFORNIA DISTRICT COUNCIL OF LABORERS ET AL. v. MESA VERDE CONSTRUCTION Co.; and*

October 1, 1990

498 U. S.

No. 89-1874. *MESA VERDE CONSTRUCTION CO. v. NORTHERN CALIFORNIA DISTRICT COUNCIL OF LABORERS ET AL.* C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 895 F. 2d 516.

No. 89-1797. *MATTA-BALLESTEROS v. HENMAN, WARDEN.* C. A. 7th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 896 F. 2d 255.

No. 89-1829. *FMC CORP. v. GANDER.* C. A. 8th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 892 F. 2d 1373.

No. 89-1921. *VARCA ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 896 F. 2d 900.

No. 89-1924. *SPILLONE v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 879 F. 2d 514.

No. 89-7492. *SAVIDES v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 898 F. 2d 1218.

No. 90-120. *DILLARD ET AL. v. HARRIS ET AL.* C. A. 11th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 885 F. 2d 1549.

No. 90-139. *TEXAS v. SKELTON.* Ct. Crim. App. Tex. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 795 S. W. 2d 162.

No. 90-169. *DAVIS ET AL. v. TENNESSEE DEPARTMENT OF EMPLOYMENT SECURITY ET AL.* C. A. 6th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 901 F. 2d 1327.

No. 90-194. *INLAND-ROME, INC. v. RHODES ET AL.* Ct. App. Ga. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 195 Ga. App. 39, 392 S. E. 2d 270.

No. 90-224. *BARNES ET AL. v. GENCORP INC. ET AL.* C. A. 6th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 896 F. 2d 1457.

498 U. S.

October 1, 1990

No. 89-1726. MISSISSIPPI EMPLOYMENT SECURITY COMMISSION *v.* MCGLOTHIN. Sup. Ct. Miss. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 556 So. 2d 324.

No. 89-1771. NORTH CAROLINA ET AL. *v.* GREGORY. C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 900 F. 2d 705.

No. 89-1843. MICHIGAN *v.* LEE. Sup. Ct. Mich. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 434 Mich. 59, 450 N. W. 2d 883.

No. 89-1867. OREGON *v.* WAGNER; OREGON *v.* FARRAR; and OREGON *v.* MIRANDA. Sup. Ct. Ore. Motions of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 309 Ore. 5, 786 P. 2d 93 (first case); 309 Ore. 132, 786 P. 2d 161 (second case); 309 Ore. 121, 786 P. 2d 155 (third case).

No. 89-1904. HERNANDEZ COLON, GOVERNOR OF PUERTO RICO, ET AL. *v.* MORALES FELICIANO ET AL. C. A. 1st Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 89-2021. PARSONS, WARDEN, ET AL. *v.* GAMBLE. C. A. 10th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 898 F. 2d 117.

No. 90-112. YLST, WARDEN *v.* MYERS. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 897 F. 2d 417.

No. 90-153. ARMONTROUT, WARDEN *v.* PARTON. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 895 F. 2d 1214.

No. 89-1834. D. T., A MINOR, BY HIS LEGALLY APPOINTED GUARDIANS, ET AL. *v.* INDEPENDENT SCHOOL DISTRICT No. 16 OF PAWNEE COUNTY, OKLAHOMA. C. A. 10th Cir. Motion of peti-

October 1, 1990

498 U. S.

tioners for leave to file amended petition granted. Certiorari denied. Reported below: 894 F. 2d 1176.

No. 89-1854. AMERICAN NATIONAL CAN CORP. ET AL. *v.* WASHINGTON DEPARTMENT OF REVENUE ET AL. Sup. Ct. Wash. Certiorari denied. JUSTICE KENNEDY would grant certiorari. Reported below: 114 Wash. 2d 236, 787 P. 2d 545.

No. 89-1890. OWENS-CORNING FIBERGLAS CORP. ET AL. *v.* DISTRICT OF COLUMBIA. Ct. App. D. C. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 572 A. 2d 394.

No. 90-43. AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA *v.* PAYMASTER CORP. C. A. 9th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 892 F. 2d 1047.

No. 89-1960. MCCONWELL ET AL. *v.* INTERNATIONAL BUSINESS MACHINES CORP. C. A. 4th Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 896 F. 2d 546.

No. 89-1974. PULITZER PUBLISHING CO. ET AL. *v.* CERTAIN INTERESTED INDIVIDUALS ET AL. C. A. 8th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN would grant certiorari. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 895 F. 2d 460.

No. 89-1997. NEW ORLEANS BAPTIST THEOLOGICAL SEMINARY *v.* BABCOCK. Ct. App. La., 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Motion of Baptist Joint Committee on Public Affairs et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. JUSTICE BLACKMUN would grant certiorari. Reported below: 554 So. 2d 90.

No. 89-2017. FARNSWORTH *v.* SEA-LAND SERVICE, INC., ET AL. C. A. 5th Cir. Motion of petitioner for leave to proceed as a seaman granted. Certiorari denied. Reported below: 896 F. 2d 552.

No. 89-6935. MARAGH *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. JUSTICE WHITE and JUSTICE MARSHALL

498 U. S.

October 1, 1990

would grant certiorari. Reported below: 282 U. S. App. D. C. 256, 894 F. 2d 415.

- No. 89-7188. *DEBOUE v. LOUISIANA*. Sup. Ct. La.;
No. 89-7355. *EYLER v. ILLINOIS*. Sup. Ct. Ill.;
No. 89-7430. *ABU-JAMAL v. PENNSYLVANIA*. Sup. Ct. Pa.;
No. 89-7444. *JONES v. MISSOURI*. Sup. Ct. Mo.;
No. 89-7468. *BRADLEY v. ALABAMA*. Sup. Ct. Ala.;
No. 89-7473. *RESNOVER v. INDIANA*. Sup. Ct. Ind.;
No. 89-7476. *RYAN v. NEBRASKA*. Sup. Ct. Neb.;
No. 89-7491. *CALLAHAN v. ALABAMA*. Sup. Ct. Ala.;
No. 89-7570. *DAVIS v. KEMP, WARDEN*. Sup. Ct. Ga.;
No. 89-7577. *LOWERY v. INDIANA*. Sup. Ct. Ind.;
No. 89-7616. *PITTS v. GEORGIA*. Sup. Ct. Ga.;
No. 89-7617. *BREWER v. OHIO*. Sup. Ct. Ohio;
No. 89-7632. *SMITH v. VIRGINIA*. Sup. Ct. Va.;
No. 89-7638. *HALL v. GEORGIA*. Sup. Ct. Ga.;
No. 89-7640. *MARTIN v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir.;
No. 89-7661. *GIARRATANO v. PROCUNIER, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir.;
No. 89-7672. *LANG v. CALIFORNIA*. Sup. Ct. Cal.;
No. 89-7719. *BREAKIRON v. PENNSYLVANIA*. Sup. Ct. Pa.;
No. 89-7732. *SCOTT v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir.;
No. 89-7786. *FINNEY v. KEMP, WARDEN*. Sup. Ct. Ga.;
No. 89-7793. *MCMILLIN v. MISSOURI*. Sup. Ct. Mo.;
No. 89-7806. *O'SHEA v. PENNSYLVANIA*. Sup. Ct. Pa.;
No. 89-7835. *COLLINS v. ZANT, WARDEN*. C. A. 11th Cir.;
No. 89-7839. *THOMPSON v. CALIFORNIA*. Sup. Ct. Cal.;
No. 89-7884. *JACKSON v. CALIFORNIA*. Sup. Ct. Cal.;
No. 90-5003. *SATTIEWHITE v. TEXAS*. Ct. Crim. App. Tex.;
No. 90-5015. *GARY v. GEORGIA*. Sup. Ct. Ga.;
No. 90-5027. *AMRINE v. MISSOURI*. Sup. Ct. Mo.;
No. 90-5029. *BELL v. SOUTH CAROLINA*. Sup. Ct. S. C.;
No. 90-5051. *MOORE v. OKLAHOMA*. Ct. Crim. App. Okla.;
No. 90-5066. *FIELDS v. ILLINOIS*. Sup. Ct. Ill.;
No. 90-5328. *HAWKINS v. ILLINOIS*. Sup. Ct. Ill.;
No. 90-5109. *FRANKLIN v. ILLINOIS*. Sup. Ct. Ill.;
No. 90-5123. *JAMISON v. OHIO*. Sup. Ct. Ohio;
No. 90-5148. *GREEN v. SOUTH CAROLINA*. Sup. Ct. S. C.;

October 1, 1990

498 U. S.

No. 90-5152. CLEMMONS *v.* MISSOURI. Sup. Ct. Mo.;
 No. 90-5171. POWELL *v.* OHIO. Sup. Ct. Ohio;
 No. 90-5211. SAVINO *v.* VIRGINIA. Sup. Ct. Va.;
 No. 90-5217. HIGHTOWER *v.* GEORGIA. Sup. Ct. Ga.;
 No. 90-5222. REED *v.* FLORIDA. Sup. Ct. Fla.;
 No. 90-5236. WEEKS *v.* ALABAMA. Ct. Crim. App. Ala.;
 No. 90-5297. CANAAN *v.* INDIANA. Sup. Ct. Ind.;
 No. 90-5305. JACOBS *v.* TEXAS. Ct. Crim. App. Tex.;
 No. 90-5444. MORELAND *v.* OHIO. Sup. Ct. Ohio; and
 No. 90-5453. SCHNEIDER *v.* MISSOURI. Sup. Ct. Mo. Cer-
 tiorari denied. Reported below: No. 89-7188, 552 So. 2d 355;
 No. 89-7355, 133 Ill. 2d 173, 549 N. E. 2d 268; No. 89-7430, 521
 Pa. 188, 555 A. 2d 846; No. 89-7444, 784 S. W. 2d 789; No. 89-
 7473, 547 N. E. 2d 814; No. 89-7476, 233 Neb. 74, 444 N. W. 2d
 610; No. 89-7491, 557 So. 2d 1311; No. 89-7577, 547 N. E. 2d
 1046; No. 89-7616, 259 Ga. 745, 386 S. E. 2d 351; No. 89-7617, 48
 Ohio St. 3d 50, 549 N. E. 2d 491; No. 89-7632, 239 Va. 243, 389
 S. E. 2d 871; No. 89-7638, 259 Ga. 412, 383 S. E. 2d 128; No. 89-
 7640, 891 F. 2d 807; No. 89-7661, 891 F. 2d 483; No. 89-7672, 49
 Cal. 3d 991, 782 P. 2d 627; No. 89-7719, 524 Pa. 282, 571 A. 2d
 1035; No. 89-7732, 891 F. 2d 800; No. 89-7793, 783 S. W. 2d 82;
 No. 89-7806, 523 Pa. 384, 567 A. 2d 1023; No. 89-7835, 892 F. 2d
 1502; No. 89-7839, 50 Cal. 3d 134, 785 P. 2d 857; No. 89-7884, 49
 Cal. 3d 1170, 783 P. 2d 211; No. 90-5003, 786 S. W. 2d 271;
 No. 90-5015, 260 Ga. 38, 389 S. E. 2d 218; No. 90-5027, 785 S. W.
 2d 531; No. 90-5029, 302 S. C. 18, 393 S. E. 2d 364; No. 90-5051,
 788 P. 2d 387; Nos. 90-5066 and 90-5328, 135 Ill. 2d 18, 552 N. E.
 2d 791; No. 90-5109, 135 Ill. 2d 78, 552 N. E. 2d 743; No. 90-5123,
 49 Ohio St. 3d 182, 552 N. E. 2d 180; No. 90-5148, 301 S. C. 347,
 392 S. E. 2d 157; No. 90-5152, 785 S. W. 2d 524; No. 90-5171, 49
 Ohio St. 3d 255, 552 N. E. 2d 191; No. 90-5211, 239 Va. 534, 391
 S. E. 2d 276; No. 90-5217, 259 Ga. 770, 386 S. E. 2d 509; No. 90-
 5222, 560 So. 2d 203; No. 90-5236, 568 So. 2d 864; No. 90-5297,
 541 N. E. 2d 894; No. 90-5305, 787 S. W. 2d 397; No. 90-5444, 50
 Ohio St. 3d 58, 552 N. E. 2d 894; No. 90-5453, 787 S. W. 2d 718.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circum-
 stances cruel and unusual punishment prohibited by the Eighth
 and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153,

498 U. S.

October 1, 1990

231 (1976), I would grant certiorari and vacate the death sentences in these cases.

No. 89-7631. *PARKER v. ARKANSAS*. Sup. Ct. Ark. Certiorari denied. Reported below: 300 Ark. 360, 779 S. W. 2d 156.

JUSTICE MARSHALL, dissenting.

It is well established "that the Double Jeopardy Clause precludes a second trial once the reviewing court has found the evidence legally insufficient" to support conviction. *Burks v. United States*, 437 U. S. 1, 18 (1978). Nonetheless, the Arkansas Supreme Court concluded in this case that reversal for failure to prove an essential element of one statutory formulation of capital murder poses no bar to reprosecution under another statutory formulation of the same offense, because the State's decision to prosecute a defendant under the "wrong" murder statute is mere "trial error." Because I believe that this conclusion reflects a profound misreading of our double jeopardy precedents, I would grant the petition.

I

Petitioner was twice tried, convicted, and sentenced to death for murdering James and Sandra Warren. He was initially convicted for felony murder on the theory that he had murdered the Warrens while burglarizing their home. The Arkansas Supreme Court reversed.¹ See *Parker v. State*, 292 Ark. 421, 731 S. W. 2d 756 (1987) (*Parker I*). Reviewing the statutory elements of felony murder, the court concluded that the State's felony-murder statute "cannot be read to encompass the facts of this case." *Id.*, at 425, 731 S. W. 2d, at 758. The Arkansas capital felony-murder statute requires the State to prove that the defendant caused the death of another "in the course of and in furtherance of the [underlying] felony." Ark. Code Ann. § 5-10-101(a)(1) (1987 and Supp. 1989). "The state's proof," the court explained, "showed that [petitioner] followed Mr. Warren into the house for only one purpose—to commit the murders of the Warrens." *Parker I*, 292 Ark., at 425, 731 S. W. 2d, at 758. "The killings were obviously a form of criminal homicide of some degree, but they were not 'in

¹ The court affirmed petitioner's convictions for numerous other offenses, including attempted first-degree murder, burglary, kidnaping, and attempted capital murder, for which he was sentenced to life plus 130 years' imprisonment. These convictions are not at issue in the instant petition.

MARSHALL, J., dissenting

498 U. S.

the course of and in furtherance of' the [charged] burglary as required to be capital felony murder." *Ibid.* The court noted that, under these facts, the State should have prosecuted Parker for ordinary capital murder rather than felony capital murder. *Id.*, at 425-426, 731 S. W. 2d, at 758.

Taking this last observation as an invitation to retry Parker, the State subsequently prosecuted Parker for "caus[ing] the death of two . . . or more persons in the course of the same criminal episode." Ark. Code Ann. § 5-10-101(a)(3) (1987). On appeal, the Arkansas Supreme Court rejected petitioner's contention that his reprosecution was barred by the Double Jeopardy Clause and affirmed petitioner's conviction. See *Parker v. State*, 300 Ark. 360, 779 S. W. 2d 156 (1989) (*Parker II*). Reviewing its disposition in *Parker I*, the court concluded that it had reversed petitioner's original conviction not because the evidence was insufficient, but because the State had committed the "trial error" of "charging and trying [petitioner] under the wrong capital murder provision." *Parker II*, *supra*, at 363-364, 779 S. W. 2d, at 157. Consequently, the court held, its decision in *Parker I* posed no double jeopardy bar to reprosecuting petitioner under the applicable provision of the Arkansas capital murder statute. *Parker II*, *supra*, at 363-364, 779 S. W. 2d, at 157-158.²

II

Our precedents recognize that the Double Jeopardy Clause bars reprosecution following reversal for insufficiency of the evidence but not following reversal for trial error. *Burks*, *supra*, at 15-17; accord, *Lockhart v. Nelson*, 488 U. S. 33, 39 (1988). The question posed by this petition is whether the original conviction of

²The petition for certiorari was not timely filed under this Court's Rule 13, which requires that a petition be filed within 90 days of the entry of judgment by a state court of last resort. However, the time requirements of our Rules are not jurisdictional in criminal cases and may be waived by the Court "in the exercise of its discretion when the ends of justice so require." *Schacht v. United States*, 398 U. S. 58, 64 (1970); see *Sanabria v. United States*, 437 U. S. 54, 62, n. 12 (1978). In this case, petitioner's court-appointed counsel was relieved immediately following the affirmance of his second conviction, and there appears to be some question whether petitioner knowingly and competently waived his right to seek further review. In light of these circumstances, and in light of the manifest conflict between the decision of the Arkansas Supreme Court and this Court's precedents on the effect of reversal for insufficient evidence, I would waive the time requirements of Rule 13.

petitioner under the "wrong" capital murder statute was "trial error" in the sense in which our decisions have used that term.³

We discussed the difference between insufficiency of the evidence and trial error in *Burks v. United States*, *supra*. Reversal of a conviction is based on insufficiency of evidence, we explained, when the basis of the appellate court's disposition is the State's "failure of proof at trial." *Id.*, at 16; accord, *Hudson v. Louisiana*, 450 U. S. 40, 43 (1981). Reversal for trial error—"incorrect receipt or rejection of evidence, incorrect instructions, . . . prosecutorial misconduct" or the like—"does not constitute a decision . . . that the government has *failed to prove its case*," but only "that a defendant has been convicted through a judicial *process* which is defective." *Burks v. United States*, 437 U. S., at 15 (emphasis added).

Under these principles, there should be no serious question that petitioner's conviction in *Parker I* was reversed for insufficiency of the evidence, not trial error. Based on "the facts of th[e] case," and on the "state's proof," the Arkansas Supreme Court concluded that the murders with which petitioner had been charged "were not [committed] 'in the course of and in furtherance of' the [charged] burglary." 292 Ark., at 425, 731 S. W. 2d, at 758. Even respondent thus concedes that petitioner's conviction was reversed because the State "failed to prove its case" with regard to an essential element of Arkansas' capital felony-murder statute. Brief in Opposition 3 ("According to the Court's opinion, the State adequately proved burglary and murder, *but failed to prove* that the murders were committed during the course of or in furtherance of the burglary" (emphasis added)).

³The Arkansas Supreme Court in *Parker II* did not hold, and the respondent does not now argue, that petitioner's prosecution for "causing the death of two or more persons in a single criminal episode" was a *different offense* for double jeopardy purposes from the offense of capital felony murder for which petitioner was originally convicted. Such a contention would be hard to sustain, for the State clearly reprobated the *conduct* for which petitioner was originally convicted—breaking into the Warrens' home and killing them—in order to establish essential elements of the offense of causing the death of two or more persons in a single criminal episode. See *Grady v. Corbin*, 495 U. S. 508 (1990). In other words, if *Parker I* did indeed reverse petitioner's felony-murder conviction for insufficient evidence, the State would not be free to prosecute petitioner for the same offense by merely charging him under a different statute, which is apparently what took place here.

In my view, the preclusive effect of this determination cannot be avoided by characterizing as "trial error" the State's decision to prosecute petitioner under the "wrong" capital murder statute. Such a ruling, under these circumstances, amounts to the proposition that it is trial error to prosecute a defendant under a statute for which the State does not have enough evidence to convict, a semantic sleight of hand that deprives the distinction between "trial error" and "evidentiary insufficiency" of any meaning. The unmistakable teaching of our double jeopardy jurisprudence is that the State may *not* avail itself of a second trial to remedy its mistake when it prosecutes a defendant for an offense that it is unable to prove. See, *e. g.*, *Burks v. United States*, *supra*, at 11 ("The Double Jeopardy Clause forbids a second trial for the purpose of affording the prosecution another opportunity to supply evidence which it failed to muster in the first proceeding").

The apparent source of the Arkansas Supreme Court's confusion on this issue was its misreading of this Court's decision in *Montana v. Hall*, 481 U. S. 400 (1987) (*per curiam*). In *Hall*, the defendant's original conviction for incest had been reversed on the ground that the state incest statute had not been in effect on the date of the charged criminal act. When the State subsequently charged the defendant under the state sexual assault statute, the State Supreme Court ruled that the re prosecution was barred under the Double Jeopardy Clause. This Court reversed. Characterizing the initial prosecution of the defendant under "the wrong statute" as "a defect in the charging instrument," the Court held that reversal on that basis did not bar re prosecution under the applicable sexual assault statute, *id.*, at 404, which the State Supreme Court had determined to be comprised of the same elements as the state incest statute, *id.*, at 402. Respondent argues that in this case, too, the decision to prosecute petitioner for felony murder "was[,] in effect, a deficiency in the charging instrument" that should not bar re prosecution under a different murder statute. Brief in Opposition 5.

In my view, the reasoning in *Hall* is wholly inapposite to this case. In *Hall*, the Court concluded that the State had prosecuted the defendant under the "wrong" statute not because the State *could not prove* that the defendant had violated the state incest statute, but because that statute was *legally inapplicable* to the defendant's conduct; indeed, this Court stressed that "[t]here [was] no suggestion" in the decision reversing the defendant's

498 U. S.

October 1, 1990

original conviction "that the evidence introduced at trial was insufficient to convict [for incest]." 481 U. S., at 403. In this case, the "inapplicability" of the capital felony-murder statute to petitioner's conduct was *factual*, not legal.

The suggestion in *Hall* that the defendant's conviction had been reversed because of a "a deficiency in the charging instrument" is also unavailing in this case. This was an appropriate characterization of the State's decision in *Hall* to charge the defendant under the incest statute instead of the (legally identical) sexual assault statute, because the inapplicability of the incest statute would have required the *dismissal* of the State's information had this challenge been properly raised by pretrial motion. In contrast, the grounds for reversal of petitioner's original conviction was the failure of the State's proof *at trial*; nothing in the Arkansas Supreme Court's opinion in *Parker I* indicates that the capital felony-murder count against petitioner was legally deficient *as charged*.

I would grant the petition in order to clarify the limited implications of *Hall*'s suggestion that prosecution under the "wrong" statute can be trial error for purposes of the Double Jeopardy Clause. Consequently, I dissent.

III

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 also grant the petition for certiorari and vacate the death sentence in this case.

No. 89-7671. HUNTER *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 49 Cal. 3d 957, 782 P. 2d 608.

JUSTICE MARSHALL, dissenting.

This petition for certiorari presents the significant issue whether, and under what circumstances, a criminal defendant has a constitutional right to judicially immunized testimony useful to establishing his defense. I have previously expressed my view that this Court should resolve the conflict of lower court authority on this question. See *Autry v. McKaskle*, 465 U. S. 1085, 1087-1088, and n. 3 (1984) (opinion dissenting from denial of certiorari). This petition underscores the importance of settling that conflict because it frames the issue in the most compelling possible setting: the penalty phase of a capital proceeding.

Petitioner was convicted of murder and sentenced to death. At trial, petitioner requested the court to confer use immunity upon his girl friend, who declined on Fifth Amendment grounds to testify on petitioner's behalf. Petitioner proffered at both the guilt and the penalty phases that his girl friend's testimony would show that petitioner was mentally distressed at the time of the charged murder. The trial court refused to grant immunity, and the California Supreme Court affirmed its ruling.

The manner in which the California Supreme Court disposed of petitioner's claim highlights the confusion engendered by this Court's failure to resolve definitively the judicial immunity issue. Noting the conflict among the lower courts, the California Supreme Court sought to avoid the question of a criminal defendant's constitutional right to judicially immunized testimony by ruling that petitioner had failed to meet the threshold showing established by *Government of Virgin Islands v. Smith*, 615 F. 2d 964, 972 (CA3 1980), the first decision to recognize such a right. "[T]he proffered testimony," the court explained,

"did not meet *Smith's* requirement that the evidence be 'clearly exculpatory and essential.' At best, the evidence was cumulative of the extensive testimony of other defense witnesses." 49 Cal. 3d 957, 974, 782 P. 2d 608, 617 (1989).

The court dismissed in similar terms petitioner's claim that he was entitled to have his girl friend's immunized testimony as mitigating evidence during the penalty phase of the capital trial:

"Even assuming, without purporting to decide, that the trial court had the authority to confer use immunity on the proposed witness, we cannot conclude on this record that the court erred. There is nothing in the record to demonstrate [petitioner] was denied *highly relevant* mitigating evidence, or to reveal the nature of that evidence. Even assuming that the evidence would have generally related to [petitioner's] state of mind on the morning of the murder, we cannot find that the absence of [the girl friend's] testimony prejudiced [petitioner]. The jury had already been presented evidence of [petitioner's] purported depression at the guilt phase through the testimony of two psychiatrists." *Id.*, at 980-981, 782 P. 2d, at 621 (emphasis added).

In my view, the question whether petitioner had a right to judicially immunized testimony at the penalty phase of the proceed-

887

MARSHALL, J., dissenting

ings cannot be avoided on these terms. The California Supreme Court was mistaken in presuming that it could resolve the disposition of petitioner's claim to judicially immunized testimony at the penalty phase of a capital proceeding by the same standard used to assess a defendant's right to immunized testimony at trial. It is well established that a criminal defendant's entitlement to present useful evidence is at its strongest in the capital sentencing context; this Court has repeatedly emphasized that the State may not exclude "any relevant mitigating evidence offered by the defendant as the basis for a sentence less than death." *Penry v. Lynaugh*, 492 U. S. 302, 318 (1989) (emphasis added); accord, *Skipper v. South Carolina*, 476 U. S. 1, 4 (1986); *Eddings v. Oklahoma*, 455 U. S. 104, 114-115 (1982). Assuming that a criminal defendant *does have* the due process right to judicially immunized testimony recognized by the Third Circuit in *Smith*, the assessment whether a capital defendant has satisfied the threshold showing of need must take account of that defendant's heightened entitlement to present *all* mitigating evidence to the sentencer. Cf. *Green v. Georgia*, 442 U. S. 95, 97 (1979) (holding that exclusion of mitigating evidence at penalty phase of capital proceeding through operation of generally applicable state hearsay rule denied defendant "a fair trial on the issue of punishment" and thus violated due process). A court could not, in my view, deny the defendant's request, as the California Supreme Court did, simply because the mitigating testimony sought by the defendant was not "highly relevant" or because *overlapping* evidence "had already been presented" to the sentencer. In sum, *if* a defendant has a right to judicially immunized testimony, petitioner's death sentence cannot stand.

I would grant the petition so that this Court can determine whether a criminal defendant has a due process right to judicially immunized testimony, and, if so, what standards govern immunized-testimony requests in capital sentencing proceedings. Consequently, I dissent from the denial of certiorari.

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 also grant the petition and vacate the death penalty in this case even if I did not regard the petition as presenting a question independently meriting this Court's review.

October 1, 1990

498 U. S.

No. 89-7777. *KELLOGG, AS NEXT FRIEND TO LONCHAR v. ZANT, WARDEN*. Super. Ct. Ga., Butts County. Motion of petitioner to consolidate this case with No. 89-7838, *Hamilton, as Natural Mother and Next Friend to Smith v. Texas*, denied. Certiorari denied.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976), I would grant certiorari and vacate the death sentence in this case.

No. 90-45. *HOFFMANN-LA ROCHE INC. v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA*. C. A. 11th Cir. Motion of American Medical Association for leave to file a brief as *amicus curiae* granted. Certiorari denied.

No. 90-47. *WHITE v. FRANK, POSTMASTER GENERAL*. C. A. 5th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN would grant certiorari. Reported below: 895 F. 2d 243.

No. 90-51. *AETNA LIFE INSURANCE CO. ET AL. v. KANE, INDIVIDUALLY AND AS GUARDIAN, NEXT FRIEND, AND ON BEHALF OF KANE, A MINOR*. C. A. 11th Cir. Motion of respondent to strike supplemental brief to petition denied. Certiorari denied. Reported below: 893 F. 2d 1283.

No. 90-98. *FRANKLIN ET AL. v. PEAT MARWICK MAIN & CO. ET AL.* C. A. 9th Cir. Motion of National Association of Securities and Commercial Law Attorneys for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 884 F. 2d 1222.

No. 90-107. *COURIER-JOURNAL & LOUISVILLE TIMES CO. ET AL. v. F. T. P. ET AL.* Ct. App. Ky. Motion of respondent F. T. P. for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 90-166. *WRIGHT, COMMISSIONER OF INSURANCE OF KENTUCKY, AS LIQUIDATOR OF DELTA AMERICA RE INSURANCE CO. v. ARION INSURANCE CO., LTD., ET AL.* C. A. 6th Cir. Motions of National Association of Insurance Commissioners and Roxani

498 U. S.

October 1, 1990

Gillespie, Insurance Commissioner of California, for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 900 F. 2d 890.

No. 90-198. ANDERSON ET AL. *v.* BEATRICE FOODS CO. C. A. 1st Cir. Motions of Harvard Law School Environmental Law Society et al. and American College of Real Estate Lawyers for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 900 F. 2d 388.

No. 90-5050. COVILLION *v.* AETNA LIFE & CASUALTY ET AL. C. A. 1st Cir. Certiorari before judgment denied.

No. 90-5195. BOGGS *v.* MUNCY, WARDEN. C. A. 4th Cir. The Court having voted to deny the petition for writ of certiorari at the time of the denial of the application for stay of execution, [497 U. S. 1043], the petition for writ of certiorari is denied.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976), I would grant certiorari and vacate the death sentence in this case.

No. 90-5374. SINDRAM *v.* NISSAN MOTOR CORP. ET AL. C. A. 4th Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 905 F. 2d 1531.

Rehearing Denied

No. 88-6294. OLIVER ET UX. *v.* MERCHANTS & FARMERS BANK, MACON, MISSISSIPPI, 490 U. S. 1023;

No. 89-1733. FOREMAN *v.* AETNA CASUALTY & SURETY CO., 497 U. S. 1025;

No. 89-1768. SHIPLEY ET UX. *v.* FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF DELAWARE ET AL., 496 U. S. 938;

No. 89-1812. ESPINUEVA *v.* GARRETT, SECRETARY OF THE NAVY, 497 U. S. 1005;

No. 89-6228. ELZY *v.* SMITH, WARDEN, ET AL., 493 U. S. 1049; and

No. 89-7445. LITTLEJOHN *v.* SOUTH CAROLINA, 497 U. S. 1028. Petitions for rehearing denied.

October 1, 2, 9, 1990

498 U. S.

No. 89-700. *ASTROLINE COMMUNICATIONS COMPANY LIMITED PARTNERSHIP v. SHURBERG BROADCASTING OF HARTFORD, INC., ET AL.*, 497 U. S. 547. Motion of respondent Shurberg Broadcasting of Hartford, Inc., to waive this Court's Rule 44.1 denied. Petition for rehearing denied.

No. 89-1623. *GARDNER v. NEWSDAY, INC.*, 496 U. S. 931. Petition for rehearing denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition.

OCTOBER 2, 1990

Dismissal Under Rule 46

No. 89-1983. *PETALUMA VALLEY HOSPITAL ET AL. v. TAYLOR*. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 898 F. 2d 156.

OCTOBER 9, 1990*

Dismissal Under Rule 46

No. 89-7724. *PEREZ-CASTILLO v. UNITED STATES*. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 892 F. 2d 84.

Certiorari Granted—Vacated and Remanded

No. 89-1952. *JONES v. AMERICAN BROADCASTING COS., INC.* C. A. 11th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Milkovich v. Lorain Journal Co.*, 497 U. S. 1 (1990). Reported below: 893 F. 2d 1342.

Miscellaneous Orders†

No. — — —. *FOE ET AL. v. CUOMO, GOVERNOR OF NEW YORK, ET AL.* Motion of petitioner Wilma Woe for permission to use a pseudonym and to seal name granted. Motion of Wilma Woe for leave to proceed *in forma pauperis* granted. Motion of counsel to allow petitioner R. L. by T. C. L. leave to proceed *in forma pauperis* without an affidavit of indigency executed by petitioner denied without prejudice to petitioner executing an affidavit in support of a motion for leave to proceed *in forma pauperis*.

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

†For the Court's order making allotment of Justices, see *ante*, p. vi.

498 U. S.

October 9, 1990

No. — — —. AMPATIELLOS *v.* CITY OF NEW YORK ET AL.; and

No. — — —. BATOR *v.* UNITED STATES. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. D-920. IN RE DISBARMENT OF DODGE. Disbarment entered. [For earlier order herein, see 497 U. S. 1045.]

No. 111, Orig. DELAWARE *v.* NEW YORK. First Interim Report and Fee Application approved, and payment shall be made to "Thomas H. Jackson, Special Master" by the party jurisdictions in the total amount of \$23,629.10. It is further ordered that the parties shall bear these costs equally, with each jurisdiction which is a party or which has a pending application to intervene at the date of this order contributing an equal share. It is further ordered that each party jurisdiction may make payment either to the firm of Dickstein, Shapiro & Morin, as coordinating counsel for this purpose, or may make payment directly or via separate counsel to the Special Master. It is further ordered that each party jurisdiction's payment of fees, costs, and expenses pursuant to this order shall be due within 45 days from the date hereof. [For earlier order herein, see, *e. g.*, *ante*, p. 803.]

No. 112, Orig. WYOMING *v.* OKLAHOMA. Motion of the Special Master for allowance of fees and expenses granted, and the Special Master is awarded \$43,275.79 to be paid equally by the parties. [For earlier order herein, see, *e. g.*, *ante*, p. 803.]

No. 89-1541. DOLE, SECRETARY OF LABOR *v.* OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION ET AL. C. A. 10th Cir. [Certiorari granted, 497 U. S. 1002.] Motion of Occupational Safety and Health Review Commission for leave to file a brief as *amicus curiae* granted.

No. 89-1679. SUMMIT HEALTH, LTD., ET AL. *v.* PINHAS. C. A. 9th Cir. [Certiorari granted, 496 U. S. 935.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 89-1715. BURNS *v.* REED. C. A. 7th Cir. [Certiorari granted, 497 U. S. 1023.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

October 9, 1990

498 U. S.

No. 89-1784. INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA ET AL. *v.* BEN COOPER, INC. C. A. 2d Cir. [Certiorari granted, 497 U. S. 1023.] Motion of United Missouri Bank of Kansas City, N. A., for leave to file a brief as *amicus curiae* granted. Motion of the United States for leave to intervene granted.

No. 90-315. IN RE MURGO ET AL. Petition for writ of mandamus denied.

Certiorari Granted

No. 89-1717. FLORIDA *v.* BOSTICK. Sup. Ct. Fla. Certiorari granted. Reported below: 554 So. 2d 1153.

No. 90-97. AMERICAN HOSPITAL ASSN. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 7th Cir. Certiorari granted. Reported below: 899 F. 2d 651.

No. 90-333. LAMPF, PLEVA, LIPKIND, PRUPIS & PETIGROW *v.* GILBERTSON ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 895 F. 2d 1416, 1417, and 1418.

No. 89-7645. HERNANDEZ *v.* NEW YORK. Ct. App. N. Y. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to the following questions:

"1. Whether a prosecutor's proffered explanation that prospective Latino jurors were struck from the venire because he suspected they might not abide by official translations of Spanish language testimony constitutes an acceptable 'race neutral' explanation under *Batson v. Kentucky*, 476 U. S. 79 (1986)?

"2. Where a trial court has accepted the prosecutor's proffered explanation as being race neutral, what standard of review is to be applied by reviewing courts?" Reported below: 75 N. Y. 2d 350, 552 N. E. 2d 621.

No. 90-5193. MU'MIN *v.* VIRGINIA. Sup. Ct. Va. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Questions 1 and 2 presented by the petition. Reported below: 239 Va. 433, 389 S. E. 2d 886.

No. 90-5551. SCHAD *v.* ARIZONA. Sup. Ct. Ariz. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 163 Ariz. 411, 788 P. 2d 1162.

498 U. S.

October 9, 1990

Certiorari Denied

No. 89-1873. MARYLAND HIGHER EDUCATION LOAN CORPORATION *v.* CAVAZOS, SECRETARY OF EDUCATION, ET AL.;

No. 89-2027. SOUTH CAROLINA STATE EDUCATION ASSISTANCE AUTHORITY *v.* CAVAZOS, SECRETARY OF EDUCATION, ET AL.; and

No. 90-4. NORTH CAROLINA ET AL. *v.* UNITED STATES ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 897 F. 2d 1272.

No. 89-1893. BELL & MURPHY & ASSOCIATES, INC., ET AL. *v.* FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR FIRST REPUBLICBANK DALLAS, N. A., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 2d 750.

No. 89-1925. AIR LINE PILOTS ASSN., INTERNATIONAL, AFL-CIO, ET AL. *v.* LANDRY ET AL.; and

No. 90-189. LANDRY ET AL. *v.* AIR LINE PILOTS ASSN., INTERNATIONAL, AFL-CIO, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 901 F. 2d 404.

No. 89-1931. HOWITT *v.* UNITED STATES DEPARTMENT OF COMMERCE. C. A. 1st Cir. Certiorari denied. Reported below: 897 F. 2d 583.

No. 89-7842. HAMILTON, AS NATURAL MOTHER AND NEXT FRIEND TO SMITH *v.* COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE. C. A. 5th Cir. Certiorari denied. Reported below: 905 F. 2d 825.

No. 90-13. OHIO STUDENT LOAN COMMISSION *v.* CAVAZOS, SECRETARY OF EDUCATION, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 900 F. 2d 894.

No. 90-54. DRAY *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 901 F. 2d 1132.

No. 90-56. DE CUELLAR *v.* BRADY, SECRETARY OF THE TREASURY, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 881 F. 2d 1561.

No. 90-70. MAY DEPARTMENT STORES Co. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 897 F. 2d 221.

October 9, 1990

498 U. S.

No. 90-71. *HACKLER ET AL. v. LANGENKAMP*. C. A. 10th Cir. Certiorari denied. Reported below: 897 F. 2d 1041.

No. 90-76. *JUZWIN ET UX. v. ASBESTOS CORP. LTD., SUCCESSOR TO JOHNSON'S CO., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 900 F. 2d 686.

No. 90-80. *PENTA v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 898 F. 2d 815.

No. 90-84. *EDUCATION ASSISTANCE CORP. v. CAVAZOS, SECRETARY OF EDUCATION*. C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 617.

No. 90-99. *ITALIANO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 894 F. 2d 1280.

No. 90-119. *CITIZENS FOR FAIR UTILITY REGULATION v. NUCLEAR REGULATORY COMMISSION ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 898 F. 2d 51.

No. 90-190. *DODSON v. SUPERIOR COURT OF CONNECTICUT, HARTFORD-NEW BRITAIN JUDICIAL DISTRICT*. Sup. Ct. Conn. Certiorari denied. Reported below: 214 Conn. 344, 572 A. 2d 328.

No. 90-200. *MISSOURI PACIFIC RAILROAD CO., DBA UNION PACIFIC RAILROAD CO. v. MITCHELL*. Sup. Ct. Tex. Certiorari denied. Reported below: 786 S. W. 2d 659.

No. 90-203. *BERRY v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 30 M. J. 134.

No. 90-220. *DE SOUZA v. SCHULTZ*. Cir. Ct. Arlington County, Va. Certiorari denied.

No. 90-223. *OYLER v. JONES, DISTRICT JUDGE, DISTRICT COURT OF JOHNSON COUNTY, KANSAS*. Sup. Ct. Kan. Certiorari denied.

No. 90-239. *UNITED TRANSPORTATION UNION v. UNITED TRANSPORTATION UNION, LOCAL 74*. C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 36.

No. 90-245. *SHARP ET AL. v. KANSAS*. C. A. 10th Cir. Certiorari denied.

498 U. S.

October 9, 1990

No. 90-248. *SAN FRANCISCO FIRE FIGHTERS LOCAL 798, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO v. CITY AND COUNTY OF SAN FRANCISCO ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 890 F. 2d 1438.

No. 90-254. *ALABAMA DEPARTMENT OF REVENUE v. PILOT PETROLEUM CORP. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 900 F. 2d 816.

No. 90-258. *WESLO, INC. v. DIVERSIFIED PRODUCTS CORP. ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 904 F. 2d 44.

No. 90-262. *SIMS v. MULCAHY.* C. A. 7th Cir. Certiorari denied. Reported below: 902 F. 2d 524.

No. 90-266. *BRAILEY v. ALDERMAN.* C. A. 7th Cir. Certiorari denied. Reported below: 904 F. 2d 38.

No. 90-268. *SHEDBALKAR v. SHEDBALKAR.* App. Ct. Ill., 1st Dist. Certiorari denied.

No. 90-269. *LUNDE v. HELMS ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 898 F. 2d 1343.

No. 90-274. *TEAMSTERS LOCAL UNION NO. 776 v. RITE AID CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 902 F. 2d 1562.

No. 90-275. *FRANCO v. AMERICAN GAS ASSOCIATION LABORATORIES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 39.

No. 90-276. *COSGROVE v. KANSAS STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES.* Ct. App. Kan. Certiorari denied. Reported below: 14 Kan. App. 2d 217, 786 P. 2d 636.

No. 90-277. *WRENN v. MCFADDEN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1533.

No. 90-278. *STRONG v. BOARD OF EDUCATION OF UNIONDALE UNION FREE SCHOOL DISTRICT ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 902 F. 2d 208.

No. 90-279. *MCCOWAN ET UX. v. SEARS, ROEBUCK & CO. ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 908 F. 2d 1099.

October 9, 1990

498 U. S.

No. 90-280. *KINNEY v. CONNECTICUT*. App. Ct. Conn. Certiorari denied.

No. 90-282. *PAVAO v. NEW JERSEY*. Super. Ct. N. J., App. Div. Certiorari denied. Reported below: 239 N. J. Super. 206, 570 A. 2d 1285.

No. 90-284. *BOATMEN'S NATIONAL BANK OF ST. LOUIS, AS SUCCESSOR IN INTEREST TO CENTERRE BANK, N. A., FKA FIRST NATIONAL BANK OF ST. LOUIS v. CARVER, TRUSTEE*. Sup. Ct. Iowa. Certiorari denied. Reported below: 455 N. W. 2d 680.

No. 90-287. *DUNKLEY ET UX. v. REGA PROPERTIES, LTD., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 894 F. 2d 1136.

No. 90-288. *NEW YORK STATE TEAMSTERS JOINT COUNCIL 18 ET AL. v. NEW YORK STATE TEAMSTERS COUNCIL HEALTH AND HOSPITAL FUND ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 903 F. 2d 919.

No. 90-290. *EUBANKS v. GETTY OIL CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 896 F. 2d 960.

No. 90-292. *MULLEN v. CITY OF BELTON, MISSOURI, ET AL.* Ct. App. Mo., Western Dist. Certiorari denied.

No. 90-294. *SANDLIN v. TEXACO REFINING & MARKETING, INC.* C. A. 10th Cir. Certiorari denied. Reported below: 900 F. 2d 1479.

No. 90-296. *LOVE CHURCH v. CITY OF EVANSTON, ILLINOIS*. C. A. 7th Cir. Certiorari denied. Reported below: 896 F. 2d 1082.

No. 90-297. *MITCHELL v. MOBIL OIL CORP. ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 896 F. 2d 463.

No. 90-299. *WASTE CONVERSION, INC. v. PENNSYLVANIA*. Commw. Ct. Pa. Certiorari denied. Reported below: 130 Pa. Commw. 443, 568 A. 2d 738.

No. 90-301. *COFFEE v. SEABOARD SYSTEM RAILROAD, INC.* Sup. Ct. Ala. Certiorari denied. Reported below: 565 So. 2d 35.

No. 90-302. *PETEN v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 31 M. J. 409.

498 U. S.

October 9, 1990

No. 90-303. *LE BUP THI DAO ET AL. v. BOARD OF MEDICAL QUALITY ASSURANCE OF CALIFORNIA ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-304. *CENTENNIAL SCHOOL DISTRICT ET AL. v. GREGOIRE ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 907 F. 2d 1366.

No. 90-305. *KRAIN v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-311. *BATEMAN EICHLER, HILL RICHARDS, INC., ET AL. v. RUOCO.* C. A. 9th Cir. Certiorari denied. Reported below: 903 F. 2d 1232.

No. 90-313. *POLYAK v. HULEN ET AL.*; and *POLYAK v. BOSTON ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 898 F. 2d 154 (first case); 905 F. 2d 1538 (second case).

No. 90-314. *GRANT v. FEDERAL LAND BANK OF JACKSON, LOUISIANA, ET AL.* Ct. App. La., 2d Cir. Certiorari denied. Reported below: 559 So. 2d 148.

No. 90-316. *LINKOUS v. JOHNSON, TRUSTEE.* C. A. 5th Cir. Certiorari denied.

No. 90-317. *PRUITT v. PPG INDUSTRIES, INC.* C. A. 11th Cir. Certiorari denied. Reported below: 895 F. 2d 734.

No. 90-318. *TINNON ET AL. v. BURLINGTON NORTHERN RAILROAD Co.* C. A. 8th Cir. Certiorari denied. Reported below: 898 F. 2d 1340.

No. 90-319. *ZAGANO v. FORDHAM UNIVERSITY ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 900 F. 2d 12.

No. 90-320. *PERVIS v. STATE FARM FIRE & CASUALTY Co.* C. A. 11th Cir. Certiorari denied. Reported below: 901 F. 2d 944.

No. 90-322. *VALLANCE v. BREWBAKER.* Cir. Ct. Mich., County of Cheboygan. Certiorari denied.

No. 90-325. *FREEPORT TRANSPORT, INC. v. INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA ET AL.* Sup. Ct. Pa. Certiorari denied. Reported below: 523 Pa. 491, 568 A. 2d 151.

October 9, 1990

498 U. S.

No. 90-330. *WILCOX v. TERRY TOWN FIFTH DISTRICT VOLUNTEER FIRE DEPARTMENT, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 897 F. 2d 765.

No. 90-331. *CORINTH PIPEWORKS S. A. v. GULF CONSOLIDATED SERVICES, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 898 F. 2d 1071.

No. 90-359. *ANTHONY v. CITY OF CHICAGO.* Sup. Ct. Ill. Certiorari denied. Reported below: 136 Ill. 2d 169, 554 N. E. 2d 1381.

No. 90-362. *SMITH v. UNITED STATES AIR FORCE.* C. A. 2d Cir. Certiorari denied. Reported below: 896 F. 2d 544.

No. 90-371. *MORALES v. KANSAS STATE UNIVERSITY ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-378. *JACKSON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 896 F. 2d 1370.

No. 90-386. *KEITH v. RICE, SECRETARY OF THE AIR FORCE.* C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 736.

No. 90-390. *BUTLER v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1532.

No. 90-397. *GREEN v. FOLEY.* C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1137.

No. 90-398. *HELMS ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 897 F. 2d 1293.

No. 90-406. *WRENN v. DROSKE ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 909 F. 2d 1472.

No. 90-412. *EDGAR v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 90-415. *ST. CHARLES ASSOCIATES v. LUJAN, SECRETARY OF THE INTERIOR.* C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1139.

No. 90-418. *GOLLNER v. OFFICE OF PERSONNEL MANAGEMENT.* C. A. Fed. Cir. Certiorari denied. Reported below: 904 F. 2d 45.

498 U. S.

October 9, 1990

No. 90-5134. *CONWAY v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 909 F. 2d 1473.

No. 90-5153. *DE LA TORRE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 900 F. 2d 264.

No. 90-5162. *MANLEY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 893 F. 2d 1221.

No. 90-5163. *JENKINS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 901 F. 2d 1075.

No. 90-5207. *SCHWARTZ v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 899 F. 2d 243.

No. 90-5209. *STEWART v. KENTUCKY*. Ct. App. Ky. Certiorari denied.

No. 90-5362. *RODRIGUEZ-DOSHI v. GENERAL SERVICES ADMINISTRATION ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 902 F. 2d 37.

No. 90-5376. *FLANDERS v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 214 Conn. 493, 572 A. 2d 983.

No. 90-5381. *WATTS v. ARMONTROUT, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 1571.

No. 90-5382. *SCOTT v. ICENOGLE ET AL.* C. A. 8th Cir. Certiorari denied.

No. 90-5385. *RICHARDSON v. HENRY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 414.

No. 90-5386. *THOMAS v. EVANS ET AL.* C. A. 11th Cir. Certiorari denied.

No. 90-5390. *TIGNER v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 194 Ill. App. 3d 600, 551 N. E. 2d 304.

No. 90-5400. *HOCH v. MONTANA*. C. A. 9th Cir. Certiorari denied. Reported below: 894 F. 2d 1344.

No. 90-5410. *SINDRAM v. RYAN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1531.

October 9, 1990

498 U. S.

No. 90-5411. *POWLOWSKI v. DUGGER*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 904 F. 2d 713.

No. 90-5413. *OLIVAREZ v. COLLINS*, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE. C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 956.

No. 90-5417. *ANDINO v. COLLINS*, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. C. A. 5th Cir. Certiorari denied.

No. 90-5420. *DIXON v. FOX ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 893 F. 2d 1556.

No. 90-5430. *GLAUDE v. STATE BAR OF CALIFORNIA ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-5431. *SINGLETON v. MOORE*, ATTORNEY GENERAL OF MISSISSIPPI. C. A. 5th Cir. Certiorari denied.

No. 90-5437. *BALMER ET UX. v. STATE FARM FIRE & CASUALTY Co.* C. A. 11th Cir. Certiorari denied. Reported below: 891 F. 2d 874.

No. 90-5438. *SPARKS v. MISSISSIPPI.* Sup. Ct. Miss. Certiorari denied.

No. 90-5441. *MADDEN v. NBD MORTGAGE CO. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 897 F. 2d 529.

No. 90-5447. *HALL v. NEY.* C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 1569.

No. 90-5448. *LONDON v. ARINGTON ET AL.* C. A. 7th Cir. Certiorari denied.

No. 90-5449. *MOHIUDDIN v. ALABAMA DEPARTMENT OF INDUSTRIAL RELATIONS ET AL.* Sup. Ct. Ala. Certiorari denied.

No. 90-5450. *NUBINE v. COOLEY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 911 F. 2d 727.

No. 90-5451. *COOPER v. JONES ET AL.* Ct. App. Mo., Western Dist. Certiorari denied. Reported below: 787 S. W. 2d 307.

No. 90-5455. *GREEN v. SMITH*, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 898 F. 2d 152.

498 U. S.

October 9, 1990

No. 90-5456. *SINDRAM v. SWEENEY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1531.

No. 90-5462. *TURNER v. AT&T COMMUNICATIONS.* C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 244.

No. 90-5463. *SCHRADER v. WHITLEY, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 282.

No. 90-5467. *FIELDS v. FOWLER ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 898 F. 2d 153.

No. 90-5469. *MOORE v. STEWART TITLE OF CALIFORNIA ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-5475. *JONES v. CITY OF HAMTRAMCK ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 905 F. 2d 908.

No. 90-5478. *RHONES v. BORG, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 2d 430.

No. 90-5481. *BROWN v. CHAVIS, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 1564.

No. 90-5484. *ABDUL-AKBAR v. DELAWARE.* Sup. Ct. Del. Certiorari denied. Reported below: 582 A. 2d 934.

No. 90-5485. *ALLEN v. MONTGOMERY COUNTY JAIL ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 895 F. 2d 1412.

No. 90-5487. *WHITE v. MCGINNIS.* C. A. 9th Cir. Certiorari denied. Reported below: 903 F. 2d 699.

No. 90-5490. *WILLIAMS v. TEXAS.* Ct. App. Tex., 9th Dist. Certiorari denied.

No. 90-5493. *BOUDETTE v. ARIZONA.* Ct. App. Ariz. Certiorari denied. Reported below: 164 Ariz. 180, 791 P. 2d 1063.

No. 90-5494. *BROWN v. ILLINOIS.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 195 Ill. App. 3d 78, 551 N. E. 2d 1100.

No. 90-5495. *CATHERS v. ILLINOIS.* App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 194 Ill. App. 3d 318, 550 N. E. 2d 1018.

October 9, 1990

498 U. S.

No. 90-5496. *RUSSELL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 905 F. 2d 1450.

No. 90-5497. *ROYSTER v. KEAN ET AL.* C. A. 3d Cir. Certiorari denied.

No. 90-5503. *HOLLINGSWORTH v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 39.

No. 90-5504. *MAYS v. GRAYSON, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 33.

No. 90-5517. *FORD v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 90-5528. *ELLIOTT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 893 F. 2d 220 and 904 F. 2d 25.

No. 90-5532. *JOHNSON v. FARMERS INSURANCE GROUP ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 893 F. 2d 344.

No. 90-5534. *COLELLA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 696.

No. 90-5539. *NORELIN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 903 F. 2d 828.

No. 90-5547. *BEACHUM v. TANSY, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 903 F. 2d 1321.

No. 90-5548. *SOTO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 697.

No. 90-5557. *KISSICK v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-5561. *MANNS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 905 F. 2d 1100.

No. 90-5564. *MARTINEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 904 F. 2d 714.

No. 90-5568. *RESTREPO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 704.

498 U. S.

October 9, 1990

No. 90-5569. *FEATHERS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 510.

No. 90-5570. *PEREZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 142.

No. 90-5571. *TAPP v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 900 F. 2d 800.

No. 90-5572. *BOOKMAN v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied.

No. 90-5573. *CROOM v. HENMAN*. C. A. 7th Cir. Certiorari denied. Reported below: 902 F. 2d 37.

No. 90-5579. *ASSAAD-FALTAS v. UNIVERSITY OF ARKANSAS FOR MEDICAL SCIENCES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 1572.

No. 90-5584. *OLIVER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 905 F. 2d 1542.

No. 90-5592. *GARRETT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 903 F. 2d 1105.

No. 90-5593. *LATTIMORE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 902 F. 2d 902.

No. 90-5595. *VICKERS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 908 F. 2d 1417.

No. 90-5597. *VAN OMEN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-5600. *YEHUDA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 902 F. 2d 1563.

No. 90-5601. *RINGSTAD v. WANNAMAKER, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1139.

No. 90-5611. *BLAKELY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 907 F. 2d 1142.

No. 90-5616. *FRAGOSO v. UNITED STATES; DELGADO v. UNITED STATES; and CASIANO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 908 F. 2d 964.

October 9, 1990

498 U. S.

No. 90-5619. *CRUZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 901 F. 2d 205.

No. 90-5620. *ARMAS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 905 F. 2d 1542.

No. 90-5626. *MITCHELL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 908 F. 2d 1289.

No. 90-5629. *MANN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 902 F. 2d 501.

No. 90-5630. *LEWIS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 907 F. 2d 773.

No. 90-5645. *RODRIGUEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 704.

No. 90-5646. *SYLVESTER ET UX. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 909 F. 2d 1486.

No. 90-5647. *SHERMAN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-5654. *JONES v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 899 F. 2d 1097.

No. 90-5665. *THEODOROPOULOS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 697.

No. 90-5673. *WHITE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 899 F. 2d 1220.

No. 90-5679. *CROSSFIELD ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 258, 904 F. 2d 78.

No. 90-5684. *LYLE v. JABE, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 90-5689. *BOURKE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 904 F. 2d 711.

No. 90-5693. *SANCHEZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

498 U. S.

October 9, 1990

No. 90-5696. GILES *v.* GREEN, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 90-5700. DYER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 910 F. 2d 530.

No. 90-5742. CARY *v.* ANHEUSER-BUSCH COS., INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 904 F. 2d 699.

No. 89-1876. FLORIDA *v.* JONES. Sup. Ct. Fla. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 559 So. 2d 204.

No. 90-20. HAWAII *v.* LINCOLN. Sup. Ct. Haw. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 71 Haw. 274, 789 P. 2d 497.

No. 89-1901. PRINCE EDWARD SCHOOL FOUNDATION *v.* HERMITAGE METHODIST HOMES OF VIRGINIA, INC. Sup. Ct. Va. Certiorari denied. JUSTICE MARSHALL took no part in the consideration or decision of this petition.* Reported below: 239 Va. 46, 387 S. E. 2d 740.

No. 89-1988. BERKSHIRE GAS CO. ET AL. *v.* ASSOCIATED GAS DISTRIBUTORS ET AL.;

No. 89-1989. TENNESSEE SMALL GENERAL SERVICE CUSTOMER GROUP ET AL. *v.* ASSOCIATED GAS DISTRIBUTORS ET AL.;

No. 89-1990. TENNESSEE GAS PIPELINE CO. *v.* ASSOCIATED GAS DISTRIBUTORS ET AL.;

No. 89-2000. NATIONAL FUEL GAS SUPPLY CORP. *v.* ASSOCIATED GAS DISTRIBUTORS ET AL.; and

No. 89-2016. FEDERAL ENERGY REGULATORY COMMISSION *v.* ASSOCIATED GAS DISTRIBUTORS ET AL. C. A. D. C. Cir. Motion of Interstate Natural Gas Association for leave to file a brief as *amicus curiae* in No. 89-2016 granted. Certiorari denied. Reported below: 282 U. S. App. D. C. 142, 893 F. 2d 349.

No. 89-2001. PANHANDLE EASTERN PIPE LINE CO. ET AL. *v.* COLUMBIA GAS TRANSMISSION CORP. ET AL.; and

No. 90-131. FEDERAL ENERGY REGULATORY COMMISSION *v.* COLUMBIA GAS TRANSMISSION CORP. ET AL. C. A. D. C. Cir. Motion of Interstate Natural Gas Association for leave to file a

*See also note *, p. 892.

October 9, 1990

498 U. S.

brief as *amicus curiae* granted. Certiorari denied. Reported below: 282 U. S. App. D. C. 386, 895 F. 2d 791.

No. 89-7745. *DYKE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 901 F. 2d 285.

No. 90-249. *FEE ET UX., INDIVIDUALLY AND AS NEXT FRIENDS OF FEE, A MINOR v. HERNDON*. C. A. 5th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 900 F. 2d 804.

No. 89-7782. *WILLIS v. TEXAS*. Ct. Crim. App. Tex.;

No. 90-5356. *BURGER v. ZANT, WARDEN*. Sup. Ct. Ga.;

No. 90-5460. *JONES v. TENNESSEE*. Sup. Ct. Tenn.;

No. 90-5471. *LANEY v. TENNESSEE*. Ct. Crim. App. Tenn.;

No. 90-5477. *POPE v. THOMPSON, WARDEN*. Sup. Ct. Va.;

No. 90-5488. *WICKLINE v. OHIO*. Sup. Ct. Ohio; and

No. 90-5591. *SPENCER v. VIRGINIA*. Sup. Ct. Va. Certiorari denied. Reported below: No. 89-7782, 785 S. W. 2d 378; No. 90-5460, 789 S. W. 2d 545; No. 90-5488, 50 Ohio St. 3d 114, 552 N. E. 2d 913; No. 90-5591, 240 Va. 78, 393 S. E. 2d 609.

JUSTICE MARSHALL, dissenting.

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

No. 89-7838. *HAMILTON, AS NATURAL MOTHER AND NEXT FRIEND TO SMITH v. TEXAS*. Ct. Crim. App. Tex. Motion of Chris Lonchar Kellogg for leave to intervene denied. Certiorari denied.

JUSTICE MARSHALL, with whom JUSTICE BLACKMUN joins, concurring.

I agree with JUSTICE STEVENS that the issue raised in this petition is important and merits resolution by this Court. I write to express my frustration with the Court's failure to avail itself of the ordinary procedural mechanisms that would have permitted us to resolve that issue in *this* case.

It is already a matter of public record that four Members of this Court voted to grant certiorari before petitioner was executed.

See *Hamilton v. Texas*, 497 U. S. 1016 (1990) (Brennan, J., dissenting from denial of application for stay). According to established practice, this fact should have triggered a fifth vote to grant petitioner's application for a stay of his execution.* Indeed, this result flows naturally from the standard by which we evaluate stay applications, a central component of which is "whether four Justices are *likely* to vote to grant certiorari." *Coleman v. Paccar Inc.*, 424 U. S. 1301, 1302 (1976) (REHNQUIST, J., in chambers) (emphasis added); see also *Maggio v. Williams*, 464 U. S. 46, 48 (1983) (*per curiam*) (same).

In my view, the Court's willingness in this case to dispense with the procedures that it ordinarily employs to preserve its jurisdiction only continues the distressing rollback of the legal safeguards traditionally afforded. Compare *Boyde v. California*, 494 U. S. 370, 387-388 (1990) (MARSHALL, J., dissenting) (criticizing diminution in standard used to assess unconstitutional jury instructions in capital cases); *Barefoot v. Estelle*, 463 U. S. 880, 912-914 (1983) (MARSHALL, J., dissenting) (criticizing Court's endorsement of summary appellate procedures in capital cases); *Autry v. McKaskle*, 465 U. S. 1085, 1085-1086 (1984) (MARSHALL, J., dissenting from denial of certiorari) (criticizing expedited consideration of petitions for certiorari in capital cases).

JUSTICE STEVENS, with whom JUSTICE BLACKMUN joins, concurring.

This petition for a writ of certiorari raises important, recurring questions of law that should be decided by this Court. These questions concern the standards that the Due Process Clause of

*See *Autry v. Estelle*, 464 U. S. 1, 2 (1983) (*per curiam*) ("Had applicant convinced four Members of the Court that certiorari would be granted on any of his claims, a stay would issue"); *Darden v. Wainwright*, 473 U. S. 928, 928-929 (1985) (Powell, J., concurring in granting of stay); *Straight v. Wainwright*, 476 U. S. 1132, 1133, n. 2 (1986) (Powell, J., concurring in denial of stay, joined by Burger, C. J., REHNQUIST, and O'CONNOR, JJ.) (noting that "the Court has ordinarily stayed executions when four Members have voted to grant certiorari"); *id.*, at 1134-1135 (Brennan, J., dissenting from denial of stay, joined by MARSHALL and BLACKMUN, JJ.) ("[W]hen four vote to grant certiorari in a capital case, but there is not a fifth vote to stay the scheduled execution, one of the five Justices who does not believe the case worthy of granting certiorari will nonetheless vote to stay; this is so that the 'Rule of Four' will not be rendered meaningless by an execution that occurs before the Court considers the case on the merits").

the Fourteenth Amendment mandates in a hearing to determine whether a death row inmate is competent to waive his constitutional right to challenge his conviction and sentence and whether he has made a knowing and intelligent waiver of this right.

James Edward Smith was convicted of murder and sentenced to death in Harris County, Texas, in 1984. Smith had a substantial history of mental illness, and his mental difficulties prompted a finding by the Texas trial court that he was not competent to represent himself on appeal. Pet. for Cert., Exh. 2, p. 13, Exhs. 4-8, 10-12. After his conviction, Smith vacillated between forceful insistence on prosecuting his own appeal and equally forceful insistence on abandoning any challenge to his conviction or his sentence. Pet. for Cert., Exh. 2, pp. 10-11, Exh. 11, p. 2.

Petitioner is Smith's natural mother. Proceeding as Smith's "next friend," she attempted to establish her standing to litigate on her son's behalf and to have his execution stayed until his competence was established after a full adversarial hearing. She was unsuccessful. On May 23, 1990, without notice to petitioner, the Texas trial court held a nonadversarial hearing, made a finding that Smith was competent to make a decision regarding his execution, and set his execution for 12:01 a.m. on June 26, 1990. Pet. for Cert., Exh. 3.

On June 22, over the dissent of Justice Teague,¹ the Texas Court of Criminal Appeals dismissed petitioner's "Emergency Application for Stay of Execution and Objections to Trial Court's Prior Proceedings." *Ex Parte Hamilton*, No. 18,380-02 (en banc) (*per curiam*). On June 24, petitioner filed in this Court her petition for a writ of certiorari and her application for a stay of

¹ "Teague, J., notwithstanding that such might, but probably only will cause a slight delay in carrying out applicant's obvious desire to carry into effect his long held death wish, as well as his strong belief that he will be reincarnated after he is killed, but believing that this Court, at least implicitly, has ruled that in a case such as this one, where the reasonable probability that the defendant is not competent to request that he be put to a premature death, or, to put it another way, to commit legal suicide through the hands of others, has been raised, it is necessary for the trial court to conduct a 'full adversarial hearing' on the issue. Given the possible favorable evidence now available, a 'full adversarial hearing' should now be conducted in this cause. See *Ex parte Jordan*, 758 S. W. 2d 250 (Tex. Cr. App. 1988). Also see *Ford v. Wainwright*, 477 U. S. 399 . . . (1986)." *Ex Parte Hamilton*, No. 18,380-02 (Tex. Crim. App., June 22, 1990) (Teague, J., dissenting from order denying application for stay).

498 U. S.

October 9, 1990

Smith's execution. Four Members of the Court voted to grant certiorari² and to stay the execution. Nevertheless, the stay application was denied, and Smith was executed on schedule.

Smith's execution obviously mooted this case. The Court has therefore properly denied the petition for a writ of certiorari. This denial, however, does not evidence any lack of merit in the petition;³ instead, the reason for the denial emphasizes the importance of confronting on the merits the substantial questions that were raised in this case.

No. 90-9. MCI COMMUNICATIONS CORP. ET AL. *v.* UNITED STATES ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition.* Reported below: 283 U. S. App. D. C. 299, 900 F. 2d 283.

No. 90-263. ADAMS ET VIR *v.* LEISURE DYNAMICS, INC., ET AL. C. A. 11th Cir. Motion of respondents for taxation of attorney's fees and costs denied. Certiorari denied. Reported below: 902 F. 2d 959.

No. 90-289. F L AEROSPACE CORP. *v.* AETNA CASUALTY & SURETY CO. C. A. 6th Cir. Motion of Mid-America Legal Foundation for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 897 F. 2d 214.

No. 90-298. PRESBYTERY OF SEATTLE *v.* KING COUNTY, WASHINGTON. Sup. Ct. Wash. Motions of American College of Real Estate Lawyers, Oregonians in Action, and American Farm Bureau Federation for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 114 Wash. 2d 320, 787 P. 2d 907.

No. 90-5177. HOOPER *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. JUSTICE MARSHALL would grant certiorari. Reported below: 133 Ill. 2d 469, 552 N. E. 2d 684.

²See *Hamilton v. Texas*, 497 U. S. 1016 (1990) (Brennan, J., dissenting from denial of application for stay).

³See *Singleton v. Commissioner*, 439 U. S. 940, 942 (1978) (opinion of STEVENS, J., respecting denial of certiorari).

*See also note *, p. 892.

October 9, 1990

498 U. S.

No. 90-5395. HOUSE *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

JUSTICE MARSHALL, dissenting.

In both *Mills v. Maryland*, 486 U. S. 367 (1988), and *McKoy v. North Carolina*, 494 U. S. 433 (1990), we vacated a death sentence based on jury instructions that, reasonably construed, prevented the jury from considering any mitigating circumstance it did not unanimously find to exist. Because I believe the instructions in this case suffer from the same infirmity, I would grant the petition for certiorari.

Petitioner was convicted of murder and sentenced to death. At the penalty phase of his capital proceeding, the trial judge instructed the jury that it could not impose the death penalty unless it found "*unanimously* that one or more . . . aggravating circumstances have been proven." Union Cty. C. C. A. No. 28 (Tenn. Crim. App., Dec. 15, 1989), p. 2 (emphasis added). Next, the judge directed the jury to "*consider as heretofore indicated* any mitigating circumstances." *Id.*, at 3 (emphasis added). The form provided to the jury for recording a death sentence stated, "We, the jury, *unanimously find that there are no mitigating circumstances* sufficiently substantial to outweigh the statutory aggravating circumstance or circumstances. . . ." *Id.*, at 5 (emphasis added).^{*} Finding that the instructions did not require juror

^{*}In pertinent part, the jury instructions read as follows:

"Your verdict must be *unanimous* as to either form of punishment [death or life imprisonment]. . . .

"No death penalty shall be imposed unless you find *unanimously* that one or more of the following specified statutory aggravating circumstances have been proven . . . beyond a reasonable doubt.

"In arriving at the punishment, the jury shall consider *as heretofore indicated* any mitigating circumstances which shall include but not be limited to

"If the jury *unanimously* determines that at least one statutory aggravated circumstance or several statutory circumstances have been proved . . . and said circumstance or circumstances are not outweighed by any sufficiently substantial mitigating circumstances, the sentence shall be death.

unanimity on mitigating factors, the Tennessee Court of Criminal Appeals affirmed. *Id.*, at 6.

Assessment of petitioner's challenge to the disputed instructions is governed by our decisions in *Mills v. Maryland*, *supra*, and *McKoy v. North Carolina*, *supra*. In those decisions, we made clear that a rule preventing individual jurors from crediting mitigating circumstances not unanimously found to exist violated the cardinal principle of our capital jurisprudence that "the sentencer may not . . . be precluded from considering "any relevant mitigating evidence."'" *Mills*, *supra*, at 374-375 (quoting *Skipper v. South Carolina*, 476 U. S. 1, 4 (1986), in turn quoting *Eddings v. Oklahoma*, 455 U. S. 104, 114 (1982)); see *McKoy*, *supra*, at 439-440. The only issue in this case is whether the instructions furnished to petitioner's jury should be viewed as imposing a unanimity requirement.

In my view, our decision in *Mills* speaks directly to this question. In *Mills*, the jury received a verdict form listing each potential mitigating and aggravating circumstance along with corresponding "yes" and "no" boxes. The trial judge instructed the jurors to mark "yes" if they *unanimously* concluded that an aggravating circumstance had been proved; otherwise they were to mark "no." 486 U. S., at 378. The judge also instructed the jury that it had to be unanimous to mark "yes" for any mitigating

"[T]he jury must include in its finding, that there were no mitigating circumstances sufficiently substantial to outweigh the statutory aggravating circumstance or circumstances so found.

Upon such *unanimous finding*, each member of the jury shall affix his or her signature to said written findings and then return the said written verdict to the Court.

"You will be provided with two punishment forms. . . .

"[On the Punishment of Death Form, should the jury impose the death sentence, it was required to attest:] We, the jury, *unanimously find that there are no mitigating circumstances* sufficiently substantial to outweigh the statutory aggravating circumstance or circumstances listed above. . . .

"You may take the charge with you." Union Cty. C. C. A. No. 28, pp. 2-5 (emphasis added).

According to the Tennessee Court of Criminal Appeals, these instructions conform to the language and structure of the then-effective Tennessee capital punishment statute, Tenn. Code Ann. § 39-2-203 (1982). See Union Cty. C. C. A. No. 28, p. 5. This provision has since been repealed and recodified at Tenn. Code Ann. § 39-13-204 (Supp. 1990).

factor. *Id.*, at 378, and n. 11. Mills challenged the constitutionality of his death sentence on the ground that the instructions required death if the jury unanimously found an aggravating circumstance but could not agree unanimously as to the existence of any particular mitigating circumstance. *Id.*, at 371. The Maryland Court of Appeals rejected this challenge, construing the verdict form to require unanimity in order to mark "no" with respect to a given mitigating circumstance, and not to preclude each juror from individually weighing any nonunanimous mitigating circumstance in considering whether to impose a death sentence. *Id.*, at 372-373.

Because we could not conclude, "with any degree of certainty, that the jury did not adopt [Mills'] interpretation," *id.*, at 377, we vacated his death sentence. We emphasized that nothing in the instructions or the form clarified for the jury that it could do something *other than* answer "no" if it could not reach unanimity on a particular mitigating circumstance. *Id.*, at 378-379, and n. 11. Thus, the verdict forms and instructions used in *Mills* created the "intuitively disturbing" possibility that a sole juror *could have* precluded the remaining eleven jurors from considering mitigating circumstances which they all believed to exist. *Id.*, at 373-374. The prospect that a single, holdout juror could have blocked such consideration, and consequently required the jury to impose the death penalty, was an outcome "we dare[d] not risk." *Id.*, at 384. We concluded that it would be the "height of arbitrariness" to uphold a death sentence in such circumstances. *Id.*, at 374.

The jury instructions in this case present the same impermissible risk. After charging the jury that it had to find aggravating circumstances "unanimously," the trial judge instructed the jury to consider mitigating circumstances "as heretofore indicated." The natural inference from the words "as heretofore indicated" is that findings of mitigating circumstances, like findings of aggravating circumstances, had to be unanimous. Moreover, as in *Mills*, the trial court did not instruct the jury on what it should do if it could not reach a unanimous conclusion on a potential mitigating circumstance. Nowhere did the instructions even remotely suggest that jurors were free to exercise individual judgment in considering nonunanimous mitigating factors. Rather, the jury appears to have been guided in the opposite direction by the "as heretofore indicated" language. The inference that nonunani-

498 U. S.

October 9, 12, 1990

mous mitigating factors must be disregarded entirely is reinforced by the trial judge's repeated statements that the jury could impose the death penalty only if it found "unanimously" that no mitigating circumstances outweighed any aggravating circumstances. Under these circumstances, reasonable jurors could justifiably have believed that they were not to consider any mitigating circumstance unless all jurors unanimously found it to exist.

Like the postverdict construction furnished by the Maryland Court of Appeals in *Mills*, the Tennessee Court of Criminal Appeals' conclusion that jurors remained free under Tennessee law to consider nonunanimous mitigation factors is beside the point. The decisive issue under *Mills* is whether the jury could plausibly have read the instructions to require unanimity as to the existence of each mitigating circumstance. Because there is a "reasonable likelihood" that the jury in this case so understood the challenged instructions, *Boyd v. California*, 494 U. S. 370, 381 (1990), I would grant the petition for certiorari and reverse.

Even if I did not believe that this case otherwise merited review, 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.

Rehearing Denied

No. 89-1719. PANTOJA ET AL. *v.* TEXAS GAS TRANSMISSION CORP. ET AL., 497 U. S. 1024. Motion of petitioner Chris Pedersen for leave to proceed further herein *in forma pauperis* granted. Petition for rehearing denied.

OCTOBER 12, 1990

Dismissal Under Rule 46

No. 89-2013. CLING SURFACE CO., INC. *v.* GEAN ET UX. C. A. 11th Cir. Certiorari dismissed under this Court's Rule 46.

Miscellaneous Order

A-256. KOPP ET AL. *v.* SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, ET AL. Application for stay of enforcement of injunction issued by the United States District Court for the Eastern District of California, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

OCTOBER 15, 1990

Dismissal Under Rule 46

No. 89-1986. OHIO CASUALTY INSURANCE CO. *v.* G. AMADOR CORP. Ct. App. Cal., 2d App. Dist. Certiorari dismissed under this Court's Rule 46.

Affirmed on Appeal

No. 90-272. BROOKS ET AL. *v.* GEORGIA STATE BOARD OF ELECTIONS ET AL.; and

No. 90-332. GEORGIA STATE BOARD OF ELECTIONS ET AL. *v.* BROOKS ET AL. Affirmed on appeals from D. C. S. D. Ga. Reported below: 775 F. Supp. 1470.

Certiorari Granted—Vacated and Remanded

No. 90-5183. CARY *v.* UNITED STATES. C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *United States v. Eichman*, 496 U. S. 310 (1990). Reported below: 897 F. 2d 917.

Certiorari Dismissed

No. 90-5454. DRAPER *v.* OHIO. Ct. App. Ohio, Clermont County. Certiorari dismissed for want of jurisdiction.

Miscellaneous Orders

No. — — —. LALIBERTE *v.* UNITED STATES. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. — — —. IN RE STERN. Application for readmission to the Bar, presented to JUSTICE MARSHALL, and by him referred to the Court, denied. JUSTICE STEVENS would grant the application.

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

No. A-259. CINEMA BLUE OF CHARLOTTE, INC., ET AL. *v.* NORTH CAROLINA. Ct. App. N. C. Application for recall and stay of mandate, addressed to JUSTICE MARSHALL and referred to the Court, denied.

498 U. S.

October 15, 1990

No. D-879. IN RE DISBARMENT OF ANDERSON. Disbarment entered. [For earlier order herein, see 494 U. S. 1052.]

No. D-899. IN RE DISBARMENT OF DONNELLY. Disbarment entered. [For earlier order herein, see 495 U. S. 945.]

No. D-902. IN RE DISBARMENT OF METZ. Disbarment entered. [For earlier order herein, see 495 U. S. 955.]

No. D-910. IN RE DISBARMENT OF HENDRICKSON. Disbarment entered. [For earlier order herein, see 496 U. S. 923.]

No. D-918. IN RE DISBARMENT OF LOVELL. Disbarment entered. [For earlier order herein, see 497 U. S. 1045.]

No. D-923. IN RE DISBARMENT OF MORROW. Disbarment entered. [For earlier order herein, see 497 U. S. 1046.]

No. D-939. IN RE DISBARMENT OF MAZZOCONE. It is ordered that Carl M. Mazzocone, 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-940. IN RE DISBARMENT OF MOORE. It is ordered that Robert Allen Moore, of Brownsville, 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-941. IN RE DISBARMENT OF AUSBURN. It is ordered that J. Mack Ausburn, of Big Spring, 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-942. IN RE DISBARMENT OF LOGAN. It is ordered that Jon Gregory Logan, of Holton, 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-943. IN RE DISBARMENT OF FRASER. It is ordered that Bruce Cameron Fraser, 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.

October 15, 1990

498 U. S.

No. D-944. *IN RE DISBARMENT OF RUSSELL*. It is ordered that Alan H. Russell, of Van Nuys, 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-945. *IN RE DISBARMENT OF HEAVY*. It is ordered that Edward Emmet Heavy, 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-946. *IN RE DISBARMENT OF RICHARDSON*. It is ordered that Donald J. Richardson, Jr., 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. 111, Orig. *DELAWARE v. NEW YORK*. Motion of South Carolina for leave to intervene and adopt complaint referred to the Special Master. [For earlier order herein, see, *e. g.*, *ante*, p. 893.]

No. 89-1027. *NORFOLK & WESTERN RAILWAY CO. ET AL. v. AMERICAN TRAIN DISPATCHERS' ASSN. ET AL.*; and

No. 89-1028. *CSX TRANSPORTATION, INC. v. BROTHERHOOD OF RAILWAY CARMEN ET AL.* C. A. D. C. Cir. [Certiorari granted, 494 U. S. 1055.] Motion of respondents American Train Dispatchers' Association et al. to dismiss denied.

No. 89-1784. *INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA ET AL. v. BEN COOPER, INC.* C. A. 2d Cir. [Certiorari granted, 497 U. S. 1023.] Motion of the Solicitor General for divided argument granted to be divided as follows: 30 minutes for petitioners; 20 minutes for respondent; and 10 minutes for the Solicitor General. Request for additional time for oral argument denied.

No. 90-5537. *IN RE THOMAS*. Petition for writ of mandamus denied.

Certiorari Granted

No. 90-96. *SIEGERT v. GILLEY*. C. A. D. C. Cir. Certiorari granted. Reported below: 282 U. S. App. D. C. 392, 895 F. 2d 797.

498 U. S.

October 15, 1990

No. 88-7247. LANKFORD *v.* IDAHO. Sup. Ct. Idaho. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question II presented by the petition. Reported below: 116 Idaho 279, 775 P. 2d 593.

Certiorari Denied

No. 89-1922. WILLIAMS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 897 F. 2d 530.

No. 89-2029. SHELL OIL CO. *v.* LEONARDINI. Ct. App. Cal., 3d App. Dist. Certiorari denied. Reported below: 216 Cal. App. 3d 547, 264 Cal. Rptr. 883.

No. 89-7600. HARRIS *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 897 F. 2d 536.

No. 89-7683. YOUNG *v.* FLORIDA ET AL. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 89-7775. MARTIN *v.* COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE. C. A. 5th Cir. Certiorari denied.

No. 89-7779. TIJERINA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1569.

No. 89-7789. CASTILLO *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 217 Cal. App. 3d 1020, 266 Cal. Rptr. 271.

No. 89-7833. WILLIAMS *v.* GOODING ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 894 F. 2d 1338.

No. 89-7867. McNABB *v.* JONES, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 900 F. 2d 264.

No. 89-7873. McQUILLION *v.* KOENIG, CHAIRMAN, CALIFORNIA BOARD OF PRISON TERMS. C. A. 9th Cir. Certiorari denied.

No. 90-61. JOHNSON *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 30 M. J. 53.

No. 90-144. SAFE FLIGHT INSTRUMENT CORP. *v.* SUNDBRAND DATA CONTROL, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 899 F. 2d 1228.

October 15, 1990

498 U. S.

No. 90-145. *LYONS v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 898 F. 2d 210.

No. 90-147. *FRYMAN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 901 F. 2d 79.

No. 90-162. *ROCKFORD MEMORIAL CORP. ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 898 F. 2d 1278.

No. 90-182. *V-1 OIL CO. v. GERBER*; and

No. 90-351. *GERBER v. V-1 OIL CO.* C. A. 10th Cir. Certiorari denied. Reported below: 902 F. 2d 1482.

No. 90-191. *BUCKLEY ET AL. v. ELLIS*. Ct. App. Colo. Certiorari denied. Reported below: 790 P. 2d 875.

No. 90-326. *DATAPOINT CORP. v. NORTHERN TELECOM, INC.* C. A. Fed. Cir. Certiorari denied. Reported below: 908 F. 2d 931.

No. 90-329. *HARRIS ET AL. v. TRAYLOR BROS., INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 901 F. 2d 1112.

No. 90-335. *SPARKS v. CHARACTER AND FITNESS COMMITTEE OF KENTUCKY*. Sup. Ct. Ky. Certiorari denied.

No. 90-337. *VALLEY v. VALLEY*. Ct. App. Ore. Certiorari denied. Reported below: 97 Ore. App. 95, 775 P. 2d 332, and 99 Ore. App. 252, 781 P. 2d 1219.

No. 90-338. *COFFEY v. PSLJ, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 904 F. 2d 699.

No. 90-339. *CELOTEX CORP. v. JOHNSON ET UX*. C. A. 2d Cir. Certiorari denied. Reported below: 899 F. 2d 1281.

No. 90-343. *MCMURRY v. AMOS, CHANCERY CLERK, COPIAH COUNTY, MISSISSIPPI, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 956.

No. 90-346. *TOLEDO POLICE PATROLMAN'S ASSN., LOCAL 10, I. U. P. A., ET AL. v. CITY OF TOLEDO ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 904 F. 2d 36.

No. 90-347. *VAN DYKEN v. MONTANA*. Sup. Ct. Mont. Certiorari denied. Reported below: 242 Mont. 415, 791 P. 2d 1350.

498 U. S.

October 15, 1990

No. 90-348. *NEW ERA PUBLICATIONS INTERNATIONAL, APS v. CAROL PUBLISHING GROUP*. C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 152.

No. 90-349. *RATHERT ET AL. v. VILLAGE OF PEOTONE, ILLINOIS, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 903 F. 2d 510.

No. 90-352. *NAVRATIL, INDIVIDUALLY AND GUARDIAN AD LITEM FOR NAVRATIL, A MINOR v. CALIFORNIA STATE AUTOMOBILE ASSOCIATION INTER-INSURANCE BUREAU*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-353. *CAMAIONE v. BOROUGH OF LATROBE*. Sup. Ct. Pa. Certiorari denied. Reported below: 523 Pa. 363, 567 A. 2d 638.

No. 90-381. *DEERE & CO. v. KENNEDY ET AL.* App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 192 Ill. App. 3d 18, 548 N. E. 2d 610.

No. 90-399. *WRENN v. UNITED STATES ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 909 F. 2d 1472.

No. 90-426. *GANTNER ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 8th Cir. Certiorari denied. Reported below: 905 F. 2d 241.

No. 90-442. *PONTANI v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 1478.

No. 90-452. *CONTI v. COMMISSIONER OF INTERNAL REVENUE ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 693.

No. 90-469. *BEJASA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 137.

No. 90-471. *WPIX, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 2d Cir. Certiorari denied. Reported below: 906 F. 2d 898.

No. 90-487. *ZZIE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 900 F. 2d 264.

No. 90-5011. *HERRERA v. BURROUGHS ET AL.* C. A. 10th Cir. Certiorari denied.

October 15, 1990

498 U. S.

No. 90-5016. *ANDERSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 904 F. 2d 708.

No. 90-5060. *WELLS v. LACKE ET AL.* C. A. 7th Cir. Certiorari denied.

No. 90-5115. *ROYAL v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 898 F. 2d 159.

No. 90-5141. *WHITTLESEY v. CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 897 F. 2d 143.

No. 90-5143. *STEWART v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 900 F. 2d 260.

No. 90-5198. *RELIFORD v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 903 F. 2d 828.

No. 90-5266. *SISCO v. COUNTY OF LOS ANGELES ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-5270. *VERNOR v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 1182.

No. 90-5521. *STEELE v. FEDERAL LAND BANK OF JACKSON ET AL.* Sup. Ct. La. Certiorari denied. Reported below: 563 So. 2d 887.

No. 90-5522. *TIPPITT v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied. Reported below: 903 F. 2d 552.

No. 90-5525. *HARRIS v. ROWE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 904 F. 2d 700.

No. 90-5533. *SHURY v. ROCCO*. Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 90-5543. *MALUMPHY v. LEWIS, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS*. Ct. App. Ariz. Certiorari denied.

No. 90-5545. *HILL ET UX. v. GENERAL MOTORS CORP. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 897 F. 2d 529.

No. 90-5552. *SHRADER v. HOPKINS ET AL.* Ct. App. Ga. Certiorari denied.

498 U. S.

October 15, 1990

No. 90-5553. *SCHLICHER v. YOUNG ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-5555. *SULAK v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 41.

No. 90-5558. *HOLSEY v. BAUMGARTEN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 28.

No. 90-5559. *HOLSEY v. MARYLAND PAROLE COMMISSION ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 28.

No. 90-5562. *LOVE v. MONROE COUNTY PRESENTMENT AGENCY.* Ct. App. N. Y. Certiorari denied. Reported below: 76 N. Y. 2d 721, 557 N. E. 2d 112.

No. 90-5563. *MCCOLLUM ET UX. v. WILLIAMS LEASING, INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 1565.

No. 90-5565. *MULDOWNEY v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 395 Pa. Super. 655, 570 A. 2d 590.

No. 90-5634. *MOORE v. DUCKWORTH, SUPERINTENDENT, INDIANA STATE REFORMATORY, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 897 F. 2d 531.

No. 90-5638. *RONDON v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1141.

No. 90-5642. *LIONEL F. v. CITY OF NEW YORK.* Ct. App. N. Y. Certiorari denied. Reported below: 76 N. Y. 2d 747, 558 N. E. 2d 30.

No. 90-5652. *SPENCER v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 90-5670. *FRICK v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 907 F. 2d 150.

No. 90-5713. *PHILLIPS v. NUTH, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1139.

October 15, 1990

498 U. S.

No. 90-5715. *CHAVARRIAGA-TORRES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 909 F. 2d 1473.

No. 90-5718. *JOHNSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 905 F. 2d 222.

No. 90-5719. *NEELY v. VAUGHN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AND DIAGNOSTIC AND CLASSIFICATION CENTER AT GRATERFORD, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 90-5720. *LANG v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 904 F. 2d 618.

No. 90-5722. *GRIMM v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. Sup. Ct. Va. Certiorari denied.

No. 90-5735. *BOLEY v. IOWA*. Sup. Ct. Iowa. Certiorari denied. Reported below: 456 N. W. 2d 674.

No. 90-5776. *STOMNER v. KOLB, SUPERINTENDENT, FOX LAKE CORRECTIONAL INSTITUTION, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 903 F. 2d 1123.

No. 89-1902. *PRYBA ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 748.

JUSTICE WHITE, dissenting.

One of the questions presented in this case is the nature of the agreement necessary to sustain a conviction under the Racketeer Influenced and Corrupt Organizations (RICO) conspiracy statute, 18 U. S. C. § 1962(d). Section 1962(d) provides that "[i]t shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c)" of § 1962. Here, petitioners were convicted under that statute for conspiring to violate § 1962(a), which provides in relevant part:

"It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity . . . to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce."

498 U. S.

October 15, 1990

Title 18 U. S. C. § 1961(5) defines the term "pattern of racketeering activity" to require at least two acts of racketeering activity.

The trial court in this case instructed the jury that to convict petitioners of RICO conspiracy, the Government had to prove that "each defendant agreed to personally commit or aid and abet two or more acts of racketeering in violation of Section 1962(a) or that each defendant agreed that *another coconspirator* would commit two or more acts of racketeering in violation of 1962(a)." 900 F. 2d 748, 760 (CA4 1990) (emphasis added). In affirming petitioners' convictions, the United States Court of Appeals for the Fourth Circuit joined a majority of Courts of Appeals in holding that a conviction for RICO conspiracy does not require that the defendant personally agree to commit two or more predicate acts of racketeering; rather, it is sufficient if the defendant agrees to the commission of the predicate acts by another co-conspirator. See *ibid.*

As the Fourth Circuit acknowledged, *ibid.*, two Courts of Appeals have adopted a contrary view, holding that a RICO conspiracy conviction requires that the defendant have agreed to personally commit two or more predicate acts. See *United States v. Ruggiero*, 726 F. 2d 913, 921 (CA2), cert. denied *sub nom. Rabito v. United States*, 469 U. S. 831 (1984); *United States v. Winter*, 663 F. 2d 1120, 1136 (CA1 1981), cert. denied, 460 U. S. 1011 (1983). I have voted in the past to resolve the conflict among the Courts of Appeals on this issue. See *Adams v. United States*, 474 U. S. 971 (1985) (dissenting opinion). As I noted there, if the majority view is correct, "Congress' intent is being frustrated in those circuits which adhere to the narrower view of RICO conspiracy." *Id.*, at 973. On the other hand, if the minority view is correct, "defendants are being exposed to conviction for behavior Congress did not intend to reach under § 1962(d)." *Ibid.* To resolve the conflict, I would grant certiorari, limited to Question 5 presented in the petition for certiorari.

- No. 89-7634. *MCKENNA v. NEVADA*. Sup. Ct. Nev.;
No. 90-5047. *BENNETT v. NEVADA*. Sup. Ct. Nev.;
No. 90-5101. *PORTER v. PENNSYLVANIA*. Sup. Ct. Pa.; and
No. 90-5403. *HERRERA v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE*. C. A. 5th Cir. Certiorari denied. Reported below: No. 89-7634, 106 Nev. 1032; No. 90-5047,

October 15, 1990

498 U. S.

106 Nev. 135, 787 P. 2d 797; No. 90-5101, 524 Pa. 162, 569 A. 2d 942; No. 90-5403, 904 F. 2d 944.

JUSTICE MARSHALL, dissenting.

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

No. 90-221. MATTOX, ATTORNEY GENERAL OF TEXAS *v.* TRANS WORLD AIRLINES, INC., ET AL.; and

No. 90-232. ATTORNEY GENERAL OF CALIFORNIA ET AL. *v.* TRANS WORLD AIRLINES, INC., ET AL. C. A. 5th Cir. Certiorari denied. JUSTICE BLACKMUN would dismiss the petitions for writs of certiorari as moot. Reported below: 897 F. 2d 773.

No. 90-323. CARRIERS CONTAINER COUNCIL, INC. *v.* MOBILE STEAMSHIP ASSN., INC., ET AL. C. A. 11th Cir. Motion of International Longshoremen's Association et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 896 F. 2d 1330 and 904 F. 2d 28.

No. 90-327. MUTUAL LIFE INSURANCE COMPANY OF NEW YORK ET AL. *v.* KANAKIS ET UX. Ct. App. Cal., 4th App. Dist. Motion of American Council of Life Insurance et al. for leave to file a brief as *amici curiae* granted. Certiorari denied.

No. 90-370. REPUBLIC NATIONAL BANK OF MIAMI *v.* FIDELITY & DEPOSIT COMPANY OF MARYLAND. C. A. 11th Cir. Motion of American Bankers Association et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 894 F. 2d 1255.

No. 90-5605. WISNIEWSKI *v.* KENNARD ET AL. C. A. 5th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN would grant certiorari. Reported below: 901 F. 2d 1276.

Rehearing Denied

No. 88-7619. ROBERTSON *v.* CALIFORNIA, 493 U. S. 879 and 985. Motion of petitioner for leave to file second petition for rehearing denied. JUSTICE SOUTER took no part in the consideration or decision of this motion.

498 U. S.

OCTOBER 17, 1990

Certiorari Denied

No. 90-5958 (A-294). EVANS v. MUNCY, WARDEN, ET AL. C. A. 4th Cir. Application for stay of execution of sentence of death, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. Certiorari denied. Reported below: 916 F. 2d 163.

JUSTICE MARSHALL, dissenting.

This Court's approval of the death penalty has turned on the premise that given sufficient procedural safeguards the death penalty may be administered fairly and reliably. *E. g.*, *Gregg v. Georgia*, 428 U. S. 153, 195-196, and n. 47 (1976) (joint opinion of Stewart, Powell, and STEVENS, JJ.). Wilbert Evans' plea to be spared from execution demonstrates the fallacy of this assumption. Notwithstanding the panoply of procedural protections afforded Evans by this Court's capital jurisprudence, Evans today faces an imminent execution that even the State of Virginia appears to concede is indefensible in light of the undisputed facts proffered by Evans. Because an execution under these circumstances highlights the inherently cruel and unusual character of capital punishment, I dissent.

I

Evans was convicted of capital murder and sentenced to death. At the sentencing phase, the jury's verdict was predicated on a *single* aggravating circumstance: that if allowed to live Evans would pose a serious threat of future danger to society. See Va. Code § 19.2-264.4(C) (1990). Without this finding, Evans could not have been sentenced to death. See *e. g.*, *Furman v. Georgia*, 408 U. S. 238, 313 (1972) (WHITE, J., concurring) (existence of aggravating circumstance "distinguishing the few cases in which [the death penalty] is imposed" from those in which it is not is a constitutional prerequisite to death sentence); *Gregg v. Georgia*, *supra*, at 188-189 (same).¹

¹ Evans initially was sentenced to death in April 1981. At his first sentencing proceeding, the prosecutor proved Evans' future dangerousness principally through reliance upon seven purported out-of-state convictions, two of which the prosecutor later admitted were false. Two years later, after having relied on these bogus convictions in its successful oppositions to both Evans' direct appeal to the Virginia Supreme Court and his petition for a writ of certiorari to this Court, the State confessed error. Evans' death sentence

While Evans was on death row at the Mecklenberg Correctional Facility, an event occurred that casts grave doubt on the jury's prediction of Evans' future dangerousness. On May 31, 1984, six death row inmates at Mecklenberg attempted to engineer an escape. Armed with makeshift knives, these inmates took hostage 12 prison guards and 2 female nurses. The guards were stripped of their clothes and weapons, bound, and blindfolded. The nurses also were stripped of their clothes, and one was bound to an inmate's bed.

According to uncontested affidavits presented by guards taken hostage during the uprising, Evans took decisive steps to calm the riot, saving the lives of several hostages, and preventing the rape of one of the nurses.² For instance, Officer Ricardo Holmes, who was bound by the escaping inmates and forced into a closet with other hostages, states that he heard Evans imploring to the escaping inmates, "Don't hurt anybody and everything will be alright." Officer Holmes continues:

"It was very clear to me that [Evans] was trying to keep [the escaping inmates] calm and prevent them from getting out of control Based upon what I saw and heard, it is my firm opinion that if any of the escaping inmates had tried to harm us, Evans would have come to our aid. It is my belief that had it not been for Evans, I might not be here today." See Pet. for Cert., Exh. 14.

Other guards taken hostage during the uprising verify Officer Holmes' judgment that Evans protected them and the other hostages from danger. According to Officer Prince Thomas, Evans interceded to prevent the rape of Nurse Ethyl Barksdale by one of the escaping inmates. *Id.*, Exh. 9. Officer Harold Crutchfield affirms that Evans' appeals to the escapees not to harm anyone may have meant the difference between life and death for the hostages. "It is . . . my firm belief that if Evans had not been present during the escape, things may have blown up and people

was vacated, and he was granted a new sentencing hearing. See *Evans v. Virginia*, 471 U. S. 1025, 1026-1027 (1985) (MARSHALL, J., dissenting from denial of certiorari). In March 1984, Evans once again was sentenced to death. It is this second death sentence which he now seeks to stay.

²The affiant prison officials all attest that Evans played no role in instigating the riot.

may have been harmed." *Id.*, Exh. 8. According to Officer Crutchfield, after the escapees had left the area in which they were holding the guards hostage, Evans tried to force open the closet door and free the guards—albeit unsuccessfully. *Ibid.* Officers Holmes, Thomas, and Crutchfield, and five other prison officials all attest that Evans' conduct during the May 31, 1984, uprising was consistent with his exemplary behavior during his close to 10 years on death row. *Id.*, Exhs. 8–15.

Evans filed a writ of habeas corpus and application for a stay of his execution before the United States District Court for the Eastern District of Virginia. He urged that the jury's prediction of his future dangerousness be reexamined in light of his conduct during the Mecklenberg uprising. Evans proffered that these events would prove that the jury's prediction was unsound and thereby invalidate the sole aggravating circumstance on which the jury based its death sentence. For this reason, Evans argued that his death sentence must be vacated. The District Court stayed the execution and ordered a hearing. Civ. No. 90–00559–R (ED Va., Oct. 13, 1990). The Court of Appeals reversed and vacated the stay. No. 90–4007 (CA4, Oct. 16, 1990) (*per curiam*).

II

Remarkably, the State of Virginia's opposition to Evans' application to stay the execution barely contests either Evans' depiction of the relevant events or Evans' conclusion that these events reveal the clear error of the jury's prediction of Evans' future dangerousness.³ In other words, the State concedes that the sole

³ Equally remarkable is the sheer gall of the manner in which the State makes its feeble challenge. For six years, Evans' counsel has tried to pry loose from the State copies of its investigative reports of the uprising. Counsel steadfastly has contended that these reports would support Evans' account of the relevant events and thereby strengthen Evans' claims for both legal relief and executive clemency. The State has refused to release its iron grip on these materials and to this moment has not made them available to him. See Pet. for Cert., Exh. 6.

According to Evans' counsel, late last evening he was contacted by counsel for Willie Lloyd Turner, another Virginia death row inmate involved in the Mecklenberg uprising. Notwithstanding its refusal to cooperate with Evans' request for the investigative reports, the State, without protest, had provided these reports to Turner's counsel. Upon learning of Evans' impending execution, Turner's counsel immediately delivered these materials to Evans' coun-

basis for Evans' death sentence—future dangerousness—in fact *does not exist*.

The only ground asserted by the State for permitting Evans' execution to go forward is its interest in procedural finality. According to the State, permitting a death row inmate to challenge a finding of future dangerousness by reference to facts occurring after the sentence will unleash an endless stream of litigation. Each instance of an inmate's postsentencing nonviolent conduct, the State argues, will form the basis of a new attack upon a jury's finding of future dangerousness, and with each new claim will come appeals and collateral attacks. By denying Evans' application for a stay, this Court implicitly endorses the State's conclusion that it is entitled to look the other way when late-arriving evidence upsets its determination that a particular defendant can lawfully be executed.

In my view, the Court's decision to let Wilbert Evans be put to death is a compelling statement of the failure of this Court's capital jurisprudence. This Court's approach since *Gregg v. Georgia* has blithely assumed that strict procedures will satisfy the dictates of the Eighth Amendment's ban on cruel and unusual punishment. As Wilbert Evans' claim makes crystal clear, even the most exacting procedures are fallible. Just as the jury occasionally "gets it wrong" about whether a defendant charged with murder is innocent or guilty, so, too, can the jury "get it wrong" about whether a defendant convicted of murder is deserving of death, notwithstanding the exacting procedures imposed by the Eighth Amendment. The only difference between Wilbert Evans' case and that of many other capital defendants is that the defect in Evans' sentence has been made unmistakably clear for us even before his execution is to be carried out.

The State's interest in "finality" is no answer to this flaw in the capital sentencing system. It may indeed be the case that a State

sel, see *id.*, Exh. 17, and Evans has now been able to make them available to us, see *id.*, Exh. 18.

Now that Evans finally has possession of information the State has so deliberately denied him for *six* years, the State cites two isolated excerpts from a lengthy set of materials in a mean and deceitful attempt to belittle Evans' claims. See App. to Brief in Opposition 1-2. A more honest and thorough review of these materials, which include numerous interviews with the hostages and reports of the State's investigators, reveals that these materials in no way diminish Evans' account of the relevant events.

498 U. S.

October 17, 25, 26, 1990

cannot realistically accommodate postsentencing evidence casting doubt on a jury's finding of future dangerousness; but it hardly follows from this that it is *Wilbert Evans* who should bear the burden of this procedural limitation. In other words, if it is impossible to construct a system capable of accommodating *all* evidence relevant to a man's entitlement to be spared death—no matter when that evidence is disclosed—then it is the *system*, not the life of the man sentenced to death, that should be dispatched.

The indifferent shrug of the shoulders with which the Court answers the failure of its procedures in this case reveals the utter bankruptcy of its notion that a system of capital punishment can coexist with the Eighth Amendment. A death sentence that is *dead wrong* is no less so simply because its deficiency is not uncovered until the eleventh hour. A system of capital punishment that would permit *Wilbert Evans*' execution notwithstanding as-to-now unrefuted evidence showing that death is an improper sentence is a system that cannot stand.

I would stay *Wilbert Evans*' execution.

OCTOBER 25, 1990

Miscellaneous Order

No. A-309. *NORMAN ET AL. v. REED ET AL.* Application for stay, presented to JUSTICE STEVENS, and by him referred to the Court, granted to the extent that the August 29, 1990, decision of the Cook County Officers Electoral Board, No. 90COEB-2, is to remain in effect pending the timely filing and disposition of a petition for writ of certiorari.

OCTOBER 26, 1990

Miscellaneous Order

No. A-280. *KYLES v. WHITLEY, WARDEN.* Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. JUSTICE BLACKMUN would grant the application.

JUSTICE STEVENS, concurring.

Unless there has been inexcusable delay on the part of the petitioner, I believe every person who has been sentenced to death should be given a fair opportunity to have his or her federal constitutional claims reviewed in a federal habeas corpus proceeding. In order to expedite that process, it might be appropriate to place a more practical construction on the requirement that state reme-

dies must first be exhausted than the Court has been willing to accept, compare *Rose v. Lundy*, 455 U. S. 509 (1982), with *id.*, at 522-531 (BLACKMUN, J., concurring in judgment), and *id.*, at 545-550 (STEVENS, J., dissenting). Under the Court's current interpretation of the law, however, complete exhaustion of all state collateral remedies is an essential predicate for the commencement of federal habeas corpus proceedings.

The present application is from a state court's denial of relief in a collateral proceeding. Because the scope of the State's obligation to provide collateral review is shrouded in so much uncertainty, see *Case v. Nebraska*, 381 U. S. 336 (1965), this Court rarely grants review at this stage of the litigation even when the application for state collateral relief is supported by arguably meritorious federal constitutional claims. Instead, the Court usually deems federal habeas proceedings to be the more appropriate avenues for consideration of federal constitutional claims. See *Huffman v. Florida*, 435 U. S. 1014, 1017-1018 (1978) (STEVENS, J., respecting denial of petition for certiorari). For that reason, I am persuaded that it is appropriate for this Court to deny this application for review of the State's denial of collateral relief and thus to clear the way for the prompt initiation of federal habeas corpus proceedings. I assume that in such a proceeding the district court will routinely enter a stay of execution that will enable it to give full and deliberate consideration to the applicant's constitutional claims. On review of the disposition of such an application by the district court and the court of appeals, I regularly vote to stay any scheduled execution in order to be sure that a death row inmate may have the same opportunity to have his or her federal claims considered by this Court as does any other applicant. The denial of the present application should not, therefore, be construed as having been predicated on a determination that there is no merit in the claims asserted in the state collateral review process.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976), I 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.

498 U. S.

OCTOBER 29, 1990

Certiorari Granted—Reversed in Part and Remanded. (See No. 89-7279, *ante*, p. 1.)

Certiorari Granted—Vacated and Remanded

No. 89-2007. CONNECTICUT *v.* HAMILTON. Sup. Ct. Conn. Motion of respondent for leave to proceed *in forma pauperis* without an affidavit executed by respondent granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Horton v. California*, 496 U. S. 128 (1990). Reported below: 214 Conn. 692, 573 A. 2d 1197.

No. 90-237. ORSCHELN BROTHERS TRUCK LINES, INC., ET AL. *v.* ZENITH ELECTRONICS CORP., FKA ZENITH RADIO CORP. ET AL. C. A. 7th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Maislin Industries, U. S., Inc. v. Primary Steel, Inc.*, 497 U. S. 116 (1990). Reported below: 899 F. 2d 642.

Miscellaneous Orders

No. — — —. BOADO *v.* OFFICE OF PERSONNEL MANAGEMENT. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

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

No. A-231 (90-5825). FAZZINI *v.* HENMAN ET AL. C. A. 10th Cir. Application for temporary restraining order, addressed to JUSTICE BLACKMUN and referred to the Court, denied.

No. A-268 (90-555). WOOD *v.* ALAMEDA COUNTY SUPERIOR COURT ET AL. Ct. App. Cal., 1st App. Dist. Application for stay of judgment, addressed to JUSTICE MARSHALL and referred to the Court, denied.

No. A-300. PLANNED PARENTHOOD FEDERATION OF AMERICA ET AL. *v.* AGENCY FOR INTERNATIONAL DEVELOPMENT ET AL. Application for injunction, presented to JUSTICE MARSHALL, and by him referred to the Court, denied. JUSTICE STEVENS would grant the application.

No. 105, Orig. KANSAS *v.* COLORADO. Motion of the Special Master for interim fees and expenses granted, and the Special

October 29, 1990

498 U. S.

Master is awarded \$75,973.75 for the period November 1, 1989, through September 16, 1990, to be paid by the parties as follows: 40 percent by Kansas, 40 percent by Colorado, and 20 percent by the United States. [For earlier order herein, see, *e. g.*, 493 U. S. 989.]

JUSTICE BLACKMUN.

It seems to me that some aspects of the fees and expenses now requested by the Special Master come close—if they do not exceed—the limits of allowability. See the dissents in *Louisiana v. Mississippi*, 466 U. S. 921 and 923 (1984), and *Texas v. New Mexico*, 475 U. S. 1004 (1986). As was there pointed out, fees and expenses charged by a Special Master, when allowed by this Court, represent our assurance to the parties that the charges are reasonable and proper. A party's consent to the allowance of fees and expenses does not absolve this Court of its duty to make that determination. With a distinct lack of enthusiasm for the Court's present order allowing fees and expenses that appear to be escalating in this case as to both amounts and personnel, inasmuch as no party has noted an objection on this particular occasion, I do not yet formally dissent.

No. 108, Orig. *NEBRASKA v. WYOMING ET AL.* Fourth interim motion of the Special Master for compensation and reimbursement of expenses granted, and the Special Master is awarded \$72,970.75 for the period October 1, 1989, through September 30, 1990, to be paid by the parties as follows: 40 percent by Nebraska, 40 percent by Wyoming, and 20 percent by the United States. [For earlier order herein, see, *e. g.*, 493 U. S. 973.]

No. 89-1027. *NORFOLK & WESTERN RAILWAY CO. ET AL. v. AMERICAN TRAIN DISPATCHERS' ASSN. ET AL.*; and

No. 89-1028. *CSX TRANSPORTATION, INC. v. BROTHERHOOD OF RAILWAY CARMEN ET AL.* C. A. D. C. Cir. [Certiorari granted, 494 U. S. 1055.] Motion of the Acting Solicitor General for divided argument granted.

No. 89-1149. *GROGAN ET AL. v. GARNER.* C. A. 8th Cir. [Certiorari granted, 495 U. S. 918.] Motion of the Solicitor General for leave to permit Robert A. Long, Jr., Esq., to present oral argument *pro hac vice* denied.

498 U. S.

October 29, 1990

No. 89-1322. OKLAHOMA TAX COMMISSION *v.* CITIZEN BAND POTAWATOMI INDIAN TRIBE OF OKLAHOMA. C. A. 10th Cir. [Certiorari granted, *ante*, p. 806.] Motion of petitioner to dispense with printing the joint appendix granted.

No. 90-79. KAY *v.* EHRLER ET AL. C. A. 6th Cir. [Certiorari granted, *ante*, p. 807.] Motion of petitioner to dispense with printing the joint appendix granted.

No. 89-1632. CALIFORNIA *v.* HODARI D. Ct. App. Cal., 1st App. Dist. [Certiorari granted, *ante*, p. 807.] Motion for appointment of counsel granted, and it is ordered that James L. Lozenski, Esq., of Berkeley, Cal., be appointed to serve as counsel for respondent in this case.

No. 89-1862. MCCARTHY, DIRECTOR, CALIFORNIA DEPARTMENT OF CORRECTIONS *v.* BLAIR. C. A. 9th Cir. [Certiorari granted, *ante*, p. 807.] Motion for appointment of counsel granted, and it is ordered that Paul E. Potter, Esq., of Pasadena, Cal., be appointed to serve as counsel for respondent in this case.

No. 89-1944. OHIO *v.* HUERTAS. Sup. Ct. Ohio. [Certiorari granted, *ante*, p. 807.] Motion for appointment of counsel granted, and it is ordered that Joann Bour-Stokes, Esq., of Columbus, Ohio, be appointed to serve as counsel for respondent in this case.

No. 89-1696. PEABODY COAL CO. ET AL. *v.* TAYLOR ET AL. C. A. 7th Cir. Motion of respondents to substitute Charles Martin, Personal Representative of the Estate of Hubert Taylor, deceased, in place of Hubert Taylor granted. Motion of respondent Martin for leave to proceed *in forma pauperis* granted. Motion to consolidate this case with No. 89-1714, *Pauley, Survivor of Pauley v. BethEnergy Mines, Inc., et al.*; No. 90-113, *Clinchfield Coal Co. v. Director, Office of Workers' Compensation Programs, United States Department of Labor, et al.*; and No. 90-114, *Consolidation Coal Co. v. Director, Office of Workers' Compensation Programs, United States Department of Labor, et al.*, *infra*, denied.

No. 89-7272. HARMELIN *v.* MICHIGAN. Ct. App. Mich. [Certiorari granted, 495 U. S. 956.] Motion of petitioner to strike nonrecord material granted. Respondent is directed to reprint the brief.

October 29, 1990

498 U. S.

No. 89-7370. *GOZLON-PERETZ v. UNITED STATES*. C. A. 3d Cir. [Certiorari granted, 496 U. S. 935.] Motion of the Solicitor General for leave to permit Amy L. Wax, Esq., to present oral argument *pro hac vice* granted.

No. 89-7691. *YATES v. EVATT, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL.* Sup. Ct. S. C. [Certiorari granted, *ante*, p. 809.] Motion for appointment of counsel granted, and it is ordered that David I. Bruck, Esq., of Columbia, S. C., be appointed to serve as counsel for petitioner in this case.

No. 90-240. *POLK ET UX. v. DIXIE INSURANCE CO.* C. A. 5th Cir. Motion of petitioners to consolidate with No. 89-7743, *Edmonson v. Leesville Concrete Co., Inc.* [certiorari granted, *ante*, p. 809], denied.

No. 90-380. *CONSOLIDATED RAIL CORPORATION v. DELAWARE & HUDSON RAILWAY CO.* C. A. 2d Cir.;

No. 90-383. *WHITFIELD ET AL. v. CLINTON, GOVERNOR OF ARKANSAS, ET AL.* C. A. 8th Cir.; and

No. 90-404. *ILLINOIS STATE LABOR RELATIONS BOARD ET AL. v. ILLINOIS NURSES ASSN. ET AL.* App. Ct. Ill., 1st Dist. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 90-5193. *MU'MIN v. VIRGINIA*. Sup. Ct. Va. [Certiorari granted, *ante*, p. 894.] Motion for appointment of counsel granted, and it is ordered that John H. Blume, Esq., of Columbia, S. C., be appointed to serve as counsel for petitioner in this case.

No. 90-5536. *AMSDEN v. MORAN ET AL.* C. A. 1st Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until November 19, 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 SOUTER took no part in the consideration or decision of this motion.

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*.

498 U. S.

October 29, 1990

No. 90-5778. IN RE ANDERSON; and
No. 90-5816. IN RE KIRSCHENHUNTER. Petitions for writs of habeas corpus denied.

No. 90-5613. IN RE BLANTON;
No. 90-5622. IN RE FAY;
No. 90-5625. IN RE VISSER; and
No. 90-5681. IN RE MACIEL. Petitions for writs of mandamus denied.

No. 90-5519. IN RE COOK. Petition for writ of mandamus and/or prohibition denied.

No. 90-365. IN RE JAFFER. Petition for writ of prohibition and mandamus denied.

Certiorari Granted

No. 89-1714. PAULEY, SURVIVOR OF PAULEY *v.* BETH-ENERGY MINES, INC., ET AL. C. A. 3d Cir.;

No. 90-113. CLINCHFIELD COAL CO. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, ET AL. C. A. 4th Cir.; and

No. 90-114. CONSOLIDATION COAL CO. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, ET AL. C. A. 4th Cir. Motion of respondent John Taylor for leave to proceed *in forma pauperis* in No. 90-113 granted. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: No. 89-1714, 890 F. 2d 1295; No. 90-113, 895 F. 2d 178; No. 90-114, 895 F. 2d 173.

No. 90-5319. MCNEIL *v.* WISCONSIN. Sup. Ct. Wis. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 155 Wis. 2d 24, 454 N. W. 2d 742.

No. 89-7662. COLEMAN *v.* THOMPSON, WARDEN. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Questions 2, 3, and 4 presented by the petition. Reported below: 895 F. 2d 139.

Certiorari Denied

No. 89-353. SANCHEZ ET AL. *v.* BOND ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 875 F. 2d 1488.

October 29, 1990

498 U. S.

No. 89-989. *CITY OF NORFOLK, VIRGINIA, ET AL. v. COLLINS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 883 F. 2d 1232.

No. 89-1409. *OSTRANDER v. WOOD.* C. A. 9th Cir. Certiorari denied. Reported below: 879 F. 2d 583.

No. 89-1897. *SCHLANK v. WILLIAMS, ACTING ADMINISTRATOR, REHABILITATION SERVICES ADMINISTRATION, DEPARTMENT OF HUMAN SERVICES OF DISTRICT OF COLUMBIA.* Ct. App. D. C. Certiorari denied. Reported below: 572 A. 2d 101.

No. 89-1979. *BOARD OF TRUSTEES OF THE UNIVERSITY OF KENTUCKY ET AL. v. HAYSE.* Sup. Ct. Ky. Certiorari denied. Reported below: 782 S. W. 2d 609.

No. 89-2004. *KRANTZ v. MONTANA.* Sup. Ct. Mont. Certiorari denied. Reported below: 241 Mont. 501, 788 P. 2d 298.

No. 89-7531. *MOORHEAD v. TEXAS.* Sup. Ct. Tex. Certiorari denied.

No. 89-7597. *NEVILLE v. WHITLEY, WARDEN.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1569.

No. 89-7605. *HUMPHREY v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 896 F. 2d 1066.

No. 89-7606. *WHITEHEAD v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 896 F. 2d 432.

No. 89-7716. *PIFER v. CALIFORNIA.* Ct. App. Cal., 5th App. Dist. Certiorari denied. Reported below: 216 Cal. App. 3d 956, 265 Cal. Rptr. 237.

No. 89-7722. *SUMMERS v. UTAH ET AL.* C. A. 10th Cir. Certiorari denied.

No. 89-7781. *WILLIAMS v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 898 F. 2d 659.

No. 89-7882. *JAMES v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1568.

No. 90-66. *SANDOVAL v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 135 Ill. 2d 159, 552 N. E. 2d 726.

No. 90-125. *BAGLEY v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 899 F. 2d 707.

498 U. S.

October 29, 1990

No. 90-140. *LABORERS PENSION TRUST FUND FOR NORTHERN CALIFORNIA v. IMEL*. C. A. 9th Cir. Certiorari denied. Reported below: 904 F. 2d 1327.

No. 90-152. *FLORIDA v. NELSON ET AL.* Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 553 So. 2d 195.

No. 90-193. *STONE ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 257.

No. 90-218. *FOGEL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 901 F. 2d 23.

No. 90-236. *JORDAN v. CAMERON IRON WORKS, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 900 F. 2d 53.

No. 90-247. *OVERMYER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 457.

No. 90-253. *NATIONAL ENGINEERING & CONTRACTING CO. v. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 34.

No. 90-255. *NEW YORK TELEPHONE CO. ET AL. v. CAHILL ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 76 N. Y. 2d 102, 556 N. E. 2d 133.

No. 90-286. *KONITS v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 159 App. Div. 2d 590, 552 N. Y. S. 2d 448.

No. 90-355. *SOUTHERN PACIFIC TRANSPORTATION CO. v. LUCK*. Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 218 Cal. App. 3d 1, 267 Cal. Rptr. 618.

No. 90-356. *YARTZOFF v. REILLY, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY*. C. A. 9th Cir. Certiorari denied. Reported below: 904 F. 2d 42.

No. 90-358. *TRAVEL SERVICES, INC. v. GOVERNMENT OF THE VIRGIN ISLANDS ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 186.

No. 90-363. *LUNA v. SUPERIOR COURT OF MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 407 Mass. 747, 555 N. E. 2d 881.

October 29, 1990

498 U. S.

No. 90-364. *ARMELL, A MINOR, THROUGH HER COURT-APPOINTED ATTORNEY AND GUARDIAN AD LITEM, MURPHY v. PRAIRIE BAND OF POTAWATOMI INDIANS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 194 Ill. App. 3d 31, 550 N. E. 2d 1060.

No. 90-369. *VOLLRATH v. GEORGIA PACIFIC CORP.* C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 533.

No. 90-375. *BROWN v. EARP, COMMISSIONER, GEORGIA DEPARTMENT OF PUBLIC SAFETY*. Sup. Ct. Ga. Certiorari denied. Reported below: 260 Ga. 215, 391 S. E. 2d 396.

No. 90-377. *MORRISON ET AL. v. PENNSYLVANIA CONVENTION CENTER AUTHORITY ET AL.* Commw. Ct. Pa. Certiorari denied. Reported below: 127 Pa. Commw. 470, 561 A. 2d 1337.

No. 90-384. *CURLEE, SUPERINTENDENT, ABERDEEN SCHOOL DISTRICT, ET AL. v. FYFE*. C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 401.

No. 90-391. *LEE'S SUMMIT REORGANIZED SCHOOL DISTRICT ET AL. v. NAYLOR ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 904 F. 2d 415.

No. 90-392. *GANZ v. ZAGEL, DIRECTOR, ILLINOIS DEPARTMENT OF STATE POLICE*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 193 Ill. App. 3d 1051, 550 N. E. 2d 1007.

No. 90-393. *CITY OF DESOTO, TEXAS, ET AL. v. MORGAN ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 900 F. 2d 811.

No. 90-402. *MAYESKE ET AL. v. INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 381, 905 F. 2d 1548.

No. 90-407. *COLLATERAL PROTECTION INSURANCE SERVICES ET AL. v. BALBOA INSURANCE CO. ET AL.* Ct. App. Cal., 3d App. Dist. Certiorari denied. Reported below: 218 Cal. App. 3d 1327, 267 Cal. Rptr. 787.

No. 90-410. *COHN ET AL. v. KATZ ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 900 F. 2d 262.

498 U. S.

October 29, 1990

No. 90-414. *KHAN v. JENKINS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1530.

No. 90-416. *DILEO ET UX. v. ERNST & YOUNG.* C. A. 7th Cir. Certiorari denied. Reported below: 901 F. 2d 624.

No. 90-419. *DOE v. BOROUGH OF CLIFTON HEIGHTS, PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 902 F. 2d 1559.

No. 90-421. *BENSON v. ALLY ET AL.* C. A. 5th Cir. Certiorari denied.

No. 90-423. *RODIN, INDIVIDUALLY, AND AS SUCCESSOR OF RODIN, ET AL. v. SALZMAN, PERSONAL REPRESENTATIVE OF THE ESTATE OF GOLDEN, DECEASED.* C. A. 11th Cir. Certiorari denied. Reported below: 907 F. 2d 1143.

No. 90-424. *J. J. BLONIEN & ASSOCIATES, INC., ET AL. v. COMMUNITY NEWSPAPERS, INC., ET AL.* Ct. App. Wis. Certiorari denied. Reported below: 156 Wis. 2d 350, 456 N. W. 2d 646.

No. 90-427. *GREENE v. TOWN BOARD OF WARRENSBURG ET AL.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 159 App. Div. 2d 781, 552 N. Y. S. 2d 62.

No. 90-428. *CHITWOOD ET UX. v. MCLEMORE, TRUSTEE IN BANKRUPTCY FOR CIRCLE W. DAIRY FARMS, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 904 F. 2d 706.

No. 90-430. *SHELTON v. GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY.* Ct. App. Ohio, Cuyahoga County. Certiorari denied. Reported below: 65 Ohio App. 3d 665, 584 N. E. 2d 1323.

No. 90-441. *PYBURN ENTERPRISES, INC. v. BIRD, AS TRUSTEE FOR NORTHWEST FINANCIAL EXPRESS, INC., ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 904 F. 2d 469.

No. 90-445. *WINBURN v. BENNINGTON-RUTLAND SUPERVISORY UNION.* C. A. 2d Cir. Certiorari denied. Reported below: 909 F. 2d 1473.

No. 90-448. *FORD MOTOR CO. ET AL. v. MAHNE.* C. A. 6th Cir. Certiorari denied. Reported below: 900 F. 2d 83.

October 29, 1990

498 U. S.

No. 90-458. *CAMOSCIO v. THE PATRIOT LEDGER ET AL.* App. Ct. Mass. Certiorari denied. Reported below: 28 Mass. App. 1119, 553 N. E. 2d 1315.

No. 90-468. *BERTOLA v. NEW JERSEY.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 90-470. *GLASBRENNER v. SAPIO.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 90-479. *HEIMANN ET AL. v. AMOCO PRODUCTION CO.* C. A. 10th Cir. Certiorari denied. Reported below: 904 F. 2d 1405.

No. 90-483. *MCKNIGHT v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 30 M. J. 205.

No. 90-496. *ZWEIG v. ZWEIG.* Sup. Ct. Vt. Certiorari denied. Reported below: 154 Vt. 468, 580 A. 2d 939.

No. 90-510. *BOUCHER v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 1170.

No. 90-567. *WEDLOCK v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. Reported below: 81 Md. App. 782.

No. 90-5073. *BETTISTEA v. MICHIGAN.* Cir. Ct. Mich., Kent County. Certiorari denied.

No. 90-5086. *ELLIS v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 187 Ill. App. 3d 295, 543 N. E. 2d 196.

No. 90-5088. *BALAWAJDER v. WINTER.* C. A. 9th Cir. Certiorari denied.

No. 90-5093. *MARTINEZ v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 2d 1445.

No. 90-5142. *WILLIAMS v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 697.

No. 90-5164. *HUMPHREY v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 136 Ill. 2d 1, 554 N. E. 2d 961.

No. 90-5173. *DEL ROSARIO v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 90, 902 F. 2d 55.

498 U. S.

October 29, 1990

- No. 90-5215. *O'MEARA v. UNITED STATES*; and
No. 90-5468. *KOST v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 895 F. 2d 1216.
- No. 90-5234. *SMITH v. KANSAS*. Ct. App. Kan. Certiorari denied. Reported below: 14 Kan. App. 2d xli, 786 P. 2d 641.
- No. 90-5249. *DUNN v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied.
- No. 90-5257. *BARON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 902 F. 2d 1065.
- No. 90-5292. *POZZY v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 902 F. 2d 133.
- No. 90-5293. *GREEN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 1311.
- No. 90-5322. *SHERMAN v. BURKE CONTRACTING, INC., ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 891 F. 2d 1527.
- No. 90-5327. *LANCASTER, AKA MCGEE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 79, 901 F. 2d 1131.
- No. 90-5332. *MANGO v. RUSSELL, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 33.
- No. 90-5399. *JOHNSON v. NEAL*. C. A. 7th Cir. Certiorari denied.
- No. 90-5421. *GRANDISON v. ATTORNEY GENERAL OF THE UNITED STATES ET AL.* C. A. 3d Cir. Certiorari denied.
- No. 90-5442. *KRAUSE v. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA (WHITELY, WARDEN, REAL PARTY IN INTEREST)*. C. A. 9th Cir. Certiorari denied.
- No. 90-5452. *RAY v. UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA*. C. A. D. C. Cir. Certiorari denied.
- No. 90-5457. *HILL v. BOWMAN, STATE TREASURER OF MICHIGAN*. Sup. Ct. Mich. Certiorari denied. Reported below: 434 Mich. 907.

October 29, 1990

498 U. S.

No. 90-5472. *IN RE MAY*. C. A. 6th Cir. Certiorari denied. Reported below: 897 F. 2d 529.

No. 90-5499. *GOMEZ v. GREER, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 896 F. 2d 252.

No. 90-5505. *HERMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 1580.

No. 90-5514. *VISSER v. UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 90-5518. *FRALEY v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF WEST VIRGINIA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 1564.

No. 90-5520. *ELUEMUNOH v. UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 703.

No. 90-5529. *SZYMANSKI v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 894 F. 2d 1337.

No. 90-5556. *DEMOS v. UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON*. C. A. 9th Cir. Certiorari denied.

No. 90-5567. *ALLEN v. STALDER, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 896 F. 2d 550.

No. 90-5574. *DABISH v. CHRYSLER CORP.* Ct. App. Mich. Certiorari denied.

No. 90-5575. *KOKORALEIS v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 193 Ill. App. 3d 684, 549 N. E. 2d 1354.

No. 90-5577. *SINDRAM v. WALLIN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1531.

No. 90-5578. *SINDRAM v. MCKENNA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1531.

No. 90-5580. *CARVALHO v. PUBLIC EMPLOYEES FEDERATION ET AL.* C. A. 2d Cir. Certiorari denied.

498 U. S.

October 29, 1990

No. 90-5582. *HARRIS v. GRACE ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 904 F. 2d 713.

No. 90-5583. *KING v. WHITLEY, WARDEN.* C. A. 5th Cir. Certiorari denied. Reported below: 903 F. 2d 825.

No. 90-5585. *JARALLAH v. PICKETT HOTEL CO., DBA PICKETT SUITE HOTEL, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 907 F. 2d 1143.

No. 90-5587. *HANLEY v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 906 F. 2d 1116.

No. 90-5588. *ESPINOSA v. FLORIDA.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 561 So. 2d 597.

No. 90-5602. *BELL v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied.

No. 90-5603. *LONDON v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 192 Ill. App. 3d 1105, 577 N. E. 2d 201.

No. 90-5604. *DEMOS v. GARDNER ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-5606. *SCHLICHER v. DAVIES, SECRETARY, KANSAS DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-5608. *WHITNEY v. FEDERAL RESERVE BANK ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 956.

No. 90-5609. *SMITH v. UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA.* C. A. 9th Cir. Certiorari denied.

No. 90-5614. *COOMBS v. N. L. CHEMICALS, INC., ET AL.* Sup. Ct. N. J. Certiorari denied. Reported below: 122 N. J. 121, 584 A. 2d 199.

No. 90-5617. *FLORES v. MINNESOTA.* C. A. 8th Cir. Certiorari denied. Reported below: 906 F. 2d 1300.

No. 90-5618. *ABDAL-RAHIM v. NEW YORK CITY DEPARTMENT OF HEALTH, BUREAU OF LABORATORIES.* C. A. 2d Cir. Certiorari denied.

October 29, 1990

498 U. S.

No. 90-5623. *WALTON v. FOX*. Ct. App. Ohio, Wyandot County. Certiorari denied.

No. 90-5632. *MCCOLPIN v. STEPHAN*. C. A. 10th Cir. Certiorari denied.

No. 90-5636. *FLEMING v. MCCOTTER ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-5637. *FEIMSTER v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 907 F. 2d 1142.

No. 90-5639. *EVANS v. SIX UNKNOWN FEDERAL PRISON GUARDS*. C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 975.

No. 90-5640. *CRUICKSHANK v. BLEVINS*. Ct. App. Mich. Certiorari denied.

No. 90-5648. *SMOOT v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 904 F. 2d 365.

No. 90-5650. *SULLIVAN v. TEXAS*. Sup. Ct. Tex. Certiorari denied.

No. 90-5651. *RODERICK v. MAIN-LAND DEVELOPMENT CONSULTANTS, INC.* Super. Ct. Me., Oxford County. Certiorari denied.

No. 90-5653. *ROSSMAN, AKA TEDDERS v. ROSSMAN*. Ct. App. Mich. Certiorari denied.

No. 90-5655. *MCKENZIE v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-5656. *HOLSEY v. GREEN, WARDEN, ET AL.* Ct. Sp. App. Md. Certiorari denied. Reported below: 81 Md. App. 771.

No. 90-5657. *WILLIAMS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 90-5658. *PERRY v. DUKE ET AL.* C. A. 11th Cir. Certiorari denied.

No. 90-5660. *WATTS v. CULLINANE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 904 F. 2d 702.

498 U. S.

October 29, 1990

No. 90-5662. *PHILLIPS, AS GUARDIAN OF PHILLIPS v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS*. C. A. 5th Cir. Certiorari denied.

No. 90-5666. *FOWLKES v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 722.

No. 90-5667. *FERGUSON v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 154 App. Div. 2d 706, 546 N. Y. S. 2d 901.

No. 90-5668. *DEICHLER v. MORRIS, SUPERINTENDENT, SOUTHERN OHIO CORRECTIONAL FACILITY*. C. A. 6th Cir. Certiorari denied. Reported below: 878 F. 2d 1436.

No. 90-5671. *BAKER v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 220 Cal. App. 3d 574, 269 Cal. Rptr. 475.

No. 90-5674. *FOWLKES v. FRYE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1137.

No. 90-5675. *THOMAS v. GEORGIA DEPARTMENT OF CORRECTIONS ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 907 F. 2d 1143.

No. 90-5678. *GREENE v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 153 App. Div. 2d 439, 552 N. Y. S. 2d 640.

No. 90-5682. *JACKSON v. ARMONTROUT, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 510.

No. 90-5683. *MERRITT ET AL. v. EDWARDS, FORMER GOVERNOR OF LOUISIANA, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 907 F. 2d 148.

No. 90-5685. *CAMPUZANO ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 905 F. 2d 677.

No. 90-5686. *GOMEZ-NORENA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 908 F. 2d 497.

No. 90-5688. *RICH v. THALACKER, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 509.

October 29, 1990

498 U. S.

No. 90-5690. *TAYLOR v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 904 F. 2d 702.

No. 90-5694. *PAYNE v. HUFFMAN, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1139.

No. 90-5697. *VALENTI ET UX. v. LANCASTER COUNTY TAX CLAIM BUREAU ET AL.* Commw. Ct. Pa. Certiorari denied. Reported below: 129 Pa. Commw. 664, 565 A. 2d 869.

No. 90-5699. *SINDRAM v. MONTGOMERY COUNTY, MARYLAND, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 724.

No. 90-5702. *GARCIA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 903 F. 2d 1022.

No. 90-5730. *CLIFFORD v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied.

No. 90-5743. *GREEN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 911 F. 2d 728.

No. 90-5745. *DEMOS v. WASHINGTON*. Sup. Ct. Wash. Certiorari denied.

No. 90-5747. *CELESTIN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 1477.

No. 90-5750. *LOFTON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 905 F. 2d 1315.

No. 90-5751. *KAMMOMA v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 905 F. 2d 1205.

No. 90-5752. *LONG v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 405, 905 F. 2d 1572.

No. 90-5757. *SIFUENTES-BALDERAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 907 F. 2d 147.

No. 90-5767. *TORRES ET UX. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 908 F. 2d 1417.

498 U. S.

October 29, 1990

No. 90-5768. *BRAVO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 907 F. 2d 1142.

No. 90-5770. *DYER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 910 F. 2d 530.

No. 90-5773. *WILSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 907 F. 2d 147.

No. 90-5777. *WEST v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 726.

No. 90-5782. *SMITH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 909 F. 2d 1481.

No. 90-5786. *HIRSCH v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 98 Ore. App. 169, 780 P. 2d 259.

No. 90-5793. *CLARK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 905 F. 2d 1541.

No. 90-5797. *WILLIAMS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 914 F. 2d 269.

No. 90-5798. *CHAVEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 895 F. 2d 1418.

No. 90-5810. *TAYLOR v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 902 F. 2d 37.

No. 90-5818. *GALLOWAY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 909 F. 2d 1481.

No. 90-5820. *CANDEAO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1567.

No. 90-5821. *DAWN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 900 F. 2d 1132.

No. 90-5828. *PETTIGREW v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 907 F. 2d 151.

No. 90-5829. *POTEAT v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 89-1167. *BRUTSCHE v. CLEVELAND-PERDUE, SUCCESSOR REPRESENTATIVE AND ADMINISTRATRIX OF THE ESTATE OF JONES*. C. A. 7th Cir. Motion of respondent for leave to pro-

October 29, 1990

498 U. S.

ceed *in forma pauperis* granted. Certiorari denied. Reported below: 881 F. 2d 427.

No. 90-385. HENNEBERRY, DIRECTOR, PATUXENT INSTITUTION *v.* SUTTON. Ct. App. Md. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 319 Md. 634, 574 A. 2d 898.

No. 90-425. ARMONTROUT, WARDEN *v.* CHAMBERS. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 907 F. 2d 825.

No. 89-1193. B & H INDUSTRIES OF SOUTHWEST FLORIDA, INC. *v.* DIETER ET AL. C. A. 11th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 880 F. 2d 322.

No. 89-1738. LEWIS, TRUSTEE FOR JOSEPH M. EATON BUILDERS, INC. *v.* DIETHORN ET UX. C. A. 3d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 893 F. 2d 648.

No. 89-1855. ST. JOSEPH'S HOSPITAL & MEDICAL CENTER *v.* MARICOPA COUNTY. Ct. App. Ariz. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 163 Ariz. 132, 786 P. 2d 983.

No. 89-1900. GENERAL TELEPHONE COMPANY OF THE NORTHWEST, INC. *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 885 F. 2d 575.

No. 90-225. EALY, AN INFANT, BY EALY ET AL., GUARDIANS *v.* RICHARDSON-MERRELL, INC. C. A. D. C. Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 283 U. S. App. D. C. 137, 897 F. 2d 1159.

No. 89-1499. PLAZZO ET AL. *v.* NATIONWIDE MUTUAL INSURANCE Co. ET AL. C. A. 6th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE MARSHALL would grant certiorari. Reported below: 892 F. 2d 79.

No. 89-1580. SHERMAN *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. JUSTICE WHITE and JUSTICE MARSHALL would grant certiorari. Reported below: 79 Md. App. 772.

498 U. S.

October 29, 1990

No. 90-5061. RICHARDSON *v.* WARDEN, WADE CORRECTIONAL CENTER, ET AL. C. A. 5th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE MARSHALL would grant certiorari.

No. 89-1591. SCHWARZ *v.* FLORIDA SUPREME COURT. Sup. Ct. Fla. Certiorari denied. JUSTICE WHITE, JUSTICE MARSHALL, and JUSTICE BLACKMUN would grant certiorari. Reported below: 552 So. 2d 1094.

No. 89-1972. DANIELS *v.* SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION. Sup. Ct. N. J. Motion of Center for Constitutional Rights for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 118 N. J. 51, 570 A. 2d 416.

No. 89-7684. STOKER *v.* TEXAS. Ct. Crim. App. Tex.;
No. 90-5459. TYLER *v.* OHIO. Sup. Ct. Ohio;
No. 90-5607. VENTURA *v.* FLORIDA. Sup. Ct. Fla.; and
No. 90-5859. CLARK *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: No. 89-7684, 788 S. W. 2d 1; No. 90-5459, 50 Ohio St. 3d 24, 553 N. E. 2d 576; No. 90-5607, 560 So. 2d 217; No. 90-5859, 901 F. 2d 908.

JUSTICE MARSHALL, dissenting.

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

No. 90-228. MASSACHUSETTS *v.* COUTURE. Sup. Jud. Ct. Mass. Certiorari denied. JUSTICE BLACKMUN would grant certiorari. Reported below: 407 Mass. 178, 552 N. E. 2d 538.

No. 90-307. COUGHLIN, COMMISSIONER, NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES, ET AL. *v.* BENJAMIN ET AL. C. A. 2d Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 905 F. 2d 571.

No. 90-366. FLAHERTY *v.* THOMAS S., BY HIS GUARDIAN AD LITEM, BROOKS, ET AL. C. A. 4th Cir. Motion of respondents

October 29, November 1, 1990

498 U. S.

for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 902 F. 2d 250.

No. 90-344. TRANSWESTERN PIPELINE CO. *v.* KANSAS POWER & LIGHT CO. ET AL.; and

No. 90-367. FEDERAL ENERGY REGULATORY COMMISSION *v.* PUBLIC UTILITIES COMMISSION OF CALIFORNIA ET AL. C. A. D. C. Cir. Motion of Interstate Natural Gas Association of America for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 283 U. S. App. D. C. 116, 897 F. 2d 570.

No. 90-403. ANDES *v.* KNOX. C. A. 8th Cir. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 905 F. 2d 188.

No. 90-417. KRAMER *v.* HAMMOND. Sup. Ct. S. C. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 300 S. C. 458, 388 S. E. 2d 796.

No. 90-443. KERN RIVER GAS TRANSMISSION CO. *v.* COASTAL CORP. ET AL. C. A. 5th Cir. Motions of Wide World of Maps, Inc., and Automobile Club of America for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 899 F. 2d 1458.

Rehearing Denied

No. 89-6324. MOORE *v.* ZANT, SUPERINTENDENT, GEORGIA DIAGNOSTIC AND CLASSIFICATION CENTER, 497 U. S. 1010;

No. 90-5108. IN RE CEDILLO, *ante*, p. 806; and

No. 90-5389. CHADWICK *v.* ACCO-BABCOCK, INC., *ante*, p. 874. Petitions for rehearing denied. JUSTICE SOUTER took no part in the consideration or decision of these petitions.

NOVEMBER 1, 1990

Miscellaneous Orders

No. A-330. PAZ *v.* IDAHO. Application for stay of execution of sentence of death, presented to JUSTICE O'CONNOR, and 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,

498 U. S.

November 1, 2, 1990

this stay shall continue pending the issuance of the mandate of this Court.

No. A-331. DELO, SUPERINTENDENT, POTOSI CORRECTIONAL CENTER *v.* BYRD. Application of the Attorney General of Missouri for an order to vacate the stay of execution of sentence of death entered by the United States Court of Appeals for the Eighth Circuit, presented to JUSTICE KENNEDY, and by him referred to the Court, denied.

NOVEMBER 2, 1990

Dismissal Under Rule 46

No. 90-560. CONTINENTAL AIRLINES HOLDINGS, INC., ET AL. *v.* AMERICAN GENERAL CORP. ET AL. Sup. Ct. Del. Certiorari dismissed under this Court's Rule 46. Reported below: 575 A. 2d 1160.

Miscellaneous Order

No. A-327. CLARK ET AL. *v.* ROEMER, GOVERNOR OF LOUISIANA, ET AL.* Application for injunction and stay of orders of the United States District Court for the Middle District of Louisiana, case No. 86-435-A, presented to JUSTICE SCALIA, and by him referred to the Court, granted in part. Louisiana state officials are enjoined from holding elections scheduled for November 6 and December 8, 1990, for judicial offices created by acts which the District Court found had not been precleared in violation of § 5 of the Voting Rights Act of 1965, 79 Stat. 439, as amended, 42 U. S. C. § 1973c. Specifically, these judgeships are those listed in Part II of the District Court's order of October 22, 1990, pp. 3-4, excepting Division B of the 20th Judicial District, which the District Court upon reconsideration found to have been precleared. See order of October 31, 1990, p. 15, n. 42. In all other respects the application is denied.

This order is further conditioned upon the timely docketing of a statement as to jurisdiction in the above-entitled appeal. If such a statement as to jurisdiction is filed, this order is to remain in effect pending this Court's action on the appeal. If the judgments are affirmed, or the appeal is dismissed, this order shall terminate automatically. In the event probable jurisdiction is noted, or the

*[REPORTER'S NOTE: For modification of this order, see *post*, p. 954.]

November 2, 5, 1990

498 U. S.

judgments are vacated or reversed, this order shall remain in effect pending the sending down of the judgment of this Court.

JUSTICE WHITE dissents.

JUSTICE BLACKMUN, concurring in part and dissenting in part.

I would deny the application in its entirety and therefore dissent from those provisions of the above order which grant injunctive relief.

NOVEMBER 5, 1990

Vacated and Remanded After Certiorari Granted

No. 89-1862. MCCARTHY, DIRECTOR, CALIFORNIA DEPARTMENT OF CORRECTIONS *v.* BLAIR. C. A. 9th Cir. [Certiorari granted, *ante*, p. 807.] Judgment vacated and case remanded to the Court of Appeals with directions that it instruct the United States District Court for the Central District of California to vacate its order and dismiss the petition for writ of habeas corpus as moot. *United States v. Munsingwear, Inc.*, 340 U. S. 36 (1950).

Certiorari Granted—Reversed and Remanded. (See No. 90-295, *ante*, p. 5.)

Certiorari Granted—Vacated and Remanded

No. 89-7496. RIVERA-FELICIANO *v.* UNITED STATES. C. A. 1st 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 *Grady v. Corbin*, 495 U. S. 508 (1990). Reported below: 876 F. 2d 209.

Miscellaneous Orders. (See also No. 9, Orig., *ante*, p. 9; and No. 113, Orig., *ante*, p. 16.)

No. — — —. DAVIS *v.* ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES ET AL. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. A-327. CLARK ET AL. *v.* ROEMER, GOVERNOR OF LOUISIANA, ET AL. Motion of appellees for modification of the order of the Court entered November 2, 1990 [*ante*, p. 953], granted, and the order is modified as follows:

Application for injunction and stay of orders of the United States District Court for the Middle District of Louisiana, case

498 U. S.

November 5, 1990

No. 86-435-A, presented to JUSTICE SCALIA, and by him referred to the Court, granted in part. Louisiana state officials are enjoined from holding elections scheduled for November 6 and December 8, 1990, for judicial offices created by acts which the District Court found had not been precleared in violation of § 5 of the Voting Rights Act of 1965, 79 Stat. 439, as amended, 42 U. S. C. § 1973c. These judgeships are listed in Part II of the District Court's order of October 22, 1990, pp. 3-4, excepting Division B of the 20th Judicial District, which the District Court upon reconsideration found to have been precleared, and Division D of the 34th Judicial District, which the parties and the Solicitor General agree the Attorney General precleared by letter of October 10, 1989. Specifically, those judgeships for which an election is enjoined are:

(1) District Courts:

- 4th District, Divisions F and G;
- 6th District, Division B;
- 14th District, Divisions E, F, G, and H;
- 16th District, Division G;
- 21st District, Division F;
- 22nd District, Division G;
- 24th District, Division P;
- 26th District, Division E;
- 40th District, Division C;

(2) Courts of Appeal:

All judgeships authorized by 1990 La. Acts, No. 8, including

- (a) Second Circuit Court of Appeal, District 1, Division C;
- and

- (b) Second Circuit Court of Appeal, District 3, Division C.

In all other respects the application is denied.

This order is further conditioned upon the timely docketing of a statement as to jurisdiction in the above-entitled appeal. If such a statement as to jurisdiction is filed, this order is to remain in effect pending this Court's action on the appeal. If the judgments are affirmed, or the appeal is dismissed, this order shall terminate automatically. In the event probable jurisdiction is noted, or the judgments are vacated or reversed, this order shall remain in effect pending the sending down of the judgment of this Court.

JUSTICE WHITE dissents.

November 5, 1990

498 U. S.

JUSTICE BLACKMUN, concurring in part and dissenting in part.

I would deny the application in its entirety and therefore dissent from those provisions of the above order which grant injunctive relief.

No. D-904. IN RE DISBARMENT OF ROOT. Disbarment entered. [For earlier order herein, see 496 U. S. 902.]

No. D-913. IN RE DISBARMENT OF WILLIAMS. Disbarment entered. [For earlier order herein, see 497 U. S. 1002.]

No. D-916. IN RE DISBARMENT OF JOHNSTONE. Disbarment entered. [For earlier order herein, see 497 U. S. 1045.]

No. D-947. IN RE DISBARMENT OF PATTISON. It is ordered that Howard A. Pattison, of Athens, 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-948. IN RE DISBARMENT OF PERLOW. It is ordered that Howard Leslie Perlow, of Baltimore, Md., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-949. IN RE DISBARMENT OF WILSON. It is ordered that Jim L. Wilson, of Tifton, 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-950. IN RE DISBARMENT OF BIE. It is ordered that Norman Bie, Jr., of Largo, 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-951. IN RE DISBARMENT OF JONES. It is ordered that Grant Paul Jones, of Seattle, 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. 109, Orig. OKLAHOMA ET AL. *v.* NEW MEXICO. Report of the Special Master received and ordered filed. Exceptions to the Report, with supporting briefs, may be filed by the parties within 45 days. Replies thereto, with supporting briefs, may be filed

498 U. S.

November 5, 1990

within 30 days. [For earlier order herein, see, *e. g.*, 496 U. S. 903.]

No. 89-1944. OHIO *v.* HUERTAS. Sup. Ct. Ohio. [Certiorari granted, *ante*, p. 807.] Motion of respondent to dismiss the writ of certiorari as improvidently granted denied.

No. 89-1965. COTTAGE SAVINGS ASSN. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 6th Cir. [Certiorari granted, *ante*, p. 808.] Motion of petitioner to dispense with printing the joint appendix granted.

No. 90-96. SIEGERT *v.* GILLEY. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 918.] Motion of petitioner to proceed further herein *in forma pauperis* denied.

No. 90-464. BITUMINOUS COAL OPERATORS' ASSN., INC. *v.* UNITED MINE WORKERS OF AMERICA, INTERNATIONAL UNION, BY RABBIT, TRUSTEE AD LITEM, ET AL. C. A. 3d Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 90-5643. IN RE ALSTON. Petition for writ of mandamus and/or prohibition denied.

Certiorari Granted

No. 89-1821. STEVENS *v.* DEPARTMENT OF THE TREASURY ET AL. C. A. 5th Cir. Certiorari granted. Reported below: 897 F. 2d 526.

No. 90-68. YLST, WARDEN *v.* NUNNEMAKER. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 904 F. 2d 473.

Certiorari Denied

No. 89-1736. HOBSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 893 F. 2d 1267.

No. 89-1806. UNITED STATES ARMY ET AL. *v.* WATKINS. C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 2d 699.

No. 89-5586. PALMER ET AL. *v.* GUNTER ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 2d 1080.

No. 89-7596. CHARLES *v.* BUTLER, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 2d 718.

November 5, 1990

498 U. S.

No. 89-7659. *PATTERSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 149.

No. 90-176. *KUENNEN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 901 F. 2d 103.

No. 90-217. *BROWN ET AL. v. ELIZABETH BLACKWELL HEALTH CENTER FOR WOMEN ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 898 F. 2d 142.

No. 90-259. *LOWARY ET AL. v. LEXINGTON TEACHERS ASSN. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 903 F. 2d 422.

No. 90-300. *HAYS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 515.

No. 90-310. *MIGLIORINI v. DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS*. C. A. 7th Cir. Certiorari denied. Reported below: 898 F. 2d 1292.

No. 90-373. *KPMG PEAT MARWICK v. HOLLOWAY ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 900 F. 2d 1485.

No. 90-431. *DISPATCH PRINTING CO. v. SOLOVE, JUDGE, FRANKLIN COUNTY, OHIO, COURT OF COMMON PLEAS, ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 52 Ohio St. 3d 6, 556 N. E. 2d 439.

No. 90-432. *PERRY v. PRUDENTIAL-BACHE SECURITIES, INC.* C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 696.

No. 90-437. *GROTE v. TRANS WORLD AIRLINES, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 905 F. 2d 1307.

No. 90-438. *STEWART v. MORRIS ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 905 F. 2d 1543.

No. 90-439. *BIAS, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF BIAS, DECEASED v. ADVANTAGE INTERNATIONAL, INC., ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 391, 905 F. 2d 1558.

No. 90-440. *LUNN v. TIME INSURANCE Co.* Sup. Ct. N. M. Certiorari denied. Reported below: 110 N. M. 73, 792 P. 2d 405.

498 U. S.

November 5, 1990

No. 90-446. *BENINTENDI ET UX. v. UNION NATIONAL BANK OF LITTLE ROCK ET AL.* Ct. App. Okla. Certiorari denied.

No. 90-454. *SEQUOIA BOOKS, INC., DBA DENMARK II v. INGEMUNSON, STATE'S ATTORNEY OF KENDALL COUNTY, ILLINOIS, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 901 F. 2d 630.

No. 90-460. *WALLIS ET UX. v. JUSTICE OAKS II, LTD., ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 898 F. 2d 1544.

No. 90-462. *SLOAN ET AL. v. G & G MANUFACTURING INC.* C. A. 6th Cir. Certiorari denied. Reported below: 900 F. 2d 953.

No. 90-467. *FAHRIG ET UX. v. WOLFF, JUDGE, ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 48 Ohio St. 3d 709, 550 N. E. 2d 478.

No. 90-474. *WARD v. DAILY REFLECTOR, INC., ET AL.* Ct. App. N. C. Certiorari denied. Reported below: 97 N. C. App. 668, 390 S. E. 2d 184.

No. 90-475. *FALKNER ET UX. v. UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA.* C. A. 11th Cir. Certiorari denied.

No. 90-481. *601 PROPERTIES, INC. v. CITY OF DAYTON, OHIO.* Ct. App. Ohio, Montgomery County. Certiorari denied.

No. 90-491. *RIVERA CRUZ, SECRETARY OF JUSTICE OF PUERTO RICO v. PLAYBOY ENTERPRISES, INC., ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 906 F. 2d 25.

No. 90-533. *IN RE KANTOR.* C. A. Fed. Cir. Certiorari denied. Reported below: 907 F. 2d 157.

No. 90-547. *QUANSAH v. CITY OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 902 F. 2d 1556.

No. 90-579. *WOODS v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 30 M. J. 214.

No. 90-5071. *SUMMERS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 895 F. 2d 615.

November 5, 1990

498 U. S.

No. 90-5275. *SACK v. NORTH DAKOTA ET AL.* C. A. 8th Cir. Certiorari denied.

No. 90-5432. *DAWN v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 897 F. 2d 1444.

No. 90-5524. *MECKLEY v. FEDERAL CORRECTIONAL INSTITUTION, ALDERSON, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1530.

No. 90-5661. *SMALLWOOD v. E-SYSTEMS, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 905 F. 2d 1535.

No. 90-5703. *AMODEO v. COLUMBIA BROADCASTING SYSTEM ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 34.

No. 90-5704. *HEBEL v. GILMORE, WARDEN.* C. A. 7th Cir. Certiorari denied.

No. 90-5707. *TOOMEY v. BUNNELL, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 898 F. 2d 741.

No. 90-5708. *VAISEY v. HAUGH.* Ct. App. Ore. Certiorari denied.

No. 90-5709. *SMITH v. MACDONALD.* Ct. App. Tenn. Certiorari denied.

No. 90-5710. *STANDARD v. BURTON, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 90-5711. *BROADNAX ET AL. v. LOS ANGELES COUNTY MUNICIPAL COURT ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-5717. *TERRAZAS v. CALIFORNIA.* Sup. Ct. Cal. Certiorari denied.

No. 90-5732. *COX v. CARROLL, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 90-5733. *TINDALL v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 901 F. 2d 1114.

No. 90-5734. *RUST v. GUNTER ET AL.* C. A. 8th Cir. Certiorari denied.

498 U. S.

November 5, 1990

No. 90-5738. *SPARKS v. JABE, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 911 F. 2d 734.

No. 90-5741. *DAY v. JOHNSON ET AL.* C. A. 2d Cir. Certiorari denied.

No. 90-5749. *LIPOFSKY v. NEW YORK STATE WORKERS COMPENSATION BOARD ET AL.* C. A. 11th Cir. Certiorari denied.

No. 90-5754. *HASKINS v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-5795. *YOUNG v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 907 F. 2d 156.

No. 90-5827. *SHAFFER v. STRATTON, ATTORNEY GENERAL OF NEW MEXICO*. C. A. 10th Cir. Certiorari denied. Reported below: 906 F. 2d 506.

No. 90-5838. *BELVIN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 899 F. 2d 1226.

No. 90-5840. *ATTSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 900 F. 2d 1427.

No. 90-5842. *DARLINGTON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 909 F. 2d 1472.

No. 90-5845. *BANKS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 1576.

No. 90-5847. *DUARTE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 914 F. 2d 268.

No. 90-5852. *BARBOSA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 906 F. 2d 1366.

No. 90-5853. *RIVERA-DOMINGUEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 907 F. 2d 148.

No. 90-5856. *WILLIAMS v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 51 Ohio St. 3d 58, 554 N. E. 2d 108.

No. 90-5858. *FORD v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 899 F. 2d 1228.

No. 90-5863. *HERNANDEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 912 F. 2d 1469.

November 5, 1990

498 U. S.

No. 90-5864. JENKINS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 904 F. 2d 549.

No. 90-5867. MARTIN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 908 F. 2d 969.

No. 90-5879. ROBERTSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 901 F. 2d 733.

No. 90-5881. CARBALLO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 907 F. 2d 1143.

No. 90-5883. FARBER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 90-5884. DIDIO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 1477.

No. 90-5893. ELLSWORTH *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 1478.

No. 90-5894. WEST *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 1478.

No. 90-5895. TRUJILLO *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 906 F. 2d 1456.

No. 90-5902. SILVIOUS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 726.

No. 90-5905. PROCTOR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 724.

No. 90-5913. HODGE *v.* YARBOROUGH, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 90-5915. LOVE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 1478.

No. 90-5925. MESSER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1140.

No. 90-41. WISCONSIN *v.* WALKER. Sup. Ct. Wis. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 154 Wis. 2d 158, 453 N. W. 2d 127.

498 U. S.

November 5, 1990

No. 90-451. PUBLIC EMPLOYEES RETIREMENT SYSTEM OF OHIO *v.* BETTS. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 897 F. 2d 1380.

No. 90-540. VACCARO *v.* JORLING, COMMISSIONER OF NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 151 App. Div. 2d 34, 546 N. Y. S. 2d 470.

No. 90-550. EAST ASIATIC CO., INC., ET AL. *v.* RSR CORP. ET AL. Ct. App. Wash. Motion of Government of Denmark for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 57 Wash. App. 1007.

No. 90-5156. BARNES *v.* DALLAS COUNTY CHILD WELFARE UNIT OF THE TEXAS DEPARTMENT OF HUMAN RESOURCES. Ct. App. Tex., 5th Dist. Certiorari denied. JUSTICE BLACKMUN would grant certiorari.

No. 90-5416. ANTOINE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 906 F. 2d 1379.

No. 90-5434. VARGAS-VICTORIA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE MARSHALL would grant certiorari. Reported below: 902 F. 2d 1580.

No. 90-5641. SIEBERT *v.* ALABAMA. Sup. Ct. Ala. Certiorari denied. Reported below: 562 So. 2d 600.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976), I would grant certiorari and vacate the death sentence in this case.

Rehearing Denied

No. 89-7818. MACGUIRE *v.* RASMUSSEN, *ante*, p. 841; and

No. 90-5084. CHURCH *v.* THOMPSON ET AL., *ante*, p. 860. Petitions for rehearing denied. JUSTICE SOUTER took no part in the consideration or decision of these petitions.

NOVEMBER 13, 1990

Vacated and Remanded After Certiorari Granted. (See also No. 89-5120, *ante*, p. 38.)

No. 89-1784. INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA ET AL. *v.* BEN COOPER, INC. C. A. 2d Cir. [Certiorari granted, 497 U. S. 1023.] The United States, whose motion to intervene filed in this Court on September 28, 1990, was granted, has raised a question concerning the Court of Appeals' jurisdiction over this case and hence a question about our own jurisdiction. Motion of United States to Intervene and Brief for United States 9-17. Because the Court of Appeals should address the jurisdictional issue in the first instance, we vacate the judgment of the Court of Appeals and remand the case for consideration of the jurisdictional issue raised by the United States.

Certiorari Granted—Reversed and Remanded. (See No. 89-7302, *ante*, p. 39; and No. 90-93, *ante*, p. 42.)

Certiorari Granted—Vacated and Remanded

No. 89-1951. DELTA TRAFFIC SERVICE, INC., ET AL. *v.* APPCO PAPER & PLASTICS CORP. C. A. 2d Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Maislin Industries, U. S., Inc. v. Primary Steel, Inc.*, 497 U. S. 116 (1990). Reported below: 893 F. 2d 472.

No. 90-5659. REEVES *v.* NEBRASKA. Sup. Ct. Neb. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Clemons v. Mississippi*, 494 U. S. 738 (1990). Reported below: 234 Neb. 711, 453 N. W. 2d 359.

Miscellaneous Orders

No. 8, Orig. ARIZONA *v.* CALIFORNIA ET AL. It is ordered that Frank McGarr, Esq., of Chicago, Ill., be appointed Special Master in place of Robert B. McKay, deceased.

The Special Master shall have authority to fix the time and conditions for the filing of additional pleadings and to direct subsequent proceedings, and with authority to summon witnesses, issue subpoenas, and take such evidence as may be introduced and such as he may deem it necessary to call for. The Special Master is directed to submit such reports as he may deem appropriate.

498 U. S.

November 13, 1990

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.*, 493 U. S. 971.]

No. 90-394. CLINTON, GOVERNOR OF ARKANSAS, ET AL. *v.* JEFFERS ET AL. Appeal from D. C. E. D. Ark. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 90-5759. IN RE GOLUB. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until December 4, 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 MARSHALL, JUSTICE BLACKMUN, and JUSTICE STEVENS, dissenting.

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

No. 90-5765. CARY *v.* KIRK ET AL. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until December 4, 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 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. 90-5980. IN RE GIBSON. Petition for writ of habeas corpus denied.

No. 90-5775. IN RE DOUGHTY ET AL.; and

No. 90-5779. IN RE KALTENBACH. Petitions for writs of mandamus denied.

November 13, 1990

498 U. S.

Certiorari Granted

No. 90-285. LITTON FINANCIAL PRINTING DIVISION, A DIVISION OF LITTON BUSINESS SYSTEMS, INC. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 9th Cir. Certiorari granted limited to Question 2 presented by the petition. Reported below: 893 F. 2d 1128.

No. 90-5358. BRAXTON *v.* UNITED STATES. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 903 F. 2d 292.

Certiorari Denied

No. 89-7589. NACE *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 524 Pa. 323, 571 A. 2d 1389.

No. 89-7594. PLETTEN *v.* NEWMAN ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 891 F. 2d 292.

No. 89-7753. HEARN ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 896 F. 2d 554.

No. 89-7787. VILLEGAS *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 89-7788. WEAVER *v.* PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY. C. A. 5th Cir. Certiorari denied. Reported below: 896 F. 2d 126.

No. 90-36. GOLDBERG *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 900 F. 2d 265.

No. 90-151. RIVER VILLA PARTNERSHIP ET AL. *v.* SUN BELT FEDERAL BANK, F. S. B. C. A. 5th Cir. Certiorari denied. Reported below: 898 F. 2d 996.

No. 90-291. GRUBER *v.* BOARD OF MEDICAL EXAMINERS OF OREGON. Ct. App. Ore. Certiorari denied. Reported below: 98 Ore. App. 55, 778 P. 2d 516.

No. 90-413. KIMMET ET AL. *v.* RYAN ET AL. C. A. 10th Cir. Certiorari denied.

No. 90-477. HARDING ET AL. *v.* CITY OF NEW YORK DEPARTMENT OF ENVIRONMENTAL PROTECTION ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 907 F. 2d 144.

498 U. S.

November 13, 1990

No. 90-480. *NETZLEY v. CELEBREZZE ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 51 Ohio St. 3d 89, 554 N. E. 2d 1292.

No. 90-482. *SPANG & Co. v. DELGROSSO ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 903 F. 2d 234.

No. 90-484. *TABER, DBA TABERS GRASS FARM v. PLEDGER, DIRECTOR, ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION.* Sup. Ct. Ark. Certiorari denied. Reported below: 302 Ark. 484, 791 S. W. 2d 361.

No. 90-490. *FANT v. BOARD OF TRUSTEES, REGIONAL TRANSIT AUTHORITY.* Sup. Ct. Ohio. Certiorari denied. Reported below: 50 Ohio St. 3d 72, 552 N. E. 2d 639.

No. 90-492. *WISCONSIN EDUCATION ASSOCIATION COUNCIL ET AL. v. WISCONSIN STATE ELECTIONS BOARD ET AL.* Sup. Ct. Wis. Certiorari denied. Reported below: 156 Wis. 2d 151, 456 N. W. 2d 839.

No. 90-495. *MAGEE DRILLING Co. v. ARKOMA ASSOCIATES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 5.

No. 90-500. *LAURICK v. NEW JERSEY.* Sup. Ct. N. J. Certiorari denied. Reported below: 120 N. J. 1, 575 A. 2d 1340.

No. 90-501. *WEINBERG v. CONNECTICUT.* Sup. Ct. Conn. Certiorari denied. Reported below: 215 Conn. 231, 575 A. 2d 1003.

No. 90-502. *PERDUE v. BARBER.* Ct. App. Ga. Certiorari denied. Reported below: 194 Ga. App. 287, 390 S. E. 2d 234.

No. 90-508. *SEDILLO v. NEW MEXICO.* Ct. App. N. M. Certiorari denied.

No. 90-509. *VIEUX ET AL. v. EAST BAY REGIONAL PARK DISTRICT ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 906 F. 2d 1330.

No. 90-511. *MA v. CONTINENTAL ILLINOIS NATIONAL BANK & TRUST Co.* C. A. 7th Cir. Certiorari denied. Reported below: 905 F. 2d 1073.

No. 90-512. *WARREN v. DWYER.* C. A. 2d Cir. Certiorari denied. Reported below: 906 F. 2d 70.

November 13, 1990

498 U. S.

No. 90-514. *ONAN CORP. v. INDUSTRIAL STEEL CONTAINER Co.* C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 511.

No. 90-518. *WELSH v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 394 Pa. Super. 634, 569 A. 2d 1387.

No. 90-522. *MCNAMEE ET UX. v. SOUTHERN TEXTILE CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 908 F. 2d 963.

No. 90-528. *VENTILATOREN STORK HENGEL B. V. ET AL. v. FORSIKRINGSAKTIESELSKABET HAFNIA, AKA HAFNIA.* C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 39.

No. 90-538. *PEACOCK ET UX. v. CITY OF MURPHY, TEXAS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 905 F. 2d 1534.

No. 90-548. *FOSTER, BY HIS GUARDIAN, FOSTER v. UNITED STATES FIRE INSURANCE Co.* C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1137.

No. 90-553. *GOURAS (WADE) v. BURROUGHS WELLCOME Co.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1529.

No. 90-586. *WAX v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 391 Pa. Super. 314, 571 A. 2d 386.

No. 90-604. *ZERMAN ET UX. v. SUPREME COURT OF FLORIDA ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 905 F. 2d 1542.

No. 90-5065. *RODERICK v. TRICKEY, DIRECTOR, DIVISION OF CLASSIFICATION AND TREATMENT, MISSOURI DEPARTMENT OF CORRECTIONS.* C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 9.

No. 90-5112. *SHEFFER v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 896 F. 2d 842.

No. 90-5176. *MOORE v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 90-5206. *SPEED v. NEW YORK.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 156 App. Div. 2d 603, 549 N. Y. S. 2d 110.

498 U. S.

November 13, 1990

No. 90-5210. *FISCHER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 905 F. 2d 140.

No. 90-5212. *REXACH v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 896 F. 2d 710.

No. 90-5263. *LITTRIELLO ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 904 F. 2d 701.

No. 90-5294. *GRAY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 903 F. 2d 829.

No. 90-5301. *RAYBURN v. GEORGIA*. Ct. App. Ga. Certiorari denied. Reported below: 194 Ga. App. 676, 391 S. E. 2d 780.

No. 90-5308. *KIMBERLIN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 898 F. 2d 1262.

No. 90-5353. *SPIVEY v. HARRIS ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 893 F. 2d 1342.

No. 90-5380. *EDWARDS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 899 F. 2d 21.

No. 90-5412. *RHODES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 1532.

No. 90-5498. *GRAVATT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 697.

No. 90-5542. *SHELDON v. NEW MEXICO*. Ct. App. N. M. Certiorari denied. Reported below: 110 N. M. 28, 791 P. 2d 479.

No. 90-5695. *WATKINS v. DEPARTMENT OF THE TREASURY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 899 F. 2d 1226.

No. 90-5698. *SINDRAM v. LUSTINE CHEVROLET, INC., ET AL.* Ct. Sp. App. Md. Certiorari denied.

No. 90-5727. *JONES v. MENDENHALL ET AL.* C. A. 8th Cir. Certiorari denied.

No. 90-5736. *SIVAK v. IDAHO*. Sup. Ct. Idaho. Certiorari denied.

No. 90-5739. *WOODS v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied. Reported below: 899 F. 2d 13.

November 13, 1990

498 U. S.

No. 90-5746. *ELLIS v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION.* C. A. 5th Cir. Certiorari denied. Reported below: 912 F. 2d 1467.

No. 90-5760. *STEPLER v. OHIO ADULT PAROLE AUTHORITY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 905 F. 2d 1539.

No. 90-5761. *DANIELS v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION.* C. A. 5th Cir. Certiorari denied.

No. 90-5762. *DEES v. CASPIRI, SUPERINTENDENT, MISSOURI EASTERN CORRECTIONAL CENTER.* C. A. 8th Cir. Certiorari denied. Reported below: 904 F. 2d 452.

No. 90-5763. *BAIME v. GREENLY.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-5764. *DAVIS v. COHEN ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 903 F. 2d 212.

No. 90-5780. *WATSON v. NEW MEXICO.* Ct. App. N. M. Certiorari denied.

No. 90-5784. *SCHLICHER v. DAVIES ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-5785. *VEY v. PREATE ET AL.* C. A. 3d Cir. Certiorari denied.

No. 90-5788. *WATERS v. GEORGIA.* Ct. App. Ga. Certiorari denied. Reported below: 195 Ga. App. 288, 393 S. E. 2d 280.

No. 90-5790. *FULFORD v. WHITLEY, WARDEN.* C. A. 5th Cir. Certiorari denied.

No. 90-5792. *BEAZLEY v. CALIFORNIA.* Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 90-5794. *ROYBALL v. SAN ANTONIO HOUSING AUTHORITY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 909 F. 2d 1481.

No. 90-5799. *SEARCY v. HOUSTON LIGHTING & POWER CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 907 F. 2d 562.

498 U. S.

November 13, 1990

No. 90-5805. *McKAYE v. BROWN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 904 F. 2d 707.

No. 90-5808. *GAGATY v. GAGATY.* Sup. Ct. Nev. Certiorari denied. Reported below: 106 Nev. 1022.

No. 90-5809. *MCCOLPIN v. FOULSTON.* C. A. 10th Cir. Certiorari denied.

No. 90-5811. *STEWART v. DALLAS COUNTY HEALTH DEPARTMENT ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1568.

No. 90-5812. *KING v. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-5813. *DURANTE v. OHIO CIVIL RIGHTS COMMISSION.* C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 1568.

No. 90-5832. *JOHNSTON v. WASHTENAW COUNTY COURT CLERK ET AL.* Ct. App. Mich. Certiorari denied.

No. 90-5843. *YOUNG v. KELLY.* C. A. 2d Cir. Certiorari denied. Reported below: 909 F. 2d 1474.

No. 90-5875. *RANSBOTTOM v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 914 F. 2d 743.

No. 90-5878. *WEBER v. CALIFORNIA STATE BAR ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 908 F. 2d 978.

No. 90-5903. *SANCHEZ v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 911 F. 2d 740.

No. 90-5914. *JONES v. UNITED STATES ET AL.*; *JONES v. GERRIE ET AL.*; *JONES v. UNITED STATES*; *JONES v. UNITED STATES*; *JONES v. WISEMAN ET AL.*; *JONES v. UNITED STATES*; *JONES v. UNITED STATES*; and *JONES v. VACCO ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 34 (first case); 912 F. 2d 462 (sixth case).

No. 90-5918. *THOMPSON v. FOLTZ, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 907 F. 2d 151.

November 13, 1990

498 U. S.

No. 90-5919. CHANEY *v.* DEPARTMENT OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied. Reported below: 906 F. 2d 697.

No. 90-5921. AIELLO *v.* WISCONSIN. Ct. App. Wis. Certiorari denied. Reported below: 155 Wis. 2d 465, 455 N. W. 2d 913.

No. 90-5927. BROWN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1140.

No. 90-5937. LEACH, AKA MARTIN *v.* MCCAUGHTRY, SUPERINTENDENT, WAUPUN CORRECTIONAL INSTITUTION. C. A. 7th Cir. Certiorari denied. Reported below: 911 F. 2d 1249.

No. 90-5945. BERMUDAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 899 F. 2d 1225.

No. 90-5994. FOE ET AL. *v.* CUOMO ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 892 F. 2d 196.

No. 89-1508. COLORADO INTERSTATE GAS CO. *v.* NATURAL GAS PIPE LINE COMPANY OF AMERICA ET AL. C. A. 10th Cir. Motion of Public Citizen for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 885 F. 2d 683.

No. 90-485. WILLIAMS *v.* PIMA COUNTY, ARIZONA, ET AL. Ct. App. Ariz. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 164 Ariz. 170, 791 P. 2d 1053.

No. 90-503. DAVIS *v.* AT&T INFORMATION SYSTEMS. C. A. 5th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 904 F. 2d 703.

No. 90-498. SOUTH CAROLINA *v.* BUTLER. Sup. Ct. S. C. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 302 S. C. 466, 397 S. E. 2d 87.

No. 90-525. TAYLOR, COMMISSIONER OF THE INSURANCE DEPARTMENT FOR ARKANSAS, ET AL. *v.* FIRST NATIONAL BANK OF EASTERN ARKANSAS. C. A. 8th Cir. Motion of American Coun-

498 U. S.

November 13, 1990

cil of Life Insurance for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 907 F. 2d 775.

No. 90-5677. CLARK *v.* CALIFORNIA. Sup. Ct. Cal.;
No. 90-5772. PEOPLES *v.* ALABAMA. Ct. Crim. App. Ala.;
No. 90-5873. PETARY *v.* MISSOURI. Sup. Ct. Mo.; and
No. 90-5882. SMITH *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied. Reported below: No. 90-5677, 50 Cal. 3d 583, 789 P. 2d 127; No. 90-5772, 565 So. 2d 1177; No. 90-5873, 790 S. W. 2d 243; No. 90-5882, 790 S. W. 2d 241.

JUSTICE MARSHALL, dissenting.

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

Rehearing Denied

No. 90-5577. SINDRAM *v.* WALLIN ET AL., *ante*, p. 944;
No. 90-5578. SINDRAM *v.* MCKENNA ET AL., *ante*, p. 944; and
No. 90-5699. SINDRAM *v.* MONTGOMERY COUNTY, MARYLAND, ET AL., *ante*, p. 948. Petitions for rehearing denied.

No. 89-1946. BERGMAN *v.* DEPARTMENT OF COMMERCE ET AL., *ante*, p. 820;

No. 89-2006. ROSCOE *v.* UNITED STATES ET AL., *ante*, p. 823;

No. 89-7477. ADAMS *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL., *ante*, p. 828;

No. 89-7617. BREWER *v.* OHIO, *ante*, p. 881;

No. 89-7669. MARTIN *v.* UNITED STATES DEPARTMENT OF EDUCATION ET AL., *ante*, p. 835;

No. 89-7699. MCCOLPIN *v.* OWENS, *ante*, p. 836;

No. 89-7700. MARTIN *v.* FARNAN, *ante*, p. 836;

No. 89-7733. CONLEY *v.* JOHNSON, *ante*, p. 837;

No. 89-7746. SKEETER *v.* CITY OF NORFOLK ET AL., *ante*, p. 838;

No. 89-7747. SNELL *v.* CITY AND COUNTY OF DENVER ET AL., *ante*, p. 838;

No. 89-7817. MARTIN *v.* FARNAN, *ante*, p. 841;

No. 89-7847. SINDRAM *v.* N. RICHARD KIMMEL PROPERTIES ET AL., *ante*, p. 843;

November 13, 15, 1990

498 U. S.

No. 89-7848. *SINDRAM v. WASHINGTON SUBURBAN SANITARY COMMISSION*, *ante*, p. 843;

No. 89-7865. *LEWIS v. VASQUEZ, WARDEN*, *ante*, p. 844;

No. 90-150. *FORDHAM v. OFFICE OF PERSONNEL MANAGEMENT*, *ante*, p. 852;

No. 90-216. *MOELLER v. UNITED STATES*, *ante*, p. 855;

No. 90-227. *ATWAL v. CITY OF RIVERSIDE*, *ante*, p. 855;

No. 90-5021. *GUZMAN v. FLICKINGER*, *ante*, p. 857;

No. 90-5169. *GANEY v. CHESTER*, *ante*, p. 864;

No. 90-5218. *IN RE MCKNIGHT*, *ante*, p. 806;

No. 90-5335. *SINDRAM v. GARABEDI*, *ante*, p. 872;

No. 90-5351. *SINDRAM v. STEUBEN COUNTY, NEW YORK, ET AL.*, *ante*, p. 873;

No. 90-5354. *SHIPES v. GALLEY, WARDEN, ET AL.*, *ante*, p. 873;

No. 90-5356. *BURGER v. ZANT, WARDEN*, *ante*, p. 908;

No. 90-5371. *SINDRAM v. CONSUMER PROTECTION COMMISSION OF PRINCE GEORGE'S COUNTY ET AL.*, *ante*, p. 874;

No. 90-5373. *SINDRAM v. ABRAMS ET AL.*, *ante*, p. 874;

No. 90-5409. *GUARACINO v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*, *ante*, p. 875;

No. 90-5410. *SINDRAM v. RYAN ET AL.*, *ante*, p. 901;

No. 90-5456. *SINDRAM v. SWEENEY ET AL.*, *ante*, p. 903; and

No. 90-5684. *LYLE v. JABE, WARDEN*, *ante*, p. 906. Petitions for rehearing denied. JUSTICE SOUTER took no part in the consideration or decision of these petitions.

No. 90-5374. *SINDRAM v. NISSAN MOTOR CORP. ET AL.*, *ante*, p. 891. Petition for rehearing denied. THE CHIEF JUSTICE and JUSTICE SOUTER took no part in the consideration or decision of this petition.

NOVEMBER 15, 1990

Miscellaneous Order

No. A-370 (90-767). *CABLE NEWS NETWORK, INC., ET AL. v. NORIEGA ET AL.* C. A. 11th Cir. Application for stay of orders of the United States District Court for the Southern District of Florida, presented to JUSTICE KENNEDY and referred to the Court. Respondents are directed to file with the Clerk of the Court responses to the application for stay and petition for writ of certiorari, together with proof of service, on or before noon, Sat-

498 U. S.

November 15, 16, 18, 1990

urday, November 17, 1990. Responses may be filed in typewritten form to be replaced with copies prepared in conformity with Rule 33 as soon as possible thereafter.

NOVEMBER 16, 1990

Miscellaneous Order

No. A-360. CLARK *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Application for stay of execution of sentence of death, presented to JUSTICE KENNEDY, and by him referred to the Court, denied.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976), I 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.

NOVEMBER 18, 1990

Miscellaneous Orders

No. A-377. CLARK *v.* FLORIDA. Application for stay of execution of sentence of death, presented to JUSTICE KENNEDY, and by him referred to the Court, denied.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976), I 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-378. CLARK *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Application for stay of execution of sentence of death, presented to JUSTICE KENNEDY, and by him referred to the Court, denied.

November 18, 1990

498 U. S.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976), I 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.

Certiorari Denied

No. 90-767 (A-370). CABLE NEWS NETWORK, INC., ET AL. v. NORIEGA ET AL. C. A. 11th Cir. Application to stay restraining orders of the United States District Court for the Southern District of Florida, presented to JUSTICE KENNEDY, and by him referred to the Court, denied. Certiorari denied. Reported below: 917 F. 2d 1543.

JUSTICE MARSHALL, with whom JUSTICE O'CONNOR joins, dissenting.

The issue raised by this petition is whether a trial court may enjoin publication of information alleged to threaten a criminal defendant's right to a fair trial without *any* threshold showing that the information will indeed cause such harm and that suppression is the only means of averting it. The District Court in this case entered an order enjoining petitioner Cable News Network (CNN) from broadcasting taped communications between respondent Manuel Noriega, a defendant in a pending criminal proceeding, and his counsel. *United States v. Noriega*, 752 F. Supp. 1032 (1990). The court entered this order without any finding that suppression of the broadcast was necessary to protect Noriega's right to a fair trial, reasoning that no such determination need be made unless CNN surrendered the tapes for the court's inspection. The Court of Appeals affirmed this conclusion. 917 F. 2d 1543 (1990).

In my view, this case is of extraordinary consequence for freedom of the press. Our precedents make unmistakably clear that "[a]ny prior restraint on expression comes to this Court with a 'heavy presumption' against its constitutional validity," and that the proponent of this drastic remedy "carries a heavy burden of showing justification for [its] imposition." *Nebraska Press Assn. v. Stuart*, 427 U. S. 539, 558 (1976), quoting *Organization for a Better Austin v. Keefe*, 402 U. S. 415, 419 (1971) (citations omit-

498 U. S.

November 18, 20, 26, 1990

ted); accord, *New York Times Co. v. United States*, 403 U. S. 713, 714 (1971) (*per curiam*). I do not see how the prior restraint imposed in this case can be reconciled with these teachings. Even more fundamentally, if the lower courts in this case are correct in their remarkable conclusion that publication can be *automatically* restrained pending application of the demanding test established by *Nebraska Press*, then I think it is imperative that we reexamine the premises and operation of *Nebraska Press* itself. I would grant the stay application and the petition for certiorari.

NOVEMBER 20, 1990

Dismissal Under Rule 46

No. 90-422. KELLER, AS TRUSTEE FOR THE LIQUIDATION OF BLINDER, ROBINSON & CO., INC. *v.* WALFORD ET AL. Ct. App. Colo. Certiorari dismissed under this Court's Rule 46. Reported below: 793 P. 2d 620.

Certiorari Denied

No. 90-6166 (A-351). MAPES *v.* OHIO. Ct. App. Ohio, Cuyahoga County. Application for stay of execution of sentence of death, presented to JUSTICE STEVENS, and by him referred to the Court, denied. Certiorari denied.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976), I 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 26, 1990

Certiorari Granted—Reversed and Remanded. (See No. 89-1667, *ante*, p. 46.)

Certiorari Granted—Vacated and Remanded

No. 90-5375. ELLIS *v.* OKLAHOMA. Ct. Crim. App. Okla. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Grady v. Corbin*, 495 U. S. 508 (1990).

November 26, 1990

498 U. S.

Miscellaneous Orders

No. — — —. *POWELL v. MARTIN MARIETTA ENERGY SYSTEMS, INC.* Motion to direct the Clerk to file out-of-time application for extension of time within which to file petition for writ of certiorari denied.

No. — — —. *WILLIAMS v. KOEHLER.* Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. A-363. *HUNTER v. MCKEITHEN, SECRETARY OF STATE OF LOUISIANA, ET AL.* Application for injunction and stay pending appeal from the United States District Court for the Western District of Louisiana, presented to JUSTICE SCALIA, and by him referred to the Court, denied. JUSTICE MARSHALL and JUSTICE STEVENS would grant the application.

No. D-692. *IN RE DISBARMENT OF KALK.* Joseph Kalk, of Cleveland, Ohio, 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 April 4, 1988 [485 U. S. 984], is hereby discharged.

No. D-919. *IN RE DISBARMENT OF NICHOLS.* Disbarment entered. [For earlier order herein, see 497 U. S. 1045.]

No. D-952. *IN RE DISBARMENT OF PORTER.* It is ordered that John W. Porter, Jr., of San Diego, 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-953. *IN RE DISBARMENT OF KANAREK.* It is ordered that Irving Alan Kanarek, of Santa Ana, 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-954. *IN RE DISBARMENT OF DOHE.* It is ordered that Virgil D. Dohe, of Aurora, Colo., 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.

498 U. S.

November 26, 1990

No. 111, Orig. DELAWARE *v.* NEW YORK. Motion of Alaska and Vermont for leave to file complaint in intervention referred to the Special Master. Motion of Maryland for leave to file complaint in intervention referred to the Special Master. [For earlier order herein, see, *e. g.*, *ante*, p. 918.]

No. 90-113. CLINCHFIELD COAL CO. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, ET AL.; and

No. 90-114. CONSOLIDATION COAL CO. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, ET AL. C. A. 4th Cir. [Certiorari granted, *ante*, p. 937.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 89-1948. ENCORE ASSOCIATES, INC., ET AL. *v.* SHINER ET UX., *ante*, p. 820. Motion of respondents for damages denied. JUSTICE SOUTER took no part in the consideration or decision of this motion.

No. 90-143. CONNECTICUT ET AL. *v.* DOEHR. C. A. 2d Cir. [Certiorari granted, *ante*, p. 809.] Motion of Connecticut Bankers Association et al. for leave to file a brief as *amici curiae* granted.

No. 90-549. WHARTON ET AL. *v.* DUBE. C. A. 2d Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 90-5319. MCNEIL *v.* WISCONSIN. Sup. Ct. Wis. [Certiorari granted, *ante*, p. 937.] Motion for appointment of counsel granted, and it is ordered that Gary M. Luck, Esq., of Milwaukee, Wis., be appointed to serve as counsel for petitioner in this case.

No. 90-5891. IN RE GEURIN. Petition for writ of mandamus denied.

No. 90-6085. IN RE DOUGLASS. Petition for writ of mandamus and/or prohibition denied.

Certiorari Granted

No. 90-50. GREGORY ET AL., JUDGES *v.* ASHCROFT, GOVERNOR OF MISSOURI. C. A. 8th Cir. Certiorari granted. Reported below: 898 F. 2d 598.

November 26, 1990

498 U. S.

No. 90-350. FARREY, FKA SANDERFOOT *v.* SANDERFOOT. C. A. 7th Cir. Certiorari granted. Reported below: 899 F. 2d 598.

No. 90-89. INTERNATIONAL PRIMATE PROTECTION LEAGUE ET AL. *v.* ADMINISTRATORS OF TULANE EDUCATIONAL FUND ET AL. C. A. 5th Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 895 F. 2d 1056.

No. 90-149. MICHIGAN *v.* LUCAS. Ct. App. Mich. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted.

Certiorari Denied

No. 89-7731. SOMMER *v.* SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 2d Cir. Certiorari denied. Reported below: 898 F. 2d 895.

No. 89-7826. TURNER *v.* DISTRICT BOARD OF TRUSTEES OF MIAMI-DADE COMMUNITY COLLEGE. C. A. 11th Cir. Certiorari denied. Reported below: 900 F. 2d 264.

No. 90-90. HUGHES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 1495.

No. 90-181. MIGDALECK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 897 F. 2d 530.

No. 90-196. STATE SALVAGE, INC., ET AL. *v.* SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES (VAN DE KAMP, ATTORNEY GENERAL OF CALIFORNIA, REAL PARTY IN INTEREST). Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-201. COLONIAL VILLAGE, INC. *v.* SPANN ET AL.; and
No. 90-202. MOBIL LAND DEVELOPMENT CORP. *v.* SPANN ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 283 U. S. App. D. C. 216, 899 F. 2d 24.

No. 90-206. BACKIEL *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 906 F. 2d 78.

No. 90-270. BRANDT ET AL. *v.* CHALKBOARD, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 1375.

No. 90-309. HART ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 894 F. 2d 1539.

498 U. S.

November 26, 1990

No. 90-354. *FREY ET AL. v. REILLY, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY*. C. A. 7th Cir. Certiorari denied. Reported below: 900 F. 2d 1091.

No. 90-361. *KENRICH PETROCHEMICALS, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 3d Cir. Certiorari denied. Reported below: 907 F. 2d 400.

No. 90-374. *DOWNS v. CAVAZOS, SECRETARY, DEPARTMENT OF EDUCATION, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 28.

No. 90-376. *GORDON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 901 F. 2d 48.

No. 90-379. *FISHER ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 703.

No. 90-395. *ENDELL, COMMISSIONER, ALASKA DEPARTMENT OF CORRECTIONS v. SMITH*. C. A. 9th Cir. Certiorari denied. Reported below: 860 F. 2d 1528.

No. 90-405. *GOWER, TRUSTEE v. FARMERS HOME ADMINISTRATION*. C. A. 11th Cir. Certiorari denied. Reported below: 899 F. 2d 1136.

No. 90-436. *DANIELS ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 902 F. 2d 1238.

No. 90-476. *WYETH-AYERST LABORATORIES DIVISION OF AMERICAN HOME PRODUCTS CORP. v. GRAHAM, AN INFANT UNDER THE AGE OF EIGHTEEN WHO SUES BY HER PARENTS, GUARDIANS, AND NEXT FRIENDS, GRAHAM ET UX*. C. A. 10th Cir. Certiorari denied. Reported below: 906 F. 2d 1399.

No. 90-517. *HINSHAW MUSIC, INC., ET AL. v. DAWSON*. C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 731.

No. 90-519. *HIRSCH v. OAKELEY VAUGHAN UNDERWRITING, LTD., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 704.

No. 90-521. *COMORA ET UX. v. RADELL ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 900 F. 2d 262.

November 26, 1990

498 U. S.

No. 90-523. *NICOLLE-WAGNER ET AL. v. COUNTY OF HAWAII*. Sup. Ct. Haw. Certiorari denied. Reported below: 71 Haw. 654.

No. 90-527. *BROWER'S MOVING & STORAGE, INC. v. BENSON ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 907 F. 2d 310.

No. 90-531. *WOODS v. ROSENBERG, JUDGE, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 908 F. 2d 965.

No. 90-532. *BANKS v. STERLING MERCHANDISE, INC., ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 904 F. 2d 38.

No. 90-534. *WALLER v. PROVIDENT LIFE & ACCIDENT INSURANCE CO.* C. A. 4th Cir. Certiorari denied. Reported below: 906 F. 2d 985.

No. 90-536. *GARD ET AL. v. WISCONSIN STATE ELECTIONS BOARD ET AL.* Sup. Ct. Wis. Certiorari denied. Reported below: 156 Wis. 2d 28, 456 N. W. 2d 809.

No. 90-541. *RUPERT v. GRAVLEE ET AL.* C. A. 11th Cir. Certiorari denied.

No. 90-542. *AMERICAN MEDICAL ASSN. v. WILK ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 895 F. 2d 352.

No. 90-544. *LOUISIANA PATIENT'S COMPENSATION FUND v. STUKA ET UX.* Sup. Ct. La. Certiorari denied. Reported below: 561 So. 2d 1371.

No. 90-545. *AZIZ v. CTA.* App. Ct. Ill., 1st Dist. Certiorari denied.

No. 90-554. *THOMAS v. GARRETT CORP.* C. A. 9th Cir. Certiorari denied. Reported below: 904 F. 2d 41.

No. 90-556. *DALEY ET AL. v. CITY OF HARTFORD.* Sup. Ct. Conn. Certiorari denied. Reported below: 215 Conn. 14, 574 A. 2d 194.

No. 90-561. *TOUPAL v. TOUPAL.* Ct. App. N. M. Certiorari denied. Reported below: 109 N. M. 774, 790 P. 2d 1055.

498 U. S.

November 26, 1990

No. 90-562. *GETZ v. GETZ*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 90-564. *MORGAN v. ANR FREIGHT SYSTEM, INC.* C. A. 10th Cir. Certiorari denied.

No. 90-565. *KRIZAK ET UX. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 704.

No. 90-566. *HUMENIK v. OWENS-CORNING FIBERGLAS CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 908 F. 2d 962.

No. 90-568. *CRISP ET UX. v. RUBIN, TRUSTEE*. C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 1573.

No. 90-569. *NAACP, DETROIT BRANCH, ET AL. v. DETROIT POLICE OFFICERS ASSN. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 900 F. 2d 903.

No. 90-570. *MCGINNIS v. ROSE*. C. A. 7th Cir. Certiorari denied. Reported below: 910 F. 2d 400.

No. 90-571. *LEEDS v. MOSBACHER, SECRETARY OF COMMERCE, ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 90-573. *ARMISTEAD HOMES CORP. v. PINCHBACK*. C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1447.

No. 90-574. *MIDLAND ENTERPRISES INC. ET AL. v. PILLSBURY CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 317.

No. 90-576. *PHILIPPINES, MICRONESIA & ORIENT NAVIGATION CO. v. NYSA-ILA PENSION TRUST FUND ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 909 F. 2d 39.

No. 90-580. *RAJARAM v. INTERNATIONAL TYPOGRAPHICAL UNION ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 908 F. 2d 967.

No. 90-585. *WILLIAMS, COMMISSIONER OF DEPARTMENT OF MOTOR VEHICLES OF VIRGINIA, ET AL. v. SATURN DISTRIBUTION CORP.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 719.

No. 90-587. *CONE CORP. ET AL. v. HILLSBOROUGH COUNTY ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 908 F. 2d 908.

November 26, 1990

498 U. S.

No. 90-591. *YOUNG ET AL. v. NEW YORK CITY TRANSIT AUTHORITY ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 903 F. 2d 146.

No. 90-592. *STENCLIK ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 2d Cir. Certiorari denied. Reported below: 907 F. 2d 25.

No. 90-596. *CANITIA v. YELLOW FREIGHT SYSTEMS, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 903 F. 2d 1064.

No. 90-597. *ROBERT C. ET UX. v. MIGUEL T. ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 76 N. Y. 2d 387, 559 N. E. 2d 418.

No. 90-599. *FIACCO v. CITY OF LOS ANGELES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 908 F. 2d 976.

No. 90-601. *WEBB ET UX. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 907 F. 2d 155.

No. 90-612. *ADAMS ET AL. v. AVONDALE INDUSTRIES, INC., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 905 F. 2d 943.

No. 90-623. *CLASPILL v. MISSOURI PACIFIC RAILROAD.* Sup. Ct. Mo. Certiorari denied. Reported below: 793 S. W. 2d 139.

No. 90-624. *EDISON HOMES, INC., FORMERLY ARDMOR, INC. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 8th Cir. Certiorari denied. Reported below: 903 F. 2d 579.

No. 90-629. *KELLEY v. WISCONSIN.* Ct. App. Wis. Certiorari denied.

No. 90-632. *CAESAR ELECTRONICS, INC. v. FAIRCHILD SEMICONDUCTOR CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 905 F. 2d 287.

No. 90-642. *1903 OBSCENE MAGAZINES ET AL. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 907 F. 2d 1338.

No. 90-648. *RODRIGUEZ v. GENERAL MOTORS CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 904 F. 2d 710.

498 U. S.

November 26, 1990

No. 90-651. *PLUNKETT ET AL. v. FEDERAL DEPOSIT INSURANCE CORPORATION, RECEIVER OF FIRST INTERSTATE BANK OF ALASKA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 1579.

No. 90-658. *GREEN DRUGS ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 905 F. 2d 694.

No. 90-670. *DFW METRO LINE SERVICES v. SOUTHWESTERN BELL TELEPHONE CO.* C. A. 5th Cir. Certiorari denied. Reported below: 901 F. 2d 1267.

No. 90-679. *CHENEY RAILROAD CO., INC. v. INTERSTATE COMMERCE COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 101, 902 F. 2d 66.

No. 90-682. *KELLY v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 79, 901 F. 2d 1131.

No. 90-687. *POLK v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 54.

No. 90-689. *KRAUS v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 909 F. 2d 1486.

No. 90-5116. *MEITINGER v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 901 F. 2d 27.

No. 90-5140. *PRICE v. HARDY.* C. A. D. C. Cir. Certiorari denied.

No. 90-5161. *JOHNSON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 903 F. 2d 1219.

No. 90-5199. *COODY v. THOMAS, WARDEN.* C. A. 11th Cir. Certiorari denied.

No. 90-5295. *TWINE v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 902 F. 2d 1563.

No. 90-5321. *PERRIS v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-5363. *POLLACK v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 895 F. 2d 686.

November 26, 1990

498 U. S.

No. 90-5383. *WORTHEN v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 90-5408. *GRIMES v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 899 F. 2d 731.

No. 90-5415. *BLEDSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 898 F. 2d 430.

No. 90-5422. *SELFA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 918 F. 2d 749.

No. 90-5483. *MITCHELL v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 569 A. 2d 177.

No. 90-5489. *SMITH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 907 F. 2d 42.

No. 90-5510. *KETCHENS v. LOUISIANA*. Ct. App. La., 4th Cir. Certiorari denied. Reported below: 552 So. 2d 485.

No. 90-5523. *YATES v. MEMPHIS BAKERY EMPLOYERS ASSN. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 907 F. 2d 151.

No. 90-5544. *JOHL v. PETERS ET AL.* C. A. 2d Cir. Certiorari denied.

No. 90-5546. *KHORRAMI v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 895 F. 2d 1186.

No. 90-5612. *GARCIA v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 905 F. 2d 557.

No. 90-5631. *HUGHES v. LEONARDO, SUPERINTENDENT, GREEN MEADOWS CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 907 F. 2d 145.

No. 90-5633. *MEADOWS v. LEGURSKY, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 904 F. 2d 903.

No. 90-5644. *PANCHAL ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 896 F. 2d 1303.

No. 90-5649. *RUBIO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 908 F. 2d 965.

No. 90-5714. *ARIAS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 904 F. 2d 606.

498 U. S.

November 26, 1990

No. 90-5755. *HERTEL ET AL. v. FEDERAL LAND BANK OF ST. LOUIS*. C. A. 7th Cir. Certiorari denied. Reported below: 907 F. 2d 152.

No. 90-5822. *GREENE v. MEESE, FORMER ATTORNEY GENERAL, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 908 F. 2d 962.

No. 90-5825. *FAZZINI v. HENMAN ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-5826. *BILAL v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied.

No. 90-5830. *DAVIS v. HAYES, SUPERINTENDENT, FRANKLIN CORRECTIONAL CENTER, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1137.

No. 90-5831. *WEISGERBER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 914 F. 2d 267.

No. 90-5833. *COOK v. FLORIDA PAROLE COMMISSION*. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 566 So. 2d 794.

No. 90-5834. *VAN LEEUWEN ET AL. v. MCCORKINDALE, CIRCUIT JUDGE, ARKANSAS, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 90-5841. *CORNELIO X v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 907 F. 2d 155.

No. 90-5848. *PARKER v. FAIRMAN, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 902 F. 2d 37.

No. 90-5855. *SELLERS v. DELGADO COLLEGE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 1189.

No. 90-5861. *HERRON v. WOODRUFF ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 908 F. 2d 310.

No. 90-5866. *MARSHBURN v. RICHARDSON*. C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 723.

No. 90-5868. *HAYWOOD v. MICHIGAN*. Ct. App. Mich. Certiorari denied.

November 26, 1990

498 U. S.

No. 90-5869. *FERRIER v. DUCKWORTH*, SUPERINTENDENT, INDIANA STATE REFORMATORY. C. A. 7th Cir. Certiorari denied. Reported below: 902 F. 2d 545.

No. 90-5870. *RINGGOLD v. SHELL CHEMICAL CO., GEISMAR, LOUISIANA, A DIVISION OF SHELL OIL CO., INC.* C. A. 5th Cir. Certiorari denied. Reported below: 907 F. 2d 147.

No. 90-5871. *DE JONG v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 395 Pa. Super. 651, 570 A. 2d 587.

No. 90-5874. *BOYD v. PUCKETT*, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 905 F. 2d 895.

No. 90-5876. *DAVIS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 912 F. 2d 1469.

No. 90-5877. *THOMPSON v. COLLINS*, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. C. A. 5th Cir. Certiorari denied.

No. 90-5880. *GANEY v. JOHNSON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 908 F. 2d 966.

No. 90-5885. *SINDRAM v. MORAN ET AL.* Ct. App. D. C. Certiorari denied.

No. 90-5888. *SULIE v. DUCKWORTH*, WARDEN, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 975.

No. 90-5890. *AMEN-RA, AKA TASBY v. ADAMS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 911 F. 2d 728.

No. 90-5892. *ANDERSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 895 F. 2d 1414.

No. 90-5899. *HOWELL v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari denied.

No. 90-5901. *BULLOCK v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 908 F. 2d 968.

No. 90-5908. *MORENO v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari denied.

498 U. S.

November 26, 1990

No. 90-5910. *HARPER v. BUMPERS ET AL.* C. A. 8th Cir. Certiorari denied.

No. 90-5911. *KELLY v. ZIMMERMAN, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 90-5916. *JOHNSON v. MACK.* Ct. App. D. C. Certiorari denied.

No. 90-5920. *GILBERTSON v. WALKER ET AL.* Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 557 So. 2d 46.

No. 90-5934. *HENDERSON v. GOEKE, SUPERINTENDENT, RENZ CORRECTIONAL CENTER.* C. A. 8th Cir. Certiorari denied. Reported below: 903 F. 2d 534.

No. 90-5953. *WATERS v. MARYLAND.* Ct. App. Md. Certiorari denied. Reported below: 320 Md. 52, 575 A. 2d 1244.

No. 90-5954. *ROBERTSON v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 896 F. 2d 555.

No. 90-5955. *WHITE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 912 F. 2d 754.

No. 90-5956. *WILLIARD v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 245.

No. 90-5957. *OWENS v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 975.

No. 90-5960. *CROFT v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 908 F. 2d 384.

No. 90-5963. *DELAHOUSAYE v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION.* C. A. 5th Cir. Certiorari denied.

No. 90-5975. *THOMPSON v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 906 F. 2d 1292.

No. 90-5976. *PRYER v. ZIMMERMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT WAYMART.* C. A. 3d Cir. Certiorari denied.

No. 90-5984. *JOHNSON v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 908 F. 2d 1289.

November 26, 1990

498 U. S.

No. 90-5986. *AVERY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 911 F. 2d 734.

No. 90-5989. *APONTE-SUAREZ v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 905 F. 2d 483.

No. 90-5990. *ALLERY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 905 F. 2d 204.

No. 90-5995. *BRUNING v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 914 F. 2d 212.

No. 90-5996. *RAMIREZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 910 F. 2d 1069.

No. 90-5997. *SALAZAR v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 914 F. 2d 239.

No. 90-5998. *HORSLEY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 1478.

No. 90-6003. *ALVAREZ v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 692.

No. 90-6005. *WALTON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 908 F. 2d 1289.

No. 90-6009. *SNOW v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 726.

No. 90-6010. *BUCKLEY v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION.* C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 263.

No. 90-6016. *WEDDLE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 899 F. 2d 570.

No. 90-6017. *SHIELDS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 909 F. 2d 1480.

No. 90-6021. *SMITH v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 897 F. 2d 639.

No. 90-6023. *GADSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

498 U. S.

November 26, 1990

No. 90-6036. *HARPER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 909 F. 2d 1480.

No. 90-6039. *KNIGHT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 917 F. 2d 1.

No. 90-6042. *KING v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 908 F. 2d 965.

No. 90-6045. *BENNETT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 189.

No. 90-6052. *SHELLMAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 916 F. 2d 721.

No. 90-6062. *BIRGE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 914 F. 2d 1500.

No. 90-6063. *POLK v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 212.

No. 90-6066. *MALIN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 163.

No. 90-6074. *GABAY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 1580.

No. 90-6081. *MARTINEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 888 F. 2d 126.

No. 90-6084. *VILLEGAS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 899 F. 2d 1324.

No. 90-6088. *ALBERS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 908 F. 2d 969.

No. 90-6095. *ANDERSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 914 F. 2d 258.

No. 90-6106. *DAMER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 910 F. 2d 1239.

No. 90-6108. *FORD v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-345. *DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. v. TOWNE*. C. A. 11th Cir. Motion of re-

November 26, 1990

498 U. S.

spondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 899 F. 2d 1104.

No. 90-360. NUCLEAR MANAGEMENT & RESOURCES COUNCIL, INC. *v.* PUBLIC CITIZEN ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE WHITE would grant certiorari limited to Question 2 presented by the petition. Reported below: 284 U. S. App. D. C. 41, 901 F. 2d 147.

No. 90-387. LION UNIFORM, INC., JANESVILLE APPAREL DIVISION *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 6th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 905 F. 2d 120.

No. 90-551. McEVoy TRAVEL BUREAU, INC. *v.* HERITAGE TRAVEL, INC., ET AL. C. A. 1st Cir. Certiorari denied. JUSTICE SOUTER took no part in the consideration or decision of this petition. Reported below: 904 F. 2d 786.

No. 90-555. WOOD *v.* ALAMEDA COUNTY SUPERIOR COURT ET AL. Ct. App. Cal., 1st App. Dist. Motion of petitioner to consolidate this case with No. 90-661, *Wood v. Alameda County Superior Court*, denied. Certiorari denied.

No. 90-572. WILSON SPORTING GOODS CO. *v.* DAVID GEOFFREY & ASSOCIATES, DBA SLAZENGER, ET AL. C. A. Fed. Cir. Motion of respondents to seal Rule 29.1 listing granted. Certiorari denied. Reported below: 904 F. 2d 677.

No. 90-5100. FORD *v.* LOUISIANA. Sup. Ct. La.;

No. 90-5541. PETERSON *v.* MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir.;

No. 90-5716. BROWN *v.* FLORIDA. Sup. Ct. Fla.;

No. 90-5839. BEETS *v.* TEXAS. Ct. Crim. App. Tex.; and

No. 90-5949. RANDOLPH *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: No. 90-5100, 563 So. 2d 873; No. 90-5541, 904 F. 2d 882; No. 90-5716, 565 So. 2d 304; No. 90-5949, 562 So. 2d 331.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth

498 U. S.

November 26, 1990

and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976), I would grant certiorari and vacate the death sentences in these cases.

No. 90-5628. *KINNEY v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*; and *PLOURDE v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 1st Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 907 F. 2d 143.

No. 90-6070. *GROSSMAN v. UNITED STATES*. C. A. 2d Cir. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 904 F. 2d 35.

Rehearing Denied

No. 89-7873. *MCQUILLION v. KOENIG, CHAIRMAN, CALIFORNIA BOARD OF PRISON TERMS*, *ante*, p. 919. Petition for rehearing denied.

No. 89-1588. *WRENN v. OHIO ET AL.*, *ante*, p. 810;

No. 89-1708. *KOUNO v. OREGON STATE BOARD OF HIGHER EDUCATION ET AL.*, *ante*, p. 811;

No. 89-1790. *MCCAIN, A MINOR, BY HER NEXT FRIEND, MCCAIN, ET AL. v. HOUSTON INDEPENDENT SCHOOL DISTRICT ET AL.*, *ante*, p. 813;

No. 89-1847. *JONES v. TURNER BROADCASTING SYSTEM, INC.*, *ante*, p. 815;

No. 89-1945. *BROWN (LAMAR) v. FOX VALLEY & VICINITY CONSTRUCTION WORKERS PENSION FUND ET AL.*, *ante*, p. 820;

No. 89-1950. *PHILLIPS v. UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE*, *ante*, p. 820;

No. 89-1966. *BANKS v. GARRETT, SECRETARY OF THE NAVY*, *ante*, p. 821;

No. 89-2022. *VOGEL v. ELLIS (three cases)*, *ante*, p. 824;

No. 89-2028. *SANDS v. KENTUCKY*, *ante*, p. 824;

No. 89-7188. *DEBOUE v. LOUISIANA*, *ante*, p. 881;

No. 89-7349. *WILLIS v. FIRST BANK NATIONAL ASSN.*, *ante*, p. 827;

No. 89-7355. *EYLER v. ILLINOIS*, *ante*, p. 881;

No. 89-7430. *ABU-JAMAL v. PENNSYLVANIA*, *ante*, p. 881;

No. 89-7493. *GOAD v. MORRIS, WARDEN*, *ante*, p. 829;

November 26, 1990

498 U. S.

- No. 89-7526. *EVANS v. UNITED STATES POSTAL SERVICE ET AL.*, *ante*, p. 830;
- No. 89-7570. *DAVIS v. KEMP, WARDEN*, *ante*, p. 881;
- No. 89-7574. *PRYOR v. ALLEN*, *ante*, p. 831;
- No. 89-7578. *HARRIS v. BURDORFF*, *ante*, p. 831;
- No. 89-7603. *LEPPALUOTO ET UX. v. UNITED STATES*, *ante*, p. 832;
- No. 89-7614. *WYATT v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*, *ante*, p. 833;
- No. 89-7615. *WILLIS v. FIRST BANK NATIONAL ASSN.*, *ante*, p. 833;
- No. 89-7616. *PITTS v. GEORGIA*, *ante*, p. 881;
- No. 89-7638. *HALL v. GEORGIA*, *ante*, p. 881;
- No. 89-7695. *FROST v. CALIFORNIA*, *ante*, p. 835;
- No. 89-7744. *ANDERSON v. BORG, WARDEN, ET AL.*, *ante*, p. 838;
- No. 89-7793. *McMILLIN v. MISSOURI*, *ante*, p. 881;
- No. 89-7843. *STAMEY v. GEORGIA*, *ante*, p. 843;
- No. 90-2. *SAFIR v. PRUDENTIAL INSURANCE COMPANY OF AMERICA ET AL.*, *ante*, p. 845;
- No. 90-8. *WRENN v. BOARD OF DIRECTORS, WHITNEY M. YOUNG, JR., HEALTH CENTER, INC., ET AL.*, *ante*, p. 845;
- No. 90-58. *SMITH v. UNITED STATES*, *ante*, p. 848;
- No. 90-86. *POLYAK v. HAMILTON, JUDGE, CHANCERY COURT OF LAWRENCE COUNTY, TENNESSEE*, *ante*, p. 849;
- No. 90-116. *HELM, DBA BILLS GREEN LIGHT AUTO PARTS v. MID-AMERICA INDUSTRIES, INC.*, *ante*, p. 850;
- No. 90-156. *MACHEN v. UNITED STATES*, *ante*, p. 852;
- No. 90-177. *DOUTHWAITE v. VIRGINIA*, *ante*, p. 853;
- No. 90-188. *INTERNATIONAL CONSULTING SERVICES, INC. v. GILBERT*, *ante*, p. 854;
- No. 90-265. *STACK v. UNITED STATES*, *ante*, p. 856;
- No. 90-313. *POLYAK v. HULEN ET AL.*; and *POLYAK v. BOSTON ET AL.*, *ante*, p. 899;
- No. 90-362. *SMITH v. UNITED STATES AIR FORCE*, *ante*, p. 900;
- No. 90-5002. *MOORE v. TRUMP CASINO-HOTEL*, *ante*, p. 856;
- No. 90-5037. *BYRUM ET AL. v. GRIMES ET AL.*, *ante*, p. 858;
- No. 90-5052. *MADDEN v. THORBURN ET AL.*, *ante*, p. 859;
- No. 90-5066. *FIELDS v. ILLINOIS*, *ante*, p. 881;
- No. 90-5068. *WINSTON v. KOSSOFF*, *ante*, p. 860;

498 U. S.

November 26, 1990

No. 90-5070. *SHERRILLS v. McMACKIN, WARDEN, ante*, p. 860;

No. 90-5076. *STREET v. FOLTZ, WARDEN, ante*, p. 860;

No. 90-5095. *MAY v. FEDERAL COMMUNICATIONS COMMISSION, ante*, p. 861;

No. 90-5098. *LIDMAN v. NEWARK REDEVELOPMENT AND HOUSING AUTHORITY ET AL., ante*, p. 861;

No. 90-5109. *FRANKLIN v. ILLINOIS, ante*, p. 881;

No. 90-5125. *BRAWLEY v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, ante*, p. 862;

No. 90-5131. *ALLUSTIARTE ET AL. v. COOPER, ante*, p. 863;

No. 90-5148. *GREEN v. SOUTH CAROLINA, ante*, p. 881;

No. 90-5151. *SCHMITZ v. GIBBS, ante*, p. 864;

No. 90-5155. *BEVERLY ET UX. v. UNITED STATES, ante*, p. 864;

No. 90-5159. *WAFER v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, ante*, p. 864;

No. 90-5200. *PETRARCA v. PICERNE ET AL., ante*, p. 866;

No. 90-5214. *QADHAFI v. VIRGINIA, ante*, p. 866;

No. 90-5217. *HIGHTOWER v. GEORGIA, ante*, p. 882;

No. 90-5236. *WEEKS v. ALABAMA, ante*, p. 882;

No. 90-5240. *TURNER v. FALK, DIRECTOR, HAWAII DEPARTMENT OF CORRECTIONS, ET AL., ante*, p. 867;

No. 90-5244. *LE WARD v. HUNT ET AL., ante*, p. 868;

No. 90-5245. *LEE v. ARMONTROUT, WARDEN, ET AL., ante*, p. 868;

No. 90-5264. *COTTON v. NEW MEXICO, ante*, p. 869;

No. 90-5267. *TADROS v. COLEMAN ET AL., ante*, p. 869;

No. 90-5307. *MCGANN v. BIDERMAN ET AL., ante*, p. 871;

No. 90-5328. *HAWKINS v. ILLINOIS, ante*, p. 881;

No. 90-5341. *LEPPALUOTO ET UX. v. NAZARIAN, DBA THE LAW CLINIC, ante*, p. 872;

No. 90-5348. *GETROST v. UNITED STATES, ante*, p. 873;

No. 90-5362. *RODRIGUEZ-DOSHI v. GENERAL SERVICES ADMINISTRATION ET AL., ante*, p. 901;

No. 90-5388. *BEAS v. CALIFORNIA, ante*, p. 874;

No. 90-5441. *MADDEN v. NBD MORTGAGE CO. ET AL., ante*, p. 902; and

No. 90-5449. *MOHIUDDIN v. ALABAMA DEPARTMENT OF INDUSTRIAL RELATIONS ET AL., ante*, p. 902. Petitions for rehear-

November 26, December 1, 3, 1990

498 U. S.

ing denied. JUSTICE SOUTER took no part in the consideration or decision of these petitions.

DECEMBER 1, 1990

Rehearing Denied

No. 90-5839 (A-419). *BEETS v. TEXAS*, ante, p. 992. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Petition for rehearing denied. JUSTICE MARSHALL would grant the application for stay of execution.

DECEMBER 3, 1990

Dismissal Under Rule 46

No. 90-643. *DAVIS v. ST. JOE PAPERMAKERS FEDERAL CREDIT UNION ET AL.* C. A. 11th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 905 F. 2d 1542.

Certiorari Granted—Vacated and Remanded

No. 89-1125. *THORN APPLE VALLEY, INC. v. AUTO CLUB INSURANCE ASSN.* Ct. App. Mich. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *FMC Corp. v. Holliday*, ante, p. 52. Reported below: 175 Mich. App. 412, 438 N. W. 2d 320.

No. 90-308. *PRITCHARD v. NATIONAL TRANSPORTATION SAFETY BOARD.* C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of the position asserted by the Solicitor General in his brief for the National Transportation Safety Board filed November 8, 1990.

No. 90-5550. *CUFFLE v. AVENENTI ET AL.* C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of the position asserted by the Attorney General of Arizona in his Brief for Respondents filed November 7, 1990. Reported below: 904 F. 2d 40.

Miscellaneous Orders

No. — — —. *BURSON v. MOYE, JUDGE.* Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. D-929. *IN RE DISBARMENT OF BRIMBERRY.* Disbarment entered. [For earlier order herein, see 497 U. S. 1056.]

498 U. S.

December 3, 1990

No. 89-1493. AIR LINE PILOTS ASSN., INTERNATIONAL *v.* O'NEILL ET AL. C. A. 5th Cir. [Certiorari granted, *ante*, p. 806.] Motion of Continental Airlines, Inc., for leave to file a brief as *amicus curiae* granted.

No. 89-1632. CALIFORNIA *v.* HODARI D. Ct. App. Cal., 4th App. Dist. [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.

No. 89-1714. PAULEY, SURVIVOR OF PAULEY *v.* BETHENERGY MINES, INC., ET AL. C. A. 3d Cir. [Certiorari granted, *ante*, p. 937.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 89-1944. OHIO *v.* HUERTAS. Sup. Ct. Ohio. [Certiorari granted, *ante*, p. 807.] Motions of Washington Legal Foundation et al. and Appellate Committee of the California District Attorneys Association for leave to file briefs as *amici curiae* granted.

No. 90-68. YLST, WARDEN *v.* NUNNEMAKER. C. A. 9th Cir. [Certiorari granted, *ante*, p. 957.] 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 respondent in this case.

No. 90-5246. IN RE BENTLEY; and

No. 90-5951. IN RE WILLIAMS. Petitions for writs of mandamus denied.

Certiorari Granted

No. 90-622. FLORIDA *v.* JIMENO ET AL. Sup. Ct. Fla. Certiorari granted. Reported below: 564 So. 2d 1083.

No. 90-516. KAMEN *v.* KEMPER FINANCIAL SERVICES, INC., ET AL. C. A. 7th Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 908 F. 2d 1338.

Certiorari Denied

No. 89-7828. DELGADILLO *v.* TEXAS. Ct. App. Tex., 10th Dist. Certiorari denied.

No. 90-171. NALBANDIAN *v.* SUPERIOR COURT OF ARIZONA. Ct. App. Ariz. Certiorari denied. Reported below: 163 Ariz. 126, 786 P. 2d 977.

December 3, 1990

498 U. S.

No. 90-334. *STEPHENS v. SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES*; and

No. 90-340. *STEPHENS v. COLEMAN ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 901 F. 2d 1571.

No. 90-409. *BOSTON RANCH CO. ET AL. v. DEPARTMENT OF THE INTERIOR.* C. A. 9th Cir. Certiorari denied. Reported below: 899 F. 2d 814.

No. 90-411. *TRINITY INDUSTRIES, INC., ET AL. v. DEARMENT, ACTING SECRETARY OF LABOR.* C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 867.

No. 90-433. *BUTLER v. THORNBURGH, ATTORNEY GENERAL OF THE UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 900 F. 2d 871.

No. 90-456. *REILLY, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, ET AL. v. DELANEY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 898 F. 2d 687.

No. 90-461. *DISTRICT OF COLUMBIA ET AL. v. MOORE ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 285 U. S. App. D. C. 95, 907 F. 2d 165.

No. 90-557. *CARDWELL v. ROCKFORD MEMORIAL HOSPITAL ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 136 Ill. 2d 271, 555 N. E. 2d 6.

No. 90-583. *BAXTER CHRYSLER PLYMOUTH, INC., ET AL. v. IOWA.* Sup. Ct. Iowa. Certiorari denied. Reported below: 456 N. W. 2d 371.

No. 90-589. *TORO CO. v. JONES ET UX.* C. A. 11th Cir. Certiorari denied. Reported below: 905 F. 2d 1542.

No. 90-595. *WALKER v. SAWYER.* Sup. Jud. Ct. Me. Certiorari denied. Reported below: 572 A. 2d 498.

No. 90-598. *MATTHEWS ET AL. v. DIBONA ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 220 Cal. App. 3d 1329, 269 Cal. Rptr. 882.

No. 90-603. *GTE CORP. v. WILLIAMS, DBA GENERAL TELEPHONE.* C. A. 10th Cir. Certiorari denied. Reported below: 904 F. 2d 536.

498 U. S.

December 3, 1990

No. 90-606. *LEE v. NGUYEN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 898 F. 2d 156.

No. 90-607. *ADAMS v. MISSOURI.* Ct. App. Mo., Western Dist. Certiorari denied. Reported below: 791 S. W. 2d 873.

No. 90-613. *BLACK CRYSTAL CO., INC. v. FIRST NATIONAL BANK OF LOUISVILLE.* C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 35.

No. 90-614. *PROBASCO v. COLORADO.* Sup. Ct. Colo. Certiorari denied. Reported below: 795 P. 2d 1330.

No. 90-619. *MID-COUNTY FUTURE ALTERNATIVES COMMITTEE ET AL. v. CITY OF PORTLAND ET AL.* Sup. Ct. Ore. Certiorari denied. Reported below: 310 Ore. 152, 795 P. 2d 541.

No. 90-630. *KEATING, EXECUTIVE OFFICER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, ET AL. v. NEVADA EMPLOYEES' ASSN., INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 903 F. 2d 1223.

No. 90-650. *POUR v. MISSISSIPPI MEDICAL LICENSURE BOARD.* C. A. 5th Cir. Certiorari denied. Reported below: 909 F. 2d 1481.

No. 90-657. *KEMPER FINANCIAL SERVICES, INC. v. KAMEN.* C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 1338.

No. 90-667. *BRINGLE ET UX. v. SUGARMAN, SECRETARY, WASHINGTON STATE DEPARTMENT OF SOCIAL AND HEALTH SERVICES.* C. A. 9th Cir. Certiorari denied. Reported below: 909 F. 2d 1488.

No. 90-671. *CHRISTENSEN v. WARD ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 916 F. 2d 1462.

No. 90-686. *CHRISTIAN GOSPEL CHURCH, INC. v. CITY AND COUNTY OF SAN FRANCISCO.* C. A. 9th Cir. Certiorari denied. Reported below: 896 F. 2d 1221.

No. 90-697. *MERTZ v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 11th Cir. Certiorari denied. Reported below: 905 F. 2d 1543.

No. 90-713. *DRABKIN, TRUSTEE OF AUTO-TRAIN CORP., AKA RAILWAY SERVICES CORP. v. ALEXANDER GRANT & CO. ET AL.*

December 3, 1990

498 U. S.

C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 348, 905 F. 2d 453.

No. 90-725. *SUMLIN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 1218.

No. 90-5213. *WEAVER v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY*. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1569.

No. 90-5290. *ARTHUR v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1140.

No. 90-5334. *JOHNSON v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. Reported below: 903 F. 2d 828.

No. 90-5343. *MEDINA-QUIROGA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 897 F. 2d 526.

No. 90-5549. *VOTTELER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 128.

No. 90-5664. *EDWARDS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 897 F. 2d 445.

No. 90-5676. *ASHLEY ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 258, 904 F. 2d 78.

No. 90-5691. *BROWN v. MCCOTTER, SECRETARY, DEPARTMENT OF CORRECTIONS OF NEW MEXICO, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-5815. *MARRERO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 251.

No. 90-5857. *NAVARRO v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 285 U. S. App. D. C. 221, 907 F. 2d 1227.

No. 90-5862. *HARRIS v. HUFFMAN, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 902 F. 2d 1565.

No. 90-5896. *TERRELL v. MORRIS, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 911 F. 2d 734.

498 U. S.

December 3, 1990

No. 90-5897. *GITTIN v. ROWLAND*, DIRECTOR, CALIFORNIA DEPARTMENT OF CORRECTIONS. C. A. 9th Cir. Certiorari denied.

No. 90-5898. *YOUNG v. PATTERSON ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 916 F. 2d 708.

No. 90-5906. *SCHLICHER v. MUNOZ ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-5909. *OLLIVIERRE ET AL. v. LUJAN*, SECRETARY OF THE INTERIOR, ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 907 F. 2d 143.

No. 90-5922. *DEMOS v. UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON*; *DEMOS v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WASHINGTON*; and *DEMOS v. UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON*. C. A. 9th Cir. Certiorari denied.

No. 90-5928. *DE LONG v. AMERICAN PROTECTIVE SERVICES*; and *DE LONG v. HENNESSEY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 38 (first case); 912 F. 2d 1144 (second case).

No. 90-5929. *DE LONG v. MANSFIELD ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-5930. *MILLER v. CITY OF KANSAS CITY, MISSOURI*. Ct. App. Mo., Western Dist. Certiorari denied. Reported below: 789 S. W. 2d 116.

No. 90-5938. *GLEASON v. STEWART*, JUDGE, HARRIS COUNTY, TEXAS DISTRICT COURT, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1567.

No. 90-5939. *BUMPUS v. IOWA*. Sup. Ct. Iowa. Certiorari denied. Reported below: 459 N. W. 2d 619.

No. 90-5940. *EDMONSON v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 75 N. Y. 2d 672, 554 N. E. 2d 1254.

No. 90-5942. *HARDIN v. CANTEEN, INC.* Super. Ct. N. J., App. Div. Certiorari denied.

December 3, 1990

498 U. S.

No. 90-5943. *DEMOS v. SUPREME COURT OF WASHINGTON*. Sup. Ct. Wash. Certiorari denied.

No. 90-5966. *LIGHTFOOT v. NAGLE, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 909 F. 2d 1491.

No. 90-5970. *WODKE v. SOUTH CAROLINA*. Ct. Common Pleas, Greenville County, S. C. Certiorari denied.

No. 90-5971. *COOPER v. JONES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 510.

No. 90-5972. *YOUNG v. ROBINS ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-5973. *PAGE v. ALBERTSON*. C. A. 6th Cir. Certiorari denied. Reported below: 914 F. 2d 257.

No. 90-5977. *RUBINS v. COLORADO*. Ct. App. Colo. Certiorari denied.

No. 90-5988. *DEAN v. KAISER ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-6014. *PERRY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 908 F. 2d 56.

No. 90-6020. *CASSIDY v. ROSE, KLEIN & MARIAS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 38.

No. 90-6031. *SOWELL v. MALONEY, DEPUTY COMMISSIONER, MASSACHUSETTS DEPARTMENT OF CORRECTION*. C. A. 1st Cir. Certiorari denied.

No. 90-6053. *YUILL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 914 F. 2d 259.

No. 90-6054. *KINDER v. SANDBERG ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 908 F. 2d 973.

No. 90-6067. *MCDONALD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 905 F. 2d 871.

No. 90-6075. *QUARLES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 911 F. 2d 727.

No. 90-6091. *THOMPSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 909 F. 2d 1481.

498 U. S.

December 3, 1990

No. 90-6093. RUCKER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 912 F. 2d 466.

No. 90-6098. LUNSFORD ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 912 F. 2d 1468.

No. 90-6100. HOSTETLER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 90-6103. HALL *v.* PARSONS, WARDEN. C. A. 10th Cir. Certiorari denied.

No. 90-6121. HUTSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 245.

No. 90-6122. MADUKA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 1492.

No. 90-6132. DONNELLY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1140.

No. 90-6142. ROBINSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 692.

No. 90-357. PETERSON ET AL. *v.* DEPARTMENT OF THE INTERIOR ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE MARSHALL would grant certiorari. Reported below: 899 F. 2d 799.

No. 90-621. CASTILLE, DISTRICT ATTORNEY OF PHILADELPHIA COUNTY, ET AL. *v.* HARRISON. C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 909 F. 2d 84.

No. 90-627. ACIERNO *v.* CUNNINGHAM, WARDEN. C. A. 1st Cir. Certiorari denied. JUSTICE SOUTER took no part in the consideration or decision of this petition.

No. 90-714. MURPHY ET AL. *v.* RAGSDALE ET AL. C. A. 7th Cir. Certiorari before judgment denied.

No. 90-5530. HARVEY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 897 F. 2d 1300.

December 3, 1990

498 U. S.

No. 90-5774. ROBERTSON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

JUSTICE BLACKMUN, with whom JUSTICE MARSHALL joins, dissenting.

I would grant the petition for certiorari to determine whether petitioner's capital sentence was imposed in violation of the Eighth and Fourteenth Amendments.

In 1978, a California jury convicted petitioner Andrew Edward Robertson on two counts of first-degree murder and sentenced him to death. On appeal, the Supreme Court of California reversed that judgment as to the penalty. *People v. Robertson*, 33 Cal. 3d 21, 655 P. 2d 279 (1982). The second sentencing proceeding was assigned to Judge Roy E. Chapman. Robertson waived his right to be sentenced by a jury, and Judge Chapman sat as trier of fact during the second penalty phase.

Robertson introduced extensive evidence in mitigation. Among this was the testimony of his mother and sister concerning Robertson's difficult childhood, during which he allegedly suffered abuse at the hands of his father and stepfather. Through these witnesses, Robertson presented evidence that he had had developmental difficulties as a young child and was slow to walk and talk; that his parents were divorced when he was young; that his father subsequently had kidnaped him; that, upon being returned from the kidnaping, he had been cared for by a disturbed mother and a strict grandmother; and that at age nine he had been diagnosed as suffering from mild mental retardation with possible brain damage. See *People v. Robertson*, 48 Cal. 3d 18, 32, 767 P. 2d 1109, 1114, cert. denied, 493 U. S. 879 (1989). Robertson, however, was again sentenced to death, and the California Supreme Court, by a divided vote, affirmed. 48 Cal. 3d, at 64, 767 P. 2d, at 1136.

In December 1989, Robertson's counsel for the first time learned that Judge Chapman, prior to his going on the bench, had represented Robertson's mother, Lillian Goodin, in her divorce from Robertson's stepfather. App. D to Brief in Opposition 1. The divorce proceeding was initiated by Robertson's stepfather in 1963 and involved extensive allegations by both parties of domestic violence and child abuse. In March 1963, Judge Chapman, then Lillian Goodin's attorney, sought a temporary restraining order against Robertson's stepfather, prohibiting him from "threatening, molesting, injuring, harassing, or annoying [Goodin] and [Goodin's] children." App. C. to Brief in Opposition 4. In

support of the request for a temporary restraining order, Robertson's mother executed a declaration attesting that Robertson's stepfather "has struck and beat [Goodin], the minor child of [Goodin and the stepfather], and [Goodin's] children by a prior marriage." *Id.*, at 3. Judge Chapman withdrew from his representation of Robertson's mother on November 16, 1967. When interviewed by Robertson's counsel in 1989, Judge Chapman acknowledged that "the court documents demonstrated that he had represented" Goodin, but stated that he had no present recollection of the divorce proceeding, and that he believed that he had no independent recollection of them at the time of Robertson's sentencing. App. D to Brief in Opposition 2.

Immediately upon learning of the past representation, Robertson filed a petition for a writ of habeas corpus in state court. After the California Supreme Court denied Robertson's petition, he filed in this Court a petition for a writ of certiorari. I would grant that petition.

"A fair trial in a fair tribunal is a basic requirement of due process." *In re Murchison*, 349 U. S. 133, 136 (1955); see also *Ward v. Village of Monroeville*, 409 U. S. 57 (1972). The entitlement to an impartial tribunal applies to the sentencing phase of a criminal proceeding as well as to the guilt phase. See *Witherspoon v. Illinois*, 391 U. S. 510, 518 (1968). Due process demands more than that the sentencer actually *be* impartial; rather, "justice must satisfy the appearance of justice." *In re Murchison*, 349 U. S., at 136, quoting *Offutt v. United States*, 348 U. S. 11, 14 (1954); see also *In re Murchison*, 349 U. S., at 136 ("[O]ur system of law has always endeavored to prevent even the probability of unfairness"); *Mayberry v. Pennsylvania*, 400 U. S. 455, 469 (1971) (Harlan, J., concurring) ("[T]he appearance of evenhanded justice . . . is at the core of due process"). The risk that Judge Chapman may have brought to bear on his decision specific information about Robertson not presented as evidence in the sentencing proceeding is too great in this case to satisfy the demands of the Due Process Clause. See *In re Murchison*, 349 U. S., at 136 ("Such a stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties").

Moreover, the Fourteenth Amendment prohibits consideration during the sentencing phase of evidence that the defendant has not had an opportunity to rebut. Consequently, in *Gardner v. Florida*, 430 U. S. 349, 358 (1977) (plurality opinion), the Court

rejected as unconstitutional a "capital-sentencing procedure which permits a trial judge to impose the death sentence on the basis of confidential information which is not disclosed to the defendant or his counsel." See also *Booth v. Maryland*, 482 U. S. 496, 506-507 (1987).

In light of the stark finality of the death sentence, the importance of procedural safeguards in capital sentencing proceedings cannot be overstated. "Because sentences of death are 'qualitatively different' from prison sentences, this Court has gone to extraordinary measures to ensure that the prisoner sentenced to be executed is afforded process that will guarantee, as much as is humanly possible, that the sentence was not imposed out of whim, passion, prejudice, or mistake." *Eddings v. Oklahoma*, 455 U. S. 104, 117-118 (1982) (citation omitted) (O'CONNOR, J., concurring), see also *Saffle v. Parks*, 494 U. S. 484, 492-493 (1990); *California v. Ramos*, 463 U. S. 992 (1983).

The State argues that no constitutional violation occurred in this case because Judge Chapman did not recall, at the time of the sentencing phase, that he had represented Robertson's mother 11 years before. I find it to be somewhat incredible that a competent and responsible attorney could forget, after only 11 years, a client whom he had represented over a 4-year period during acrimonious divorce litigation. Judge Chapman's failure to remember his representation of Robertson's mother is particularly implausible because she testified during the sentencing proceedings concerning the very acts of abuse that formed the basis of the motion for a temporary restraining order that Judge Chapman filed when he was her counsel.

Moreover, the fairness of these capital sentencing proceedings may reasonably be questioned regardless of whether Judge Chapman had independent recollection of his prior representation of Robertson's mother. California requires that a judge disqualify himself if "a person aware of the facts might reasonably entertain a doubt that the judge would be able to be impartial." Cal. Civ. Proc. Code Ann. § 170.1(a)(6)(C) (West Supp. 1990). See 28 U. S. C. § 455(a), which similarly proscribes the participation by a judge of the United States "in any proceeding in which his impartiality might reasonably be questioned." Knowledge of the disqualifying circumstance is not an element of either statute. See, e. g., *Liljeberg v. Health Services Acquisition Corp.*, 486 U. S. 847, 860-861 (1988), quoting 796 F. 2d 796, 802 (CA5 1986) ("Under section 455(a) . . . recusal is required even when a judge

498 U. S.

December 3, 1990

lacks actual knowledge of the facts indicating his interest or bias in the case if a reasonable person, knowing all the circumstances, would expect that the judge would have actual knowledge").

Finally, the Eighth Amendment safeguards the capital defendant against the mere risk that the death sentence will be imposed arbitrarily and capriciously. "A constant theme of our cases . . . has been emphasis on procedural protections that are intended to ensure that the death penalty will be imposed in a consistent, rational manner." *Barclay v. Florida*, 463 U. S. 939, 960 (1983) (STEVENS, J., concurring in judgment); see also *Godfrey v. Georgia*, 446 U. S. 420, 427 (1980) (plurality opinion) ("[T]he penalty of death may not be imposed under sentencing procedures that create a substantial risk that the punishment will be inflicted in an arbitrary and capricious manner").

Accordingly, I dissent from the denial of the petition for certiorari.

No. 90-5887. *TEEL v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. Reported below: 793 S. W. 2d 236.

JUSTICE WHITE, with whom JUSTICE MARSHALL joins, dissenting.

This case presents the question whether harmless-error analysis applies when a jury is not instructed on an essential element of the offense. Petitioner was convicted of first-degree murder for the rape and killing of Tara Stowe. During the guilt phase, the trial court charged the jury as to both premeditated murder and felony murder yet failed to give a definition of rape under state law. The jury returned a general verdict of guilty. On appeal, the Tennessee Supreme Court held that it was error to omit a definition of the felony alleged to support first-degree murder. 793 S. W. 2d 236, 249 (1990). The court further held that the omitted charge was so "fundamental in nature" that petitioner's failure to request a definition of rape at trial did not preclude a finding of error. *Id.*, at 249. After noting that "[t]he law is unsettled as to whether harmless error analysis is available when a trial court fails to instruct on an essential element of an offense," the court concluded that the omission of a rape instruction here was harmless beyond a reasonable doubt. *Id.*, at 249-250. The court reasoned that the evidence was sufficient to sustain a conviction on the properly instructed charge of premeditated murder and that the same jury received a complete instruction as to the elements

December 3, 1990

498 U. S.

of rape as an aggravating circumstance during the sentencing phase. *Id.*, at 250. Having rejected this and numerous other contentions, the court affirmed the conviction and death sentence.

As the Tennessee Supreme Court noted, a conflict of authority exists concerning the availability of harmless-error analysis in this situation. Several Courts of Appeals have held that error resulting from a failure to give proper instructions on the essential elements of an offense cannot be harmless. *Hoover v. Garfield Heights Municipal Court*, 802 F. 2d 168, 175-179 (CA6 1986); *United States v. Howard*, 506 F. 2d 1131, 1133-1134 (CA2 1974); *United States v. Gaither*, 440 F. 2d 262, 264 (CA5 1971). Others have held that harmless-error analysis can apply. *Redding v. Benson*, 739 F. 2d 1360 (CA8 1984), cert. denied, 469 U. S. 1222 (1985); *Bell v. Watkins*, 692 F. 2d 999, 1004 (CA5 1982). The depth of this conflict underscores the importance of the question. Both considerations counsel for a grant of certiorari.

No. 90-5948. *DELONG v. THOMPSON, WARDEN*. Sup. Ct. Va.; and

No. 90-5969. *HAMM v. ALABAMA*. Sup. Ct. Ala. Certiorari denied. Reported below: No. 90-5969, 564 So. 2d 469.

JUSTICE MARSHALL, dissenting.

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

Rehearing Denied

No. 90-5553. *SCHLICHER v. YOUNG ET AL.*, ante, p. 923. Petition for rehearing denied.

No. 89-7336. *CARDINE v. PARKE, WARDEN*, ante, p. 827;

No. 89-7777. *KELLOGG, AS NEXT FRIEND TO LONCHAR v. ZANT, WARDEN*, ante, p. 890;

No. 90-220. *DE SOUZA v. SCHULTZ*, ante, p. 896;

No. 90-5304. *CHANDLER v. WHITE ET AL.*, ante, p. 871;

No. 90-5437. *BALMER ET UX. v. STATE FARM FIRE & CASUALTY Co.*, ante, p. 902; and

No. 90-5469. *MOORE v. STEWART TITLE OF CALIFORNIA ET AL.*, ante, p. 903. Petitions for rehearing denied. JUSTICE SOUTER took no part in the consideration or decision of these petitions.

498 U. S.

December 3, 10, 1990

No. 90-184. IN RE ROYCE, *ante*, p. 806. Motion of petitioner for leave to proceed further herein *in forma pauperis* granted. Petition for rehearing denied. JUSTICE SOUTER took no part in the consideration or decision of this motion and this petition.

No. 90-335. SPARKS *v.* CHARACTER AND FITNESS COMMITTEE OF KENTUCKY, *ante*, p. 920. Motion of petitioner for leave to proceed further herein *in forma pauperis* granted. Petition for rehearing denied.

DECEMBER 10, 1990

Certiorari Granted—Vacated and Remanded

No. 89-1261. JORDAN *v.* UNITED STATES. Ct. Mil. App. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Minnick v. Mississippi*, *ante*, p. 146. Reported below: 29 M. J. 177.

No. 90-663. DEVER *v.* OHIO. Ct. App. Ohio, Hamilton County. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Idaho v. Wright*, 497 U. S. 805 (1990).

Miscellaneous Orders

No. — — —. MAISANO ET AL. *v.* UNITED STATES. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. A-368. SMITH *v.* UNITED STATES. Application for release pending appeal, addressed to JUSTICE MARSHALL and referred to the Court, denied.

No. A-422 (90-849). COUNTY OF LOS ANGELES ET AL. *v.* GARZA ET AL. C. A. 9th Cir. Application to reinstate the stay of a special election ordered by the United States District Court for the Central District of California, presented to JUSTICE O'CONNOR, and by her referred to the Court, denied.

No. D-909. IN RE DISBARMENT OF MARTIN. Disbarment entered. [For earlier order herein, see 496 U. S. 923.]

No. D-911. IN RE DISBARMENT OF BADALIAN. Disbarment entered. [For earlier order herein, see 496 U. S. 923.]

No. D-931. IN RE DISBARMENT OF RYAN. Disbarment entered. [For earlier order herein, see 497 U. S. 1056.]

December 10, 1990

498 U. S.

No. D-936. *IN RE DISBARMENT OF FELDMAN*. Disbarment entered. [For earlier order herein, see 497 U. S. 1057.]

No. D-937. *IN RE DISBARMENT OF DEAM*. Disbarment entered. [For earlier order herein, see 497 U. S. 1057.]

No. D-955. *IN RE DISBARMENT OF BRUCE*. It is ordered that Kenneth E. Bruce, of Scarsdale, 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-956. *IN RE DISBARMENT OF TOOTHAKER*. It is ordered that Stephen Wallace Toothaker, 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-957. *IN RE DISBARMENT OF PENNISI*. It is ordered that Albert Francis Pennisi, of Kew Gardens, 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. 65, Orig. *TEXAS v. NEW MEXICO*. Motion of the River Master for approval of fees and expenses granted, and the River Master is awarded \$2,638.52 for the period July 1 through September 30, 1990, to be paid equally by the parties. [For earlier order herein, see, *e. g.*, *ante*, p. 802.]

No. 89-1322. *OKLAHOMA TAX COMMISSION v. CITIZEN BAND POTAWATOMI INDIAN TRIBE OF OKLAHOMA*. C. A. 10th Cir. [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.

No. 89-7376. *WILSON v. SEITER ET AL.* C. A. 6th 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.

No. 90-79. *KAY v. EHRLER ET AL.* C. A. 6th 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.

498 U. S.

December 10, 1990

No. 89-1493. AIR LINE PILOTS ASSN., INTERNATIONAL *v.* O'NEILL ET AL. C. A. 5th Cir. [Certiorari granted, *ante*, p. 806.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 90-18. GILMER *v.* INTERSTATE/JOHNSON LANE CORP. C. A. 4th Cir. [Certiorari granted, *ante*, p. 809.] Motion of respondent to strike portions of *amici curiae* briefs denied.

No. 90-324. BROWN GROUP, INC., DBA BROWN SHOE CO., INC. *v.* HICKS. C. A. 8th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 90-5985. IN RE GEURIN;

No. 90-5993. IN RE CYNTJE; and

No. 90-6011. IN RE GREEN. Petitions for writs of mandamus denied.

Certiorari Granted

No. 90-634. COHEN *v.* COWLES MEDIA CO., DBA MINNEAPOLIS STAR & TRIBUNE CO., ET AL. Sup. Ct. Minn. Certiorari granted limited to Question 1 presented by the petition. Reported below: 457 N. W. 2d 199.

No. 90-5635. MCCARTHY *v.* BRONSON, WARDEN, ET AL. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to the following question: "Whether 28 U. S. C. § 636(b)(1)(B), which authorizes a district court to refer, without the parties' consent, to a magistrate for recommended findings a prisoner petition that challenges 'conditions of confinement' applies to cases challenging a specific episode of allegedly unconstitutional conduct rather than continuing prison conditions." Reported below: 906 F. 2d 835.

No. 90-5744. CHAPMAN ET AL. *v.* UNITED STATES. C. A. 7th Cir. Motion of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 908 F. 2d 1312.

Certiorari Denied

No. 89-1373. LISTER *v.* STARK ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 890 F. 2d 941.

No. 89-7863. LOPEZ *v.* CALIFORNIA. Ct. App. Cal., 3d App. Dist. Certiorari denied.

December 10, 1990

498 U. S.

No. 90-246. *DORRIS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 902 F. 2d 1562.

No. 90-328. *BODIMETRIC HEALTH SERVICES, INC., ET AL. v. AETNA LIFE & CASUALTY ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 903 F. 2d 480.

No. 90-372. *GIGANTE v. RUNSHIP, LTD., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 694.

No. 90-396. *HAWKINS v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied. Reported below: 565 So. 2d 1193.

No. 90-457. *GRAHAM v. NEW YORK DEPARTMENT OF CIVIL SERVICE ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 907 F. 2d 324.

No. 90-463. *MCCALL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 901 F. 2d 548.

No. 90-530. *ROUND TABLE PIZZA, INC., ET AL. v. LARSON*. C. A. 9th Cir. Certiorari denied. Reported below: 900 F. 2d 1363.

No. 90-543. *GIANNINI v. REAL, CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 911 F. 2d 354.

No. 90-628. *MCMAHON v. ASCHMANN*. Sup. Ct. App. W. Va. Certiorari denied.

No. 90-635. *NAVAJO TAX COMMISSION v. PITTSBURGH & MIDWAY COAL MINING CO.* C. A. 10th Cir. Certiorari denied. Reported below: 909 F. 2d 1387.

No. 90-637. *GRACEY v. REIGLE*. C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 242.

No. 90-638. *BABIGIAN v. ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 912 F. 2d 462.

No. 90-639. *REUSCH v. SEABOARD SYSTEM RAILROAD CO.* Sup. Ct. Ala. Certiorari denied. Reported below: 566 So. 2d 489.

498 U. S.

December 10, 1990

No. 90-640. *WICKMAN v. NORTHWESTERN NATIONAL LIFE INSURANCE CO.* C. A. 1st Cir. Certiorari denied. Reported below: 908 F. 2d 1077.

No. 90-665. *BENEFIT TRUST LIFE INSURANCE CO. v. KUNIN.* C. A. 9th Cir. Certiorari denied. Reported below: 910 F. 2d 534.

No. 90-668. *HALAS v. QUIGG, COMMISSIONER OF PATENTS.* C. A. Fed. Cir. Certiorari denied. Reported below: 914 F. 2d 270.

No. 90-677. *ROECK v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 895 F. 2d 1419.

No. 90-684. *WIGGINS v. CHRYSLER CORP. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 905 F. 2d 1539.

No. 90-708. *ANDERSON v. KENTUCKY.* Ct. App. Ky. Certiorari denied.

No. 90-709. *SOLIMAN, DBA SPHINX & PYRAMIDS PROPERTIES & INVESTMENTS, INC. v. EDDINS ENTERPRISES, INC.* Ct. App. Tex., 5th Dist. Certiorari denied.

No. 90-743. *ROBINSON v. FRANK, POSTMASTER GENERAL OF THE UNITED STATES, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 907 F. 2d 1143.

No. 90-753. *LAND v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 904 F. 2d 714.

No. 90-5032. *COBB v. CITY OF DETROIT COMMON COUNCIL ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 897 F. 2d 529.

No. 90-5079. *PORTER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 895 F. 2d 1415.

No. 90-5099. *RUIZ ET AL. v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 256 and 257.

No. 90-5352. *SINDRAM v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied.

No. 90-5433. *BROOKS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 956.

December 10, 1990

498 U. S.

No. 90-5439. *GREGORY v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied. Reported below: 217 Cal. App. 3d 665, 266 Cal. Rptr. 527.

No. 90-5492. *CANNON v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 903 F. 2d 849.

No. 90-5576. *RUMBLE v. SMITH, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 905 F. 2d 176.

No. 90-5589. *LESURE v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 195 Ill. App. 3d 437, 552 N. E. 2d 363.

No. 90-5594. *WINTERS v. McFAUL ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 905 F. 2d 1539.

No. 90-5724. *LOCKETT v. STONE, SECRETARY OF THE ARMY, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 904 F. 2d 700.

No. 90-5787. *BRAND v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 31.

No. 90-5800. *EATON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 908 F. 2d 979.

No. 90-5912. *HARRIS v. GREACEN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 722.

No. 90-5944. *CORDOBA v. HANRAHAN*. C. A. 10th Cir. Certiorari denied. Reported below: 910 F. 2d 691.

No. 90-5964. *CHERRY v. ROWLAND ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-5965. *WHITAKER v. SUPERIOR COURT, ALAMEDA COUNTY, CALIFORNIA, ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-5981. *ENDRES v. ARMONTROUT ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 508.

No. 90-5983. *MARTIN v. UNITED STATES DEPARTMENT OF LABOR, EMPLOYMENT STANDARDS ADMINISTRATION OFFICE OF WORKERS' COMPENSATION*. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 693.

498 U. S.

December 10, 1990

No. 90-5991. *RODRIGUEZ-DIAZ v. FLORIDA ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 914 F. 2d 267.

No. 90-5992. *BAILEY v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA.* C. A. 9th Cir. Certiorari denied.

No. 90-6000. *HOLBERT v. McMACKIN, WARDEN.* C. A. 6th Cir. Certiorari denied.

No. 90-6004. *FOXX v. BAINES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 1137.

No. 90-6006. *WORTHAM v. CHR. HANSEN LABORATORY, INC.* C. A. 7th Cir. Certiorari denied.

No. 90-6008. *DEMOS v. UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON* (three cases). C. A. 9th Cir. Certiorari denied.

No. 90-6037. *McGEE v. RANDALL DIVISION OF TEXTRON, INC., OF GRENADA, MISSISSIPPI.* C. A. 5th Cir. Certiorari denied. Reported below: 912 F. 2d 1467.

No. 90-6038. *HAYNES v. BURTON, WARDEN.* C. A. 11th Cir. Certiorari denied. Reported below: 907 F. 2d 1143.

No. 90-6060. *ANDERSON v. OHIO.* Ct. App. Ohio, Summit County. Certiorari denied.

No. 90-6092. *ROBERTSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 911 F. 2d 727.

No. 90-6109. *BUTLER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 902 F. 2d 912.

No. 90-6141. *LEWIS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied.

No. 90-6145. *CRAVEIRO v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 907 F. 2d 260.

No. 90-6146. *ADAMS v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 914 F. 2d 1404.

No. 90-6147. *DABY v. ERICKSON.* C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 1579.

December 10, 1990

498 U. S.

No. 90-6163. HUGHES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 923 F. 2d 858.

No. 90-6167. BUCK *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 1576.

No. 90-6170. WILSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 1478.

No. 90-6181. FORD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 915 F. 2d 696.

No. 90-6182. PRIEST *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 90-6186. QUINONEZ-LEDEZMA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 90-6188. MARMOL-ORTA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 914 F. 2d 1499.

No. 90-6195. CHARLES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 914 F. 2d 267.

No. 90-6196. BROWN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 913 F. 2d 570.

No. 90-6199. VILLAGOMEZ-REYES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 911 F. 2d 729.

No. 90-336. BARKER, SUPERINTENDENT, COLUMBUS COUNTY PRISON UNIT, BRUNSWICK, NORTH CAROLINA, ET AL. *v.* HOWELL. C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. JUSTICE WHITE and JUSTICE KENNEDY would grant certiorari. Reported below: 904 F. 2d 889.

No. 90-455. GENERAL WOOD PRESERVING CO., INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 4th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 905 F. 2d 803.

No. 90-588. MUNTERS CORP. *v.* MATSUI AMERICA, INC. C. A. 7th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 909 F. 2d 250.

No. 90-674. INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 406, ET AL. *v.* GUIDRY. C. A. 5th Cir. Certio-

498 U. S.

December 10, 1990

rari denied. JUSTICE WHITE would grant certiorari. Reported below: 907 F. 2d 1491.

No. 90-5753. MARTINEZ *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 905 F. 2d 709.

No. 90-5941. MATTSON *v.* CALIFORNIA. Sup. Ct. Cal.; and No. 90-6041. LOTT *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: No. 90-5941, 50 Cal. 3d 826, 789 P. 2d 983; No. 90-6041, 51 Ohio St. 3d 160, 555 N. E. 2d 293.

JUSTICE MARSHALL, dissenting.

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

Rehearing Denied

- No. 89-7683. YOUNG *v.* FLORIDA ET AL., *ante*, p. 919;
No. 90-346. TOLEDO POLICE PATROLMAN'S ASSN., LOCAL 10, I. U. P. A., ET AL. *v.* CITY OF TOLEDO ET AL., *ante*, p. 920;
No. 90-365. IN RE JAFFER, *ante*, p. 937;
No. 90-399. WRENN *v.* UNITED STATES ET AL., *ante*, p. 921;
No. 90-458. CAMOSCIO *v.* THE PATRIOT LEDGER ET AL., *ante*, p. 942;
No. 90-5073. BETTISTEA *v.* MICHIGAN, *ante*, p. 942;
No. 90-5101. PORTER *v.* PENNSYLVANIA, *ante*, p. 925;
No. 90-5266. SISCO *v.* COUNTY OF LOS ANGELES ET AL., *ante*, p. 922;
No. 90-5454. DRAPER *v.* OHIO, *ante*, p. 916;
No. 90-5606. SCHLICHER *v.* DAVIES, SECRETARY, KANSAS DEPARTMENT OF CORRECTIONS, ET AL., *ante*, p. 945;
No. 90-5632. MCCOLPIN *v.* STEPHAN, *ante*, p. 946; and
No. 90-5816. IN RE KIRSCHENHUNTER, *ante*, p. 937. Petitions for rehearing denied.
No. 89-1964. MELIKIAN ET AL. *v.* CORRADETTI ET AL., *ante*, p. 821;
No. 89-7060. DOBRANSKI *v.* KELLY, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY, 495 U. S. 938;
No. 89-7652. HOLLINGSWORTH *v.* SUPREME COURT OF NEVADA, *ante*, p. 834;

December 10, 26, 28, 1990, January 4, 1991 498 U. S.

No. 90-5172. BUCHANAN *v.* MEDLOCK ET AL., *ante*, p. 864; and

No. 90-5384. EAST *v.* HOLMES, *ante*, p. 874. Petitions for rehearing denied. JUSTICE SOUTER took no part in the consideration or decision of these petitions.

No. 89-7043. KUDLER *v.* JUDICIAL COUNCIL OF THE SECOND CIRCUIT, *ante*, p. 802. Motion of petitioner for leave to proceed further herein *in forma pauperis* granted. Petition for rehearing denied. JUSTICE SOUTER took no part in the consideration or decision of this motion and this petition.

DECEMBER 26, 1990

Dismissal Under Rule 46

No. 89-1940. ERICKSON ET AL. *v.* MAINE CENTRAL RAILROAD CO. ET AL. C. A. 1st Cir. [Certiorari granted, *ante*, p. 807.] Writ of certiorari dismissed under this Court's Rule 46.

DECEMBER 28, 1990

Miscellaneous Order

No. A-498. GO-VIDEO, INC. *v.* MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD., ET AL. C. A. 9th Cir. Application for injunction pending appeal, addressed to JUSTICE KENNEDY and referred to the Court, denied.

JANUARY 4, 1991

Certiorari Denied

No. 90-6157 (A-453). DAVIS *v.* COLORADO. Sup. Ct. Colo. Application for stay of execution of sentence of death, presented to JUSTICE WHITE, and by him referred to the Court, denied. Certiorari denied. Reported below: 794 P. 2d 159.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976), I would grant the application for stay of execution and the petition for writ of certiorari and would vacate the death sentence in this case.

498 U. S.

JANUARY 7, 1991

Affirmed on Appeal

No. 89-2008. CLINTON, GOVERNOR OF ARKANSAS, ET AL. v. JEFFERS ET AL. Affirmed on appeal from D. C. E. D. Ark. Reported below: 730 F. Supp. 196 and 756 F. Supp. 1195.

Certiorari Granted—Vacated and Remanded

No. 89-1010. YOUNG v. NATIONAL CENTER FOR HEALTH SERVICES RESEARCH. C. A. 4th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Irwin v. Department of Veterans Affairs*, ante, p. 89. Reported below: 887 F. 2d 1082.

No. 89-1060. LEDSOME v. U-BRAND CORP., FOUNDRY DIVISION. Ct. App. Ohio, Ashland County. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Groves v. Ring Screw Works*, ante, p. 168.

No. 90-524. CONNECTICUT v. GEISLER. App. Ct. Conn. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *New York v. Harris*, 495 U. S. 14 (1990). Reported below: 22 Conn. App. 142, 576 A. 2d 1283.

Miscellaneous Orders. (See also No. 90-6051, ante, p. 177.)

No. — — —. CHAMBERS v. UNITED STATES DEPARTMENT OF THE ARMY ET AL. Motion of petitioner to dispense with printing a portion of the appendix to the petition for writ of certiorari granted.

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

No. — — —. AGOMO v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. A-433. WINSLOW ET UX. v. MORGAN COUNTY ET AL. C. A. 10th Cir. Application for stay and injunctive relief, addressed to JUSTICE BLACKMUN and referred to the Court, denied.

No. A-457. BROWN v. WRENTHAM DISTRICT COURT. Sup. Jud. Ct. Mass. Application for stay, addressed to JUSTICE MARSHALL and referred to the Court, denied.

January 7, 1991

498 U. S.

No. A-459. KOEHRING FINANCE CORP. ET AL. *v.* HILGEDICK ET AL. Ct. App. Cal., 1st App. Dist. Motion to vacate the stay heretofore granted by JUSTICE O'CONNOR denied. JUSTICE BLACKMUN dissents in part and, as the parties have agreed, would grant the application to vacate insofar as compensatory damages are concerned.

No. A-480. DONOVAN, ON BEHALF OF DONOVAN *v.* RODENBERG ET AL. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Application for stay of orders, addressed to JUSTICE SOUTER and referred to the Court, denied.

No. A-504. NATIONAL TREASURY EMPLOYEES UNION ET AL. *v.* UNITED STATES ET AL. C. A. D. C. Cir. Application for injunction pending appeal, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

No. D-917. IN RE DISBARMENT OF HENDERSON. Disbarment entered. [For earlier order herein, see 497 U. S. 1045.]

No. D-921. IN RE DISBARMENT OF YINGER. Disbarment entered. [For earlier order herein, see 497 U. S. 1046.]

No. D-934. IN RE DISBARMENT OF STANDARD. R. Michael Standard, 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 September 21, 1990 [497 U. S. 1056], is hereby discharged.

No. D-940. IN RE DISBARMENT OF MOORE. Motion to defer further proceedings granted. [For earlier order herein, see, *ante*, p. 917.]

No. D-944. IN RE DISBARMENT OF RUSSELL. Disbarment entered. [For earlier order herein, see *ante*, p. 918.]

No. D-958. IN RE DISBARMENT OF NOBLE. It is ordered that Walton Bishop Noble, of Belle Chasse, La., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-959. IN RE DISBARMENT OF BRAXTON. It is ordered that Harry Hilliard Braxton, of Baltimore, Md., be suspended

498 U. S.

January 7, 1991

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. 109, Orig. OKLAHOMA ET AL. *v.* NEW MEXICO. Motion of the Special Master for compensation and reimbursement of expenses granted, and the Special Master is awarded a total of \$71,790.81 for the period February 1 through November 8, 1990, one-third to be paid by each party. [For earlier order herein, see, *e. g.*, *ante*, p. 956.]

No. 89-1027. NORFOLK & WESTERN RAILWAY CO. ET AL. *v.* AMERICAN TRAIN DISPATCHERS' ASSN. ET AL.; and

No. 89-1028. CSX TRANSPORTATION, INC. *v.* BROTHERHOOD OF RAILWAY CARMEN ET AL. C. A. D. C. Cir. [Certiorari granted, 494 U. S. 1055.] Motion of respondents American Train Dispatchers' Association et al. for leave to file a supplemental brief after argument granted.

No. 89-1137. RANNELS *v.* MERIDIAN BANCORP, INC., 494 U. S. 1017. Motion of petitioner to sanction respondent's counsel denied.

No. 89-1717. FLORIDA *v.* BOSTICK. Sup. Ct. Fla. [Certiorari granted, *ante*, p. 894.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 89-1817. COUNTY OF RIVERSIDE ET AL. *v.* McLAUGHLIN ET AL. C. A. 9th Cir. [Certiorari granted, *ante*, p. 808.] Motion of Grover C. Trask II, District Attorney of Riverside County, for leave to participate in oral argument as *amicus curiae*, for divided argument, and for additional time denied.

No. 89-1944. OHIO *v.* HUERTAS. Sup. Ct. Ohio. [Certiorari granted, *ante*, p. 807.] Motions of Barbara Babcock et al., National Legal Aid and Defender Association, National Association of Criminal Defense Lawyers et al., and Murder Victims' Families for Reconciliation for leave to file briefs as *amici curiae* granted.

No. 90-26. BARNES, PROSECUTING ATTORNEY OF ST. JOSEPH COUNTY, INDIANA, ET AL. *v.* GLEN THEATRE, INC., ET AL. C. A. 7th Cir. [Certiorari granted, *ante*, p. 807.] Motion of James J. Clancy for leave to file a brief as *amicus curiae* granted.

January 7, 1991

498 U. S.

No. 90-97. AMERICAN HOSPITAL ASSN. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 7th Cir. [Certiorari granted, *ante*, p. 894.] Motion of the Solicitor General for divided argument denied.

No. 90-350. FARREY, FKA SANDERFOOT *v.* SANDERFOOT. C. A. 7th Cir. [Certiorari granted, *ante*, p. 980.] Motion of petitioner to dispense with printing the joint appendix granted.

No. 90-408. COUNTY OF YAKIMA ET AL. *v.* CONFEDERATED TRIBES AND BANDS OF THE YAKIMA INDIAN NATION. C. A. 9th Cir.;

No. 90-577. CONFEDERATED TRIBES AND BANDS OF THE YAKIMA INDIAN NATION *v.* COUNTY OF YAKIMA ET AL. C. A. 9th Cir.;

No. 90-711. PRESLEY *v.* ETOWAH COUNTY COMMISSION ET AL. Appeal from D. C. M. D. Ala.;

No. 90-712. MACK ET AL. *v.* RUSSELL COUNTY COMMISSION ET AL. Appeal from D. C. M. D. Ala.;

No. 90-749. SOUTH DAKOTA ET AL. *v.* ROSEBUD SIOUX TRIBE ET AL. C. A. 8th Cir.; and

No. 90-871. CONNECTICUT ET AL. *v.* MASHANTUCKET PEQUOT TRIBE. C. A. 2d Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 90-673. BASS ET AL. *v.* SOUTH CAROLINA ET AL. Sup. Ct. S. C. Motion of Wisconsin State Federation of Chapters of the National Association of Retired Federal Employees for leave to file a brief as *amicus curiae* granted.

No. 90-5193. MU'MIN *v.* VIRGINIA. Sup. Ct. Va. [Certiorari granted, *ante*, p. 894.] Motion of National Jury Project for leave to file a brief as *amicus curiae* granted.

No. 90-6253. IN RE EASTLAND ET UX. Petition for writ of habeas corpus denied.

No. 90-5974. IN RE CROUCH;

No. 90-6057. IN RE SMITH;

No. 90-6110. IN RE SEITU; and

No. 90-6160. IN RE MILLER. Petitions for writs of mandamus denied.

498 U. S.

January 7, 1991

No. 90-6177. *IN RE MOODY*. Petition for writ of mandamus denied. JUSTICE STEVENS would grant mandamus.

No. 90-6180. *IN RE HERTEL ET AL.* Petition for writ of mandamus and/or prohibition denied.

Certiorari Granted

No. 89-1836. *GENTILE v. STATE BAR OF NEVADA*. Sup. Ct. Nev. Certiorari granted. Reported below: 106 Nev. 60, 787 P. 2d 386.

No. 89-1895. *ASTORIA FEDERAL SAVINGS & LOAN ASSN. v. SOLIMINO*. C. A. 2d Cir. Certiorari granted. Reported below: 901 F. 2d 1148.

No. 90-605. *DEPARTMENT OF TRANSPORTATION ET AL. v. AIR TRANSPORT ASSOCIATION OF AMERICA ET AL.* C. A. D. C. Cir. Certiorari granted. Reported below: 283 U. S. App. D. C. 385, 900 F. 2d 369.

No. 90-659. *GOLLUST ET AL. v. MENDELL ET AL.* C. A. 2d Cir. Certiorari granted. Reported below: 909 F. 2d 724.

No. 90-5538. *MELKONYAN v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 895 F. 2d 556.

Certiorari Denied

No. 89-6585. *REED v. FRANK, POSTMASTER GENERAL*. C. A. 9th Cir. Certiorari denied. Reported below: 888 F. 2d 1394.

No. 90-25. *DILLON, COMMISSIONER OF THE DEPARTMENT OF INSURANCE OF INDIANA, ET AL. v. COMBS ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 895 F. 2d 1175.

No. 90-102. *LIBERTY COUNTY, FLORIDA, ET AL. v. SOLOMON ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 899 F. 2d 1012.

No. 90-281. *ASSOCIATED GROCERS, INC. v. WASHINGTON*; and
No. 90-465. *WASHINGTON v. ASSOCIATED GROCERS, INC.*
Sup. Ct. Wash. Certiorari denied. Reported below: 114 Wash.
2d 182, 787 P. 2d 22.

January 7, 1991

498 U. S.

No. 90-388. *DOW CHEMICAL CO. ET AL. v. ALFARO ET AL.* Sup. Ct. Tex. Certiorari denied. Reported below: 786 S. W. 2d 674.

No. 90-420. *ALVAREZ v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 899 F. 2d 833.

No. 90-434. *SONICRAFT, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 7th Cir. Certiorari denied. Reported below: 905 F. 2d 146.

No. 90-447. *SALSBURY INDUSTRIES v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 905 F. 2d 1518.

No. 90-449. *HAMILTON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 956.

No. 90-472. *NATIONAL FABRICATORS, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 5th Cir. Certiorari denied. Reported below: 903 F. 2d 396.

No. 90-478. *LORENZO v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 903 F. 2d 828.

No. 90-488. *ARVIN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 900 F. 2d 1385.

No. 90-499. *ACMAT CORP. v. SCHOOL DISTRICT OF PHILADELPHIA*; and

No. 90-680. *SCHOOL DISTRICT OF PHILADELPHIA v. ACMAT CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 693 and 696.

No. 90-505. *CALIFORNIA PUBLIC UTILITIES COMMISSION v. FEDERAL ENERGY REGULATORY COMMISSION ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 903 F. 2d 585.

No. 90-506. *ORSINI, ON BEHALF OF ORSINI v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 11th Cir. Certiorari denied. Reported below: 903 F. 2d 1393.

No. 90-520. *TOWN OF RYE, NEW YORK, ET AL. v. SKINNER, SECRETARY OF TRANSPORTATION, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 907 F. 2d 23.

498 U. S.

January 7, 1991

No. 90-537. *GULLEY ET AL. v. SUNBELT SAVINGS, FSB, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 348.

No. 90-593. *KAISER v. UNITED STATES POSTAL SERVICE ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 908 F. 2d 47.

No. 90-610. *WALTHER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 911 F. 2d 741.

No. 90-611. *GOULD v. DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 738.

No. 90-617. *DOMBROSKI v. F2 AMERICA, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 746.

No. 90-633. *RAFFIELD v. FLORIDA.* Sup. Ct. Fla. Certiorari denied. Reported below: 565 So. 2d 704.

No. 90-641. *ADDISON ET AL. v. FEDERAL TRADE COMMISSION.* C. A. D. C. Cir. Certiorari denied. Reported below: 283 U. S. App. D. C. 146, 897 F. 2d 1168.

No. 90-649. *DRAPER v. IOWA.* Sup. Ct. Iowa. Certiorari denied. Reported below: 457 N. W. 2d 600.

No. 90-653. *OSCEOLA v. FLORIDA DEPARTMENT OF REVENUE.* C. A. 11th Cir. Certiorari denied. Reported below: 893 F. 2d 1231.

No. 90-654. *SHEEHAN v. CALIFORNIA.* App. Dept., Super. Ct. Cal., Alameda County. Certiorari denied.

No. 90-661. *WOOD v. ALAMEDA COUNTY SUPERIOR COURT (CITY OF HAYWARD, CALIFORNIA, REAL PARTY IN INTEREST).* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-662. *INSURANCE COMPANY OF NORTH AMERICA v. M/V OCEAN LYNX, AKA M/V OCEAN LINK, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 901 F. 2d 934.

No. 90-672. *GARY PLASTIC PACKAGING CORP. v. MERRILL LYNCH, PIERCE, FENNER & SMITH, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 903 F. 2d 176.

January 7, 1991

498 U. S.

No. 90-683. *GEORGIA MARBLE CO. v. WHITLOCK ET UX.* Sup. Ct. Ga. Certiorari denied. Reported below: 260 Ga. 350, 392 S. E. 2d 881.

No. 90-685. *ALDAY v. CONTAINER CORPORATION OF AMERICA ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 906 F. 2d 660.

No. 90-688. *RUSSELL v. O'GRADY ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 975.

No. 90-690. *CHRISTY v. CHRISTY.* Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 90-691. *EAST PRINCE FREDERICK CORP. v. BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, MARYLAND.* Ct. App. Md. Certiorari denied. Reported below: 320 Md. 178, 577 A. 2d 27.

No. 90-694. *BROCKINGTON ET UX. v. CERTIFIED ELECTRIC, INC.* C. A. 11th Cir. Certiorari denied. Reported below: 903 F. 2d 1523.

No. 90-696. *HEIDEMAN ET UX. v. PFL, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 904 F. 2d 1262.

No. 90-698. *FIELDS ET AL. v. HALLSVILLE INDEPENDENT SCHOOL DISTRICT ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 906 F. 2d 1017.

No. 90-699. *UNITED TRANSPORTATION UNION v. CSX TRANSPORTATION, INC.* C. A. 6th Cir. Certiorari denied. Reported below: 902 F. 2d 36.

No. 90-700. *S & H CONTRACTORS, INC. v. A. J. TAFT COAL CO., INC.* C. A. 11th Cir. Certiorari denied. Reported below: 906 F. 2d 1507.

No. 90-701. *LOCKHART, SUPERINTENDENT, ARKANSAS DEPARTMENT OF CORRECTION, ET AL. v. SALAAM, AKA ROBINSON.* C. A. 8th Cir. Certiorari denied. Reported below: 905 F. 2d 1168.

No. 90-706. *BRAHMS v. SCHWARTZ, GRIEVANCE ADMINISTRATOR, MICHIGAN ATTORNEY GRIEVANCE COMMISSION.* Sup. Ct. Mich. Certiorari denied. Reported below: 434 Mich. 1212.

498 U. S.

January 7, 1991

No. 90-710. *ST. PAUL FIRE & MARINE INSURANCE CO. v. SUPERIOR COURT OF CALIFORNIA FOR THE CITY AND COUNTY OF SAN FRANCISCO (JONES ET AL., REAL PARTIES IN INTEREST)*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-715. *GRUSHKIN v. SANTA CLARA SUPERIOR COURT*. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 90-716. *KRAIN v. JOHNSON ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-721. *CLARK v. THOMSON MCKINNON SECURITIES, INC.* C. A. 11th Cir. Certiorari denied. Reported below: 901 F. 2d 1568.

No. 90-723. *QURESHI v. PHICO INSURANCE CO. ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 90-732. *IN RE KERLINSKY*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 406 Mass. 67, 546 N. E. 2d 150.

No. 90-734. *MITRANO v. RUBLE*. Sup. Ct. Va. Certiorari denied.

No. 90-736. *TEAGARDENER ET AL. v. REPUBLIC-FRANKLIN INC. PENSION PLAN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 909 F. 2d 947.

No. 90-738. *SCHNORBUS ET AL. v. DIRECTOR OF REVENUE OF MISSOURI*. Sup. Ct. Mo. Certiorari denied. Reported below: 790 S. W. 2d 241.

No. 90-739. *RENFRO ET AL. v. KENTUCKY BOARD OF DENTISTRY ET AL.* Ct. App. Ky. Certiorari denied.

No. 90-742. *SOTO v. UNITED STATES POSTAL SERVICE*. C. A. 1st Cir. Certiorari denied. Reported below: 905 F. 2d 537.

No. 90-746. *KUNTZ v. LITTLE MIAMI RAILROAD CO.* Ct. App. Ohio, Cuyahoga County. Certiorari denied.

No. 90-751. *KARST v. WOODS*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-754. *PERKINS v. FARM CREDIT BANK OF WICHITA ET AL.* C. A. 10th Cir. Certiorari denied.

January 7, 1991

498 U. S.

No. 90-755. *WARNE v. SUPERIOR COURT OF CALIFORNIA, LOS ANGELES COUNTY (KAISER PERMANENTE MEDICAL CENTER ET AL., REAL PARTIES IN INTEREST)*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-775. *RIVERA-RAMIREZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 911 F. 2d 739.

No. 90-778. *KRAEMER v. SPELLACY ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 1579.

No. 90-786. *GRAY v. INDIANA*. C. A. 7th Cir. Certiorari denied.

No. 90-788. *HALAS v. DEPARTMENT OF ENERGY*. C. A. Fed. Cir. Certiorari denied. Reported below: 915 F. 2d 1583.

No. 90-809. *BERNESSER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 907 F. 2d 332.

No. 90-823. *ALBERT v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 30 M. J. 331.

No. 90-824. *DELGADO ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 903 F. 2d 1495.

No. 90-836. *MARENO v. ROWE ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 910 F. 2d 1043.

No. 90-843. *PRATT v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 913 F. 2d 982.

No. 90-849. *COUNTY OF LOS ANGELES ET AL. v. GARZA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 918 F. 2d 763.

No. 90-881. *DEERMAN ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 911 F. 2d 728.

No. 90-886. *MEIS v. GUNTER ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 906 F. 2d 364.

No. 90-5178. *KHAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 869 F. 2d 661.

No. 90-5220. *HAAS v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE*. C. A. 5th Cir. Certiorari denied.

498 U. S.

January 7, 1991

No. 90-5309. *MATHEWS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 900 F. 2d 265.

No. 90-5423. *LOCKHART v. UNITED STATES*; and
No. 90-5473. *LOCKHART v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 904 F. 2d 714.

No. 90-5446. *BOLTON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 905 F. 2d 319.

No. 90-5515. *SMREKAR v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 193 Ill. App. 3d 534, 550 N. E. 2d 3.

No. 90-5596. *STEPHEN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 704.

No. 90-5598. *WAGSTAFF v. KEOHANE, WARDEN*. C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 697.

No. 90-5627. *JOHNSON ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 907 F. 2d 456.

No. 90-5680. *GONZALES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 897 F. 2d 1312.

No. 90-5687. *APONTE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 909 F. 2d 1491.

No. 90-5692. *ROLLE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 726.

No. 90-5705. *MARSHALL v. MANES ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1568.

No. 90-5712. *BEAMAN v. DEPARTMENT OF VETERANS AFFAIRS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 900 F. 2d 249.

No. 90-5725. *MARTINEZ DE ORTIZ v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 907 F. 2d 629.

No. 90-5731. *CHASE v. OREGON*. Ct. App. Ore. Certiorari denied. Reported below: 100 Ore. App. 552, 787 P. 2d 1313.

No. 90-5748. *BROWN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 908 F. 2d 968.

January 7, 1991

498 U. S.

No. 90-5789. *JONES v. OFFICE OF PERSONNEL MANAGEMENT*. C. A. Fed. Cir. Certiorari denied. Reported below: 899 F. 2d 1228.

No. 90-5791. *SALAMONE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 902 F. 2d 237.

No. 90-5802. *WEST v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 898 F. 2d 1493.

No. 90-5814. *MARTINEZ v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 566 A. 2d 1049.

No. 90-5817. *RULOFF v. DEPARTMENT OF VETERANS AFFAIRS ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 907 F. 2d 145.

No. 90-5823. *MECOM v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1567.

No. 90-5835. *ADAMSON v. FRANK, POSTMASTER GENERAL*. C. A. 9th Cir. Certiorari denied. Reported below: 904 F. 2d 40.

No. 90-5846. *BARNES v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 905 F. 2d 1543.

No. 90-5865. *MANNS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 905 F. 2d 1100.

No. 90-5886. *CROUCH v. AMERICAN NATIONAL BANK ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 915 F. 2d 696.

No. 90-5889. *WILLIAMS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 905 F. 2d 217.

No. 90-5904. *WHISENANT v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied.

No. 90-5931. *HARRIS v. CATO ET AL.* C. A. 5th Cir. Certiorari denied.

No. 90-5935. *HAVENS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 910 F. 2d 703.

No. 90-5979. *GRAY v. MINNESOTA*. Sup. Ct. Minn. Certiorari denied. Reported below: 456 N. W. 2d 251.

498 U. S.

January 7, 1991

No. 90-6012. *DOLPHIN v. PHIPPS ET AL.* C. A. 8th Cir. Certiorari denied.

No. 90-6013. *TILLER v. KLINCAR ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 138 Ill. 2d 1, 561 N. E. 2d 576.

No. 90-6015. *VINSON v. CHAPA ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 912 F. 2d 1467.

No. 90-6019. *CARLTON v. JABE.* C. A. 6th Cir. Certiorari denied. Reported below: 909 F. 2d 1482.

No. 90-6024. *VAUGHAN v. ROCK CHURCH, INC.* C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 726.

No. 90-6025. *BENNETT v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied. Reported below: 795 P. 2d 1055.

No. 90-6026. *CUNNINGHAM v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 725.

No. 90-6028. *WOODS v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 902 F. 2d 1320.

No. 90-6030. *ZATKO v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA.* C. A. 9th Cir. Certiorari denied.

No. 90-6032. *SCRUGGS v. BRADLEY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 1579.

No. 90-6033. *WHITAKER v. PASCARELLA ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-6035. *FITE v. BURNS ET AL.* C. A. 6th Cir. Certiorari denied.

No. 90-6040. *HERRON v. KITE ET AL.* C. A. 8th Cir. Certiorari denied.

No. 90-6046. *TEBBETS v. CITY OF OVERLAND PARK, KANSAS.* Ct. App. Kan. Certiorari denied.

No. 90-6049. *STEELE v. COUNTY OF LOS ANGELES.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-6055. *MOORE v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 199 Ill. App. 3d 747, 557 N. E. 2d 537.

January 7, 1991

498 U. S.

No. 90-6056. *GROOMS v. PRINCE GEORGE'S COUNTY*. C. A. 4th Cir. Certiorari denied. Reported below: 908 F. 2d 967.

No. 90-6058. *TAYLOR v. MONSANTO CO. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 510.

No. 90-6065. *RICHARDSON v. CITY OF SOUTH EUCLID, OHIO, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 904 F. 2d 1050.

No. 90-6068. *BOWLES v. NANCE, JUDGE OF THE CIRCUIT COURT OF THE CITY OF RICHMOND, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 904 F. 2d 699.

No. 90-6069. *COOKSEY v. MISSOURI*. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 787 S. W. 2d 324.

No. 90-6073. *CROCKETT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 914 F. 2d 252.

No. 90-6078. *JOHNSON v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-6079. *SMITH v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 1164.

No. 90-6080. *HUCKABY v. OKLAHOMA ET AL.* Ct. Crim. App. Okla. Certiorari denied.

No. 90-6087. *WRIGHT v. VERMONT*. Sup. Ct. Vt. Certiorari denied. Reported below: 154 Vt. 512, 581 A. 2d 720.

No. 90-6094. *WILKEN v. WHITLEY, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 957.

No. 90-6102. *HENNE ET AL. v. WRIGHT ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 904 F. 2d 1208.

No. 90-6104. *ADDLEMAN v. WASHINGTON ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-6107. *ADDLEMAN v. BOARD OF PRISON TERMS AND PAROLES ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-6112. *FELTON v. BARNETT ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 912 F. 2d 92.

No. 90-6115. *BULL v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 245.

498 U. S.

January 7, 1991

No. 90-6116. *CANTERBURY v. KALISZ*. Ct. App. Mich. Certiorari denied.

No. 90-6117. *TAMALE v. REGENTS OF THE UNIVERSITY OF CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 908 F. 2d 977.

No. 90-6123. *LANAM v. MINNESOTA*. Sup. Ct. Minn. Certiorari denied. Reported below: 459 N. W. 2d 656.

No. 90-6125. *HOLMES, AKA RICHARDS v. HARDY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 693.

No. 90-6127. *TAYLOR v. T. K. INTERNATIONAL, INC., ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-6129. *PETERS v. RUNDA ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 911 F. 2d 733.

No. 90-6131. *WALKER v. RARDIN ET AL.* C. A. 7th Cir. Certiorari denied.

No. 90-6133. *DIAZ v. ROJESKI ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 911 F. 2d 731.

No. 90-6134. *SMITH v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY.* C. A. 5th Cir. Certiorari denied. Reported below: 907 F. 2d 581.

No. 90-6136. *GREENE v. DUTCH POINT CREDIT UNION.* App. Ct. Conn. Certiorari denied.

No. 90-6139. *LEVY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 908 F. 2d 969.

No. 90-6140. *LARSON v. O'CONNELL ET AL.* App. Ct. Ill., 4th Dist. Certiorari denied.

No. 90-6143. *GARAUX v. VASQUEZ, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 916 F. 2d 716.

No. 90-6149. *GUERRERO v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 912 F. 2d 1468.

No. 90-6151. *BROOKS v. ATTORNEY GENERAL OF THE STATE OF ALABAMA.* C. A. 11th Cir. Certiorari denied.

January 7, 1991

498 U. S.

No. 90-6152. *BAILEY v. UNITED STATES* (two cases). C. A. 7th Cir. Certiorari denied.

No. 90-6154. *COOPER v. STALLMAN ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 1578.

No. 90-6158. *GRAHAM ET AL. v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 1576.

No. 90-6159. *MARTIN ET AL. v. MARRINER ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 904 F. 2d 120.

No. 90-6161. *IVERY v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION.* C. A. 5th Cir. Certiorari denied.

No. 90-6162. *HOLLY v. WHITLEY, WARDEN.* C. A. 5th Cir. Certiorari denied.

No. 90-6164. *MCPEAK v. REYNOLDS, COMMISSIONER, TENNESSEE DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 1572.

No. 90-6165. *TODD v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 250.

No. 90-6168. *HORSTMANN ET AL. v. SWINK ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-6171. *MOORE v. KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-6172. *WAKELIN ET AL. v. GULINO.* C. A. 1st Cir. Certiorari denied.

No. 90-6175. *BLACKSTOCK v. FARM & HOME SAVINGS ASSN. Ct. App. Mo., Western Dist.* Certiorari denied. Reported below: 792 S. W. 2d 9.

No. 90-6176. *ABUELHAWA v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 725.

No. 90-6178. *NITCHER v. CLINE ET AL.* C. A. 8th Cir. Certiorari denied.

No. 90-6183. *HUMPHREY v. OHIO DEPARTMENT OF REHABILITATION AND CORRECTION.* Ct. App. Ohio, Franklin County. Certiorari denied.

498 U. S.

January 7, 1991

No. 90-6194. *MARSHALL v. FULCOMER*, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 243.

No. 90-6197. *ESTRADA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-6198. *RODRIGUEZ v. YOUNG*, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 906 F. 2d 1153.

No. 90-6200. *WILLIAMS v. COLLINS*, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 911 F. 2d 729.

No. 90-6203. *BLATCHFORD v. SULLIVAN*, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 904 F. 2d 542.

No. 90-6204. *RAMOS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 245.

No. 90-6206. *GALINDO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 913 F. 2d 777.

No. 90-6207. *UNDER SEAL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 250.

No. 90-6208. *COLLINS v. HALCOTT ET AL.* C. A. 2d Cir. Certiorari denied.

No. 90-6209. *GOMEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 908 F. 2d 809.

No. 90-6211. *BOUSQUET v. NEW HAMPSHIRE*. Sup. Ct. N. H. Certiorari denied. Reported below: 133 N. H. 485, 578 A. 2d 853.

No. 90-6214. *DIEMER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 917 F. 2d 28.

No. 90-6215. *STEWART v. GARRETT*, SECRETARY OF THE NAVY, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 1492.

No. 90-6216. *RODRIGUEZ v. ARVONIO*, ADMINISTRATOR, EAST JERSEY STATE PRISON. C. A. 3d Cir. Certiorari denied.

January 7, 1991

498 U. S.

No. 90-6217. *ROBBINS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 914 F. 2d 1497.

No. 90-6220. *ADAMU v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 918 F. 2d 182.

No. 90-6226. *COLBERT v. OHIO*. Ct. App. Ohio, Hamilton County. Certiorari denied.

No. 90-6230. *MARTIN v. TOWNSEND ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 919 F. 2d 135.

No. 90-6231. *HOLLAND v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 912 F. 2d 1469.

No. 90-6234. *LYLE v. CORDS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 1572.

No. 90-6236. *DORANI v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 909 F. 2d 1485.

No. 90-6237. *FLAKES v. WISCONSIN*. Ct. App. Wis. Certiorari denied.

No. 90-6240. *JUVENILE ACTION NO. JV-115567 v. ARIZONA*. Ct. App. Ariz. Certiorari denied.

No. 90-6246. *PHILLIPPI v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 911 F. 2d 149.

No. 90-6247. *HARMONY, AKA SEMPLE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 283 U. S. App. D. C. 244, 899 F. 2d 52.

No. 90-6249. *BERRY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 914 F. 2d 263.

No. 90-6256. *SANTANA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 908 F. 2d 506.

No. 90-6258. *PIERRE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 914 F. 2d 269.

No. 90-6260. *SASSOWER v. THORNBURGH*. C. A. D. C. Cir. Certiorari denied.

No. 90-6264. *BENNETT ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 912 F. 2d 464.

498 U. S.

January 7, 1991

No. 90-6267. *MARTIN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 725.

No. 90-6269. *KHALIQ v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 919 F. 2d 137.

No. 90-6272. *DU'HART v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied.

No. 90-6273. *GIBSON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 914 F. 2d 1499.

No. 90-6279. *STINSON v. KENTUCKY*. Ct. App. Ky. Certiorari denied.

No. 90-6284. *CONLEY v. WARDEN, MARYLAND PENITENTIARY*. C. A. 4th Cir. Certiorari denied. Reported below: 912 F. 2d 463.

No. 90-6286. *BOLAND v. GENERAL MOTORS CORP. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 908 F. 2d 961.

No. 90-6288. *FRANCOIS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 249.

No. 90-6292. *JACKSON v. JABE, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 90-6295. *KING v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 911 F. 2d 739.

No. 90-6298. *BREEDING v. DAVIS, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 912 F. 2d 1469.

No. 90-6299. *WILLIAMS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 912 F. 2d 1467.

No. 90-6300. *PRESLEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 907 F. 2d 151.

No. 90-6305. *YUSUFU v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 911 F. 2d 727.

No. 90-6306. *PINEDA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-6307. *CLARK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 912 F. 2d 1087.

January 7, 1991

498 U. S.

No. 90-6308. *GRAY v. BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF EL PASO, COLORADO, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-6310. *YOUNG v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 912 F. 2d 464.

No. 90-6312. *FRANCO v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 245.

No. 90-6316. *SARDINA v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 914 F. 2d 253.

No. 90-6319. *BRIGHT v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 912 F. 2d 464.

No. 90-6321. *TRIBELL v. HATFIELD, WARDEN, ET AL.* Ct. Crim. App. Tenn. Certiorari denied.

No. 90-6327. *JACECKO v. WEST CHESTER STATE UNIVERSITY ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 911 F. 2d 719.

No. 90-6331. *HAWKINS ET AL. v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 905 F. 2d 1489.

No. 90-6333. *HOLMES v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 914 F. 2d 253.

No. 90-6335. *BRANT v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 245.

No. 90-6341. *GALLARDO v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 149.

No. 90-6342. *EPPS v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 721.

No. 90-6343. *FILIBERTO v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 915 F. 2d 1560.

No. 90-6346. *MARTINEZ v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 911 F. 2d 739.

No. 90-6348. *GRIFFIN v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 1222.

498 U. S.

January 7, 1991

No. 90-6349. *COLBERT v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-6350. *WILLIAMS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 912 F. 2d 464.

No. 90-6360. *ICE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 245.

No. 90-6361. *DAWSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 245.

No. 90-6365. *HARVEY v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied. Reported below: 919 F. 2d 736.

No. 90-6369. *GALLOWAY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 242.

No. 90-6378. *WINFREY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 212.

No. 90-6382. *CRUZ v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 910 F. 2d 1072.

No. 90-6384. *SNYDER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 913 F. 2d 300.

No. 90-6387. *CAMILO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 914 F. 2d 239.

No. 90-6396. *GLASPY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 912 F. 2d 1468.

No. 90-6398. *LOPEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 914 F. 2d 267.

No. 90-6404. *PADEN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 908 F. 2d 1229.

No. 90-6407. *DENNARD v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 915 F. 2d 1561.

No. 90-6412. *GALINDO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 913 F. 2d 777.

January 7, 1991

498 U. S.

No. 90-6425. *MATHEWS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 917 F. 2d 560.

No. 89-1421. *POWELL ET AL. v. NATIONAL FOOTBALL LEAGUE ET AL.* C. A. 8th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN would grant certiorari. Reported below: 930 F. 2d 1293.

No. 90-271. *AQUILINA v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 6th Cir. Motion of Rosemarie Barone and Joseph W. Aquilina for leave to intervene denied. Certiorari denied. Reported below: 899 F. 2d 1221.

No. 90-401. *LEBBOS v. SUPREME JUDICIAL COURT OF THE COMMONWEALTH OF MASSACHUSETTS*. Sup. Jud. Ct. Mass. Motions for leave to file briefs as *amici curiae* filed by the following are granted: G. G. Baumen, Harold Rauch, Raymond Dunn, Barry D. Ammon, Ronald Z. Berki, John B. Gunn, and John Rakus. Certiorari denied. Reported below: 407 Mass. 1010, 555 N. E. 2d 233.

No. 90-429. *FOUR COUNTY ELECTRIC MEMBERSHIP CORP. v. JUSTUS, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE NORTH CAROLINA DEPARTMENT OF REVENUE*. Ct. App. N. C. Motion of National Rural Electric Cooperative Association et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 96 N. C. App. 417, 386 S. E. 2d 107.

No. 90-444. *ALABAMA v. CARRELL*. Sup. Ct. Ala. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 565 So. 2d 104.

No. 90-489. *DUCKWORTH, SUPERINTENDENT, INDIANA STATE PRISON, ET AL. v. CRANK*. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 905 F. 2d 1090.

No. 90-494. *BLUE CROSS & BLUE SHIELD OF ALABAMA ET AL. v. BROWN*. C. A. 11th Cir. Motion of American Council of Life Insurance et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 898 F. 2d 1556.

No. 90-546. *GRIFFITH ET AL. v. JOHNSTON, INDIVIDUALLY AND AS COMMISSIONER OF THE TEXAS DEPARTMENT OF HUMAN*

498 U. S.

January 7, 1991

SERVICES. C. A. 5th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 899 F. 2d 1427.

No. 90-750. ZINKER, EXECUTOR OF THE ESTATE OF ZINKER, DECEASED *v.* DOTY ET AL. C. A. 2d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 907 F. 2d 357.

No. 90-5535. CHRISTOPH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 904 F. 2d 1036.

No. 90-608. KUCHAREK ET AL. *v.* HANAWAY, ATTORNEY GENERAL OF WISCONSIN. C. A. 7th Cir. Motion of Children's Legal Foundation, Inc., et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 902 F. 2d 513.

No. 90-676. MIAMI CENTER LIMITED PARTNERSHIP ET AL. *v.* BANK OF NEW YORK. C. A. 11th Cir. Motion of petitioners to defer consideration of the petition for writ of certiorari denied. Certiorari denied. Reported below: 901 F. 2d 931.

No. 90-5536. AMSDEN *v.* MORAN ET AL. C. A. 1st Cir. Certiorari denied. JUSTICE SOUTER took no part in the consideration or decision of this petition. Reported below: 904 F. 2d 748.

No. 90-5872 (A-338). HOPE *v.* UNITED STATES. C. A. 11th Cir. Application for stay of mandate, addressed to JUSTICE MARSHALL and referred to the Court, denied. Certiorari denied. Reported below: 901 F. 2d 1013.

No. 90-5932. MILLER *v.* CALIFORNIA. Sup. Ct. Cal.;

No. 90-6044. BAXTER *v.* KEMP, WARDEN. Sup. Ct. Ga.; and

No. 90-6111. CORRELL *v.* THOMPSON, WARDEN. Sup. Ct. Va. Certiorari denied. Reported below: No. 90-5932, 50 Cal. 3d 954, 790 P. 2d 1289; No. 90-6044, 260 Ga. 184, 391 S. E. 2d 754.

JUSTICE MARSHALL, dissenting.

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

January 7, 1991

498 U. S.

No. 90-6223. *WILLIAMS v. MILLER ET AL.* C. A. 11th Cir. Certiorari before judgment denied.

Rehearing Denied

No. 90-295. *TEMPLE v. SYNTHES CORP., LTD.*, *ante*, p. 5;
No. 90-430. *SHELTON v. GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY*, *ante*, p. 941;

No. 90-475. *FALKNER ET UX. v. UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA*, *ante*, p. 959;

No. 90-5380. *EDWARDS v. UNITED STATES*, *ante*, p. 969;

No. 90-5472. *IN RE MAY*, *ante*, p. 944;

No. 90-5574. *DABISH v. CHRYSLER CORP.*, *ante*, p. 944;

No. 90-5580. *CARVALHO v. PUBLIC EMPLOYEES FEDERATION ET AL.*, *ante*, p. 944;

No. 90-5585. *JARALLAH v. PICKETT HOTEL CO., DBA PICKETT SUITE HOTEL, ET AL.*, *ante*, p. 945;

No. 90-5614. *COOMBS v. N. L. CHEMICALS, INC., ET AL.*, *ante*, p. 945;

No. 90-5643. *IN RE ALSTON*, *ante*, p. 957;

No. 90-5660. *WATTS v. CULLINANE ET AL.*, *ante*, p. 946;

No. 90-5695. *WATKINS v. DEPARTMENT OF THE TREASURY ET AL.*, *ante*, p. 969;

No. 90-5703. *AMODEO v. COLUMBIA BROADCASTING SYSTEM ET AL.*, *ante*, p. 960;

No. 90-5727. *JONES v. MENDENHALL ET AL.*, *ante*, p. 969;

No. 90-5732. *COX v. CARROLL, WARDEN*, *ante*, p. 960;

No. 90-5760. *STEPLER v. OHIO ADULT PAROLE AUTHORITY ET AL.*, *ante*, p. 970;

No. 90-5784. *SCHLICHER v. DAVIES ET AL.*, *ante*, p. 970;

No. 90-5786. *HIRSCH v. OREGON*, *ante*, p. 949;

No. 90-5795. *YOUNG v. UNITED STATES*, *ante*, p. 961;

No. 90-5799. *SEARCY v. HOUSTON LIGHTING & POWER CO. ET AL.*, *ante*, p. 970;

No. 90-5809. *MCCOLPIN v. FOULSTON*, *ante*, p. 971;

No. 90-5834. *VAN LEEUWEN ET AL. v. MCCORKINDALE, CIRCUIT JUDGE, ARKANSAS, ET AL.*, *ante*, p. 987;

No. 90-5858. *FORD v. UNITED STATES*, *ante*, p. 961;

No. 90-5866. *MARSHBURN v. RICHARDSON*, *ante*, p. 987;

No. 90-5878. *WEBER v. CALIFORNIA STATE BAR ET AL.*, *ante*, p. 971;

No. 90-5880. *GANEY v. JOHNSON ET AL.*, *ante*, p. 988; and

498 U. S.

January 7, 10, 14, 1991

No. 90-5885. *SINDRAM v. MORAN ET AL.*, *ante*, p. 988. Petitions for rehearing denied.

No. 89-7502. *ABBOTT v. CLAIBORNE PARISH SCHOOL BOARD*, *ante*, p. 829;

No. 89-7534. *McRAE v. MARYLAND*, *ante*, p. 830;

No. 89-7702. *LIFFITON v. UNITED STATES*, *ante*, p. 821;

No. 89-7839. *THOMPSON v. CALIFORNIA*, *ante*, p. 881;

No. 90-5015. *GARY v. GEORGIA*, *ante*, p. 881;

No. 90-5145. *HEWLETT v. BEARD ET AL.*, *ante*, p. 863;

No. 90-5190. *MYERS v. MARTINEZ, WARDEN*, *ante*, p. 865;

No. 90-5250. *BERMAN v. GRIFFITHS ET AL.*, *ante*, p. 868; and

No. 90-5279. *GORDON v. BOWERS*, *ante*, p. 869. Petitions for rehearing denied. JUSTICE SOUTER took no part in the consideration or decision of these petitions.

No. 90-93. *LANGENKAMP, SUCCESSOR TRUSTEE OF THE BANKRUPTCY ESTATES OF REPUBLIC TRUST & SAVINGS CO. ET AL. v. CULP ET AL.*, *ante*, p. 42. Petition for rehearing denied. JUSTICE KENNEDY took no part in the consideration or decision of this petition.

JANUARY 10, 1991

Dismissal Under Rule 46

No. 90-342. *DESMIDT v. WISCONSIN*. Sup. Ct. Wis. Certiorari dismissed under this Court's Rule 46. Reported below: 155 Wis. 2d 119, 454 N. W. 2d 780.

JANUARY 14, 1991

Certiorari Granted—Vacated and Remanded

No. 90-142. *DUNKEL v. UNITED STATES*. C. A. 7th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Cheek v. United States*, *ante*, p. 192. Reported below: 900 F. 2d 105.

Miscellaneous Orders. (See also *ante*, p. 233.)

No. A-474. *WILLIAMS v. FAUCETT ET AL.* Sup. Ct. Ala. Application for stay, addressed to JUSTICE O'CONNOR and referred to the Court, denied.

No. A-516. *HUGHES v. WASHINGTON POST CO.* Application for further stay of mandate of the United States Court of Appeals

January 14, 1991

498 U. S.

for the Fourth Circuit, presented to THE CHIEF JUSTICE, and by him referred to the Court, granted pending the timely filing and disposition of a petition for writ of certiorari. If the petition for writ of certiorari is denied, this order is to terminate automatically. In the event the petition for writ of certiorari is granted, this order is to remain in effect pending the sending down of the judgment of this Court.

No. D-960. IN RE DISBARMENT OF BROADHURST. It is ordered that Kenneth Lynn Broadhurst, of Englewood, Colo., 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-961. IN RE DISBARMENT OF MILLER. It is ordered that Theodore A. Miller, of Green Bay, Wis., 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-962. IN RE DISBARMENT OF RUBIN. It is ordered that Leonard Rubin, of Watchung, 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-963. IN RE DISBARMENT OF HENDERSON. It is ordered that Paul Gordon Henderson, of Baltimore, Md., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-964. IN RE DISBARMENT OF LEVINE. It is ordered that Howard Alan Levine, of Oklahoma City, Okla., 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. 89-1714. PAULEY, SURVIVOR OF PAULEY *v.* BETH-ENERGY MINES, INC., ET AL. C. A. 3d Cir. [Certiorari granted, *ante*, p. 937];

No. 90-113. CLINCHFIELD COAL CO. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPART-

498 U. S.

January 14, 1991

MENT OF LABOR, ET AL. C. A. 4th Cir. [Certiorari granted, *ante*, p. 937]; and

No. 90-114. CONSOLIDATION COAL CO. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, ET AL. C. A. 4th Cir. [Certiorari granted, *ante*, p. 937.] Motion of the Solicitor General for divided argument granted. Request of the claimants to be designated as respondents for purposes of oral argument granted. JUSTICE KENNEDY took no part in the consideration or decision of these motions.

No. 89-1944. OHIO *v.* HUERTAS. Sup. Ct. Ohio. [Certiorari granted, *ante*, p. 807.] Motion of National Jury Project for leave to file a brief as *amicus curiae* granted.

No. 90-285. LITTON FINANCIAL PRINTING DIVISION, A DIVISION OF LITTON BUSINESS SYSTEMS, INC. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 9th Cir. [Certiorari granted, *ante*, p. 966.] Motion of the Solicitor General for divided argument granted.

No. 90-644. LEDBETTER, COMMISSIONER, GEORGIA DEPARTMENT OF HUMAN RESOURCES *v.* TURNER ET AL. C. A. 11th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 90-5744. CHAPMAN ET AL. *v.* UNITED STATES. C. A. 7th Cir. [Certiorari granted, *ante*, p. 1011.] Motion for appointment of counsel granted, and it is ordered that T. Christopher Kelly, Esq., of Madison, Wis., be appointed to serve as counsel for petitioners in this case.

No. 90-6156. IN RE ENGLAND ET AL. Petition for writ of mandamus denied.

Certiorari Granted

No. 89-1905. WISCONSIN PUBLIC INTERVENOR ET AL. *v.* MORTIER ET AL. Sup. Ct. Wis. Certiorari granted. Reported below: 154 Wis. 2d 18, 452 N. W. 2d 555.

No. 90-34. EXXON CORP. *v.* CENTRAL GULF LINES, INC., ET AL. C. A. 2d Cir. Certiorari granted. Reported below: 904 F. 2d 33.

No. 90-906. METROPOLITAN WASHINGTON AIRPORTS AUTHORITY ET AL. *v.* CITIZENS FOR THE ABATEMENT OF AIRCRAFT

January 14, 1991

498 U. S.

NOISE, INC., ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 286 U. S. App. D. C. 334, 917 F. 2d 48.

No. 90-769. RENNE, SAN FRANCISCO CITY ATTORNEY, ET AL. v. GEARY ET AL. C. A. 9th Cir. Motion of California Judges Association for leave to file a brief as *amicus curiae* granted. Certiorari granted. Reported below: 911 F. 2d 280.

No. 90-6282. TOUBY ET UX. v. UNITED STATES. C. A. 3d Cir. Motion of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 909 F. 2d 759.

Certiorari Denied

No. 89-6214. SOCORRO PARDO ET AL. v. UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 2d 662.

No. 89-7332. MITZEL v. OHIO. Ct. App. Ohio, Trumbull County. Certiorari denied.

No. 90-205. GERSTIN ET AL. v. SPANN ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 283 U. S. App. D. C. 216, 899 F. 2d 24.

No. 90-435. HAMMOND v. UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 907 F. 2d 1142.

No. 90-453. DOREMUS v. UNITED STATES; and

No. 90-466. DOREMUS v. UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 888 F. 2d 630.

No. 90-486. SAYLOR ET AL. v. OREGON ET AL. Ct. App. Ore. Certiorari denied. Reported below: 100 Ore. App. 745, 788 P. 2d 494.

No. 90-493. CONGER ET AL. v. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 199, AFL-CIO, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 908 F. 2d 979.

No. 90-504. FLEET FACTORS CORP. v. UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 901 F. 2d 1550.

No. 90-563. SWAN ET VIR v. WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 114 Wash. 2d 613, 790 P. 2d 610.

498 U. S.

January 14, 1991

No. 90-581. THOMPSON ET AL. *v.* BRITISH AIRWAYS, INC., ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 79, 901 F. 2d 1131.

No. 90-600. FARMER *v.* HIGGINS, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS. C. A. 11th Cir. Certiorari denied. Reported below: 907 F. 2d 1041.

No. 90-636. DAVIS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 905 F. 2d 245.

No. 90-717. JACKSON *v.* GENERAL DYNAMICS CORP. Ct. App. Tex., 2d Dist. Certiorari denied.

No. 90-730. LADNER *v.* JOHNSON ET AL. Sup. Ct. Miss. Certiorari denied. Reported below: 563 So. 2d 1368.

No. 90-752. WINCHESTER *v.* COUNTY OF SAN DIEGO ET AL. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-758. ENIX ET AL. *v.* DAYTON WOMEN'S HEALTH CENTER, INC., ET AL. Sup. Ct. Ohio. Certiorari denied. Reported below: 52 Ohio St. 3d 67, 555 N. E. 2d 956.

No. 90-765. LEXINGTON HERALD-LEADER CO. ET AL. *v.* WARFORD. Sup. Ct. Ky. Certiorari denied. Reported below: 789 S. W. 2d 758.

No. 90-766. GUESS *v.* NORTH CAROLINA BOARD OF MEDICAL EXAMINERS. Sup. Ct. N. C. Certiorari denied. Reported below: 327 N. C. 46, 393 S. E. 2d 833.

No. 90-771. CLAYPOOL ET AL. *v.* BOYD, INDIVIDUALLY AND AS WARDEN, STEVENSON CORRECTIONAL INSTITUTION, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 1490.

No. 90-773. SOUTH RIDGE BAPTIST CHURCH *v.* INDUSTRIAL COMMISSION OF OHIO ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 911 F. 2d 1203.

No. 90-776. CORNETT *v.* MANUFACTURERS HANOVER TRUST CO. ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 902 F. 2d 1556.

No. 90-777. HARVEY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 900 F. 2d 1253.

January 14, 1991

498 U. S.

No. 90-779. *BREEN v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 911 F. 2d 737.

No. 90-780. *DESANTIS ET AL. v. WACKENHUT CORP.* Sup. Ct. Tex. Certiorari denied. Reported below: 793 S. W. 2d 670.

No. 90-784. *KENNEDY v. COUNTY OF LOS ANGELES ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-789. *HEGEDUS v. LIMBACH, OHIO TAX COMMISSIONER*. C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 1571.

No. 90-790. *SETERA v. TEMME ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 901 F. 2d 1112.

No. 90-794. *NAJARRO ET AL. v. FRAME ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 1002.

No. 90-796. *POCONO GREEN, INC. v. BOARD OF SUPERVISORS OF KIDDER TOWNSHIP (CARBON COUNTY), PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 523 Pa. 601, 568 A. 2d 612.

No. 90-800. *BLACKSHIRE v. BLACKSHIRE*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 90-801. *PERSON v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. Reported below: 215 Conn. 653, 577 A. 2d 1036.

No. 90-804. *FEINGOLD v. DISCIPLINARY BOARD OF PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied.

No. 90-814. *ELLIOTT v. MERCURY MARINE*. C. A. 11th Cir. Certiorari denied. Reported below: 903 F. 2d 1505.

No. 90-820. *WHITEHORN ET UX. v. MURPHY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 912 F. 2d 471.

No. 90-837. *LAGOS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 912 F. 2d 464.

No. 90-852. *ASHER v. ARKANSAS*. Sup. Ct. Ark. Certiorari denied. Reported below: 303 Ark. 202, 795 S. W. 2d 350.

No. 90-860. *AIELLO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 912 F. 2d 4.

498 U. S.

January 14, 1991

No. 90-861. *WIGINTON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 914 F. 2d 254.

No. 90-876. *ALAYON v. MINNESOTA*. Sup. Ct. Minn. Certiorari denied. Reported below: 459 N. W. 2d 325.

No. 90-930. *BARTELS v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 1578.

No. 90-938. *GUNN ET AL. v. PALMIERI ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 33.

No. 90-5621. *CAPPS v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied. Reported below: 900 F. 2d 58.

No. 90-5701. *ARNOLIE v. SECRETARY OF THE NAVY*. C. A. 9th Cir. Certiorari denied. Reported below: 900 F. 2d 262.

No. 90-5769. *McMULLIN v. NIX, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 314.

No. 90-5923. *CARDONA v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 903 F. 2d 60.

No. 90-5947. *HATCHER ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 905 F. 2d 784.

No. 90-5952. *SUTTON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 1478.

No. 90-5982. *LEVY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 905 F. 2d 326.

No. 90-6022. *SMITH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 909 F. 2d 1480.

No. 90-6090. *DRUMMOND v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 903 F. 2d 1171.

No. 90-6153. *BOUT v. HARRISON ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 914 F. 2d 255.

No. 90-6173. *BIENVILLE v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 897 F. 2d 539.

No. 90-6189. *SRUBAR v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

January 14, 1991

498 U. S.

No. 90-6202. *MURRAY v. MISSISSIPPI DEPARTMENT OF CORRECTIONS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 911 F. 2d 1167.

No. 90-6205. *SCOTT v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-6210. *BARROGA v. UNITED STATES PATENT AND TRADEMARK OFFICE.* C. A. Fed. Cir. Certiorari denied. Reported below: 914 F. 2d 270.

No. 90-6232. *MOORE v. GREEN, WARDEN.* C. A. 4th Cir. Certiorari denied. Reported below: 912 F. 2d 463.

No. 90-6235. *OSWALD v. SUPREME COURT OF MICHIGAN.* C. A. 6th Cir. Certiorari denied. Reported below: 920 F. 2d 933.

No. 90-6239. *BROWN v. BI-STATE DEVELOPMENT AGENCY ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 1579.

No. 90-6242. *VUKADINOVICH v. KRAWCZYK ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 901 F. 2d 1439.

No. 90-6243. *LUND v. ILLINOIS.* App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 198 Ill. App. 3d 1110, 584 N. E. 2d 1082.

No. 90-6245. *VARVARIS v. KOUNTOURIS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 1569.

No. 90-6248. *JOHNSON v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 911 F. 2d 1394.

No. 90-6251. *GAYTAN v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-6254. *ZIEGLER v. CHAMPION, WARDEN.* C. A. 10th Cir. Certiorari denied.

No. 90-6255. *WELCH v. JOLLEY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 988.

No. 90-6257. *RUPE v. METROPOLITAN LIFE INSURANCE CO. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 908 F. 2d 977.

498 U. S.

January 14, 1991

No. 90-6262. CHASE *v.* F. WILLIAM HONSOWETZ, P. C. Ct. App. Ore. Certiorari denied.

No. 90-6268. MENESES *v.* STEPHENS, ADMINISTRATOR, NORTHERN STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 244.

No. 90-6271. RACE *v.* PUNG, COMMISSIONER, MINNESOTA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 907 F. 2d 83.

No. 90-6274. DEMOS *v.* UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON. C. A. 9th Cir. Certiorari denied.

No. 90-6277. SANDERS *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. Reported below: 327 N. C. 319, 395 S. E. 2d 412.

No. 90-6278. REVERE *v.* ESTATE OF REVERE. Sup. Ct. La. Certiorari denied. Reported below: 568 So. 2d 1060.

No. 90-6280. YOUNG *v.* JOHNSON, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 916 F. 2d 721.

No. 90-6281. PAREZ *v.* LOPEZ ET AL. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-6283. SMITH ET AL. *v.* MOHS, ASSISTANT SUPERINTENDENT, MINNESOTA CORRECTIONAL FACILITY. C. A. 8th Cir. Certiorari denied.

No. 90-6285. FROST *v.* CALIFORNIA ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-6293. JOHNSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 910 F. 2d 1506.

No. 90-6330. HURD *v.* DESERT HOSPITAL ET AL. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-6338. ARMSTRONG *v.* ST. PETERSBURG TIMES ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 564 So. 2d 1085.

January 14, 1991

498 U. S.

No. 90-6358. *GUEDEL v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 1578.

No. 90-6359. *MUTH v. CENTRAL BUCKS SCHOOL DISTRICT ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 911 F. 2d 719.

No. 90-6362. *GROHOLSKI v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 692.

No. 90-6366. *PIEPER v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 9th Cir. Certiorari denied. Reported below: 904 F. 2d 710.

No. 90-6376. *FLETCHER v. MEMPHIS POLICE DEPARTMENT ET AL.* C. A. 6th Cir. Certiorari denied.

No. 90-6419. *HANSEN v. UNITED STATES PAROLE COMMISSION*. C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 306.

No. 90-6431. *GROHOLSKI v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 692.

No. 90-6436. *BROWN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 911 F. 2d 522.

No. 90-6437. *BAKER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 911 F. 2d 522.

No. 90-6438. *EDWARDS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 916 F. 2d 708.

No. 90-6439. *JONES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 913 F. 2d 174.

No. 90-6442. *MONTALVO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 916 F. 2d 720.

No. 90-6447. *BEVERLY v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 913 F. 2d 337.

No. 90-6454. *HINDMAN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 249.

No. 90-6458. *NOLEN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

498 U. S.

January 14, 1991

No. 90-6459. HERNANDEZ-AVILA *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 90-609. REICHHOLD CHEMICALS, INC. *v.* TEAMSTERS LOCAL UNION No. 515, AFFILIATED WITH THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, ET AL. C. A. D. C. Cir. Motions of Capital Associated Industries, Inc., and Carpet & Rug Institute for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 285 U. S. App. D. C. 25, 906 F. 2d 719.

No. 90-618. TOLEDO BLADE Co. *v.* TOLEDO TYPOGRAPHICAL UNION No. 63 ET AL. C. A. D. C. Cir. Motion of petitioner for leave to intervene in order to file petition for writ of certiorari denied. Certiorari denied. Reported below: 285 U. S. App. D. C. 214, 907 F. 2d 1220.

No. 90-761. CHOPIN ASSOCIATES ET AL. *v.* SMITH, TRUSTEE, BANK OF NEW YORK, ET AL. C. A. 11th Cir. Motion of petitioners to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 914 F. 2d 268.

No. 90-933. NATIONALIST MOVEMENT *v.* CITY OF CUMMING ET AL. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Certiorari denied. Reported below: 913 F. 2d 885.

No. 90-5961. PLETTEN *v.* MERIT SYSTEMS PROTECTION BOARD ET AL. C. A. 6th Cir. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Motion of petitioner to strike brief in opposition denied. Certiorari denied. Reported below: 908 F. 2d 973.

No. 90-6047. TURNER *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 50 Cal. 3d 668, 789 P. 2d 887.

JUSTICE MARSHALL, dissenting.

Petitioner was convicted in California state court of first-degree murder and sentenced to death. On appeal, he argued that application of the death penalty in this case was arbitrary because it was excessive when compared with penalties imposed in similar cases. The California Supreme Court noted that petitioner "present[ed] an elaborate survey of published [California] Court of Appeal decisions to demonstrate the hypothesis that many first de-

gree murderers of equal or greater culpability have received sentences less than death." 50 Cal. 3d 668, 718, 789 P. 2d 887, 916 (1990). However, the State Supreme Court refused to review petitioner's submissions, declaring that "[c]omparative proportionality review is not constitutionally required." *Ibid.* Although the court cited its own prior decisions for that conclusion, *ibid.*, those precedents ultimately derive from this Court's opinion in *Pulley v. Harris*, 465 U. S. 37 (1984). See *People v. Rodriguez*, 42 Cal. 3d 730, 778, 726 P. 2d 113, 143-144 (1986) (relying on *Pulley* in rejecting proportionality review). In *Pulley*, the Court sustained California's capital punishment statute against Eighth Amendment attack, rejecting the claim that the "Eighth Amendment . . . requires a state appellate court, before it affirms a death sentence, to compare the sentence in the case before it with the penalties imposed in similar cases if requested to do so by the prisoner." 465 U. S., at 43-44.

I dissented from the decision in *Pulley*, and I continue to believe that it was wrongly decided. The singling out of particular defendants for the death penalty when their crimes are no more aggravated than those committed by numerous other defendants given lesser sentences is unacceptable. As Justice Brennan pointed out in his dissent in *Pulley*, comparative proportionality review, at the very least, "serves to eliminate some of the irrationality that currently surrounds imposition of a death sentence" and "can be administered without much difficulty by a court of statewide jurisdiction." 465 U. S., at 71. In the present case, petitioner has not merely "requested" review for comparative proportionality, cf. *id.*, at 44, but has (in the lower court's own words) "present[ed] an elaborate survey of published Court of Appeal decisions," allegedly showing that "many first degree murderers of equal and greater culpability have received sentences less than death." 50 Cal. 3d, at 718, 789 P. 2d, at 916. I cannot understand how this Court can reconcile a refusal to review such evidence with our capital jurisprudence.

As we have often recognized, "[b]ecause of the uniqueness of the death penalty, . . . it [cannot] be imposed under sentencing procedures that creat[e] a substantial risk that it would be inflicted in an arbitrary and capricious manner." *Gregg v. Georgia*, 428 U. S. 153, 188 (1976) (joint opinion of Stewart, Powell, and STEVENS, JJ.). Indeed, we have "insiste[d] that capital punishment be imposed fairly, and with reasonable consistency, or not at

498 U. S.

January 14, 1991

all." *Eddings v. Oklahoma*, 455 U. S. 104, 112 (1982). The allegation in this petition, accompanied by a proffer of significant evidence, is that the death sentence imposed upon petitioner was not "fair" precisely because it was not "consistent." The refusal even to consider petitioner's evidence surely "creates a substantial risk" that "arbitrary and capricious" capital punishment will result. I would hope that the Court would reexamine its views on this matter. This petition should be granted and the case remanded for an examination of petitioner's submissions.

Even if I did not believe that failure to consider petitioner's evidence on the issue of proportionality violated the Eighth Amendment, I would grant the petition and vacate the sentence below, 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*, *supra*, at 231 (MARSHALL, J., dissenting).

No. 90-6077. *OXFORD v. MISSOURI*. Sup. Ct. Mo.;

No. 90-6119. *ANTWINE v. MISSOURI*. Sup. Ct. Mo.; and

No. 90-6228. *MAY v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied. Reported below: No. 90-6077, 791 S. W. 2d 396; No. 90-6119, 791 S. W. 2d 403; No. 90-6228, 904 F. 2d 228.

JUSTICE MARSHALL, dissenting.

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

No. 90-6371 (A-275). *RODRIGUEZ v. COLORADO*. Sup. Ct. Colo. Application for stay of execution of sentence of death, presented to JUSTICE WHITE, and by him referred to the Court, denied. Certiorari denied. Reported below: 794 P. 2d 965.

JUSTICE MARSHALL, dissenting.

In both *Mills v. Maryland*, 486 U. S. 367 (1988), and *McKoy v. North Carolina*, 494 U. S. 433 (1990), we vacated death sentences based on jury instructions that, reasonably construed, prevented the respective juries from considering any mitigating factors they did not unanimously find to exist. Because I believe that the in-

structions delivered to the jury in this case cannot be squared with *Mills* and *McKoy*, I would grant the application for stay and the petition for certiorari.

I

Petitioner was convicted of murder and sentenced to death. At the penalty phase of petitioner's trial, the trial court instructed the jury that any aggravating factors found to exist should be weighed against any mitigating factors found to exist. Instruction No. 21 explained in pertinent part:

"If in the first two steps of your deliberations you have made *unanimous findings* that the prosecution has proven beyond a reasonable doubt that one or more aggravating factors exist and that no mitigating factors exist, or *that a mitigating factor or factors exist*, you must now decide whether the prosecution has proven that any factors in mitigation do not outweigh the aggravating factor or factors." 794 P. 2d 965, 997 (Colo. 1990) (emphasis added).

In *Mills v. Maryland*, *supra*, we addressed the constitutionality of instructions requiring juror unanimity on mitigating factors. We concluded that such instructions violate the cardinal principle of our capital jurisprudence that "the sentencer may not . . . be precluded from considering 'any relevant mitigating evidence.'" 486 U. S., at 374-375, quoting *Skipper v. South Carolina*, 476 U. S. 1, 4 (1986), in turn quoting *Eddings v. Oklahoma*, 455 U. S. 104, 114 (1982). In *Mills*, an impermissible juror unanimity requirement was imposed by a jury verdict form stating: "'Based upon the evidence we unanimously find that each of the following mitigating circumstances which is marked 'yes' has been proven to exist . . .'" 486 U. S., at 387. *McKoy v. North Carolina*, *supra*, presented a similar situation. In *McKoy*, the jury had been instructed both orally and in writing that it had to make unanimous findings on the existence of mitigating factors before proceeding to consider them. 494 U. S., at 436. Applying *Mills*, we vacated *McKoy*'s death sentence.

Instruction No. 21 in the present case suffers from the infirmity condemned in *Mills* and *McKoy*. As noted, Instruction No. 21 directed the jury that if it "made *unanimous findings* . . . that one or more aggravating factors exist and that no mitigating factors exist, or *that a mitigating factor or factors exist*," it should pro-

1055

MARSHALL, J., dissenting

ceed to weigh the aggravating factors against the mitigating factors. The phrase "unanimous findings" can be read only to have modified both "aggravating factors" and "mitigating factors." For the instruction to have been constitutional, the jury would have to have read the pertinent language in Instruction No. 21 as permitting it to weigh mitigating factors if it made *nonunanimous* "findings . . . that a mitigating factor or factors exist." Instruction No. 21 clearly does not say this.

The Colorado Supreme Court, however, refused to vacate petitioner's death sentence. Relying on *Boyde v. California*, 494 U. S. 370 (1990), the Colorado Supreme Court reasoned that "there was no reasonable likelihood" that the jury would have interpreted the instruction to require juror unanimity on mitigating factors. 794 P. 2d, at 982. I cannot accept that our decision in *Boyde* affects the invalidity of Instruction No. 21 under *Mills* and *McKoy*.

In *Boyde*, this Court examined whether instructions at the penalty phase of *Boyde*'s capital proceeding impermissibly limited consideration of mitigating evidence pertaining to *Boyde*'s character and background. The trial court instructed the jury that, in addition to 10 specific factors to be considered in determining the penalty, the jury could consider "[a]ny other circumstance which extenuates the gravity of the crime even though it is not a legal excuse for the crime.'" *Boyde v. California*, *supra*, at 381.

The Court concluded in *Boyde* that even though the instructions did not identify *Boyde*'s deprived background and emotional troubles as relevant considerations, there was no "reasonable likelihood" that the jury felt precluded from considering these factors. Noting the view, "long held by this society," that such factors "would counsel imposition of a sentence less than death," the Court found it unlikely that the jury would have understood the instructions to prevent consideration of such evidence. See 494 U. S., at 382. Additionally, the Court concluded that the context of the proceeding, in which *Boyde* introduced without objection four days of testimony concerning his background and character, "would have led reasonable jurors to believe that evidence of petitioner's background and character could be considered in mitigation." *Id.*, at 383.

The facts in *Boyde* offer little assistance in resolving this case. Unlike the jury in *Boyde*, the jury in this case could not have been guided either by the evidence introduced or by any "long held" so-

cietal views in attempting to comprehend Instruction No. 21. That instruction indicates that the jury is required to find the existence of mitigating factors unanimously. Clearly, there is no "long held" societal view as to procedural rules of this sort. Rather, the jury's sole source of direction as to the meaning of Instruction No. 21 was the instruction itself. For the reasons I have indicated, there clearly *was* a "reasonable likelihood" that the jury viewed the direction to make "unanimous findings" as applying not only to aggravating factors but also to mitigating factors.

The Colorado Supreme Court reasoned that the jury would not have understood Instruction No. 21 in this way in light of the instructions on aggravating factors. These instructions stated on several occasions that any aggravating factors must be found unanimously, and one instruction required the jury to vote to determine the existence of particular aggravating factors. The court reasoned that the absence of similar repetition in the instructions on mitigating factors and the absence of provisions for voting upon the existence of mitigating factors precluded the jurors from inferring that unanimity was necessary for mitigating factors. 794 P. 2d, at 981-982.

In my view, this assumption is unrealistic. As a matter of convention, we presume that jurors follow jury instructions. See *McKoy v. North Carolina*, *supra*, at 454 (KENNEDY, J., concurring in judgment). Instruction No. 21 required unanimity as to the existence of mitigating circumstances. It is difficult to imagine, then, that the jury would have inferred from the instructions setting forth the unanimity requirement with respect to *aggravating factors* a signal to disavow the clear import of Instruction No. 21.

Nor am I convinced that anything the instructions otherwise said about *mitigating factors* would have prompted the jury to disregard the link between "unanimous findings" and "mitigating factors" in Instruction No. 21. The Colorado Supreme Court suggested that the defect in Instruction No. 21 was cured by "a theme" running through the instructions "that the individual jurors could disagree with respect to the effect they gave to mitigating factors." 794 P. 2d, at 982 (citing Instruction Nos. 15, 21, and 22).¹ However, this "theme" in the jury charge addressed only

¹ Instruction No. 15 stated: "If one or more jurors finds sufficient mitigating factor or factors exist that outweigh a specified aggravating factor or factors, then the result is a sentence of life imprisonment." 794 P. 2d 965, 995

1055

MARSHALL, J., dissenting

the juror's individual autonomy in deciding what weight to attach to a particular mitigating factor. The instructions said nothing to upset the indication in Instruction No. 21 that a juror could weigh a mitigating factor only after it had been unanimously found to exist. Indeed, Instruction No. 21 expressly directed the jury that it first had to find the existence of mitigating factors before weighing could take place. Instruction No. 21 explained that in the *first two steps* of its deliberations the jury was to make "unanimous findings" with respect to aggravating and mitigating factors, and it was not until "the *third step* of [the] deliberations" that the jury was to weigh the aggravating factors against the mitigating factors. *Id.*, at 997 (quoting Instruction No. 21).²

A "commonsense understanding" of the instructions in this case, *Boyde v. California*, 494 U. S., at 381, confirms that the jury would have attached an unconstitutional meaning to Instruction No. 21. By its plain and natural meaning, Instruction No. 21 imposed a jury unanimity requirement that is incompatible with *Mills* and *McKoy*. As nothing else in the instructions can support the Colorado Supreme Court's intuitive judgment that the jury did not attach that unconstitutional meaning to Instruction No. 21, the instructions are not saved by the *Boyde* test. Because I believe that petitioner's death sentence is constitutionally defective, I would grant the application for stay and the petition for certiorari.

(Colo. 1990). This direction was repeated in Instruction No. 21. See *id.*, at 997. Instruction No. 22 added:

"Each of you must also decide for yourself what weight to give each mitigating circumstance that you find exists. Your decision as to what weight to give any mitigating circumstance does not have to be unanimous. You do not have to take the decisions, opinions or feelings of any other juror into account, although you may do so if you wish." *Ibid.*

²I also reject the Colorado Supreme Court's suggestion that the infirmity in the instructions might have been cured by defense counsel's plea in closing argument that the jurors "can rely on any factor you wish to return a life sentence . . . [and] [y]ou don't have to be unanimous on those factors." *Id.*, at 982, n. 13 (emphasis omitted). Statements of counsel "are usually billed in advance to the jury as matters of argument" and "generally carry less weight with a jury than do instructions from the court." *Boyde v. California*, 494 U. S. 370, 384 (1990). Of course, in some instances an improper argument from counsel may negate a jury instruction that correctly explains to a jury the standards governing its inquiry. Cf. *ibid.* But it is an entirely different matter to presume the contrary: that an argument from counsel properly stating the law to the jury can save a jury instruction that does not.

January 14, 18, 1991

498 U. S.

II

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 application for stay and the petition for certiorari and vacate petitioner's death sentence even if I did not believe this case otherwise merited review.

Rehearing Denied

No. 90-5140. *PRICE v. HARDY*, *ante*, p. 985;
No. 90-5906. *SCHLICHER v. MUNOZ ET AL.*, *ante*, p. 1001;
No. 90-5910. *HARPER v. BUMPERS ET AL.*, *ante*, p. 989;
No. 90-5916. *JOHNSON v. MACK*, *ante*, p. 989; and
No. 90-5983. *MARTIN v. UNITED STATES DEPARTMENT OF LABOR, EMPLOYMENT STANDARDS ADMINISTRATION OFFICE OF WORKERS' COMPENSATION*, *ante*, p. 1014. Petitions for rehearing denied.

JANUARY 18, 1991

Probable Jurisdiction Noted

No. 90-952. *CLARK ET AL. v. ROEMER, GOVERNOR OF LOUISIANA, ET AL.* Appeal from D. C. M. D. La. Motion of appellants to expedite consideration of statement as to jurisdiction granted. Probable jurisdiction noted. Reported below: 751 F. Supp. 586.

Certiorari Granted

No. 90-368. *TOIBB v. RADLOFF*. C. A. 8th Cir. Certiorari granted. Reported below: 902 F. 2d 14.

No. 90-757. *CHISOM ET AL. v. ROEMER, GOVERNOR OF LOUISIANA, ET AL.*; and

No. 90-1032. *UNITED STATES v. ROEMER, GOVERNOR OF LOUISIANA, ET AL.* C. A. 5th Cir. Motion of petitioners in No. 90-757 to expedite consideration of petition for writ of certiorari in No. 90-757 granted. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 917 F. 2d 187.

No. 90-813. *HOUSTON LAWYERS' ASSN. ET AL. v. ATTORNEY GENERAL OF TEXAS ET AL.*; and

498 U. S.

January 18, 22, 1991

No. 90-974. LEAGUE OF UNITED LATIN AMERICAN CITIZENS ET AL. *v.* ATTORNEY GENERAL OF TEXAS ET AL. C. A. 5th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 914 F. 2d 620.

JANUARY 22, 1991

Certiorari Granted—Vacated and Remanded

No. 89-954. MONTEDORO-WHITNEY CORP. *v.* MARSH-MCBIRNEY, INC. C. A. Fed. Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *FirsTier Mortgage Co. v. Investors Mortgage Ins. Co.*, ante, p. 269. Reported below: 882 F. 2d 498.

No. 90-552. DIAZ-ALBERTINI *v.* UNITED STATES. C. A. 10th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of the position presently asserted by the Solicitor General in his brief for the United States filed December 12, 1990, and asserted in his brief for the United States filed February 27, 1990, in No. 89-1040, *Chappell v. United States*, 494 U. S. 1075 (1990).

CHIEF JUSTICE REHNQUIST, with whom JUSTICE SCALIA and JUSTICE KENNEDY join, dissenting.

The Court vacates the judgment of the Court of Appeals for the Tenth Circuit and remands for "further consideration in light of the position presently asserted by the Solicitor General in his brief for the United States filed December 12, 1990, and asserted in his brief for the United States filed February 27, 1990, in No. 89-1040, *Chappell v. United States*." The Solicitor General, however, has taken the position that the judgment and reasoning of the Court of Appeals were correct and that certiorari should be denied. The Court's disposition fails to provide the Court of Appeals with any useful guidance on remand, leaving that court with the task of spending scarce judicial resources trying to divine what we mean. I therefore dissent.

Petitioner filed a motion under 28 U. S. C. § 2255 seeking to vacate a sentence previously imposed on the ground that he had been denied effective assistance of counsel by his trial counsel's failure to raise a juror-bias claim until after the trial.

The Court of Appeals affirmed the District Court's denial of relief, holding that petitioner was procedurally barred from raising

his claim of ineffective assistance of trial counsel on collateral attack. App. to Pet. for Cert. A1-A6. The court reasoned that the claim should have been raised on direct appeal because petitioner was represented by new counsel on direct appeal and because appellate counsel had "all the information available to him necessary to frame a claim of ineffective assistance of counsel." *Id.*, at A5. Because petitioner had not shown "cause" for his failure to raise the issue on direct appeal, the court concluded that he was barred from raising it under § 2255.

Petitioner then filed a petition for rehearing, arguing that the panel should reconsider its decision in light of this Court's disposition of the certiorari petition in *Chappell v. United States*, 494 U. S. 1075 (1990). In *Chappell*, the United States Court of Appeals for the Seventh Circuit had held that the defendant was barred from raising a claim of ineffective assistance of trial counsel in a § 2255 motion because he had been represented by new counsel on direct appeal and therefore could have raised the claim at that time. *Chappell v. United States*, 878 F. 2d 384 (1989) (judgt. order). In response to the petition for certiorari, the Solicitor General submitted a brief on behalf of the United States which stated that it was the position of the United States that claims of ineffective assistance of counsel ordinarily should be raised for the first time on collateral attack under § 2255 rather than on direct appeal. The Solicitor General further stated that where claims of ineffective assistance of trial counsel are to be raised in a § 2255 motion, a failure to raise such a claim should not constitute procedural default. The Court granted the petition for certiorari in *Chappell*, vacated the judgment of the Court of Appeals, and remanded to that court for further consideration in light of the position taken by the United States in its brief.

In this case, the Court of Appeals denied the petition for rehearing without requesting a response from the United States. Petitioner then filed a petition for certiorari, arguing that we should grant the petition, vacate the judgment of the Tenth Circuit, and remand for further consideration in light of the position taken by the United States in *Chappell*. However, in his brief for the United States in opposition, the Solicitor General recommended that the Court *deny* the petition. The Solicitor General asserted that this case was distinguishable from *Chappell* because "[h]ere, a hearing was held in the district court, in connection with petitioner's motion for a new trial, on the circumstances surround-

498 U. S.

January 22, 1991

ing the actions of trial counsel that form the basis for petitioner's ineffective assistance of counsel claim, and the record therefore would have enabled petitioner's new counsel to raise the issue on direct appeal." Brief in Opposition 9. The Solicitor General concluded that "[b]ecause the record that was developed in the district court apparently would have been adequate for the court of appeals to address the ineffective assistance of trial counsel claim if petitioner had raised it on direct appeal, and because there was no impediment to petitioner's doing so (since he was represented by new counsel on appeal), the holding by the court below that petitioner is barred from raising his Sixth Amendment claim on collateral attack in the particular circumstances of this case is neither unreasonable nor unfair." *Id.*, at 13.

I have previously questioned the wisdom of automatically vacating a Court of Appeals judgment favorable to the Government when the Solicitor General confesses error in this Court, see *Mariscal v. United States*, 449 U. S. 405, 406 (1981) (REHNQUIST, J., dissenting), or of vacating a Court of Appeals' judgment in favor of the Government when the Solicitor General concedes that the analysis of the Court of Appeals may have been wrong but considers the result correct. See *Alvarado v. United States*, 497 U. S. 543, 545 (1990) (REHNQUIST, C. J., dissenting). Today the Court carries these unfortunate practices to new lengths: The Solicitor General has neither confessed error nor questioned the reasoning of the court below, but instead has taken the position that the reasoning and judgment of the Court of Appeals were correct and that certiorari should be denied.

I am at a loss to understand what purpose is served by the Court's decision today. If the Court means what it says, it will have wasted the time of the litigants in the Court of Appeals; the Solicitor General takes the position that this case is distinguishable from *Chappell* and that the judgment of the Court of Appeals was therefore correct. If the Court means something else, it should say so expressly, rather than leaving it to judges who are just as busy as we are to do what can best be described as read tea leaves.

Miscellaneous Orders

No. A-506. FINLEY *v.* SOUTH CAROLINA. Ct. Gen. Sess., Greenville County, S. C. Application for stay, addressed to JUSTICE MARSHALL and referred to the Court, denied.

January 22, 1991

498 U. S.

No. A-540. *CARNIVAL CRUISE LINES v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES (WILLIAMS ET AL., REAL PARTIES IN INTEREST)*. Application to stay proceedings in the Superior Court of California, County of Los Angeles, case Nos. SOC 96347 and SOC 96301, presented to JUSTICE O'CONNOR, and by her referred to the Court, granted pending the timely filing and disposition of a petition for writ of certiorari. Should the petition for writ of certiorari be denied, this order is to terminate automatically. In the event the petition for writ of certiorari is granted, this order is to remain in effect pending the issuance of the mandate of this Court to the Court of Appeal of California, Second Appellate District, Nos. B050142 and B050255.

No. A-541. *CITY OF YONKERS v. UNITED STATES ET AL.* Application for injunction or stay of orders of the United States District Court for the Southern District of New York, presented to JUSTICE MARSHALL, and by him referred to the Court, denied.

No. D-938. *IN RE DISBARMENT OF IRELAND*. Disbarment entered. [For earlier order herein, see 497 U. S. 1057.]

No. D-939. *IN RE DISBARMENT OF MAZZOCONE*. Disbarment entered. [For earlier order herein, see *ante*, p. 917.]

No. D-941. *IN RE DISBARMENT OF AUSBURN*. Disbarment entered. [For earlier order herein, see *ante*, p. 917.]

No. D-942. *IN RE DISBARMENT OF LOGAN*. Disbarment entered. [For earlier order herein, see *ante*, p. 917.]

No. D-943. *IN RE DISBARMENT OF FRASER*. Disbarment entered. [For earlier order herein, see *ante*, p. 917.]

No. D-950. *IN RE DISBARMENT OF BIE*. Disbarment entered. [For earlier order herein, see *ante*, p. 956.]

No. D-965. *IN RE DISBARMENT OF LACKEY*. It is ordered that Hal I. Lackey, of Silver Spring, 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-966. *IN RE DISBARMENT OF THOMPSON*. It is ordered that Raymond Bamidele Thompson, of Washington, D. C., be suspended from the practice of law in this Court and that a rule issue,

498 U. S.

January 22, 1991

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-967. *IN RE DISBARMENT OF COSTIGAN*. It is ordered that Robert W. Costigan, 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-968. *IN RE DISBARMENT OF CANNON*. It is ordered that James Cannon, Jr., of New Castle, Ala., 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 \$4,451.32 for the period October 1 through December 31, 1990, to be paid equally by the parties. [For earlier order herein, see, *e. g., ante*, p. 1010.]

No. 106, Orig. *ILLINOIS v. KENTUCKY*. Exceptions to Report of the Special Master are set for oral argument in due course. [For earlier order herein, see, *e. g., ante*, p. 803.]

No. 89-7645. *HERNANDEZ v. NEW YORK*. Ct. App. N. Y. [Certiorari granted, *ante*, p. 894.] Motion of U. S. English, Inc., et al. for leave to file a brief as *amici curiae* denied.

No. 90-368. *TOIBB v. RADLOFF*. C. A. 8th Cir. [Certiorari granted, *ante*, p. 1060.] James Hamilton, Esq., of Washington, D. C., a member of the Bar of this Court, is invited to brief and argue this case as *amicus curiae* in support of the judgment below.

No. 90-5319. *MCNEIL v. WISCONSIN*. Sup. Ct. Wis. [Certiorari granted, *ante*, p. 937.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 90-6608. *IN RE BRIGHT*. Petition for writ of habeas corpus denied.

No. 90-6421. *IN RE HUNZIKER ET AL.* Petition for writ of mandamus denied.

No. 90-6354. *IN RE MULVILLE*; and

January 22, 1991

498 U. S.

No. 90-6355. *IN RE MULVILLE*. Petitions for writs of mandamus and/or prohibition denied.

No. 90-6393. *IN RE RUBINS*. Petition for writ of prohibition denied.

Certiorari Granted

No. 90-693. *JOHNSON v. HOME STATE BANK*. C. A. 10th Cir. Certiorari granted. Reported below: 904 F. 2d 563.

No. 90-615. *PERETZ v. UNITED STATES*. C. A. 2d Cir. Certiorari granted limited to the following questions:

"1. Does 28 U. S. C. § 636 permit a magistrate to conduct the *voir dire* in a felony trial if the defendant consents?

"2. If 28 U. S. C. § 636 permits a magistrate to conduct a felony trial *voir dire* provided that the defendant consents, is the statute consistent with Article III?

"3. If the magistrate's supervision of the *voir dire* in petitioner's trial was error, did the conduct of petitioner and his attorney constitute a waiver of the right to raise this error on appeal?" Reported below: 904 F. 2d 34.

No. 90-762. *FREYTAG ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 5th Cir. Certiorari granted. In addition to the questions presented by the petition the parties are requested to brief and argue the following question: "Does a party's consent to have its case heard by a special tax judge constitute a waiver of any right to challenge the appointment of that judge on the basis of the Appointments Clause, Art. II, § 2, cl. 2?" Reported below: 904 F. 2d 1011.

Certiorari Denied

No. 90-95. *PUBLIC UTILITIES COMMISSION OF OHIO ET AL. v. CSX TRANSPORTATION, INC., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 901 F. 2d 497.

No. 90-389. *BRAEN v. LAGANELLA ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 900 F. 2d 621.

No. 90-507. *BAILEY ET UX. v. EAST TEXAS PRODUCTION CREDIT ASSOC. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 956.

No. 90-535. *YUN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 899 F. 2d 1220.

498 U. S.

January 22, 1991

No. 90-539. *SONNENBERG ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 904 F. 2d 41.

No. 90-646. *LEGG v. SMITH, TRUSTEE*. C. A. 5th Cir. Certiorari denied.

No. 90-656. *BREWER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 936.

No. 90-666. *FELDMAN ET AL. v. UNITED STATES ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 197.

No. 90-768. *PETER v. HESS OIL VIRGIN ISLANDS CORP.* C. A. 3d Cir. Certiorari denied. Reported below: 903 F. 2d 935.

No. 90-791. *EASTER HOUSE v. FELDER ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 910 F. 2d 1387.

No. 90-793. *MUNOZ v. RICE, SECRETARY OF THE AIR FORCE*. C. A. 5th Cir. Certiorari denied. Reported below: 909 F. 2d 1481.

No. 90-799. *HOUSTON v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 32 M. J. 6.

No. 90-805. *WESTERN STATES PETROLEUM ASSN. ET AL. v. SONOMA COUNTY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 905 F. 2d 1287.

No. 90-812. *CALIFORNIA STATE BOARD OF EQUALIZATION v. TAXEL, TRUSTEE IN BANKRUPTCY*. C. A. 9th Cir. Certiorari denied. Reported below: 912 F. 2d 1073.

No. 90-815. *BLAINE v. MARMOR ET UX*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 555 So. 2d 1241.

No. 90-821. *HALAS v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 915 F. 2d 1583.

No. 90-822. *GREENE ET UX. v. BALABER-STRAUSS, AS TRUSTEE, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 34.

No. 90-828. *KURR v. VILLAGE OF BUFFALO GROVE, ILLINOIS, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 912 F. 2d 467.

January 22, 1991

498 U. S.

No. 90-831. *CAWLEY v. MULLER ET AL.* Ct. App. Mich. Certiorari denied.

No. 90-835. *SMITH, ADMINISTRATRIX OF THE ESTATE OF SMITH, DECEASED v. CITY OF BERKELEY ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-839. *COUNTY OF KERN, CALIFORNIA v. ABSHIRE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 908 F. 2d 483.

No. 90-840. *FRASER v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 909 F. 2d 1496.

No. 90-846. *UBEROI v. BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-850. *ROGERS ET AL. v. WILCOX ET AL.* Ct. App. Ind. Certiorari denied.

No. 90-851. *CARROLL v. INSURANCE COMPANY OF NORTH AMERICA.* C. A. 9th Cir. Certiorari denied. Reported below: 911 F. 2d 737.

No. 90-864. *FILLION v. NEW YORK.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 160 App. Div. 2d 538, 554 N. Y. S. 2d 188.

No. 90-865. *INDEPENDENT SCHOOL DISTRICT, No. I-3, NOBLE COUNTY, OKLAHOMA, ET AL. v. RANKIN.* C. A. 10th Cir. Certiorari denied. Reported below: 876 F. 2d 838.

No. 90-879. *FIELDS v. DURHAM ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 909 F. 2d 94.

No. 90-882. *PHELAN ET AL. v. TAYLOR ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 912 F. 2d 429.

No. 90-883. *JOHNSON ET AL. v. RINECK ET AL.* Sup. Ct. Wis. Certiorari denied. Reported below: 155 Wis. 2d 659, 456 N. W. 2d 336.

No. 90-896. *GARNER v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 907 F. 2d 60.

No. 90-916. *CASTIELLO v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 915 F. 2d 1.

498 U. S.

January 22, 1991

No. 90-920. *ANDERSON v. STATE BAR OF CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 908 F. 2d 976.

No. 90-922. *SCHOLBERG ET AL. v. LIFCHEZ ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 914 F. 2d 260.

No. 90-932. *SCHREIER ET AL. v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 908 F. 2d 645.

No. 90-945. *WHITE ET AL. v. GENERAL MOTORS CORP., INC.* (two cases). C. A. 10th Cir. Certiorari denied. Reported below: 908 F. 2d 669 (first case) and 675 (second case).

No. 90-951. *UPTON COUNTY, TEXAS v. TURNER, AKA HIND.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 133.

No. 90-1013. *STEM v. AHEARN ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 908 F. 2d 1.

No. 90-5728. *EHRlich v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 327.

No. 90-5729. *GREEN v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 79, 901 F. 2d 1131.

No. 90-5740. *ANTON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied.

No. 90-5756. *NAM PING HON v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 803.

No. 90-5758. *QUINONES v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 906 F. 2d 924.

No. 90-5766. *CLARK v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 696.

No. 90-5781. *RICHARDSON v. HENRY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 414.

No. 90-5801. *HENNING v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 906 F. 2d 1392.

No. 90-5803. *PEREZ v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 905 F. 2d 1539.

January 22, 1991

498 U. S.

No. 90-5837. *LUCERO-ROMERO v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 906 F. 2d 977.

No. 90-5860. *JONES v. EVITTS, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 907 F. 2d 150.

No. 90-5900. *ELLIS v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 907 F. 2d 12.

No. 90-5917. *NEWMAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 906 F. 2d 129.

No. 90-5926. *BLAKE ET AL. v. HEARD ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 907 F. 2d 148.

No. 90-5933. *OLIVER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 912 F. 2d 464.

No. 90-5967. *D. H. v. VERMONT DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES*. Sup. Ct. Vt. Certiorari denied. Reported below: 154 Vt. 540, 580 A. 2d 48.

No. 90-6001. *MEDRANO-VELOJA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 912 F. 2d 462.

No. 90-6007. *KUCIK v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 909 F. 2d 206.

No. 90-6050. *PAYNE v. MIDDLETON ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 907 F. 2d 148.

No. 90-6061. *VILLA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 904 F. 2d 42.

No. 90-6083. *GREENE v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 1476.

No. 90-6118. *DESMOND v. DEPARTMENT OF DEFENSE*. C. A. Fed. Cir. Certiorari denied. Reported below: 915 F. 2d 1584.

No. 90-6169. *WOODS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 907 F. 2d 1540.

No. 90-6201. *GRAY v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 90-6276. *WARD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 911 F. 2d 734.

498 U. S.

January 22, 1991

No. 90-6287. *DICKINSON v. COMMUNITY BANK ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-6289. *ARMSTRONG v. FRANK, POSTMASTER GENERAL.* C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 1577.

No. 90-6296. *SATTERWHITE v. UNITED STATES.* Ct. App. D. C. Certiorari denied.

No. 90-6301. *SHAW v. PETERS, WARDEN.* C. A. 7th Cir. Certiorari denied.

No. 90-6302. *SANDLIN v. ELLIS.* C. A. 8th Cir. Certiorari denied.

No. 90-6304. *RICKABAUGH v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 245.

No. 90-6313. *GANEY v. WILSON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 1491.

No. 90-6314. *SHERILLS v. KEREK ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 1573.

No. 90-6320. *VARGAS v. MULL ET AL.* Sup. Ct. Ga. Certiorari denied. Reported below: — Ga. —, 398 S. E. 2d 23.

No. 90-6322. *SPARKS v. SMITH ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 90-6323. *DIAZ v. MILES, SUPERINTENDENT, ELMIRA CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 90-6326. *HENTHORN v. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.* C. A. D. C. Cir. Certiorari denied.

No. 90-6336. *VEALE ET AL. v. NEW HAMPSHIRE.* C. A. 1st Cir. Certiorari denied.

No. 90-6339. *JOHNSON v. LANE ET AL.* C. A. 7th Cir. Certiorari denied.

No. 90-6344. *DODSON v. PENNSYLVANIA ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 242.

January 22, 1991

498 U. S.

No. 90-6347. *MASSEY v. GRAND UNION CO., DBA BIG STAR FOOD STORES, ET AL.* Sup. Ct. Ga., Fulton County. Certiorari denied.

No. 90-6353. *BARRIENTOS v. RELIANCE STANDARD LIFE INSURANCE CO. ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 911 F. 2d 1115.

No. 90-6357. *SANDLIN v. ALLEN ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 1578.

No. 90-6364. *MORT v. OHIO BOARD OF COMMISSIONERS ON CHARACTER AND FITNESS.* Sup. Ct. Ohio. Certiorari denied. Reported below: 53 Ohio St. 3d 260, 560 N. E. 2d 204.

No. 90-6368. *DANIELSON v. ILLINOIS.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 195 Ill. App. 3d 1110, 582 N. E. 2d 327.

No. 90-6373. *RICHARDS ET AL. v. MEDICAL CENTER OF DELAWARE, INC., ET AL.* C. A. 3d Cir. Certiorari denied.

No. 90-6374. *BUYNA v. CASEY ET AL.* C. A. 3d Cir. Certiorari denied.

No. 90-6377. *CARBRAV v. CHAMPION, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 905 F. 2d 314.

No. 90-6379. *CARTER v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION.* C. A. 5th Cir. Certiorari denied. Reported below: 914 F. 2d 254.

No. 90-6380. *HARVEY v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION.* C. A. 5th Cir. Certiorari denied. Reported below: 918 F. 2d 175.

No. 90-6381. *MONROE v. SKINNER, SECRETARY OF TRANSPORTATION.* C. A. 11th Cir. Certiorari denied. Reported below: 912 F. 2d 1468.

No. 90-6385. *ABIFF v. GEORGIA.* Sup. Ct. Ga. Certiorari denied. Reported below: 260 Ga. 434, 396 S. E. 2d 483.

498 U. S.

January 22, 1991

No. 90-6386. BAILEY *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 90-6389. HARRIS *v.* MURRAY ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 916 F. 2d 710.

No. 90-6390. HAYES *v.* GENOVESE ET AL. C. A. 6th Cir. Certiorari denied.

No. 90-6395. WRIGHT *v.* NEW YORK. C. A. 2d Cir. Certiorari denied.

No. 90-6414. MATTOX *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 563 So. 2d 793.

No. 90-6420. HUNZIKER ET AL. *v.* GERMAN-AMERICAN STATE BANK ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 975.

No. 90-6426. KING *v.* PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY. C. A. 5th Cir. Certiorari denied. Reported below: 914 F. 2d 253.

No. 90-6552. MONIZ *v.* STORIE. C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 509.

No. 90-515. LOCKHEED SHIPBUILDING CO. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, ET AL. C. A. 9th Cir. Motion of respondent Wilborn Stevens for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 909 F. 2d 1256.

No. 90-575 (A-451). TIGER INN *v.* FRANK ET AL. Sup. Ct. N. J. Application for stay of mandate, presented to JUSTICE SOUTER, and by him referred to the Court, denied. Certiorari denied. Reported below: 120 N. J. 73, 576 A. 2d 241.

No. 90-631. AMERICAN SPECIAL RISK INSURANCE CO. ET AL. *v.* ROHM & HAAS CO. ET AL. C. A. 10th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 905 F. 2d 1424.

No. 90-647. GRIMES *v.* CENTERIOR ENERGY CORP. C. A. D. C. Cir. Motion of United Shareholders Association for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 285 U. S. App. D. C. 290, 909 F. 2d 529.

January 22, 1991

498 U. S.

No. 90-720. *DEVARGAS v. MASON & HANGER-SILAS MASON Co., INC., ET AL.* C. A. 10th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE MARSHALL would grant certiorari. Reported below: 911 F. 2d 1377.

No. 90-5836. *BURRELL v. LOUISIANA.* Sup. Ct. La.;

No. 90-5851. *TRUESDALE v. SOUTH CAROLINA.* Sup. Ct. S. C.;

No. 90-6072. *GUINAN v. ARMONTROUT, WARDEN.* C. A. 8th Cir.; and

No. 90-6318. *BOYD v. TENNESSEE.* Sup. Ct. Tenn. Certiorari denied. Reported below: No. 90-5836, 561 So. 2d 692; No. 90-5851, 301 S. C. 546, 393 S. E. 2d 168; No. 90-6072, 909 F. 2d 1224; No. 90-6318, 797 S. W. 2d 589.

JUSTICE MARSHALL, dissenting.

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

No. 90-6227. *BENITEZ GUZMAN v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. JUSTICE SOUTER took no part in the consideration or decision of this petition. Reported below: 911 F. 2d 847.

No. 90-6265. *VONTSTEEN v. UNITED STATES.* C. A. 5th Cir. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 910 F. 2d 187.

Rehearing Denied

No. 90-354. *FREY ET AL. v. REILLY, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY*, *ante*, p. 981;

No. 90-521. *COMORA ET UX. v. RADELL ET AL.*, *ante*, p. 981;

No. 90-541. *RUPERT v. GRAVLEE ET AL.*, *ante*, p. 982;

No. 90-613. *BLACK CRYSTAL Co., INC. v. FIRST NATIONAL BANK OF LOUISVILLE*, *ante*, p. 999;

No. 90-651. *PLUNKETT ET AL. v. FEDERAL DEPOSIT INSURANCE CORPORATION, RECEIVER OF FIRST INTERSTATE BANK OF ALASKA, ET AL.*, *ante*, p. 985;

No. 90-665. *BENEFIT TRUST LIFE INSURANCE Co. v. KUNIN*, *ante*, p. 1013;

498 U. S.

January 22, 24, 31, 1991

- No. 90-671. CHRISTENSEN *v.* WARD ET AL., *ante*, p. 999;
No. 90-5100. FORD *v.* LOUISIANA, *ante*, p. 992;
No. 90-5544. JOHL *v.* PETERS ET AL., *ante*, p. 986;
No. 90-5691. BROWN *v.* MCCOTTER, SECRETARY, DEPARTMENT OF CORRECTIONS OF NEW MEXICO, ET AL., *ante*, p. 1000;
No. 90-5755. HERTEL ET AL. *v.* FEDERAL LAND BANK OF ST. LOUIS, *ante*, p. 987;
No. 90-5848. PARKER *v.* FAIRMAN, WARDEN, ET AL., *ante*, p. 987;
No. 90-5855. SELLERS *v.* DELGADO COLLEGE ET AL., *ante*, p. 987;
No. 90-6037. MCGEE *v.* RANDALL DIVISION OF TEXTRON, INC., OF GRENADA, MISSISSIPPI, *ante*, p. 1015; and
No. 90-6085. IN RE DOUGLASS, *ante*, p. 979. Petitions for rehearing denied.
- No. 89-1283. ARCADIA, OHIO, ET AL. *v.* OHIO POWER CO. ET AL., *ante*, p. 73;
No. 89-5120. PERRY *v.* LOUISIANA, *ante*, p. 38;
No. 89-5867. IRWIN *v.* DEPARTMENT OF VETERANS AFFAIRS ET AL., *ante*, p. 89;
No. 89-7584. COOK *v.* UNITED STATES, *ante*, p. 832; and
No. 89-7822. GREEN ET AL. *v.* LAW FIRM OF WISEMAN, BLACKBURN, FUTRELL & COHEN ET AL., *ante*, p. 842. Petitions for rehearing denied. JUSTICE SOUTER took no part in the consideration or decision of these petitions.

JANUARY 24, 1991

Dismissals Under Rule 46

- No. 90-257. NATIONAL COAL ASSN. *v.* NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL.; and
No. 90-558. ALABAMA POWER CO. ET AL. *v.* NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL. C. A. D. C. Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 284 U. S. App. D. C. 136, 902 F. 2d 962.

JANUARY 31, 1991

Dismissal Under Rule 46

- No. 90-724. ESPOSITO *v.* UNITED STATES. C. A. 3d Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 912 F. 2d 60.

February 4, 8, 15, 1991

498 U. S.

FEBRUARY 4, 1991

Dismissal Under Rule 46

No. 90-1091. *IN RE JACOBS*. Petition for writ of mandamus dismissed under this Court's Rule 46.

FEBRUARY 8, 1991

Dismissal Under Rule 46

No. 90-868. *ARCHEM, INC. v. SIMO*. Ct. App. Ind. Certiorari dismissed under this Court's Rule 46. Reported below: 549 N. E. 2d 1054.

FEBRUARY 15, 1991

Certiorari Granted

No. 90-5721. *PAYNE v. TENNESSEE*. Sup. Ct. Tenn. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted.* In addition to the questions presented by the petition, the parties are requested to brief and argue whether *Booth v. Maryland*, 482 U. S. 496 (1987), and *South Carolina v. Gathers*, 490 U. S. 805 (1989), should be overruled. Petitioner's opening brief is to be served and filed with the Clerk on or before March 18, 1991. Respondent's brief is to be served and filed with the Clerk on or before April 8, 1991. The case is set for oral argument during the April session. Reported below: 791 S. W. 2d 10.

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

In my opinion, the Court's decision to expedite the consideration of this case and to ask the parties to address whether we should overrule *Booth v. Maryland*, 482 U. S. 496 (1987), and *South Carolina v. Gathers*, 490 U. S. 805 (1989), a question presented neither in the petition for certiorari nor in the response, is both unwise and unnecessary. Cf. *Patterson v. McLean Credit Union*, 485 U. S. 617, 622-623 (1988) (STEVENS, J., dissenting). Moreover, the Court's decision to review the alleged *Booth* error in this case would be inappropriate in any event because the decision below rested alternatively on the ground that any *Booth* violation

*[REPORTER'S NOTE: For amendment of this order, see *post*, p. 1080.]

498 U. S.

February 15, 19, 1991

that might have occurred was harmless beyond a reasonable doubt. See 791 S. W. 2d 10, 19 (Tenn. 1990).

Accordingly, I respectfully dissent.

FEBRUARY 19, 1991

Certiorari Granted—Reversed and Remanded. (See No. 90-5393, *ante*, p. 430; and No. 90-5796, *ante*, p. 433.)

Certiorari Granted—Vacated and Remanded

No. 90-459. SCHMIDT ET VIR *v.* UNITED STATES. C. A. 8th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Irwin v. Department of Veterans Affairs*, *ante*, p. 89. Reported below: 901 F. 2d 680.

No. 90-729. COMMUNICATIONS WORKERS OF AMERICA *v.* MONTANO. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded with directions to dismiss. *United States v. Munsingwear, Inc.*, 340 U. S. 36 (1950). Reported below: 902 F. 2d 40.

Certiorari Granted—Reversed. (See No. 90-655, *ante*, p. 426.)

Vacated and Remanded After Certiorari Granted

No. 90-605. DEPARTMENT OF TRANSPORTATION ET AL. *v.* AIR TRANSPORT ASSOCIATION OF AMERICA ET AL. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 1023.] Judgment vacated and case remanded to the Court of Appeals to consider the question of mootness.

Certiorari Dismissed

No. 90-1028. MICHIGAN *v.* AMBERS. Ct. App. Mich. It appearing that respondent died September 12, 1989, certiorari dismissed.

Miscellaneous Orders

No. — — —. STANKEWITZ *v.* CALIFORNIA. Motion for leave to proceed *in forma pauperis* without an affidavit of indigency executed by petitioner granted. Motion to seal the motion for leave to proceed *in forma pauperis* denied.

No. A-562. CHEN *v.* UNITED STATES. Application for release or for bail, addressed to JUSTICE KENNEDY and referred to the Court, denied.

February 19, 1991

498 U. S.

No. A-587. *PELULLO v. GERARDI ET AL.* D. C. N. J. Application for stay, addressed to JUSTICE STEVENS and referred to the Court, denied.

No. A-605. *FROTA OCEANICA BRASILEIRA, S. A. v. PIRES ET UX.* Application for supersedeas bond or stay of execution of judgment of the Supreme Court of New York, County of New York, presented to JUSTICE MARSHALL, and by him referred to the Court, denied.

No. D-951. *IN RE DISBARMENT OF JONES.* A response to the rule to show cause having been filed, it is ordered that the rule to show cause is hereby discharged, and the order heretofore entered November 5, 1990 [*ante*, p. 956], suspending respondent from the practice of law in this Court is vacated.

No. D-955. *IN RE DISBARMENT OF BRUCE.* Motion to defer granted. [For earlier order herein, see *ante*, p. 1010.]

No. D-957. *IN RE DISBARMENT OF PENNISI.* Disbarment entered. [For earlier order herein, see *ante*, p. 1010.]

No. 9, Orig. *UNITED STATES v. LOUISIANA ET AL.* Motion of the Special Master for compensation and reimbursement of expenses granted, and the Special Master is allowed a total of \$5,721.01, one-half to be paid by the United States and one-half to be paid by Mississippi. Request of the Special Master to be discharged granted, and Walter P. Armstrong, Jr., is hereby discharged with the thanks of the Court. JUSTICE MARSHALL took no part in the consideration or decision of these orders. [For earlier decision herein, see, *e. g.*, *ante*, p. 9.]

No. 65, Orig. *TEXAS v. NEW MEXICO.* Second motion of the Special Master for compensation and reimbursement of expenses granted, and the Special Master is allowed a total of \$30,391.20 for the period September 1, 1989, through January 23, 1991, to be paid equally by the parties. Request of the Special Master to be discharged granted, and Monte Pasco is hereby discharged with the thanks of the Court. [For earlier order herein, see, *e. g.*, *ante*, p. 1065.]

No. 109, Orig. *OKLAHOMA ET AL. v. NEW MEXICO.* Exceptions to the Report of the Special Master set for oral argument in due course. [For earlier order herein, see, *e. g.*, *ante*, p. 1021.]

498 U. S.

February 19, 1991

No. 113, Orig. MISSISSIPPI *v.* UNITED STATES. Motion of the Special Master for compensation and reimbursement of expenses granted, and the Special Master is allowed a total of \$20,518.71 to be paid equally by the parties. Request of the Special Master to be discharged granted, and Walter P. Armstrong, Jr., is hereby discharged with the thanks of the Court. [For earlier decision herein, see, *e. g.*, *ante*, p. 16.]

No. 89-1821. STEVENS *v.* DEPARTMENT OF THE TREASURY ET AL. C. A. 5th Cir. [Certiorari granted, *ante*, p. 957.] Motion of the Solicitor General to permit Amy L. Wax, Esq., to present oral argument *pro hac vice* granted.

No. 89-1905. WISCONSIN PUBLIC INTERVENOR ET AL. *v.* MORTIER ET AL. Sup. Ct. Wis. [Certiorari granted, *ante*, p. 1045.] Motion of petitioners to dispense with printing the joint appendix granted.

No. 89-7662. COLEMAN *v.* THOMPSON, WARDEN. C. A. 4th Cir. [Certiorari granted, *ante*, p. 937.] Further consideration of motion of petitioner to strike nonrecord material deferred to hearing of case on the merits.

No. 90-18. GILMER *v.* INTERSTATE/JOHNSON LANE CORP. C. A. 4th Cir. [Certiorari granted, *ante*, p. 809.] Motion of respondent for leave to file a supplemental brief after argument granted.

No. 90-50. GREGORY ET AL., JUDGES *v.* ASHCROFT, GOVERNOR OF MISSOURI. C. A. 8th Cir. [Certiorari granted, *ante*, p. 979.] Motion of John W. Keefe for leave to participate in oral argument as *amicus curiae*, for divided argument, and for additional time for oral argument denied.

No. 90-149. MICHIGAN *v.* LUCAS. Ct. App. Mich. [Certiorari granted, *ante*, p. 980.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 90-516. KAMEN *v.* KEMPER FINANCIAL SERVICES, INC., ET AL. C. A. 7th Cir. [Certiorari granted, *ante*, p. 997.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 90-622. FLORIDA *v.* JIMENO ET AL. Sup. Ct. Fla. [Certiorari granted, *ante*, p. 997.] Motion of petitioner to dispense

February 19, 1991

498 U. S.

with printing the joint appendix granted. Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 90-762. FREYTAG ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 5th Cir. [Certiorari granted, *ante*, p. 1066.] Motion of Erwin N. Griswold for leave to appear as *amicus curiae* granted. Motion of Erwin N. Griswold for leave to file *amicus curiae* brief at the time the brief for respondent is filed denied. Motion of Erwin N. Griswold for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 90-870. SOCIETY NATIONAL BANK ET AL. *v.* WARREN ET UX. C. A. 6th Cir.;

No. 90-872. YELLOW BUS LINES, INC. *v.* DRIVERS, CHAUFFEURS & HELPERS LOCAL UNION 639 ET AL. C. A. D. C. Cir.;

No. 90-891. WHITE ET AL. *v.* DANIEL ET AL. C. A. 4th Cir.;

No. 90-918. FRANKLIN *v.* GWINNETT COUNTY PUBLIC SCHOOLS ET AL. C. A. 11th Cir.; and

No. 90-1029. EASTMAN KODAK CO. *v.* IMAGE TECHNICAL SERVICES, INC., ET AL. C. A. 9th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 90-5721. PAYNE *v.* TENNESSEE. Sup. Ct. Tenn. The order entered February 15, 1991 [*ante*, p. 1076], is amended as follows: Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question 2 presented by the petition. In addition to Question 2 presented by the petition, the parties are requested to brief and argue whether *Booth v. Maryland*, 482 U. S. 496 (1987), and *South Carolina v. Gathers*, 490 U. S. 805 (1989), should be overruled. Petitioner's opening brief is to be served and filed with the Clerk on or before March 18, 1991. Respondent's brief is to be served and filed with the Clerk on or before April 8, 1991. The case is set for oral argument during the April session.

No. 90-6951. COMER *v.* ARIZONA. Sup. Ct. Ariz. Motion of petitioner to consolidate this case with No. 90-5551, *Schad v. Arizona* [certiorari granted, *ante*, p. 894], denied.

No. 90-6650. IN RE PROFFITT;

No. 90-6681. IN RE MILLER;

498 U. S.

February 19, 1991

No. 90-6688. IN RE SASSOWER; and
No. 90-6770. IN RE HAYGOOD. Petitions for writs of habeas corpus denied.

No. 90-1135. IN RE AMEND;
No. 90-6413. IN RE MAY;
No. 90-6592. IN RE MILLER;
No. 90-6702. IN RE SHELTON; and
No. 90-6762. IN RE COZZETTI. Petitions for writs of mandamus denied.

No. 90-1054. IN RE McDONALD; and
No. 90-6658. IN RE SASSOWER. Petitions for writs of mandamus and/or prohibition denied.

No. 90-6634. IN RE KLEINSCHMIDT. Petition for writ of prohibition denied.

Certiorari Granted

No. 89-1290. FREEMAN ET AL. *v.* PITTS ET AL. C. A. 11th Cir. Certiorari granted. Reported below: 887 F. 2d 1438.

No. 90-741. DEWSNUP *v.* TIMM ET AL. C. A. 10th Cir. Certiorari granted. Reported below: 908 F. 2d 588.

No. 90-848. HILTON *v.* SOUTH CAROLINA PUBLIC RAILWAYS COMMISSION. Sup. Ct. S. C. Certiorari granted. Reported below: 306 S. C. 260, 411 S. E. 2d 424.

No. 90-889. KING *v.* ST. VINCENT'S HOSPITAL. C. A. 11th Cir. Certiorari granted. Reported below: 901 F. 2d 1068.

No. 90-925. IMMIGRATION AND NATURALIZATION SERVICE *v.* DOHERTY. C. A. 2d Cir. Certiorari granted. Reported below: 908 F. 2d 1108.

No. 90-1059. SIMON & SCHUSTER, INC. *v.* MEMBERS OF THE NEW YORK STATE CRIME VICTIMS BOARD ET AL. C. A. 2d Cir. Certiorari granted. Reported below: 916 F. 2d 777.

No. 90-954. RUFO, SHERIFF OF SUFFOLK COUNTY, ET AL. *v.* INMATES OF THE SUFFOLK COUNTY JAIL ET AL.; and

No. 90-1004. VOSE, COMMISSIONER OF CORRECTION OF MASSACHUSETTS *v.* INMATES OF THE SUFFOLK COUNTY JAIL ET AL. C. A. 1st Cir. Certiorari granted, cases consolidated,

February 19, 1991

498 U. S.

and a total of one hour allotted for oral argument. Reported below: 915 F. 2d 1557.

No. 90-967. *WOODDELL v. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 71, ET AL.* C. A. 6th Cir. Certiorari granted limited to Questions 1 and 2 presented by the petition. Reported below: 907 F. 2d 151.

No. 90-6352. *GRIFFIN v. UNITED STATES.* C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 913 F. 2d 337.

Certiorari Denied

No. 89-1698. *SCHOOL DISTRICT No. 1, DENVER, COLORADO, ET AL. v. KEYES ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 895 F. 2d 659.

No. 89-1772. *GALCERAN ET AL. v. HARDING.* C. A. 9th Cir. Certiorari denied. Reported below: 889 F. 2d 906.

No. 90-497. *WILLIAMS v. CHRANS, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 907 F. 2d 152.

No. 90-529. *MILLER ET AL. v. RICE, SECRETARY OF THE AIR FORCE, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 907 F. 2d 957.

No. 90-559. *AMERICAN IRON & STEEL INSTITUTE v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 136, 902 F. 2d 962.

No. 90-578. *ALTA VERDE INDUSTRIES, INC., ET AL. v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 907 F. 2d 158.

No. 90-594. *NORTH BAY DEVELOPMENT DISABILITIES SERVICES, INC., DBA NORTH BAY REGIONAL CENTER v. NATIONAL LABOR RELATIONS BOARD.* C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 371, 905 F. 2d 476.

No. 90-620. *MASSILLON BOARD OF EDUCATION v. FARBER.* C. A. 6th Cir. Certiorari denied. Reported below: 917 F. 2d 1391.

No. 90-652. *O'CONNOR v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 910 F. 2d 1466.

498 U. S.

February 19, 1991

No. 90-664. *QUALITY INNS INTERNATIONAL, INC., ET AL. v. L. B. H. ASSOCIATES LIMITED PARTNERSHIP ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 724.

No. 90-669. *PHILADELPHIA MARINE TRADE ASSN. v. LOCAL 1291, INTERNATIONAL LONGSHOREMEN'S ASSN., AFL-CIO, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 754.

No. 90-675. *CINEMA BLUE OF CHARLOTTE, INC., ET AL. v. NORTH CAROLINA.* Ct. App. N. C. Certiorari denied. Reported below: 98 N. C. App. 628, 392 S. E. 2d 136.

No. 90-678. *BARTH v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 899 F. 2d 199.

No. 90-692. *ROGERS ET AL. v. FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR FIRST REPUBLICBANK HOUSTON, N. A., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 907 F. 2d 1523.

No. 90-705. *CLIPPER CITY LODGE No. 516 v. NATIONAL LABOR RELATIONS BOARD.* C. A. 7th Cir. Certiorari denied. Reported below: 909 F. 2d 963.

No. 90-718. *DUCKWORTH, SUPERINTENDENT, INDIANA STATE PRISON, ET AL. v. BERNARD.* C. A. 7th Cir. Certiorari denied.

No. 90-735. *BLUESTEIN ET AL. v. SKINNER, SECRETARY OF TRANSPORTATION, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 908 F. 2d 451.

No. 90-740. *DAKOTA CHEESE, INC., ET AL. v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 906 F. 2d 335.

No. 90-744. *GONZALES v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 90-745. *TARPEH-DOE, INDIVIDUALLY AND AS MOTHER AND NEXT FRIEND OF TARPEH-DOE, ET AL. v. UNITED STATES ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 284 U. S. App. D. C. 263, 904 F. 2d 719.

No. 90-748. *VOGT v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 910 F. 2d 1184.

February 19, 1991

498 U. S.

No. 90-759. *CRAYTON ET AL. v. PRICHARD HOUSING AUTHORITY ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 903 F. 2d 829.

No. 90-760. *MCNUTT v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 908 F. 2d 561.

No. 90-763. *FREY ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 911 F. 2d 738.

No. 90-770. *KOZERA ET AL. v. WESTCHESTER-FAIRFIELD CHAPTER OF NATIONAL ELECTRICAL CONTRACTORS ASSN., INC., ET AL.; and*

LOCAL UNION NO. 501 OF INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO v. WESTCHESTER-FAIRFIELD CHAPTER OF NATIONAL ELECTRICAL CONTRACTORS ASSN., INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 909 F. 2d 48.

No. 90-774. *LINKOUS v. STOVALL ET AL.* C. A. 5th Cir. Certiorari denied.

No. 90-797. *GAS SPRING CO. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 4th Cir. Certiorari denied. Reported below: 908 F. 2d 966.

No. 90-798. *THOMPSON v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 31 M. J. 168.

No. 90-806. *CITY OF WILLCOX, ARIZONA, ET AL. v. FEDERAL ENERGY REGULATORY COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 286 U. S. App. D. C. 142, 912 F. 2d 1496.

No. 90-816. *KAYSER-ROTH CORP. v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 910 F. 2d 24.

No. 90-819. *CARR ET AL. v. PACIFIC MARITIME ASSN. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 904 F. 2d 1313.

No. 90-826. *MARQUEZ v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 909 F. 2d 738.

No. 90-832. *KUROWSKI v. CITY OF BRIDGEPORT, CONNECTICUT, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 909 F. 2d 1472.

498 U. S.

February 19, 1991

No. 90-833. KUROWSKI *v.* CITY OF BRIDGEPORT, CONNECTICUT, ET AL. App. Ct. Conn. Certiorari denied. Reported below: 21 Conn. App. 28, 571 A. 2d 127.

No. 90-842. AIR WISCONSIN PILOTS PROTECTION COMMITTEE ET AL. *v.* SANDERSON, TRUSTEE, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 909 F. 2d 213.

No. 90-844. HOWARD ELECTRICAL & MECHANICAL, INC., ET AL. *v.* TRUSTEES OF THE COLORADO PIPE INDUSTRY PENSION TRUST. C. A. 10th Cir. Certiorari denied. Reported below: 909 F. 2d 1379.

No. 90-847. PYMM ET AL. *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 76 N. Y. 2d 511, 563 N. E. 2d 1.

No. 90-855. LUMBERMEN'S UNDERWRITING ALLIANCE *v.* ATLANTIC WOOD INDUSTRIES, INC. Ct. App. Ga. Certiorari denied. Reported below: 196 Ga. App. 503, 396 S. E. 2d 541.

No. 90-856. KUNZ ET AL. *v.* UTAH POWER & LIGHT CO. C. A. 9th Cir. Certiorari denied. Reported below: 913 F. 2d 599.

No. 90-869. MAYERCHECK *v.* WOODS. Super. Ct. Pa. Certiorari denied. Reported below: 398 Pa. Super. 652, 573 A. 2d 626.

No. 90-874. SCHERING-PLOUGH CORP. ET AL. *v.* ALBANO. C. A. 9th Cir. Certiorari denied. Reported below: 912 F. 2d 384.

No. 90-880. SNAP-ON TOOLS CORP. ET AL. *v.* BOYER ET UX. C. A. 3d Cir. Certiorari denied. Reported below: 913 F. 2d 108.

No. 90-884. KUNKLE ET AL. *v.* FULTON COUNTY BOARD OF COMMISSIONERS ET AL. C. A. 6th Cir. Certiorari denied.

No. 90-888. MORGAN *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 31 M. J. 43.

No. 90-895. TURNER *v.* JONES ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 911 F. 2d 732.

No. 90-897. CADE, T/A G & G TOWING, ET AL. *v.* MONTGOMERY COUNTY, MARYLAND, ET AL. Ct. Sp. App. Md. Certiorari denied. Reported below: 83 Md. App. 419, 575 A. 2d 744.

February 19, 1991

498 U. S.

No. 90-901. *ALEXANDER v. EVANS & DIXON LAW FIRM ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 923 F. 2d 858.

No. 90-902. *LAMPL v. FOUR D MANUFACTURING CO. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 243.

No. 90-903. *EVANS ET AL. v. TWIN FALLS COUNTY ET AL.* Sup. Ct. Idaho. Certiorari denied. Reported below: 118 Idaho 210, 796 P. 2d 87.

No. 90-908. *CHRISTENSEN v. INTERNAL REVENUE SERVICE.* C. A. 10th Cir. Certiorari denied.

No. 90-912. *FARRIS v. OFFICE OF PERSONNEL MANAGEMENT.* C. A. Fed. Cir. Certiorari denied. Reported below: 914 F. 2d 270.

No. 90-915. *RICHARDS v. SUBURBAN TRUST CO. ET AL.* Ct. Sp. App. Md. Certiorari denied. Reported below: 78 Md. App. 719.

No. 90-919. *REEL ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 6th Cir. Certiorari denied. Reported below: 909 F. 2d 1484.

No. 90-923. *LAMB ET AL. v. PHILIP MORRIS, INC., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 1024.

No. 90-924. *RAMOS v. BRADY, SECRETARY OF THE TREASURY.* C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 692.

No. 90-927. *COUNTY OF LOS ANGELES v. BRATT ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 912 F. 2d 1066.

No. 90-928. *STEIL v. LIEBERMAN ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 916 F. 2d 708.

No. 90-934. *HERNANDEZ v. RICE, SECRETARY OF THE AIR FORCE.* C. A. 5th Cir. Certiorari denied. Reported below: 902 F. 2d 386.

No. 90-936. *BARDUNIAS ET AL. v. COUNTY OF WESTCHESTER ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari

498 U. S.

February 19, 1991

denied. Reported below: 158 App. Div. 2d 679, 552 N. Y. S. 2d 134.

No. 90-939. *NAYAK v. MCA, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 911 F. 2d 1082.

No. 90-941. *TOWN OF SUNNYVALE, TEXAS v. MAYHEW ET AL.* Ct. App. Tex., 5th Dist. Certiorari denied. Reported below: 774 S. W. 2d 284.

No. 90-942. *ROSENTHAL v. BROUSSARD, ACTING CHIEF JUSTICE, SUPREME COURT OF CALIFORNIA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 910 F. 2d 561.

No. 90-943. *CLARK v. WESTERN UNION TELEGRAPH CO.* C. A. 7th Cir. Certiorari denied. Reported below: 914 F. 2d 260.

No. 90-946. *S & M INVESTMENT CO. v. TAHOE REGIONAL PLANNING AGENCY.* C. A. 9th Cir. Certiorari denied. Reported below: 911 F. 2d 324.

No. 90-948. *MCCARTHY v. PRINCE.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-950. *ROTH v. STUSSIE, JUDGE, ST. LOUIS COUNTY CIRCUIT COURT, ET AL.* Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 793 S. W. 2d 567.

No. 90-957. *NEGRON v. BANCO DE PONCE.* C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 842.

No. 90-958. *NONNETTE ET AL. v. CALIFORNIA.* Ct. App. Cal., 3d App. Dist. Certiorari denied. Reported below: 221 Cal. App. 3d 659, 271 Cal. Rptr. 329.

No. 90-960. *CATHEY ET UX. v. DOW CHEMICAL COMPANY MEDICAL CARE PROGRAM.* C. A. 5th Cir. Certiorari denied. Reported below: 907 F. 2d 554.

No. 90-961. *MADDEN v. ITT LONG TERM DISABILITY PLAN FOR SALARIED EMPLOYEES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 914 F. 2d 1279.

No. 90-963. *WALSH, TRUSTEE OF THE BANKRUPTCY ESTATE OF JEWELL v. BANK OF AMERICA, N. T. & S. A.* Ct. App. Cal.,

February 19, 1991

498 U. S.

1st App. Dist. Certiorari denied. Reported below: 220 Cal. App. 3d 613, 269 Cal. Rptr. 596.

No. 90-969. *PHELPS v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 388 Pa. Super. 624, 566 A. 2d 303.

No. 90-973. *SIDWELL CO. v. REAL ESTATE DATA, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 907 F. 2d 770.

No. 90-975. *MID-COUNTY MOTORS, INC. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 891 F. 2d 278.

No. 90-977. *RPM MANAGEMENT CO., INC., ET AL. v. CHOWNING ET AL.* Ct. App. Ark. Certiorari denied. Reported below: 31 Ark. App. xx.

No. 90-979. *GARRISON v. CITY OF INDIANAPOLIS ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 975.

No. 90-981. *SECURITIES MANAGEMENT & RESEARCH, INC., ET AL. v. SWIFT ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-982. *SAHNI v. HARBOR INSURANCE CO. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 914 F. 2d 1271.

No. 90-986. *ARMCO EXPORT SALES CORP. ET AL. v. COMPTROLLER OF THE TREASURY OF MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 82 Md. App. 429, 572 A. 2d 562.

No. 90-989. *CALDOR, INC. v. HESLIN, COMMISSIONER OF CONSUMER PROTECTION, ET AL.* Sup. Ct. Conn. Certiorari denied. Reported below: 215 Conn. 590, 577 A. 2d 1009.

No. 90-995. *WRIGHT v. ARLINGTON COUNTY DEPARTMENT OF SOCIAL SERVICES*. Sup. Ct. Va. Certiorari denied.

No. 90-999. *JACOBS v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 31 M. J. 138.

No. 90-1001. *WESTMORELAND v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 31 M. J. 160.

No. 90-1005. *BAKER v. MECKLENBURG COUNTY, NORTH CAROLINA, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 912 F. 2d 463.

498 U. S.

February 19, 1991

No. 90-1007. *BANK OF AMERICA NATIONAL TRUST & SAVINGS ASSN. v. SUPERIOR COURT OF THE CITY AND COUNTY OF SAN FRANCISCO (WALTERS, REAL PARTY IN INTEREST)*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-1009. *BAGG ET AL. v. NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION*. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 151 App. Div. 2d 34, 546 N. Y. S. 2d 470.

No. 90-1016. *CONSOLIDATED CITY OF JACKSONVILLE, DUVAL COUNTY, FLORIDA v. NASH*. C. A. 11th Cir. Certiorari denied. Reported below: 905 F. 2d 355.

No. 90-1017. *BASIN ELECTRIC POWER COOPERATIVE v. CRUM & FORSTER MANAGERS CORPORATION OF NEW YORK, DBA INTERNATIONAL INSURANCE CO.* C. A. 8th Cir. Certiorari denied. Reported below: 911 F. 2d 155.

No. 90-1018. *INTERNATIONAL SOCIETY FOR KRISHNA CONSCIOUSNESS OF CALIFORNIA, INC., ET AL. v. BOARD OF EQUALIZATION OF CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-1021. *SUGAR ET AL. v. DIAMOND MORTGAGE CORPORATION OF ILLINOIS ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 913 F. 2d 1233.

No. 90-1022. *CONNECTICUT v. HOPE*. Sup. Ct. Conn. Certiorari denied. Reported below: 215 Conn. 570, 577 A. 2d 1000.

No. 90-1023. *KUNTZ v. SOCIETY BANK, N. A.* Ct. App. Ohio, Montgomery County. Certiorari denied.

No. 90-1024. *VIDAKOVICH v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 911 F. 2d 435.

No. 90-1026. *EVONUK v. OREGON*. C. A. 9th Cir. Certiorari denied. Reported below: 919 F. 2d 144.

No. 90-1030. *KOZEL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 205.

No. 90-1031. *HALLER v. BORROR ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 914 F. 2d 1494.

No. 90-1033. *BRADLEY ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 905 F. 2d 1482.

February 19, 1991

498 U. S.

No. 90-1034. *COOKSEY v. COHEN, ASSISTANT GENERAL COUNSEL OF THE STATE BAR OF GEORGIA, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 914 F. 2d 269.

No. 90-1035. *QUANSAH v. CITY OF SAN JOSE, CALIFORNIA, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 902 F. 2d 40.

No. 90-1036. *ATKINSON ET AL. v. IHC HOSPITALS, INC., AKA INTERMOUNTAIN HEALTH CARE HOSPITALS, INC., ET AL.* Sup. Ct. Utah. Certiorari denied. Reported below: 798 P. 2d 733.

No. 90-1048. *MALICK v. SANDIA CORP.* C. A. 9th Cir. Certiorari denied. Reported below: 914 F. 2d 1496.

No. 90-1051. *TRISTANI ET AL. v. EASTERN AIR LINES, INC., ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 920 F. 2d 939.

No. 90-1053. *MEDICAL PROTECTIVE CO. v. BELL.* C. A. 8th Cir. Certiorari denied. Reported below: 912 F. 2d 244.

No. 90-1057. *MCINTIRE v. MINNESOTA ET AL.* Ct. App. Minn. Certiorari denied. Reported below: 458 N. W. 2d 714.

No. 90-1060. *HOLLIDAY v. CONSOLIDATED RAIL CORPORATION.* C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 421.

No. 90-1082. *MINNICKS, EXECUTRIX OF THE SUCCESSION OF MISTICH v. MISTICH ET AL.* Ct. App. La., 4th Cir. Certiorari denied.

No. 90-1085. *GIUFFRIDA v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 914 F. 2d 1527.

No. 90-1100. *HELDSTAB v. LISKA ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 911 F. 2d 736.

No. 90-1103. *BEAUCOUDRAY ET VIR, INDIVIDUALLY AND ON BEHALF OF THEIR MINOR CHILD, KELTY v. GREEN ET AL.* Ct. App. La., 4th Cir. Certiorari denied. Reported below: 559 So. 2d 907.

No. 90-1110. *BRITT v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 917 F. 2d 353.

498 U. S.

February 19, 1991

No. 90-1116. *KRAIN v. GEORGE ET AL.*; and *KRAIN v. UNIVERSITY OF MICHIGAN HOSPITAL ET AL.* C. A. 7th Cir. Certiorari denied.

No. 90-1138. *MORENO v. UNITED STATES DRUG ENFORCEMENT ADMINISTRATION.* C. A. 2d Cir. Certiorari denied. Reported below: 916 F. 2d 808.

No. 90-1161. *SIKES v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 905 F. 2d 1466.

No. 90-1170. *GARCIA v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 899 F. 2d 1226.

No. 90-1172. *STUCKEY v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 917 F. 2d 1537.

No. 90-1180. *CAMOSCIO v. BOARD OF REGISTRATION IN PODIATRY.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 408 Mass. 1001, 561 N. E. 2d 516.

No. 90-1183. *BOATNER v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 914 F. 2d 261.

No. 90-5590. *WATSON v. UNITED STATES;*

No. 90-5771. *CURRY v. UNITED STATES;*

No. 90-5824. *HOWARD v. UNITED STATES;* and

No. 90-6082. *HAYES v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 902 F. 2d 912.

No. 90-5663. *STEELEY v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 567 So. 2d 397.

No. 90-5723. *STEELEY v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 567 So. 2d 398.

No. 90-5737. *TINSLEY v. BORG, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 895 F. 2d 520.

No. 90-5783. *CALLIS v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 908 F. 2d 966.

No. 90-5804. *BLACK v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 904 F. 2d 1026.

No. 90-5807. *RED BEAR v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 511.

February 19, 1991

498 U. S.

No. 90-5819. *BELL v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-5850. *SHEDELBOWER v. ESTELLE, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 885 F. 2d 570.

No. 90-5907. *STANLEY v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 395 Pa. Super. 656, 570 A. 2d 591.

No. 90-5924. *CLARK v. NICHOLS ET AL.* C. A. 11th Cir. Certiorari denied.

No. 90-5936. *SANTOS HERNANDEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 897 F. 2d 47.

No. 90-5959. *PEREZ-MORALES v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 905 F. 2d 483.

No. 90-5968. *MARSHALL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 910 F. 2d 1241.

No. 90-5978. *GOMEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 905 F. 2d 1513.

No. 90-6002. *MACKENZIE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 90-6027. *PRIETO v. GLUCH, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 913 F. 2d 1159.

No. 90-6034. *SANDERS v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 905 F. 2d 1542.

No. 90-6043. *LEON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 915 F. 2d 1561.

No. 90-6048. *WARE v. MISSOURI*. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 793 S. W. 2d 412.

No. 90-6064. *PAYNE v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied. Reported below: 327 N. C. 194, 394 S. E. 2d 158.

No. 90-6071. *BULLARD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

498 U. S.

February 19, 1991

No. 90-6076. *LANE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 909 F. 2d 895.

No. 90-6089. *BLITSTEIN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 907 F. 2d 1142.

No. 90-6096. *PEARSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 910 F. 2d 221.

No. 90-6097. *GIBSON-BEY v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 90-6114. *THORPE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 912 F. 2d 159.

No. 90-6120. *MARYLAND v. HUFFMAN, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 723.

No. 90-6124. *BRICE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 725.

No. 90-6126. *SAMPLE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 245.

No. 90-6135. *CATTALO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 1477.

No. 90-6138. *MARTIN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 908 F. 2d 728.

No. 90-6144. *GUIZAR v. MEYERS, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 909 F. 2d 1488.

No. 90-6148. *GOLDEN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 725.

No. 90-6150. *FAIR ET VIR v. STEELE ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-6174. *BROWN v. SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 2d Cir. Certiorari denied. Reported below: 905 F. 2d 632.

No. 90-6184. *HARRISON v. ARIZONA*. Ct. App. Ariz. Certiorari denied. Reported below: 164 Ariz. 316, 792 P. 2d 779.

No. 90-6187. *JONES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 725.

February 19, 1991

498 U. S.

No. 90-6191. *CURRY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 911 F. 2d 72.

No. 90-6192. *MILLER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 910 F. 2d 1321.

No. 90-6213. *WHITAKER v. WELLS FARGO NATIONAL ASSN. ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-6222. *GROVE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 1478.

No. 90-6224. *ARCILLA-GOMEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 916 F. 2d 720.

No. 90-6225. *DALL v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 918 F. 2d 52.

No. 90-6229. *MARTIN v. SUPREME COURT OF DELAWARE*. Sup. Ct. Del. Certiorari denied. Reported below: 583 A. 2d 660.

No. 90-6250. *PETERS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 912 F. 2d 208.

No. 90-6261. *SASSOWER v. BRIEANT ET AL.* C. A. 2d Cir. Certiorari denied.

No. 90-6263. *SASSOWER v. UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT*. C. A. D. C. Cir. Certiorari denied.

No. 90-6270. *MICHAELS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 911 F. 2d 131.

No. 90-6275. *PALACIO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 916 F. 2d 720.

No. 90-6290. *JONES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 909 F. 2d 1480.

No. 90-6294. *JOHNSTON v. MIZELL, WARDEN, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 912 F. 2d 172.

No. 90-6311. *DOGETT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 912 F. 2d 464.

No. 90-6324. *HORTON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 914 F. 2d 269.

498 U. S.

February 19, 1991

No. 90-6329. *KELLER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 912 F. 2d 1058.

No. 90-6332. *OXENDINE ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 8th Cir. Certiorari denied.

No. 90-6334. *ALEXANDER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 907 F. 2d 269.

No. 90-6340. *BARBER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 914 F. 2d 258.

No. 90-6345. *ELLZEY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-6370. *GARCIA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 914 F. 2d 252.

No. 90-6372. *GLEASON v. HUCKABEE, JUDGE, HARRIS COUNTY, TEXAS, DISTRICT COURT, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 901 F. 2d 1112.

No. 90-6375. *HALE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 914 F. 2d 258.

No. 90-6392. *VAN AERNAM v. BURKHART, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 914 F. 2d 253.

No. 90-6397. *BRADLEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 912 F. 2d 466.

No. 90-6399. *NICULESCU v. CHRYSLER MOTORS CORP.* C. A. 10th Cir. Certiorari denied.

No. 90-6400. *FOUR HUNDRED v. HOWE ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 975.

No. 90-6401. *GREEN v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 199 Ill. App. 3d 927, 557 N. E. 2d 939.

No. 90-6403. *BURGESS v. WASHINGTON COUNTY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 914 F. 2d 261.

No. 90-6408. *ANDERSON v. SUPREME COURT OF THE STATE OF KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 247 Kan. 208, 795 P. 2d 64.

February 19, 1991

498 U. S.

No. 90-6410. *WHISENANT v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 570 So. 2d 1307.

No. 90-6411. *SINDRAM v. MCKENNA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 917 F. 2d 558.

No. 90-6415. *HIMMELEIN v. MICHIGAN*. Ct. App. Mich. Certiorari denied. Reported below: 177 Mich. App. 365, 442 N. W. 2d 667.

No. 90-6416. *LYNCH v. CUOMO ET AL.* C. A. 2d Cir. Certiorari denied.

No. 90-6418. *LOPEZ v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-6422. *LEPISCOPO v. KNAPP ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-6424. *OBREMSKI v. MAASS, SUPERINTENDENT, OREGON STATE PENITENTIARY*. C. A. 9th Cir. Certiorari denied. Reported below: 915 F. 2d 418.

No. 90-6428. *POWELL v. OWENS, COMMISSIONER, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 919 F. 2d 136.

No. 90-6430. *WAGES v. INTERNAL REVENUE SERVICE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 915 F. 2d 1230.

No. 90-6435. *YOUNG v. WIREMAN, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 1574.

No. 90-6440. *LOVELACE v. VIRGINIA*. Ct. App. Va. Certiorari denied.

No. 90-6441. *MARTIN v. BROWN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 889 F. 2d 1088.

No. 90-6443. *DUNKLEY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 911 F. 2d 522.

No. 90-6446. *ANDREWS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 1579.

No. 90-6449. *COOPER v. STALLMAN ET AL.* C. A. 8th Cir. Certiorari denied.

498 U. S.

February 19, 1991

No. 90-6450. VAUGHN ET AL. *v.* GRIFFITH. Sup. Ct. Ala. Certiorari denied. Reported below: 565 So. 2d 75.

No. 90-6452. HINCAPIE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 915 F. 2d 1561.

No. 90-6455. PARSON *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 919 F. 2d 743.

No. 90-6462. JAMES *v.* WYOMING. Sup. Ct. Wyo. Certiorari denied.

No. 90-6466. CARRAO *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 800 S. W. 2d 218.

No. 90-6467. DRAKE *v.* CITY OF LOS ANGELES, PERSONNEL DEPARTMENT. C. A. 9th Cir. Certiorari denied.

No. 90-6476. GIDEON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 915 F. 2d 696.

No. 90-6477. ENTEL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 915 F. 2d 696.

No. 90-6478. CRUICKSHANK *v.* AMERICAN HONDA. Ct. App. Mich. Certiorari denied.

No. 90-6479. BERKELBAUGH *v.* PETSOCK ET AL. C. A. 3d Cir. Certiorari denied.

No. 90-6481. WHEAT *v.* COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 912 F. 2d 1466.

No. 90-6482. CALO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 915 F. 2d 696.

No. 90-6483. ELLIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 915 F. 2d 697.

No. 90-6484. BROWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 916 F. 2d 721.

No. 90-6485. GREEN *v.* WHITLEY, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 917 F. 2d 561.

No. 90-6489. REID *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 911 F. 2d 1456.

February 19, 1991

498 U. S.

No. 90-6492. *THEUS v. DEEDS, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-6493. *HOVLAND v. BLODGETT, SUPERINTENDENT, WASHINGTON STATE PENITENTIARY.* C. A. 9th Cir. Certiorari denied. Reported below: 914 F. 2d 262.

No. 90-6494. *LIBERMAN v. INTERNAL REVENUE SERVICE.* C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 842.

No. 90-6495. *HARRISON v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION.* C. A. 5th Cir. Certiorari denied.

No. 90-6496. *MENARD v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 975.

No. 90-6498. *LOVATO v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 90-6500. *MURRAY v. COWLEY, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 913 F. 2d 832.

No. 90-6502. *DEMERS v. RHODE ISLAND.* Sup. Ct. R. I. Certiorari denied. Reported below: 576 A. 2d 1221.

No. 90-6506. *JONES v. GUNN.* C. A. D. C. Cir. Certiorari denied. Reported below: 287 U. S. App. D. C. 378, 923 F. 2d 201.

No. 90-6507. *HIRSCH v. SEITZ.* Sup. Ct. Ore. Certiorari denied.

No. 90-6510. *RENDICK v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 398 Pa. Super. 648, 573 A. 2d 623.

No. 90-6512. *ABDUL-AKBAR v. FIGLIOLA.* Sup. Ct. Del. Certiorari denied. Reported below: 584 A. 2d 1228.

No. 90-6514. *ROBINSON v. HARTZELL ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 55 Ohio St. 3d 715, 563 N. E. 2d 725.

No. 90-6515. *STEVENSON v. MARYLAND.* Ct. Sp. App. Md. Certiorari denied. Reported below: 83 Md. App. 716.

498 U. S.

February 19, 1991

No. 90-6516. *CASTRO v. NEW YORK CITY BOARD OF EDUCATION ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 844.

No. 90-6518. *WOLFENBARGER v. KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES.* Ct. App. Kan. Certiorari denied.

No. 90-6519. *SORENSEN v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 914 F. 2d 173.

No. 90-6520. *RAINER v. DEPARTMENT OF CORRECTIONS.* C. A. 8th Cir. Certiorari denied. Reported below: 914 F. 2d 1067.

No. 90-6521. *REED v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 90-6523. *BAKER v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 914 F. 2d 208.

No. 90-6525. *PASCO v. MORRIS, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 914 F. 2d 1494.

No. 90-6526. *WALKER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 914 F. 2d 259.

No. 90-6527. *HAYES v. NEVADA.* Sup. Ct. Nev. Certiorari denied. Reported below: 106 Nev. 1024, 835 P. 2d 41.

No. 90-6528. *NAVARRO v. HARGETT, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-6529. *JOHNSON v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 907 F. 2d 152.

No. 90-6535. *MCCOLPIN v. DAVIES ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-6536. *JASINSKI, AKA EDGAR v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 908 F. 2d 965.

No. 90-6543. *WILSON v. PUCKETT, SUPERINTENDENT, MISSISSIPPI STATE PENITENTIARY AT PARCHMAN, ET AL.* C. A. 5th Cir. Certiorari denied.

February 19, 1991

498 U. S.

No. 90-6544. *PETERSON v. NORTH CAROLINA PAROLE COMMISSION ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 917 F. 2d 22.

No. 90-6545. *VIGIL v. TANSY, WARDEN.* C. A. 10th Cir. Certiorari denied. Reported below: 917 F. 2d 1277.

No. 90-6546. *ASHURST v. DALLMAN, SUPERINTENDENT, LEBANON CORRECTIONAL INSTITUTION.* C. A. 6th Cir. Certiorari denied. Reported below: 914 F. 2d 255.

No. 90-6547. *WALLACE v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 90-6548. *IRELAN ET AL. v. INDIANA.* Ct. App. Ind. Certiorari denied. Reported below: 533 N. E. 2d 630.

No. 90-6550. *HERRON v. FLORIDA ET AL.* Sup. Ct. Fla. Certiorari denied.

No. 90-6551. *NAFTEL v. ARIZONA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 912 F. 2d 328.

No. 90-6554. *SMITH v. NEW YORK.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 161 App. Div. 2d 817, 556 N. Y. S. 2d 378.

No. 90-6555. *ROBINSON v. STARK COUNTY METROPOLITAN HOUSING AUTHORITY.* Ct. App. Ohio, Stark County. Certiorari denied.

No. 90-6558. *ELIGA v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 914 F. 2d 1404.

No. 90-6560. *COCHRAN v. COWLEY, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-6561. *BOUT v. STATE BAR OF MICHIGAN ATTORNEY GRIEVANCE COMMISSION ET AL.* C. A. 6th Cir. Certiorari denied.

No. 90-6564. *GARCIA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 842.

No. 90-6565. *MCDILE v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 914 F. 2d 1059.

498 U. S.

February 19, 1991

No. 90-6566. *MEDVED v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 905 F. 2d 935.

No. 90-6567. *MACHADO-PUERTA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 916 F. 2d 721.

No. 90-6568. *SIMPKINS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 914 F. 2d 1054.

No. 90-6569. *TIDWELL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 917 F. 2d 1305.

No. 90-6570. *RENEER ET AL. v. WALL ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 916 F. 2d 713.

No. 90-6571. *DEMOS v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WASHINGTON*. C. A. 9th Cir. Certiorari denied.

No. 90-6572. *CONBOY v. ROBERT W. BAIRD & Co., INC.* C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 247.

No. 90-6573. *GURLEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 918 F. 2d 179.

No. 90-6574. *GUTIERREZ-JARAMILLO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 919 F. 2d 137.

No. 90-6576. *SCEIFERS v. ZWICKEY ET AL.* Ct. App. Ind. Certiorari denied.

No. 90-6577. *SMITH v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied.

No. 90-6579. *EAD v. DENAPOLI*. App. Ct. Mass. Certiorari denied. Reported below: 29 Mass. App. 1103, 557 N. E. 2d 776

No. 90-6580. *SMITH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 565.

No. 90-6585. *MOWBRAY v. TEXAS*. Ct. App. Tex., 13th Dist. Certiorari denied. Reported below: 788 S. W. 2d 658.

No. 90-6587. *RUBINS v. DIESSLIN, WARDEN*. C. A. 10th Cir. Certiorari denied.

February 19, 1991

498 U. S.

No. 90-6589. *ASBURY v. WISCONSIN*. Ct. App. Wis. Certiorari denied. Reported below: 157 Wis. 2d 506, 460 N. W. 2d 447.

No. 90-6590. *BEACHEM v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 90-6591. *MELVIN v. FLORIDA ET AL.* Sup. Ct. Fla. Certiorari denied.

No. 90-6593. *COWART v. TEXAS*. Sup. Ct. Tex. Certiorari denied.

No. 90-6594. *FERENC v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 90-6596. *SMITH v. TENNESSEE*. C. A. 6th Cir. Certiorari denied.

No. 90-6597. *BADLEY v. SCULLY, SUPERINTENDENT, GREENHAVEN CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 916 F. 2d 708.

No. 90-6598. *KEENE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 1164.

No. 90-6599. *HARRISON v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. Reported below: 916 F. 2d 721.

No. 90-6600. *WILLIAMS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 917 F. 2d 112.

No. 90-6601. *STARR v. DISTRICT OF COLUMBIA DEPARTMENT OF EMPLOYMENT SERVICES (WORKERS COMPENSATION)*. Ct. App. D. C. Certiorari denied.

No. 90-6602. *GREEN ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 917 F. 2d 25.

No. 90-6604. *MITCHELL v. ROLLINS, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 248.

No. 90-6605. *MACKEY v. MICHIGAN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 1572.

No. 90-6606. *DELGADO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 911 F. 2d 728.

498 U. S.

February 19, 1991

No. 90-6611. *SORENSEN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 915 F. 2d 599.

No. 90-6612. *WARNER v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied.

No. 90-6617. *PRESTON, AKA SHABAZZ v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 910 F. 2d 81.

No. 90-6618. *BENNETT, AKA RICHARDSON v. PARKER, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 898 F. 2d 1530.

No. 90-6619. *AGUILAR v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 914 F. 2d 264.

No. 90-6621. *CURRIE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 916 F. 2d 710.

No. 90-6622. *GOMES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 1492.

No. 90-6623. *DANFORTH v. COHEN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 908 F. 2d 555.

No. 90-6625. *AYERS ET AL. v. PHILADELPHIA HOUSING AUTHORITY ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 908 F. 2d 1184.

No. 90-6626. *CUNNINGHAM v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 911 F. 2d 361.

No. 90-6629. *PAYTON v. COWLEY, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-6630. *WEDDLE v. SINGLETON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 250.

No. 90-6631. *WALKER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 912 F. 2d 1365.

No. 90-6632. *MOORE v. NAGLE, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 917 F. 2d 568.

No. 90-6635. *JOHNSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 911 F. 2d 403.

February 19, 1991

498 U. S.

No. 90-6636. *FISHER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 1492.

No. 90-6637. *MAEZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 915 F. 2d 1466.

No. 90-6638. *ANALLA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-6641. *WINGERTER v. BLACKBURN, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 917 F. 2d 560.

No. 90-6642. *PARRADO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 911 F. 2d 1567.

No. 90-6643. *UNGER v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 915 F. 2d 759.

No. 90-6644. *FLANAGAN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-6645. *DRUMMOND v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 910 F. 2d 284.

No. 90-6646. *ROBINSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 913 F. 2d 712.

No. 90-6648. *SHERRILLS v. CORRIGAN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 918 F. 2d 958.

No. 90-6649. *RUCKER v. WISCONSIN ET AL.* Ct. App. Wis. Certiorari denied. Reported below: 156 Wis. 2d 824, 458 N. W. 2d 390.

No. 90-6651. *ESPARZA v. CASILLAS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 919 F. 2d 737.

No. 90-6653. *THOMAS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 1493.

No. 90-6654. *FRIEDMAN v. NEW YORK CITY DEPARTMENT OF HOUSING AND DEVELOPMENT ADMINISTRATION ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 912 F. 2d 462.

No. 90-6659. *BULLOCK v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 1490.

498 U. S.

February 19, 1991

No. 90-6660. *ALLUSTIARTE ET AL. v. COOPER*. C. A. 9th Cir. Certiorari denied. Reported below: 911 F. 2d 737.

No. 90-6662. *RAMIREZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 915 F. 2d 693.

No. 90-6665. *PEREZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 917 F. 2d 560.

No. 90-6666. *WELLS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 919 F. 2d 142.

No. 90-6667. *STEPHENS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 917 F. 2d 564.

No. 90-6670. *SCOTT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 917 F. 2d 567.

No. 90-6671. *SUAREZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 908 F. 2d 978.

No. 90-6673. *JONES v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied. Reported below: 921 F. 2d 275.

No. 90-6675. *MADEOY ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 286 U. S. App. D. C. 132, 912 F. 2d 1486.

No. 90-6676. *NEIMAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 917 F. 2d 568.

No. 90-6677. *ARONOW v. LACROIX ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 219 Cal. App. 3d 1039, 268 Cal. Rptr. 866.

No. 90-6678. *NAVEIRA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 914 F. 2d 267.

No. 90-6679. *MINKS v. MINNESOTA*. Ct. App. Minn. Certiorari denied.

No. 90-6684. *JONES v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 525 Pa. 323, 580 A. 2d 308.

No. 90-6686. *HAWKINS v. COLUMBIA FIRST FEDERAL SAVINGS & LOAN ASSN.* C. A. 4th Cir. Certiorari denied. Reported below: 912 F. 2d 463.

February 19, 1991

498 U. S.

No. 90-6687. *MEADOWS v. MEADOWS*. Ct. App. Ohio, Belmont County. Certiorari denied.

No. 90-6699. *WOLFENBARGER v. WOLFENBARGER*. Ct. App. Kan. Certiorari denied.

No. 90-6700. *VIA v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 726.

No. 90-6707. *CASTLE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 918 F. 2d 179.

No. 90-6708. *ALFANO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 919 F. 2d 137.

No. 90-6709. *JACKSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 1573.

No. 90-6716. *BRUNSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 392.

No. 90-6718. *ACOSTA v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 32 M. J. 37.

No. 90-6722. *BYRNE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 903 F. 2d 566.

No. 90-6723. *SWEATT v. NEWS WORLD COMMUNICATIONS, INC.* C. A. D. C. Cir. Certiorari denied. Reported below: 288 U. S. App. D. C. 403, 927 F. 2d 1258.

No. 90-6725. *BUIE v. MARYLAND*. Ct. App. Md. Certiorari denied. Reported below: 320 Md. 696, 580 A. 2d 167.

No. 90-6726. *YOUNG v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 914 F. 2d 267.

No. 90-6730. *KENNARD v. NAGLE, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 917 F. 2d 569.

No. 90-6733. *OAKLEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 914 F. 2d 253.

No. 90-6734. *PAUL v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 918 F. 2d 182.

498 U. S.

February 19, 1991

No. 90-6737. *MURRAY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 917 F. 2d 567.

No. 90-6740. *HOFFMAN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-6741. *HALL v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 382 Pa. Super. 6, 554 A. 2d 919.

No. 90-6743. *MUHAMMAD v. UNITED STATES BUREAU OF PRISONS*. C. A. 10th Cir. Certiorari denied.

No. 90-6745. *CESPEDES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 846.

No. 90-6750. *DIAZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 917 F. 2d 561.

No. 90-6751. *GANT v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 918 F. 2d 168.

No. 90-6752. *WRIGHT v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 566 So. 2d 1294.

No. 90-6760. *RODRIGUEZ-DIAZ v. FLORIDA BOARD OF BAR EXAMINERS*. Sup. Ct. Fla. Certiorari denied.

No. 90-6763. *CHICA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 696.

No. 90-6764. *BENEL v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 911 F. 2d 741.

No. 90-6771. *WASHINGTON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 918 F. 2d 182.

No. 90-6773. *BRYAN v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 1576.

No. 90-6776. *FRIEDMAN v. BOARD OF REGISTRATION IN MEDICINE*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 408 Mass. 474, 561 N. E. 2d 859.

No. 90-6779. *CABA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 918 F. 2d 1129.

February 19, 1991

498 U. S.

No. 90-6784. *PIERCE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 919 F. 2d 138.

No. 90-6785. *SASSOWER v. MAHONEY, AS PRESIDING JUSTICE OF THE APPELLATE DIVISION, SUPREME COURT OF NEW YORK, THIRD JUDICIAL DEPARTMENT, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 916 F. 2d 709.

No. 90-6787. *FLEMING v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 917 F. 2d 25.

No. 90-6804. *CASTILLO ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-6808. *McMILLER v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 368.

No. 90-6820. *THARPE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 1573.

No. 90-6828. *McKNIGHT v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 918 F. 2d 182.

No. 90-6830. *HOLIDAY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 918 F. 2d 182.

No. 90-6836. *THOMPSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 916 F. 2d 715.

No. 90-6841. *MOSER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 917 F. 2d 25.

No. 90-6887. *EVANS v. GRAYSON, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 89-1973. *JOSLYN MANUFACTURING CO. v. T. L. JAMES & Co., INC.; and*

No. 90-69. *POWERLINE SUPPLY CO., INC., ET AL. v. T. L. JAMES & Co., INC.* C. A. 5th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 893 F. 2d 80.

No. 90-737. *ZAVADIL ET UX. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 908 F. 2d 334.

498 U. S.

February 19, 1991

No. 90-781. 141ST STREET CORP. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 911 F. 2d 870.

No. 90-783. VILLAGE OF LOS RANCHOS DE ALBUQUERQUE ET AL. *v.* BARNHART, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, ET AL. C. A. 10th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 906 F. 2d 1477.

No. 90-993. CSX TRANSPORTATION, INC. *v.* RASTALL ET AL. Ct. App. D. C. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 574 A. 2d 271.

No. 90-704. SOUTHERN BELL TELEPHONE & TELEGRAPH CO. *v.* HAMM, CONSUMER ADVOCATE FOR SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 302 S. C. 132, 394 S. E. 2d 311.

No. 90-830. BELL ATLANTIC CORP. *v.* UNITED STATES ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 285 U. S. App. D. C. 90, 907 F. 2d 160.

No. 90-867. POWELL DUFFRYN TERMINALS, INC. *v.* PUBLIC INTEREST RESEARCH GROUP OF NEW JERSEY, INC., ET AL. C. A. 3d Cir. Motion of American Iron and Steel Institute et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 913 F. 2d 64.

No. 90-940. LEATHERS *v.* MILLER. C. A. 4th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 913 F. 2d 1085.

No. 90-1015. DAVIS, WARDEN *v.* JONES. C. A. 11th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 906 F. 2d 552.

No. 90-994. LEWIS & CO. ET AL. *v.* THOEREN ET AL. C. A. 9th Cir. Motion of respondents for attorney's fees and double costs denied. Certiorari denied. Reported below: 913 F. 2d 1406.

No. 90-1039. PEER INTERNATIONAL CORP. *v.* PAUSA RECORDS, INC., ET AL. C. A. 9th Cir. Motion of petitioner for

February 19, 1991

498 U. S.

leave to dispense with Rule 29.1 listing of class members granted. Motion of National Music Publishers' Association for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 909 F. 2d 1332.

No. 90-1044. SEWELL PLASTICS, INC. *v.* COCA-COLA CO., DBA COCA-COLA USA, ET AL. C. A. 4th Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 912 F. 2d 463.

No. 90-1050. FRIEDMAN *v.* UNITED STATES. C. A. D. C. Cir. Motion of petitioner for an order directing the United States to respond to petition for writ of certiorari denied. Certiorari denied. Reported below: 286 U. S. App. D. C. 132, 912 F. 2d 1486.

No. 90-1101. LEIGHTON *v.* BEATRICE COS., INC., ET AL. Sup. Ct. Del. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied.

No. 90-6155. DOUGLAS *v.* CALIFORNIA. Sup. Ct. Cal.;
No. 90-6266. MARSHALL *v.* CALIFORNIA. Sup. Ct. Cal.;
No. 90-6434. PORTER *v.* FLORIDA. Sup. Ct. Fla.;
No. 90-6445. SILAGY *v.* PETERS, WARDEN. C. A. 7th Cir.;
No. 90-6468. GILLIAM *v.* MARYLAND. Ct. App. Md.;
No. 90-6480. REESE *v.* MISSOURI. Sup. Ct. Mo.;
No. 90-6663. RAMIREZ *v.* CALIFORNIA. Sup. Ct. Cal.; and
No. 90-6668. ROBINSON *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: No. 90-6155, 50 Cal. 3d 468, 788 P. 2d 640; No. 90-6266, 50 Cal. 3d 907, 790 P. 2d 676; No. 90-6434, 564 So. 2d 1060; No. 90-6445, 905 F. 2d 986; No. 90-6468, 320 Md. 637, 579 A. 2d 744; No. 90-6480, 795 S. W. 2d 69; No. 90-6663, 50 Cal. 3d 1158, 791 P. 2d 965; No. 90-6668, 165 Ariz. 51, 796 P. 2d 853.

JUSTICE MARSHALL, dissenting.

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

498 U. S.

MARSHALL, J., dissenting

No. 90-6713. *JELLS v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 53 Ohio St. 3d 22, 559 N. E. 2d 464.

JUSTICE MARSHALL, dissenting.

The question in this case is whether petitioner's waiver of his right to a jury trial was knowing and voluntary when there is no evidence that petitioner was aware that his waiver also applied to his right to be sentenced by a jury that could not impose death by less than a unanimous vote and without the trial judge's independent agreement that death was the proper sentence. Because I believe that petitioner could not be understood to have made a "knowing" decision without such critical information, I would grant the petition for certiorari.

I

The jury plays a vital role in Ohio's capital sentencing scheme. Under the Ohio Rules of Criminal Procedure, a felony defendant who does not waive the right to a jury trial is tried before a 12-person jury. See Ohio Rule Crim. Proc. 23(b) (1987). When the defendant is accused of a crime punishable by death, the same jury presides at both the guilt phase and the penalty phase. See *State v. Mapes*, 19 Ohio St. 3d 108, 116, 484 N. E. 2d 140, 147 (1985), cert. denied, 476 U. S. 1178 (1986); see also Ohio Rev. Code Ann. § 2929.03(C)(2)(b) (1987). Unless the jury unanimously finds beyond reasonable doubt that death is the proper sentence, the defendant must be sentenced to life imprisonment with parole eligibility after either 20 or 30 years imprisonment. See § 2929.03(D)(2); see also *State v. Jenkins*, 15 Ohio St. 3d 164, 200, 473 N. E. 2d 264, 297 (1984), cert. denied 472 U. S. 1032 (1985). Significantly, even if the jury unanimously recommends the death penalty, the trial court also must independently find beyond reasonable doubt that death is the correct sentence before the defendant may be sentenced to death. See Ohio Rev. Code Ann. § 2929.03(D)(2)-(3) (1987); see also *State v. Jenkins*, *supra*, at 200-201, 473 N. E. 2d, at 297.

Petitioner was convicted of murder and sentenced to death in an Ohio state court. Because petitioner waived his right to a jury trial, a three-judge panel determined both his guilt and his sen-

tence.¹ The form on which petitioner executed his waiver mirrored the language of Ohio Rev. Code Ann. § 2945.05 (1987):

"I, REGINALD JELLS, the defendant in the above cause, hereby voluntarily waive and relinquish my right to a trial by jury, and elect to be tried by three judges of the court in which said cause may be pending. I fully understand that under the laws of this State, I have a constitutional right to a trial by jury." 53 Ohio St. 3d 22, 25, 559 N. E. 2d 464, 468 (1990).

Petitioner signed the statement, as did his two witnessing attorneys. *Ibid.* The trial court also conducted a hearing to determine whether petitioner signed the form voluntarily:

"THE COURT: Reginald, is that your signature?

"THE DEFENDANT: Yes, it is, sir.

"THE COURT: You did this of your own free will?

"THE DEFENDANT: Yes, I did.

"THE COURT: Nobody forced you to do this?

"THE DEFENDANT: No, sir.

"THE COURT: All right.

"MR. HUBBARD [defense counsel]: I have witnessed his signature, your Honor.

"THE COURT: This will be made part of the record."
Ibid.

Petitioner maintains that his waiver was not constitutionally sufficient because at no point did the trial judge advise him that by waiving his jury trial right he also waived jury sentencing. The Ohio Supreme Court did not address the sufficiency of petitioner's waiver under federal constitutional standards even though it acknowledged that petitioner had claimed his waiver was "constitutionally insufficient." See *id.*, at 24, 559 N. E. 2d, at 467. The court did hold, however, that under Ohio law the trial court is not required to determine whether a defendant "is fully apprised

¹ Under Ohio law, a defendant who is accused of a crime punishable by death and who waives his right to a jury trial is tried and sentenced by a three-judge panel. See Ohio Rev. Code Ann. §§ 2929.03(C)(2)(a), 2945.06 (1987). Ohio's capital sentencing statute does not contain any provision whereby a capital defendant can waive his right to a jury trial but nonetheless elect to be sentenced by a jury.

of the right to a jury trial," *id.*, at 25–26, 559 N. E. 2d, at 468, and that Ohio law is "satisfied by a written waiver, signed by the defendant, filed with the court, and made in open court, after arraignment and opportunity to consult with counsel," *id.*, at 26, 559 N. E. 2d, at 468. For these reasons, the court determined that the trial court's failure specifically to advise petitioner of the effect of his waiver on sentencing gave rise to "no error, plain or otherwise." *Ibid.*²

I cannot accept the Ohio court's conclusion. The Sixth Amendment guarantees a criminal defendant the right to a trial by jury. While this right is subject to waiver, "we 'do not presume acquiescence in the loss of fundamental rights,'" *Johnson v. Zerbst*, 304 U. S. 458, 464 (1938) (citation omitted), and courts are therefore obliged to establish that any such waivers are made knowingly and voluntarily, *id.*, at 464–465. It is generally accepted that waivers of certain constitutional rights—such as a waiver through a guilty plea of the right to trial or a waiver of the right to counsel—should be made in open court. See *e. g.*, *Brady v. United States*, 397 U. S. 742, 748 (1970) (right to trial); *Johnson v. Zerbst*, *supra*, at 465 (right to counsel). Because these rights are critical in protecting a defendant's life and liberty, trial courts must apprise the defendant of the "relevant circumstances and likely consequences," *Brady v. United States*, *supra*, at 748 (emphasis added), to determine whether the defendant's waiver is made freely and intelligently.

Some courts, believing that the Constitution does not compel an inquiry by the trial judge when a defendant purports to waive his right to a jury trial, have nevertheless recognized that "trial courts *should* conduct colloquies with the defendant . . . [and] make sure that [the] defendant knows what the right guarantees before waiving it." See *United States v. Cochran*, 770 F. 2d 850, 852 (CA9 1985) (citing cases). In my view, when a *capital* defendant's waiver of his jury trial right includes a waiver of his right to jury sentencing, this type of a searching inquiry by the trial judge into the knowing and voluntary nature of the waiver is not only sound practice but is constitutionally compelled.

²Because the Ohio Supreme Court did not "actually . . . rel[y]" on a procedural bar for disposing of petitioner's federal claim, see *Caldwell v. Mississippi*, 472 U. S. 320, 327 (1985), our jurisdiction is secure. Respondent does not contend that petitioner's federal claim is not properly before us.

The decision to waive the right to jury sentencing may deprive a capital defendant of potentially life-saving advantages. As we have recognized, the jury operates as an essential bulwark to "prevent oppression by the Government." *Duncan v. Louisiana*, 391 U. S. 145, 155 (1968). "[O]ne of the most important functions any jury can perform in making . . . a selection [between life imprisonment and death for a defendant convicted in a capital case] is to maintain a link between contemporary community values and the penal system." *Gregg v. Georgia*, 428 U. S. 153, 181 (1976) (joint opinion of Stewart, Powell, and STEVENS, JJ.), quoting *Witherspoon v. Illinois*, 391 U. S. 510, 519, n. 15 (1968). Indeed, it has been argued that juries are less inclined to sentence a defendant to death than are judges. See *Spaziano v. Florida*, 468 U. S. 447, 488, n. 34 (1984) (STEVENS, J., concurring in part and dissenting in part), citing H. Zeisel, *Some Data on Juror Attitudes Towards Capital Punishment* 37-50 (1968).

Under Ohio law, the consequences of a capital defendant's waiver are particularly far reaching. As noted, had petitioner not waived his jury trial right in favor of the three-judge panel, his life would have been spared unless all 12 jurors could have agreed that death was the proper sentence, and unless the trial judge then independently determined that the jury reached the correct result. The practical effect of petitioner's waiver, then, was to forfeit the right to have 10 additional decisionmakers review his punishment—each of whom would have had the power to veto his death sentence and some of whom might well have been less likely to vote for the death sentence than the three judges on the panel.

Given the consequences of petitioner's decision, the trial court's inquiry, which focused only upon whether petitioner signed the boilerplate waiver form voluntarily, was constitutionally inadequate. The court did not determine whether petitioner fully understood his entitlement to a jury trial—that is, whether he had signed the waiver "with sufficient awareness of the relevant circumstances and likely consequences" of his act. See *Brady v. United States*, *supra*, at 748. Nor did the waiver itself cure this defect, since it did no more than inform petitioner of his "'constitutional right to a trial by jury.'" 53 Ohio St. 3d, at 25, 559 N. E. 2d, at 468. It did not explain to him that he also was waiving his right to be sentenced by a jury or that, in the absence of a waiver,

498 U. S.

February 19, 1991

he could be sentenced to death only upon the jury's unanimous vote and the independent approval of the trial judge.

It is no answer to assume, as did the Ohio Supreme Court, that petitioner's "opportunity to consult with counsel," *id.*, at 26, 559 N. E. 2d, at 468, was an adequate substitute for a full inquiry in open court. The Ohio Supreme Court made no effort to ascertain whether counsel had even conferred with petitioner at all, or, if they did confer, what petitioner was told. As I have noted before, courts cannot confidently assume that defense counsel have apprised a capital defendant of the considerations relevant to a decision to waive his right to a jury.

"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." *Robertson v. California*, 493 U. S. 879, 881 (1989) (MARSHALL, J., dissenting from denial of certiorari).

Such casual presumptions not only have no place in matters of life and death but also contravene "[t]he requirement that *the prosecution* spread on the record the prerequisites of a valid waiver." *Boykin v. Alabama*, 395 U. S. 238, 242 (1969) (emphasis added). When a defendant purports to waive a fundamental constitutional right, "it is the State that has the burden of establishing a valid waiver." *Michigan v. Jackson*, 475 U. S. 625, 633 (1986). Because the State clearly has not met that burden in this case, I would grant the petition for certiorari.

II

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*, *supra*, at 231 (MARSHALL, J., dissenting), I would grant the petition for certiorari and vacate petitioner's death sentence even if I did not believe this case otherwise merited review.

Rehearing Denied

No. 89-1944. OHIO *v.* HUERTAS, *ante*, p. 336;

No. 89-7787. VILLEGAS *v.* CALIFORNIA, *ante*, p. 966;

February 19, 1991

498 U. S.

- No. 90-90. *HUGHES v. UNITED STATES*, *ante*, p. 980;
- No. 90-484. *TABER, DBA TABERS GRASS FARM v. PLEDGER, DIRECTOR, ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION*, *ante*, p. 967;
- No. 90-532. *BANKS v. STERLING MERCHANDISE, INC., ET AL.*, *ante*, p. 982;
- No. 90-5627. *JOHNSON ET AL. v. UNITED STATES*, *ante*, p. 1029;
- No. 90-5931. *HARRIS v. CATO ET AL.*, *ante*, p. 1030;
- No. 90-5938. *GLEASON v. STEWART, JUDGE, HARRIS COUNTY, TEXAS DISTRICT COURT, ET AL.*, *ante*, p. 1001;
- No. 90-5941. *MATTSON v. CALIFORNIA*, *ante*, p. 1017;
- No. 90-5981. *ENDRES v. ARMONTROUT ET AL.*, *ante*, p. 1014;
- No. 90-5991. *RODRIGUEZ-DIAZ v. FLORIDA ET AL.*, *ante*, p. 1015;
- No. 90-6020. *CASSIDY v. ROSE, KLEIN & MARIAS ET AL.*, *ante*, p. 1002;
- No. 90-6031. *SOWELL v. MALONEY, DEPUTY COMMISSIONER, MASSACHUSETTS DEPARTMENT OF CORRECTION*, *ante*, p. 1002;
- No. 90-6051. *IN RE SINDRAM*, *ante*, p. 177;
- No. 90-6054. *KINDER v. SANDBERG ET AL.*, *ante*, p. 1002;
- No. 90-6116. *CANTERBURY v. KALISZ*, *ante*, p. 1033;
- No. 90-6118. *DESMOND v. DEPARTMENT OF DEFENSE*, *ante*, p. 1070;
- No. 90-6171. *MOORE v. KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES ET AL.*, *ante*, p. 1034;
- No. 90-6230. *MARTIN v. TOWNSEND ET AL.*, *ante*, p. 1036;
- No. 90-6280. *YOUNG v. JOHNSON, WARDEN*, *ante*, p. 1051; and
- No. 90-6313. *GANEY v. WILSON ET AL.*, *ante*, p. 1071. Petitions for rehearing denied.
- No. 89-6872. *DALY v. UNITED STATES*, 496 U. S. 927. Motion for leave to file petition for rehearing denied. JUSTICE SOUTER took no part in the consideration or decision of this motion.
- No. 90-543. *GIANNINI v. REAL, CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, ET AL.*, *ante*, p. 1012. Motion of petitioner to defer consideration of petition for rehearing denied. Petition for rehearing denied.

498 U. S.

February 19, 25, 1991

Appointment Order

It is ordered that William K. Suter be appointed Clerk of this Court to succeed Joseph F. Spaniol, Jr., effective at the commencement of business February 1, 1991, and that he take the oath of office as required by statute.

FEBRUARY 25, 1991

Certiorari Granted—Vacated and Remanded

No. 89-1018. *AYUDA, INC., ET AL. v. THORNBURGH, ATTORNEY GENERAL OF THE UNITED STATES, ET AL.* C. A. D. C. Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *McNary v. Haitian Refugee Center, Inc.*, ante, p. 479. Reported below: 279 U. S. App. D. C. 252, 880 F. 2d 1325.

No. 90-602. *YOASH ET AL. v. MCLEAN CONTRACTING CO., INC.* C. A. 4th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *McDermott International, Inc. v. Wilander*, ante, p. 337. Reported below: 907 F. 2d 1481.

Certiorari Dismissed

No. 87-7065. *PODBORNY v. OHIO*. Ct. App. Ohio, Cuyahoga County. Motion to substitute party in place of petitioner, deceased, denied. It appearing that petitioner died October 15, 1990, certiorari dismissed. Reported below: 41 Ohio App. 3d 135, 534 N. E. 2d 926.

Miscellaneous Orders

No. D-922. *IN RE DISBARMENT OF WEISS*. Disbarment entered. [For earlier order herein, see 497 U. S. 1046.]

No. D-927. *IN RE DISBARMENT OF ISAACSON*. Disbarment entered. [For earlier order herein, see 497 U. S. 1055.]

No. D-928. *IN RE DISBARMENT OF KEADY*. Disbarment entered. [For earlier order herein, see 497 U. S. 1056.]

No. D-946. *IN RE DISBARMENT OF RICHARDSON*. Disbarment entered. [For earlier order herein, see ante, p. 918.]

No. D-969. *IN RE DISBARMENT OF FINKELSTEIN*. It is ordered that Joseph J. Finkelstein, of Miami, Fla., be suspended from the practice of law in this Court and that a rule issue, return-

February 25, 1991

498 U. S.

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-970. *IN RE DISBARMENT OF MAXWELL*. It is ordered that David B. Maxwell, of Stafford, 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-971. *IN RE DISBARMENT OF CRANE*. It is ordered that Elaine Roemisch Crane, of Willoughby Hills, Ohio, be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring her to show cause why she should not be disbarred from the practice of law in this Court.

No. 109, Orig. *OKLAHOMA ET AL. v. NEW MEXICO*. Motion of Oklahoma for divided argument on behalf of plaintiffs granted. Motion of New Mexico that oral argument be set for the March calendar rather than the April calendar denied. [For earlier order herein, see, *e. g.*, *ante*, p. 1078.]

No. 90-50. *GREGORY ET AL., JUDGES v. ASHCROFT, GOVERNOR OF MISSOURI*. C. A. 8th Cir. [Certiorari granted, *ante*, p. 979.] Motion of Missouri Bar for leave to file a brief as *amicus curiae* granted.

No. 90-615. *PERETZ v. UNITED STATES*. C. A. 2d Cir. [Certiorari granted, *ante*, p. 1066.] Motion of petitioner for leave to proceed further herein *in forma pauperis* granted.

No. 90-992. *NEVADA ET AL. v. WATKINS, SECRETARY OF ENERGY, ET AL.* C. A. 9th Cir. Motion of petitioners to defer consideration of petition for writ of certiorari denied.

No. 90-7020. *IN RE CONNOLLY*. Petition for writ of habeas corpus denied.

No. 90-6469. *IN RE ANDERSON*;

No. 90-6490. *IN RE VISSER*;

No. 90-6627. *IN RE VISSER*; and

No. 90-6690. *IN RE WIGHTMAN*. Petitions for writs of mandamus denied.

Certiorari Granted

No. 90-681. *HAFER v. MELO ET AL.* C. A. 3d Cir. Certiorari granted. Reported below: 912 F. 2d 628.

498 U. S.

February 25, 1991

No. 90-857. *DOGGETT v. UNITED STATES*. C. A. 11th Cir. Certiorari granted. Reported below: 906 F. 2d 573.

No. 90-985. *BRAY ET AL. v. ALEXANDRIA WOMEN'S HEALTH CLINIC ET AL.* C. A. 4th Cir. Certiorari granted. Reported below: 914 F. 2d 582.

No. 90-584. *SOUTHWEST MARINE, INC. v. GIZONI*. C. A. 9th Cir. Certiorari granted limited to Question 3 presented by the petition. Reported below: 909 F. 2d 385.

No. 90-1074. *ESTELLE, WARDEN v. MCGUIRE*. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 902 F. 2d 749.

Certiorari Denied

No. 90-703. *STEVENS v. OREGON ET AL.* Ct. App. Ore. Certiorari denied. Reported below: 100 Ore. App. 481, 786 P. 2d 1296.

No. 90-787. *FARR v. FEDERAL DEPOSIT INSURANCE CORPORATION ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 904 F. 2d 703.

No. 90-845. *MACDONALD v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 916 F. 2d 766.

No. 90-854. *DIESEN v. HESSBURG ET AL.*; and

No. 90-1079. *HESSBURG ET AL. v. DIESEN*. Sup. Ct. Minn. Certiorari denied. Reported below: 455 N. W. 2d 446.

No. 90-862. *WAINWRIGHT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 914 F. 2d 253.

No. 90-866. *KASAL ET AL. v. FEDERAL DEPOSIT INSURANCE CORPORATION, AS LIQUIDATOR OF CITIZENS STATE BANK OF GIBBON*. C. A. 8th Cir. Certiorari denied. Reported below: 913 F. 2d 487.

No. 90-875. *CARNIVAL CRUISE LINES, INC. v. GARAY*; and

No. 90-1070. *GARAY v. CARNIVAL CRUISE LINES, INC.* C. A. 11th Cir. Certiorari denied. Reported below: 904 F. 2d 1527.

No. 90-885. *MUNDI v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 892 F. 2d 817.

February 25, 1991

498 U. S.

No. 90-887. *KETCHEL ET AL. v. BAINBRIDGE TOWNSHIP ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 52 Ohio St. 3d 239, 557 N. E. 2d 779.

No. 90-907. *VASTOLA ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 915 F. 2d 865.

No. 90-917. *LAUGHLIN, TRUSTEE v. INTERNAL REVENUE SERVICE.* C. A. 8th Cir. Certiorari denied. Reported below: 912 F. 2d 197.

No. 90-947. *EIDE v. SARASOTA COUNTY, FLORIDA.* C. A. 11th Cir. Certiorari denied. Reported below: 908 F. 2d 716.

No. 90-962. *ALAMO RENT-A-CAR, INC. v. SARASOTA-MANATEE AIRPORT AUTHORITY.* C. A. 11th Cir. Certiorari denied. Reported below: 906 F. 2d 516.

No. 90-991. *RAILWAY LABOR EXECUTIVES' ASSN. ET AL. v. CHICAGO & NORTH WESTERN TRANSPORTATION CO. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 908 F. 2d 144.

No. 90-997. *ORSBURN v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 31 M. J. 182.

No. 90-1000. *LANDA v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 32 M. J. 49.

No. 90-1040. *PENA ET AL. v. TEXAS.* Ct. App. Tex., 1st Dist. Certiorari denied.

No. 90-1041. *DiLUCIA ET AL. v. TOWN BOARD OF TOWN OF WESTFORD, NEW YORK, ET AL.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 160 App. Div. 2d 1152, 553 N. Y. S. 2d 921.

No. 90-1042. *GROVES ET AL. v. HOSTLER.* C. A. 9th Cir. Certiorari denied. Reported below: 912 F. 2d 1158.

No. 90-1045. *CAPITOL NEWS AGENCY CO., INC., ET AL. v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 137 Ill. 2d 162, 560 N. E. 2d 303.

No. 90-1047. *NATIONAL AMUSEMENTS, INC. v. CITY OF SPRINGDALE, OHIO, ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 53 Ohio St. 3d 60, 558 N. E. 2d 1178.

498 U. S.

February 25, 1991

No. 90-1065. *REAM v. INDIANA*. Ct. App. Ind. Certiorari denied. Reported below: 555 N. E. 2d 863.

No. 90-1067. *PAVELA v. MALONE, INDEPENDENT EXECUTOR OF THE ESTATE OF MALONE*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 198 Ill. App. 3d 960, 556 N. E. 2d 678.

No. 90-1077. *STEPHENSON v. DEKALB COUNTY, INDIANA DEPARTMENT OF PUBLIC WELFARE*. Ct. App. Ind. Certiorari denied. Reported below: 551 N. E. 2d 881.

No. 90-1084. *MAYERCHECK v. SUPREME COURT OF PENNSYLVANIA, WESTERN DISTRICT, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 919 F. 2d 136.

No. 90-1095. *ARMSTRONG ET AL. v. MARATHON OIL Co.* Ct. App. Ohio, Hancock County. Certiorari denied. Reported below: 66 Ohio App. 3d 127, 583 N. E. 2d 462.

No. 90-1113. *ANDERSON v. CHRYSLER MOTORS CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 912 F. 2d 468.

No. 90-1125. *DUNLAP v. ARKANSAS*. Sup. Ct. Ark. Certiorari denied. Reported below: 303 Ark. 222, 795 S. W. 2d 920.

No. 90-1175. *ABDORABEHE ET AL. v. MICHIGAN DEPARTMENT OF COMMERCE ET AL.* Ct. App. Mich. Certiorari denied.

No. 90-1178. *OYOLA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 916 F. 2d 708.

No. 90-1190. *VAUGHAN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 914 F. 2d 966.

No. 90-5806. *PARKER v. PARSONS, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-6018. *DAVIS v. RONE, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 909 F. 2d 1482.

No. 90-6128. *WORD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 912 F. 2d 466.

No. 90-6130. *RANKIN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 908 F. 2d 965.

February 25, 1991

498 U. S.

No. 90-6190. *HENDERSON v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION*. C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 1577.

No. 90-6219. *BROWN v. MAINE DEPARTMENT OF INLAND FISHERIES AND WILDLIFE*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 577 A. 2d 1184.

No. 90-6238. *TOFFLER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 914 F. 2d 239.

No. 90-6244. *LAMB v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 914 F. 2d 1495.

No. 90-6363. *LOUIS v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 156 Wis. 2d 470, 457 N. W. 2d 484.

No. 90-6405. *ROSS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 917 F. 2d 997.

No. 90-6429. *ROMO ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 914 F. 2d 889.

No. 90-6464. *MARTINEZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-6474. *ROBERTS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 915 F. 2d 889.

No. 90-6475. *SAN FILIPPO v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-6487. *POSEY v. UNITED STATES ARMY*. C. A. 3d Cir. Certiorari denied. Reported below: 915 F. 2d 1561.

No. 90-6509. *RHODES v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 913 F. 2d 839.

No. 90-6530. *MUINA v. EL GUAJIRO GANG ET AL.* C. A. 2d Cir. Certiorari denied.

No. 90-6533. *PARTOUT v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 918 F. 2d 186.

No. 90-6563. *CHINAGOROM v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 915 F. 2d 1565.

No. 90-6584. *FLETCHER v. UGAST, CHIEF JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA*. Ct. App. D. C. Certiorari denied.

498 U. S.

February 25, 1991

No. 90-6680. *OSWALD v. MICHIGAN DEPARTMENT OF CORRECTIONS ET AL.* C. A. 6th Cir. Certiorari denied.

No. 90-6689. *OSWALD v. TAYLOR ET AL.* C. A. 6th Cir. Certiorari denied.

No. 90-6695. *TYREE v. VOSE, COMMISSIONER, MASSACHUSETTS DEPARTMENT OF CORRECTION.* C. A. 1st Cir. Certiorari denied. Reported below: 915 F. 2d 1557.

No. 90-6701. *UPSHAW v. MORRIS ET AL.* C. A. 8th Cir. Certiorari denied.

No. 90-6703. *CHRISTOPHER P., A MINOR, BY HIS MOTHER AND NEXT FRIEND, NORMA P., ET AL. v. MARCUS ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 915 F. 2d 794.

No. 90-6706. *CAREY v. PETSOCK ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 914 F. 2d 241.

No. 90-6715. *LASKARIS v. SEGEL ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 1476.

No. 90-6717. *GALLAGHER v. OHIO ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 1571.

No. 90-6731. *KRAFT v. GATES ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 905 F. 2d 1540.

No. 90-6735. *DEMOS v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WASHINGTON.* C. A. 9th Cir. Certiorari denied.

No. 90-6744. *MAIDA v. MASSACHUSETTS ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 907 F. 2d 143.

No. 90-6746. *REED v. YARBROUGH ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 917 F. 2d 562.

No. 90-6747. *ROBBINS v. WASHINGTON.* Ct. App. Wash. Certiorari denied.

No. 90-6777. *GARD v. CHAIRMAN, NATIONAL CREDIT UNION ADMINISTRATION, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-6794. *EDER v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 923 F. 2d 860.

February 25, 1991

498 U. S.

No. 90-6797. *THOMPSON v. MISSISSIPPI*. C. A. 5th Cir. Certiorari denied. Reported below: 914 F. 2d 736.

No. 90-6801. *ARIGBEDE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 247 and 249.

No. 90-6805. *AMSLER v. SMITH-LUSTIG PAPER BOX MFG. CO. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 908 F. 2d 972.

No. 90-6809. *OTERO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 916 F. 2d 715.

No. 90-6810. *KENNEDY v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied.

No. 90-6823. *FRASICA-VALENCIA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 918 F. 2d 182.

No. 90-6827. *NABOYEN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 917 F. 2d 562.

No. 90-6831. *WILLIAMS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 916 F. 2d 711.

No. 90-6843. *RAY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 920 F. 2d 562.

No. 90-6845. *SPAULDING v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 916 F. 2d 717.

No. 90-6846. *CASTELLANOS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 918 F. 2d 958.

No. 90-6851. *PRITCHETT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 922 F. 2d 838.

No. 90-6853. *DAVIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 917 F. 2d 28.

No. 90-6854. *SANCHEZ-MELCHOR v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 917 F. 2d 29.

No. 90-6856. *GARCIA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 2d 142.

No. 90-6858. *CASTANEDA v. HENMAN, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 914 F. 2d 981.

498 U. S.

February 25, 1991

No. 90-6862. JACKSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 917 F. 2d 25.

No. 90-6864. HAYES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 1573.

No. 90-6869. SRISOOKKO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 917 F. 2d 567.

No. 90-6870. DAVIES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 922 F. 2d 848.

No. 90-6871. AGOMO *v.* UNITED STATES ET AL. C. A. 5th Cir. Certiorari denied.

No. 90-6872. TAMAYO-CARIBALLO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 912 F. 2d 1468.

No. 90-6879. SCHLOSSER *v.* WASHINGTON ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 914 F. 2d 263.

No. 90-6881. SMITH ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 918 F. 2d 1032.

No. 90-6884. CLEMONS *v.* ARVONIO. C. A. 3d Cir. Certiorari denied.

No. 90-6885. ALVAREZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 918 F. 2d 182.

No. 90-6889. MCCLAIN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 920 F. 2d 934.

No. 90-6892. KEFFELER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 90-6894. MAYES ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 917 F. 2d 457.

No. 90-6897. GIONGO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 909 F. 2d 1478.

No. 90-6903. SARGENT *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 918 F. 2d 664.

No. 90-6905. QUINTERO-RUIZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 917 F. 2d 29.

No. 90-6910. JACKSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 920 F. 2d 938.

February 25, 1991

498 U. S.

No. 90-6911. NUNEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 90-6915. CEBALLOS CARRANZA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 917 F. 2d 28.

No. 90-6923. FRANK *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 912 F. 2d 470.

No. 90-6928. DAVIDSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 909 F. 2d 1489.

No. 90-6932. VETTERNECK *v.* WISCONSIN. Ct. App. Wis. Certiorari denied. Reported below: 156 Wis. 2d 826, 458 N. W. 2d 391.

No. 90-6941. WRIGHT *v.* LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied. Reported below: 914 F. 2d 1093.

No. 90-383. WHITFIELD ET AL. *v.* CLINTON, GOVERNOR OF ARKANSAS, ET AL. C. A. 8th Cir. Certiorari denied. JUSTICE BLACKMUN would grant certiorari. Reported below: 902 F. 2d 15.

No. 90-792. LESLIE SALT CO. ET AL. *v.* UNITED STATES ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 896 F. 2d 354.

No. 90-873. BORN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 903 F. 2d 490.

No. 90-955. ALMONT SHIPPING CO., INC. *v.* RUFFIN ET AL. C. A. 4th Cir. Motion of Preston Trucking Co. for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 914 F. 2d 570.

No. 90-1089. BRYANT ET AL. *v.* WINN-DIXIE STORES, INC., ET AL. Ct. App. Tex., 2d Dist. Motion of petitioners to correct error in petition granted. Certiorari denied. Reported below: 786 S. W. 2d 547.

No. 90-5672. BRESSMAN ET AL. *v.* FARRIER ET AL. C. A. 8th Cir.; and

498 U. S.

February 25, 1991

No. 90-5854. *YOUNG v. KENNY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: No. 90-5672, 900 F. 2d 1305; No. 90-5854, 907 F. 2d 874.

JUSTICE WHITE, with whom JUSTICE O'CONNOR joins, dissenting.

These petitions raise the questions whether the exhaustion requirement of 28 U. S. C. § 2254 applies when state prisoners, in a suit under 42 U. S. C. § 1983, challenge the duration or conditions of their confinement but seek only damages or declaratory relief. The Eighth Circuit held here that exhaustion is required for § 1983 actions which include challenges to the conditions, as well as to the length or duration, of confinement. 900 F. 2d 1305, 1308 (1990). See also *Offet v. Solem*, 823 F. 2d 1256 (CA8 1987). The Seventh Circuit has adopted the contrary position. See *Viens v. Daniels*, 871 F. 2d 1328, 1333-1334 (1989). The Ninth Circuit held here that exhaustion is required for § 1983 actions seeking damages, so long as the requested relief requires as its predicate a determination that a prisoner's sentence is invalid or unconstitutionally long. 907 F. 2d 874, 876 (1990). Although no Court of Appeals has held to the contrary, several have recognized the apparent tension between this position and the decisions of this Court in *Preiser v. Rodriguez*, 411 U. S. 475 (1973), and *Wolff v. McDonnell*, 418 U. S. 539 (1974). See, e. g., 907 F. 2d, at 877; *Viens*, *supra*, at 1333; *Gwin v. Snow*, 870 F. 2d 616, 623 (CA11 1989).

Because of the confusion and divergence of opinion these issues have generated in the Courts of Appeals, and the fact that this Court has not ruled definitively upon the issues presented, I would grant certiorari in these two cases.

No. 90-6259. *VICTOR v. NEBRASKA*. Sup. Ct. Neb.;
No. 90-6578. *WASHINGTON v. ARIZONA*. Sup. Ct. Ariz.;
No. 90-6639. *DAVIS v. ALABAMA*. Sup. Ct. Ala.;
No. 90-6640. *CALDWELL v. TENNESSEE*. Sup. Ct. Tenn.;
No. 90-6682. *THOMAS v. ILLINOIS*. Sup. Ct. Ill.;
No. 90-6711. *LANDRUM v. OHIO*. Sup. Ct. Ohio; and
No. 90-6739. *WILLIAMS v. ARMONTROUT, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: No. 90-6259, 235 Neb. 770, 457 N. W. 2d 431; No. 90-6578, 165 Ariz. 51, 796 P. 2d 853; No. 90-6639, 554 So. 2d 1111; No. 90-6682, 137 Ill. 2d 500, 561 N. E. 2d 57; No. 90-6711, 53 Ohio St. 3d 107, 559 N. E. 2d 710; No. 90-6739, 912 F. 2d 924.

February 25, 1991

498 U. S.

JUSTICE MARSHALL, dissenting.

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

No. 90-6795. *ORSINI v. WALLACE, WARDEN*. C. A. 8th Cir. Motion of petitioner for leave to amend petition for writ of certiorari granted. Certiorari denied. Reported below: 913 F. 2d 474.

No. 90-7187 (A-645). *BUXTON v. TEXAS*. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Certiorari denied.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976), I would grant the application for stay of execution and the petition for writ of certiorari and would vacate the death sentence in this case.

No. 90-7203 (A-654). *BUXTON v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Certiorari denied. JUSTICE BLACKMUN and JUSTICE STEVENS would grant the application for stay of execution. Reported below: 925 F. 2d 816.

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976), I would grant the application for stay of execution and the petition for writ of certiorari and would vacate the death sentence in this case.

Rehearing Denied

No. 90-271. *AQUILINA v. IMMIGRATION AND NATURALIZATION SERVICE*, ante, p. 1040;

498 U. S.

February 25, 27, 28, 1991

No. 90-472. NATIONAL FABRICATORS, INC. *v.* NATIONAL LABOR RELATIONS BOARD, *ante*, p. 1024;

No. 90-569. NAACP, DETROIT BRANCH, ET AL. *v.* DETROIT POLICE OFFICERS ASSN. ET AL., *ante*, p. 983;

No. 90-5886. CROUCH *v.* AMERICAN NATIONAL BANK ET AL., *ante*, p. 1030;

No. 90-6024. VAUGHAN *v.* ROCK CHURCH, INC., *ante*, p. 1031;

No. 90-6044. BAXTER *v.* KEMP, WARDEN, *ante*, p. 1041;

No. 90-6173. BIENVILLE *v.* UNITED STATES, *ante*, p. 1049; and

No. 90-6608. IN RE BRIGHT, *ante*, p. 1065. Petitions for rehearing denied.

No. 90-5278. GORDON *v.* AGNOS ET AL., *ante*, p. 869. Petition for rehearing denied. JUSTICE SOUTER took no part in the consideration or decision of this petition.

FEBRUARY 27, 1991

Dismissals Under Rule 46

No. 87-1821. MODJESKI & MASTERS *v.* CARTER ET AL. Sup. Ct. La. [Probable jurisdiction noted, 487 U. S. 1217.] Appeal dismissed under this Court's Rule 46.

No. 90-394. CLINTON, GOVERNOR OF ARKANSAS, ET AL. *v.* JEFFERS ET AL. Appeal from D. C. E. D. Ark. dismissed under this Court's Rule 46. Reported below: 740 F. Supp. 585.

Miscellaneous Order

No. 87-1821. MODJESKI & MASTERS *v.* CARTER ET AL. Sup. Ct. La. [Probable jurisdiction noted, 487 U. S. 1217.] In light of the dismissal of the appeal pursuant to Rule 46 of the Rules of this Court, *supra*, the motion of appellant to vacate the stay of execution of judgment entered May 2, 1988 [485 U. S. 1031], is granted, and the stay is hereby vacated.

FEBRUARY 28, 1991

Miscellaneous Order

No. A-656 (90-7199). MADDEN *v.* TEXAS. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, 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 de-

February 28, 1991

498 U. S.

nied, 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.

OPINIONS OF INDIVIDUAL JUSTICES
IN CHAMBERS

MAIDEN & TEEHAN

REPORTER'S NOTE

The next page is purposely numbered 1301. The numbers between 1130 and 1301 were intentionally omitted, in order to make it possible to publish in-chambers opinions with *permanent* page numbers, thus making the official citations available upon publication of the preliminary prints of the United States Reports.

1901, 1902, 1903

1904, 1905

The next page is purposely numbered 1301. The numbers between 1199 and 1301 were intentionally omitted in order to make it possible to publish in duplicate editions with convenient page numbers, thus leaving the official citation available upon publication of the preliminary prints of the United States Reports.

RETROSPECTIVE NOTE

The next page is purposely numbered 1301. The numbers between 1199 and 1301 were intentionally omitted in order to make it possible to publish in duplicate editions with convenient page numbers, thus leaving the official citation available upon publication of the preliminary prints of the United States Reports.
