

ORDERS FOR APRIL 24 THROUGH  
JUNE 3, 1991

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APRIL 24, 1991

*Dismissal Under Rule 46*

No. 90-1511. LAYMON ET AL. *v.* T. D. WILLIAMSON, INC. C. A. Fed. Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 923 F. 2d 871.

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*Certiorari Granted—Vacated and Remanded*

No. 89-753. ANGELONE, DIRECTOR, NEVADA DEPARTMENT OF PRISONS, ET AL. *v.* DEUTSCHER. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *McCleskey v. Zant*, 499 U. S. 467 (1991), and *Lewis v. Jeffers*, 497 U. S. 764 (1990). Reported below: 884 F. 2d 1152.

No. 90-209. CALIFORNIA *v.* SALGADO. Ct. App. Cal., 4th App. Dist. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *California v. Hodari D.*, 499 U. S. 621 (1991).

No. 90-1399. SOUTHERN LIFE & HEALTH INSURANCE CO. ET AL. *v.* TURNER. Sup. Ct. Ala. Motion of American Council of Life Insurance for leave to file a brief as *amicus curiae* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Pacific Mut. Life Ins. Co. v. Haslip*, 499 U. S. 1 (1991). Reported below: 571 So. 2d 1015.

No. 90-6835. WILLIAMS *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 the position presently asserted by the Solicitor General in his brief for the United States filed March 21, 1991. Reported below: 916 F. 2d 714.

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JUSTICE KENNEDY, with whom THE CHIEF JUSTICE and JUSTICE SCALIA join, dissenting.

I adhere to the view that we should not vacate a court of appeals' judgment favoring the Government when the Solicitor General disagrees with the reasoning of the court of appeals but defends its result. See *Diaz-Albertini v. United States*, 498 U. S. 1061, 1061-1063 (1991) (REHNQUIST, C. J., dissenting); *Alvarado v. United States*, 497 U. S. 543, 545-546 (1990) (REHNQUIST, C. J., dissenting). That is the position the Government again takes in the case before us, and I dissent from the order granting certiorari, vacating the judgment, and remanding the case.

*Miscellaneous Orders.* (See also Nos. 90-7225 and 90-7296, *ante*, p. 16.)\*

No. A-764. MCCARTHY ET AL. *v.* PRACTICAL CONSTRUCTORS, LTD. Ct. App. N. Y. Application for stay, addressed to JUSTICE WHITE and referred to the Court, denied.

No. A-779. FLUENT ET AL. *v.* SALAMANCA INDIAN LEASE AUTHORITY ET AL. Application to recall and stay the mandate of the United States Court of Appeals for the Second Circuit, addressed to JUSTICE STEVENS and referred to the Court, denied.

No. A-780 (90-7664). D'AGNILLO *v.* DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ET AL. C. A. 2d Cir. Application for stay, addressed to JUSTICE SCALIA and referred to the Court, denied.

No. D-966. IN RE DISBARMENT OF THOMPSON. Disbarment entered. [For earlier order herein, see 498 U. S. 1064.]

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 \$7,732.95 for the period January 1 through March 31, 1991, to be paid equally by the parties. [For earlier order herein, see, *e. g.*, 498 U. S. 1078.]

No. 90-515. LOCKHEED SHIPBUILDING Co. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, ET AL., 498 U. S. 1073. Motion of respondent Wilborn K. Stevens for attorney's fees and costs denied

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\*For the Court's order amending Rule 39 of the Rules of this Court, see *ante*, p. 13.

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without prejudice to refile in the United States Court of Appeals for the Ninth Circuit.

No. 90-1412. ALABAMA HIGHWAY DEPARTMENT *v.* BOONE, ADMINISTRATRIX OF THE ESTATE OF BOONE, ET AL. Sup. Ct. Ala. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 90-6531. HUDSON *v.* MCMILLIAN ET AL. C. A. 5th Cir. [Certiorari granted, 499 U. S. 958.] Motion for appointment of counsel granted, and it is ordered that Alvin J. Bronstein, Esq., of Washington, D. C., be appointed to serve as counsel for petitioner in this case. The order entered April 15, 1991 [499 U. S. 958], is amended to read as follows: Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to the following question: "Did the Fifth Circuit apply the correct legal test when determining that petitioner's claim that his Eighth Amendment rights under the Cruel and Unusual Punishments Clause were not violated as a result of a single incident of force by respondents which did not cause a significant injury?"

No. 90-7255. IN RE HOLLAND. Petition for writ of mandamus denied.

No. 90-1397. IN RE AINSWORTH. Motion of petitioner for attorney's fees, damages, interest, and costs pursuant to 18 U. S. C. § 3006A and 28 U. S. C. § 1927 denied. Petition for writ of mandamus and/or prohibition denied.

No. 90-1485. IN RE PERALES. C. A. 5th Cir. Application for stay and to enjoin enforcement of mandate, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Petition for writ of mandamus and/or prohibition and/or injunction denied.

*Certiorari Granted*

No. 90-1165. NATIONAL LABOR RELATIONS BOARD *v.* NABORS TRAILERS, INC., NKA STEEGO TRANSPORTATION EQUIPMENT CENTERS, INC. C. A. 5th Cir. Certiorari granted. Reported below: 910 F. 2d 268.

No. 90-408. COUNTY OF YAKIMA ET AL. *v.* CONFEDERATED TRIBES AND BANDS OF THE YAKIMA INDIAN NATION; and

No. 90-577. CONFEDERATED TRIBES AND BANDS OF THE YAKIMA INDIAN NATION *v.* COUNTY OF YAKIMA ET AL. C. A. 9th

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Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 903 F. 2d 1207.

No. 90-6113. *WHITE v. ILLINOIS*. App. Ct. Ill., 4th Dist. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 198 Ill. App. 3d 641, 555 N. E. 2d 1241.

*Certiorari Denied*. (See also No. 90-7226, *ante*, p. 16.)

No. 90-1027. *GUERCIO v. BRODY ET AL., FORMER JUDGES*. C. A. 6th Cir. Certiorari denied. Reported below: 911 F. 2d 1179.

No. 90-1230. *MCDERMOTT ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 918 F. 2d 319.

No. 90-1234. *DIAZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 917 F. 2d 562.

No. 90-1240. *ALLISON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 908 F. 2d 1531.

No. 90-1241. *YMCA OF THE PIKES PEAK REGION v. NATIONAL LABOR RELATIONS BOARD*. C. A. 10th Cir. Certiorari denied. Reported below: 914 F. 2d 1442.

No. 90-1256. *CALIFORNIA ENERGY COMMISSION ET AL. v. BONNEVILLE POWER ADMINISTRATION ET AL.*; and

No. 90-1415. *PUGET SOUND POWER & LIGHT CO. v. BONNEVILLE POWER ADMINISTRATION ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 909 F. 2d 1298.

No. 90-1260. *CANNISTRARO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 90-1264. *DILLON v. MANBECK, COMMISSIONER OF PATENTS AND TRADEMARKS*. C. A. Fed. Cir. Certiorari denied. Reported below: 919 F. 2d 688.

No. 90-1312. *AMERICAN UNDERWRITERS GROUP, INC. v. EAKIN, INSURANCE COMMISSIONER OF THE DEPARTMENT OF INSURANCE OF INDIANA*. Ct. App. Ind. Certiorari denied. Reported below: 552 N. E. 2d 50.

No. 90-1380. *CITY OF AUSTIN v. JOLEEWU, LTD.* C. A. 5th Cir. Certiorari denied. Reported below: 916 F. 2d 250.

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No. 90-1391. HEJL *v.* CITY OF AUSTIN ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 918 F. 2d 176.

No. 90-1394. UNITED FOOD & COMMERCIAL WORKERS INTERNATIONAL UNION ET AL. *v.* JOHN MORRELL & Co. C. A. 8th Cir. Certiorari denied. Reported below: 913 F. 2d 544.

No. 90-1395. HARRELL ET UX. *v.* UNIROYAL-GOODRICH TIRE Co. C. A. 3d Cir. Certiorari denied. Reported below: 922 F. 2d 831.

No. 90-1400. BENNETT ET AL. *v.* DIRECT MARKETING ASSN., INC. C. A. 9th Cir. Certiorari denied. Reported below: 916 F. 2d 1451.

No. 90-1402. EWING ET UX. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 499.

No. 90-1403. THOMAS *v.* HARRINGTON ET AL. Sup. Ct. Mont. Certiorari denied. Reported below: 247 Mont. 529, 807 P. 2d 199.

No. 90-1408. BROWN *v.* THOMAS STEEL STRIP CORP. ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 920 F. 2d 932.

No. 90-1410. GOAD *v.* ROLLINS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 921 F. 2d 69.

No. 90-1413. DISTRICT COUNCIL OF IRON WORKERS OF CALIFORNIA AND VICINITY, AFL-CIO, ET AL. *v.* CAMPING CONSTRUCTION Co. C. A. 9th Cir. Certiorari denied. Reported below: 915 F. 2d 1333.

No. 90-1418. PHILLIPPE *v.* KALLINS ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-1421. INDEPENDENT SCHOOL DISTRICT No. 4, TULSA COUNTY, OKLAHOMA *v.* JOHNSON, A MINOR, BY AND THROUGH JOHNSON ET UX., HER FATHER AND MOTHER, AS NEXT FRIENDS. C. A. 10th Cir. Certiorari denied. Reported below: 921 F. 2d 1022.

No. 90-1422. MASCIOPINTO *v.* WHATLEY. C. A. 7th Cir. Certiorari denied. Reported below: 921 F. 2d 278.

No. 90-1429. RAJALA, TRUSTEE IN BANKRUPTCY FOR GENERAL POLY CORP. *v.* ALLIED CORP. C. A. 10th Cir. Certiorari denied. Reported below: 919 F. 2d 610.

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No. 90-1442. *BUSH ET UX. v. WATER POLLUTION CONTROL AUTHORITY FOR THE TOWN OF WATERFORD*. C. A. 2d Cir. Certiorari denied. Reported below: 916 F. 2d 709.

No. 90-1443. *SAVAGE v. TRAMMELL CROW CO., INC., ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 223 Cal. App. 3d 1562, 273 Cal. Rptr. 302.

No. 90-1449. *HARRINGTON v. AETNA-BEARING CO. ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 921 F. 2d 717.

No. 90-1480. *SCHULTZ v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 918 F. 2d 164.

No. 90-1519. *CAMOSCIO v. HODDER ET AL.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 409 Mass. 1001, 565 N. E. 2d 452.

No. 90-6417. *NOONE v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 913 F. 2d 20.

No. 90-6538. *JIMISON v. NEVADA*. Sup. Ct. Nev. Certiorari denied. Reported below: 106 Nev. 1027, 835 P. 2d 45.

No. 90-6738. *MITCHELL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 915 F. 2d 521.

No. 90-6943. *PATTERSON v. INTERCOAST MANAGEMENT OF HARTFORD, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 918 F. 2d 12.

No. 90-6989. *MOORE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 913 F. 2d 1288.

No. 90-7030. *PRICE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 919 F. 2d 739.

No. 90-7040. *GATES v. WARDEN AT SAN QUENTIN*. C. A. 9th Cir. Certiorari denied.

No. 90-7042. *SMART v. LEEKE, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 917 F. 2d 1302.

No. 90-7197. *MONTGOMERY v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS*. C. A. 7th Cir. Certiorari denied.

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No. 90-7276. *ORR v. JONES ET AL.* C. A. 8th Cir. Certiorari denied.

No. 90-7279. *DAVIS v. BEARD, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 922 F. 2d 830.

No. 90-7287. *VASSER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 916 F. 2d 624.

No. 90-7288. *PARKER v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied.

No. 90-7289. *PETERS v. CALIFORNIA.* Sup. Ct. Cal. Certiorari denied.

No. 90-7298. *GUNDICK v. MICHIGAN.* Ct. App. Mich. Certiorari denied.

No. 90-7299. *GAGE v. HAWKINS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 919 F. 2d 144.

No. 90-7303. *HERRERA v. KERBY, WARDEN.* C. A. 10th Cir. Certiorari denied.

No. 90-7306. *BURNS v. BURNS ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 202 Ill. App. 3d 1104, 593 N. E. 2d 1169.

No. 90-7310. *CLEMMONS v. MISSOURI.* Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 795 S. W. 2d 414.

No. 90-7312. *ARMOUR v. PRYOR ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 1570.

No. 90-7319. *STEPHENS v. MURRAY, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 920 F. 2d 927.

No. 90-7320. *WATKINS v. WEISS.* C. A. 4th Cir. Certiorari denied. Reported below: 920 F. 2d 927.

No. 90-7321. *FELL v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 923 F. 2d 865.

No. 90-7322. *D'AMARIO v. NEW ENGLAND PROGRAMMING, INC., ET AL.* C. A. 1st Cir. Certiorari denied.

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No. 90-7323. *EASTLAND v. TEXAS*. Ct. App. Tex., 3d Dist. Certiorari denied.

No. 90-7325. *YORK v. IOWA*. Ct. App. Iowa. Certiorari denied. Reported below: 463 N. W. 2d 705.

No. 90-7327. *WEBSTER v. CITY OF SEATTLE*. Sup. Ct. Wash. Certiorari denied. Reported below: 115 Wash. 2d 635, 802 P. 2d 1333.

No. 90-7331. *BELL v. ILLINOIS*. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 195 Ill. App. 3d 1110, 582 N. E. 2d 327.

No. 90-7337. *LE BLANC v. UNIVERSITY OF MICHIGAN, AKA BOARD OF REGENTS OF THE UNIVERSITY OF MICHIGAN*. Cir. Ct., County of Wayne, Mich. Certiorari denied.

No. 90-7339. *RIPMEESTER v. NORRIS*. C. A. 4th Cir. Certiorari denied. Reported below: 917 F. 2d 1302.

No. 90-7340. *NICHOLS v. ILLINOIS DEPARTMENT OF PUBLIC HEALTH ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied.

No. 90-7343. *PEARSON v. RUSSELL, SUPERINTENDENT, LIMA CORRECTIONAL INSTITUTION*. C. A. 6th Cir. Certiorari denied. Reported below: 920 F. 2d 933.

No. 90-7345. *VINTSON v. JONES, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 927 F. 2d 614.

No. 90-7350. *THOMPSON v. UNITED STATES ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 725.

No. 90-7356. *GARIBAY, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GARIBAY, DECEASED v. ESTATE OF MITCHELL, DECEASED, ET AL.* Ct. App. Tex., 7th Dist. Certiorari denied.

No. 90-7360. *COUCH v. ILLINOIS*. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 199 Ill. App. 3d 1105, 585 N. E. 2d 650.

No. 90-7362. *OLDS v. ARMONTROUT, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 919 F. 2d 1331.

No. 90-7367. *HUTCHISON v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 576 So. 2d 288.

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No. 90-7368. *FINK v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-7372. *FYKES, AKA JOHNSON v. GRAND UNION CO. ET AL.* C. A. 3d Cir. Certiorari denied.

No. 90-7378. *ZATKO v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 90-7385. *SLACUM v. FRAME*. Ct. Sp. App. Md. Certiorari denied.

No. 90-7404. *HATCH v. SHARP ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 919 F. 2d 1266.

No. 90-7427. *HUNTER v. TANSY, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 916 F. 2d 595.

No. 90-7453. *HEGGE v. MANNING ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 919 F. 2d 741.

No. 90-7457. *WEBSTER v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied. Reported below: 924 F. 2d 1055.

No. 90-7464. *BANE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 919 F. 2d 139.

No. 90-7488. *REWOLINSKI v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 159 Wis. 2d 1, 464 N. W. 2d 401.

No. 90-7515. *WOOTEN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 922 F. 2d 842.

No. 90-7545. *WATSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 917 F. 2d 1307.

No. 90-7590. *WILLIAMS v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 84 Md. App. 738, 581 A. 2d 864.

No. 90-7607. *CASWELL v. RYAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTE AT DALLAS, ET AL.* C. A. 3d Cir. Certiorari denied.

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No. 90-988. MANOCCHIO *v.* MORAN, DIRECTOR, RHODE ISLAND DEPARTMENT OF CORRECTIONS. C. A. 1st Cir. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN would grant certiorari. Reported below: 919 F. 2d 770.

No. 90-1134. MISSOURI *v.* URBAN. Sup. Ct. Mo. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 796 S. W. 2d 599.

No. 90-1446. MISSISSIPPI *v.* TURNER. Sup. Ct. Miss. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 573 So. 2d 657.

No. 90-1265. OSHATZ *v.* UNITED STATES. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 912 F. 2d 534.

No. 90-1396. BARNETT BANKS, INC., ET AL. *v.* KONSTAND ET AL. C. A. 11th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 906 F. 2d 1546.

No. 90-1434. PRIDE ET AL. *v.* VENANGO RIVER CORP. ET AL. C. A. 7th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 916 F. 2d 1250.

No. 90-1401. ANR PIPELINE CO. *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS (EXXON CORP., REAL PARTY IN INTEREST). C. A. 5th Cir. Motions of American Gas Association et al. and Michigan Consolidated Gas Co. et al. for leave to file briefs as *amici curiae* granted. Certiorari denied.

No. 90-7096. FRANCIS *v.* DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. JUSTICE BLACKMUN would grant certiorari, vacate the judgment, and remand the case for further consideration in light of *Parker v. Dugger*, 498 U. S. 308 (1991). Reported below: 908 F. 2d 696.

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.

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*Rehearing Denied*

No. 90-1097. *DOLENZ v. STUART YACHT BUILDERS, INC.*, 499 U. S. 921;

No. 90-1198. *BATOR v. WASHOE COUNTY BUILDING DEPARTMENT ET AL.*, 499 U. S. 922;

No. 90-1221. *LITTON INDUSTRIAL AUTOMATION SYSTEMS, INC., ET AL. v. GENERAL ELECTRIC CO.*, 499 U. S. 937;

No. 90-6185. *CORTES v. BELASKI, WARDEN, ET AL.*, 499 U. S. 907;

No. 90-6351. *IN RE BAUER*, 499 U. S. 904;

No. 90-6692. *ROYAL v. EXXON CHEMICAL U. S. A., CHEMICAL DEPARTMENT*, 499 U. S. 908;

No. 90-6720. *ESPARZA v. WOODS*, 499 U. S. 909;

No. 90-6755. *GILBERT v. BODOVITZ ET AL.*, 499 U. S. 909;

No. 90-6815. *MORRISON v. OXENDINE ET AL.*, 499 U. S. 925;

No. 90-6914. *MARTIN v. PENNSYLVANIA REAL ESTATE COMMISSION ET AL.*, 499 U. S. 927;

No. 90-6935. *MOORE v. MASCHNER ET AL.*, 499 U. S. 928;

No. 90-6962. *KARIM-PANAHI v. REAGAN ET AL.*, 499 U. S. 928;

No. 90-6982. *WILLIAMS ET UX. v. KANSTOROOM ET AL.*, 499 U. S. 929;

No. 90-6983. *WILLIAMS ET UX. v. KANSTOROOM ET AL.*, 499 U. S. 939; and

No. 90-7012. *MARTIN v. FARNAN ET AL.*, 499 U. S. 940. Petitions for rehearing denied.

No. 90-6308. *GRAY v. BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF EL PASO, COLORADO, ET AL.*, 498 U. S. 1038. Motion for leave to file petition for rehearing denied.

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*Miscellaneous Orders.* (For the Court's orders prescribing amendments to the Federal Rules of Civil Procedure, see *post*, p. 965; amendments to the Federal Rules of Criminal Procedure, see *post*, p. 993; amendments to the Federal Rules of Evidence, see *post*, p. 1003; amendments to the Federal Rules of Appellate Procedure, see *post*, p. 1009; and amendments to the Bankruptcy Rules, see *post*, p. 1019.)

May 1, 8, 13, 1991

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MAY 1, 1991

*Dismissal Under Rule 46*

No. 90-6534. MICHEAUX *v.* COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 911 F. 2d 1083.

MAY 8, 1991

*Dismissal Under Rule 46*

No. 90-1417. IN RE ITAKURA. Petition for writ of mandamus dismissed under this Court's Rule 46.

MAY 13, 1991

*Miscellaneous Orders*

No. — — ——. FOSTER *v.* RUTGERS, THE STATE UNIVERSITY, ET AL. Motion to direct the Clerk to file petition for writ of certiorari typed on paper which is 8½ by 11 inches denied.

No. D-970. IN RE DISBARMENT OF MAXWELL. Disbarment entered. [For earlier order herein, see 498 U. S. 1118.]

No. D-972. IN RE DISBARMENT OF PENNELL. Disbarment entered. [For earlier order herein, see 499 U. S. 901.]

No. D-973. IN RE DISBARMENT OF SHANZER. Disbarment entered. [For earlier order herein, see 499 U. S. 902.]

No. D-976. IN RE DISBARMENT OF HESS. Disbarment entered. [For earlier order herein, see 499 U. S. 902.]

No. D-979. IN RE DISBARMENT OF MCSHIRLEY. Disbarment entered. [For earlier order herein, see 499 U. S. 902.]

No. D-980. IN RE DISBARMENT OF MILLER. Disbarment entered. [For earlier order herein, see 499 U. S. 903.]

No. D-987. IN RE DISBARMENT OF BALLARD. F. Michael Ballard, of Fairfax, Va., 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 March 25, 1991 [499 U. S. 934], is hereby discharged.

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No. 90-838. MOLZOF, PERSONAL REPRESENTATIVE OF THE ESTATE OF MOLZOF *v.* UNITED STATES. C. A. 7th Cir. [Certiorari granted, 499 U. S. 918.] Motion of petitioner to dispense with printing the joint appendix granted.

No. 90-1141. ARDESTANI *v.* IMMIGRATION AND NATURALIZATION SERVICE. C. A. 11th Cir. [Certiorari granted, 499 U. S. 904.] Motion of petitioner to dispense with printing the joint appendix granted.

No. 90-954. RUFO, SHERIFF OF SUFFOLK COUNTY, ET AL. *v.* INMATES OF THE SUFFOLK COUNTY JAIL ET AL. C. A. 1st Cir. [Certiorari granted, 498 U. S. 1081]; and

No. 90-1004. RAPONE, COMMISSIONER OF CORRECTION OF MASSACHUSETTS *v.* INMATES OF THE SUFFOLK COUNTY JAIL ET AL. C. A. 1st Cir. [Certiorari granted *sub nom.* *Vose v. Inmates of the Suffolk County Jail*, 498 U. S. 1081.] Motions of petitioners for divided argument granted.

No. 90-967. WOODDELL *v.* INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 71, ET AL. C. A. 6th Cir. [Certiorari granted, 498 U. S. 1082 and 499 U. S. 933.] Motion of Association for Union Democracy et al. for leave to file a brief as *amici curiae* granted.

No. 90-985. BRAY ET AL. *v.* ALEXANDRIA WOMEN'S HEALTH CLINIC ET AL. C. A. 4th Cir. [Certiorari granted, 498 U. S. 1119.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 90-1372. MAIN HURDMAN *v.* FINE ET AL. C. A. 5th Cir. Motion of the parties to defer consideration of petition for writ of certiorari granted.

No. 90-1482. AIR LINE PILOTS ASSN., INTERNATIONAL, AFL-CIO *v.* SHUGRUE, AS CHAPTER 11 TRUSTEE FOR EASTERN AIR LINES, INC. C. A. 2d Cir.; and

No. 90-1487. THREE BOUYS HOUSEBOAT VACATIONS U. S. A., LTD. *v.* MORTS ET AL. C. A. 8th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

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No. 90-6949. *ROLLE v. UNITED STATES POSTAL SERVICE*. C. A. Fed. Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until June 3, 1991, 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, dissenting.

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

No. 90-7370. *WILL v. WILL*. Sup. Ct. Va. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until June 3, 1991, 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 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. 90-7472. IN RE DEMOS;

No. 90-7663. IN RE CHRISTIANSON;

No. 90-7667. IN RE ADKINS; and

No. 90-7750. IN RE STICH. Petitions for writs of habeas corpus denied.

No. 90-7353. IN RE TILLMAN; and

No. 90-7534. IN RE PREUSS. Petitions for writs of mandamus denied.

#### *Probable Jurisdiction Noted*

No. 90-711. *PRESLEY v. ETOWAH COUNTY COMMISSION ET AL.*; and

No. 90-712. *MACK ET AL. v. RUSSELL COUNTY COMMISSION ET AL.* Appeals from D. C. M. D. Ala. Probable jurisdiction noted, cases consolidated, and a total of one hour allotted for oral argument.

#### *Certiorari Granted*

No. 90-1278. *INDOPCO, INC. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 3d Cir. Certiorari granted. Reported below: 918 F. 2d 426.

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No. 90-1342. IMMIGRATION AND NATURALIZATION SERVICE *v.* ELIAS-ZACARIAS. C. A. 9th Cir. Certiorari granted. Reported below: 921 F. 2d 844.

No. 90-1424. LUJAN, SECRETARY OF THE INTERIOR *v.* DEFENDERS OF WILDLIFE ET AL. C. A. 8th Cir. Certiorari granted. Reported below: 911 F. 2d 117.

No. 90-1390. GENERAL MOTORS CORP. ET AL. *v.* ROMEIN ET AL. Sup. Ct. Mich. Motion of Michigan Self-Insurers' Association for leave to file a brief as *amicus curiae* granted. Certiorari granted. Reported below: 436 Mich. 515, 462 N. W. 2d 555.

No. 90-1488. SUTER ET AL. *v.* ARTIST M. ET AL. C. A. 7th Cir. Motion for leave to proceed *in forma pauperis* without an affidavit of indigency executed by respondents granted. Certiorari granted. Reported below: 917 F. 2d 980.

No. 90-1491. UNION BANK *v.* WOLAS, CHAPTER 7 TRUSTEE FOR THE ESTATE OF ZZZZ BEST CO., INC. C. A. 9th Cir. Motion of California Bankers Association for leave to file a brief as *amicus curiae* granted. Certiorari granted. Reported below: 921 F. 2d 968.

No. 90-6616. STRINGER *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 limited to Question 3 presented by the petition. Reported below: 909 F. 2d 111.

#### *Certiorari Denied*

No. 90-749. SOUTH DAKOTA ET AL. *v.* ROSEBUD SIOUX TRIBE ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 900 F. 2d 1164.

No. 90-1139. BENNETT *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied. Reported below: 798 S. W. 2d 783.

No. 90-1145. SCARFO *v.* UNITED STATES;

No. 90-6448. VIRGILIO *v.* UNITED STATES;

No. 90-6472. SCAFIDI *v.* UNITED STATES;

No. 90-6503. PUNGITORE *v.* UNITED STATES;

No. 90-6504. STAINO *v.* UNITED STATES;

No. 90-6524. PUNGITORE ET AL. *v.* UNITED STATES;

No. 90-6833. GRANDE *v.* UNITED STATES;

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- No. 90-6834. CIANCAGLINI *v.* UNITED STATES; and  
No. 90-7084. NARDUCCI ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 910 F. 2d 1084.
- No. 90-1147. CANNISTRARO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 919 F. 2d 137.
- No. 90-1225. AULSTON ET AL. *v.* UNITED STATES ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 915 F. 2d 584.
- No. 90-1232. SMS DATA PRODUCTS GROUP, INC. *v.* UNITED STATES ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 915 F. 2d 1544.
- No. 90-1252. CARBALLO *v.* UNITED STATES; and  
No. 90-7501. COELLO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 913 F. 2d 861.
- No. 90-1261. QUAVE *v.* PROGRESS MARINE ET AL.; and  
No. 90-1489. PROGRESS MARINE ET AL. *v.* QUAVE. C. A. 5th Cir. Certiorari denied. Reported below: 912 F. 2d 798 and 918 F. 2d 33.
- No. 90-1271. NORFOLK & WESTERN RAILWAY CO. *v.* ROBERSON ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 918 F. 2d 1144.
- No. 90-1272. BULLARD *v.* MADIGAN, SECRETARY OF AGRICULTURE. C. A. 4th Cir. Certiorari denied. Reported below: 915 F. 2d 1563.
- No. 90-1276. MILLARD *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 916 F. 2d 1.
- No. 90-1285. SHAVALIER *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied.
- No. 90-1287. BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA ET AL. *v.* UNITED STATES DEPARTMENT OF LABOR ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 917 F. 2d 812.
- No. 90-1291. COOPER *v.* WILLIAMSON COUNTY BOARD OF EDUCATION. Sup. Ct. Tenn. Certiorari denied. Reported below: 803 S. W. 2d 200.

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No. 90-1306. KING ISLAND NATIVE COMMUNITY *v.* MONTANA DEPARTMENT OF FAMILY SERVICES. Sup. Ct. Mont. Certiorari denied. Reported below: 245 Mont. 242, 801 P. 2d 77.

No. 90-1320. CRAIG ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 907 F. 2d 653.

No. 90-1321. NATIONAL MEDICAL ENTERPRISES, INC. *v.* SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 9th Cir. Certiorari denied. Reported below: 916 F. 2d 542.

No. 90-1330. PARKER DRILLING CO. *v.* SANDERS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 911 F. 2d 191.

No. 90-1357. 3550 STEVENS CREEK ASSOCIATES *v.* BARCLAYS BANK OF CALIFORNIA. C. A. 9th Cir. Certiorari denied. Reported below: 915 F. 2d 1355.

No. 90-1409. HEXAMER *v.* FORENESS, DIRECTOR, POSTAL DATA CENTER, UNITED STATES POST OFFICE, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 919 F. 2d 736.

No. 90-1427. SLAY, PERSONAL REPRESENTATIVE OF THE ESTATE OF SLAY, DECEASED, ET AL. *v.* FORD MOTOR CO. C. A. 10th Cir. Certiorari denied.

No. 90-1430. RABY ET AL. *v.* M/V PINE FOREST ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 918 F. 2d 80.

No. 90-1431. STIKES *v.* CHEVRON U. S. A., INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 914 F. 2d 1265.

No. 90-1436. FREDERICK J. DALEY, LTD. *v.* SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 7th Cir. Certiorari denied. Reported below: 917 F. 2d 26.

No. 90-1447. BYBEE ET AL. *v.* SUPERIOR COURT OF ARIZONA, MARICOPA COUNTY, ET AL. Sup. Ct. Ariz. Certiorari denied.

No. 90-1454. VANN *v.* TENNESSEE. Sup. Ct. Tenn. Certiorari denied.

No. 90-1469. HERNSTADT ET UX. *v.* BRICKELL BAY CLUB CONDOMINIUM ASSN., INC. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 560 So. 2d 1227.

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No. 90-1471. *UPJOHN CO. v. NORTH HAVEN PLANNING AND ZONING COMMISSION ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 921 F. 2d 27.

No. 90-1472. *M. SLAVIN & SONS, LTD. v. CIRILLO.* C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 843.

No. 90-1474. *MCGEE ET AL. v. BROWN.* Sup. Ct. S. C. Certiorari denied.

No. 90-1475. *KUNTZ v. MANLEY, BURKE & FISCHER, L. P. A., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 922 F. 2d 832.

No. 90-1476. *PARRISH ET AL. v. EMPLOYEES' RETIREMENT SYSTEM OF GEORGIA ET AL.* Sup. Ct. Ga. Certiorari denied. Reported below: 260 Ga. 613, 398 S. E. 2d 353.

No. 90-1477. *ALLEN GROUP INC., DBA G&O MANUFACTURING CO. v. MODINE MANUFACTURING CO.* C. A. Fed. Cir. Certiorari denied. Reported below: 917 F. 2d 538.

No. 90-1479. *GROVER v. ROCHELEAU ET AL.* Sup. Jud. Ct. Me. Certiorari denied.

No. 90-1493. *INDIAN CHILD WELFARE COORDINATOR OF THE JUVENILE COURT OF THE CHEYENNE RIVER SIOUX TRIBE ET AL. v. CHESTER COUNTY DEPARTMENT OF SOCIAL SERVICES ET AL.* Sup. Ct. S. C. Certiorari denied. Reported below: 303 S. C. 226, 399 S. E. 2d 773.

No. 90-1507. *EMPIRE CLUB v. BIJOU IRRIGATION DISTRICT ET AL.* Sup. Ct. Colo. Certiorari denied. Reported below: 804 P. 2d 175.

No. 90-1512. *PENN ET UX. v. PARKE STATE BANK.* C. A. 7th Cir. Certiorari denied. Reported below: 909 F. 2d 1486.

No. 90-1516. *IN RE SLAUGHTER.* Sup. Ct. Ky. Certiorari denied. Reported below: 801 S. W. 2d 318.

No. 90-1532. *AMERSON ET AL. v. TEXAS.* Ct. App. Tex., 14th Dist. Certiorari denied. Reported below: 794 S. W. 2d 806.

No. 90-1538. *ONDRUS v. UNITED STATES.* Ct. Mil. App. Certiorari denied. Reported below: 32 M. J. 301.

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No. 90-1543. *SIMMONS ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 934.

No. 90-1557. *NOVOD v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 970 and 927 F. 2d 726.

No. 90-1560. *LOWRIMORE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 923 F. 2d 590.

No. 90-1566. *DUNCAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 923 F. 2d 866.

No. 90-1580. *SYLVESTER ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 923 F. 2d 863.

No. 90-1588. *MASTERS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 924 F. 2d 1362.

No. 90-1590. *KOSSEFF v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 924 F. 2d 1062.

No. 90-6491. *SENIOR v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 914 F. 2d 254.

No. 90-6557. *FISHER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 912 F. 2d 728.

No. 90-6586. *HERNANDEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 912 F. 2d 1466.

No. 90-6754. *SCATES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 914 F. 2d 249.

No. 90-6780. *WILLIAMS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 915 F. 2d 1566.

No. 90-6783. *ELLIOTT v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 915 F. 2d 1455.

No. 90-6798. *VASALLO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 918 F. 2d 182.

No. 90-6811. *MITCHELL v. HATCHER ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 912 F. 2d 463.

No. 90-6859. *BROWN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 918 F. 2d 182.

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No. 90-6886. *CARPENTER v. MORRIS*. C. A. 6th Cir. Certiorari denied. Reported below: 914 F. 2d 255.

No. 90-6906. *GUZMAN v. KELLY, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 843.

No. 90-6946. *BEAN v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 576 So. 2d 284.

No. 90-6957. *LUCIDO v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 51 Cal. 3d 335, 795 P. 2d 1223.

No. 90-6986. *KUNEK v. COFFMAN ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 914 F. 2d 240.

No. 90-6991. *O'KEEFE v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied. Reported below: 222 Cal. App. 3d 517, 271 Cal. Rptr. 769.

No. 90-6992. *NICHOLS v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied.

No. 90-6994. *COLLINS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 920 F. 2d 619.

No. 90-7046. *PRUITT v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 5th Cir. Certiorari denied. Reported below: 917 F. 2d 562.

No. 90-7091. *GUERRERO v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 917 F. 2d 564.

No. 90-7124. *BAILEY v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 247 Kan. 330, 799 P. 2d 977.

No. 90-7144. *SAAHIR v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-7179. *HILL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 920 F. 2d 934.

No. 90-7336. *DRAKE v. CENTRAL INTELLIGENCE AGENCY ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-7373. *THOMAS v. JOHNSON CONTROLS, INC.* Sup. Ct. Tex. Certiorari denied.

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No. 90-7374. *PERRY v. OKLAHOMA ET AL.* Ct. Crim. App. Okla. Certiorari denied.

No. 90-7375. *MURRAY v. CASTILLA ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 924 F. 2d 1056.

No. 90-7377. *ZATKO v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA.* C. A. 9th Cir. Certiorari denied.

No. 90-7384. *PORTER v. CROSS SEAS SHIPPING CORP.* C. A. 4th Cir. Certiorari denied. Reported below: 921 F. 2d 272.

No. 90-7392. *DEJOSE v. NEW YORK STATE DEPARTMENT OF STATE ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 845.

No. 90-7395. *FELDER v. RICHMOND CITY JAIL ADMINISTRATION.* C. A. 4th Cir. Certiorari denied. Reported below: 924 F. 2d 1051.

No. 90-7396. *GRANBERRY v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 908 F. 2d 278.

No. 90-7400. *ABEL v. ALASKA.* C. A. 9th Cir. Certiorari denied. Reported below: 921 F. 2d 279.

No. 90-7403. *HELZER v. MICHIGAN DEPARTMENT OF CORRECTIONS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 917 F. 2d 1304.

No. 90-7407. *FLEMING v. COLORADO.* Sup. Ct. Colo. Certiorari denied.

No. 90-7409. *BARTEL v. GINS.* C. A. 4th Cir. Certiorari denied. Reported below: 919 F. 2d 734.

No. 90-7410. *BRENNAN v. OHIO ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 918 F. 2d 178.

No. 90-7418. *DELBRIDGE ET AL. v. NEW JERSEY DIVISION OF YOUTH AND FAMILY SERVICES.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 90-7419. *TOLBERT v. GEORGIA.* Sup. Ct. Ga. Certiorari denied. Reported below: 260 Ga. 527, 397 S. E. 2d 439.

No. 90-7421. *JOHL v. PETERS ET AL.* C. A. 2d Cir. Certiorari denied.

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No. 90-7424. *KISKILA ET UX. v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE (BUSINESS EXCHANGE, INC., ET AL., REAL PARTIES IN INTEREST)*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-7425. *DIAZ v. TERRELL ET AL.* C. A. 7th Cir. Certiorari denied.

No. 90-7426. *WOODARD v. BERRY, AS SUPERINTENDENT, WOODBOURNE CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 90-7428. *WILLIAMS v. EVANS, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-7429. *ZATKO v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA (MARSHALL, WARDEN, REAL PARTY IN INTEREST)*. C. A. 9th Cir. Certiorari denied.

No. 90-7430. *ZATKO v. MARSHALL, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 90-7431. *MASTERS ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 9th Cir. Certiorari denied. Reported below: 919 F. 2d 145.

No. 90-7440. *BILBRO v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 575 So. 2d 1249.

No. 90-7443. *ALLEN v. MICHIGAN.* Ct. App. Mich. Certiorari denied.

No. 90-7444. *FARMER v. OKLAHOMA ET AL.* Sup. Ct. Okla. Certiorari denied. Reported below: 801 P. 2d 703.

No. 90-7446. *BEN-MOSHE v. FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 921 F. 2d 285.

No. 90-7450. *GREENE v. MILLS, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 925 F. 2d 1463.

No. 90-7452. *MORRISON v. BROOKS, SUPERINTENDENT, ROBESON CORRECTIONAL CENTER.* C. A. 4th Cir. Certiorari denied. Reported below: 923 F. 2d 849.

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No. 90-7456. LANAVE *v.* MINNESOTA SUPREME COURT. C. A. 8th Cir. Certiorari denied. Reported below: 915 F. 2d 386.

No. 90-7460. VICKS *v.* RATELLE, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 90-7462. GORELIK *v.* NI INDUSTRIES, INC., ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 90-7465. PETERSON *v.* CHRANS, WARDEN, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 921 F. 2d 278.

No. 90-7467. SMITH *v.* ALLEN, COMMISSIONER, MAINE DEPARTMENT OF CORRECTIONS. C. A. 1st Cir. Certiorari denied.

No. 90-7471. ORR *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 2d 1323.

No. 90-7473. DEMOS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 927 F. 2d 608.

No. 90-7474. BUTCHER *v.* FISHMAN ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 921 F. 2d 276.

No. 90-7478. WILLIAMS *v.* ARMONTROUT, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 938 F. 2d 183.

No. 90-7484. COLEMAN *v.* DUNBARTON OAKS APARTMENTS ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 922 F. 2d 830.

No. 90-7486. SNYDER *v.* BORNSTEIN ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 923 F. 2d 840.

No. 90-7489. WAITS *v.* KWIKWAY STORES, INC. C. A. 10th Cir. Certiorari denied.

No. 90-7490. BRIDGES *v.* SPILLER-BRIDGES. Super. Ct. DeKalb County, Ga. Certiorari denied.

No. 90-7493. YIELDING *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 90-7494. COSTON *v.* ZIMMERMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTE AT WAYMART, ET AL. C. A. 3d Cir. Certiorari denied.

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No. 90-7496. *SHERRILLS v. CELESTE, GOVERNOR OF OHIO, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 924 F. 2d 1059.

No. 90-7497. *ROBICHAUX v. PHELPS ET AL.* C. A. 5th Cir. Certiorari denied.

No. 90-7498. *QUARRELS-BEY v. JOHNSTON ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 924 F. 2d 1059.

No. 90-7502. *BECKNELL v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION.* C. A. 5th Cir. Certiorari denied. Reported below: 925 F. 2d 1459.

No. 90-7507. *HARRIS ET AL. v. FLORIDA.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 564 So. 2d 1211.

No. 90-7508. *MCCORD v. AHITOW, WARDEN.* C. A. 7th Cir. Certiorari denied.

No. 90-7512. *CALLWOOD v. VIRGIN ISLANDS.* C. A. 3d Cir. Certiorari denied. Reported below: 925 F. 2d 417.

No. 90-7516. *STREETER v. JONES, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 919 F. 2d 743.

No. 90-7520. *LONG v. TATE, WARDEN.* C. A. 6th Cir. Certiorari denied.

No. 90-7523. *LOPEZ v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 923 F. 2d 47.

No. 90-7524. *MOORE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 922 F. 2d 842.

No. 90-7530. *DELFIN v. OFFICE OF PERSONNEL MANAGEMENT.* C. A. Fed. Cir. Certiorari denied. Reported below: 915 F. 2d 1584.

No. 90-7548. *CARTER v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 923 F. 2d 849.

No. 90-7550. *YOUNG v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 922 F. 2d 842.

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No. 90-7551. BURKHALTER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 1573.

No. 90-7552. CLARY ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 919 F. 2d 139.

No. 90-7553. SLAUGHTER *v.* KENTUCKY. Sup. Ct. Ky. Certiorari denied.

No. 90-7554. WILLIAMS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 923 F. 2d 1397.

No. 90-7555. RUTHERFORD *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 90-7556. DUMAS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 921 F. 2d 650.

No. 90-7572. PUBLIC ADMINISTRATOR OF THE COUNTY OF NEW YORK, AS ADMINISTRATOR OF THE ESTATE OF MILAN, DECEASED *v.* GIBSON & CUSHMAN OF NEW YORK, INC. Ct. App. N. Y. Certiorari denied. Reported below: 76 N. Y. 2d 1017, 566 N. E. 2d 1171.

No. 90-7575. BROWN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 920 F. 2d 1212.

No. 90-7576. BISHOP *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 921 F. 2d 1068.

No. 90-7581. YOUNG *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 920 F. 2d 930.

No. 90-7582. PELUSO *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 919 F. 2d 141.

No. 90-7586. DIAZ *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 922 F. 2d 998.

No. 90-7597. GERMANO ET UX. *v.* BLEVINS, JUDGE, DISTRICT COURT FOR THE SEVENTH JUDICIAL DISTRICT OF OKLAHOMA. Sup. Ct. Okla. Certiorari denied.

No. 90-7598. AGHA *v.* SECRETARY OF THE ARMY. C. A. 9th Cir. Certiorari denied. Reported below: 921 F. 2d 279.

No. 90-7600. DOUGLAS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 925 F. 2d 1466.

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No. 90-7601. *ORTIZ ALARCON v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 917 F. 2d 651.

No. 90-7606. *FRANCIS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 916 F. 2d 464.

No. 90-7611. *GARDNER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 922 F. 2d 845.

No. 90-7613. *RANDOLPH v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 920 F. 2d 939.

No. 90-7614. *DUNCAN ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 919 F. 2d 981.

No. 90-7615. *SMITH v. NEW YORK STATE WORKERS' COMPENSATION BOARD*. C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 844.

No. 90-7619. *DAVIS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 926 F. 2d 969.

No. 90-7620. *RASCON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 922 F. 2d 584.

No. 90-7621. *RHODEN v. WALKER, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied.

No. 90-7623. *TILLMAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 925 F. 2d 1460.

No. 90-7631. *LANNOM v. CABANA, SUPERINTENDENT, SOUTH MISSISSIPPI CORRECTIONAL INSTITUTION*. C. A. 5th Cir. Certiorari denied. Reported below: 927 F. 2d 599.

No. 90-7639. *GOMEZ LORES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 922 F. 2d 834.

No. 90-7644. *RASAR v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 920 F. 2d 934.

No. 90-7646. *SHAW v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 920 F. 2d 1225.

No. 90-7649. *MARTIN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 920 F. 2d 345.

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No. 90-7652. *POLANCO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 845.

No. 90-7659. *MASSA v. CLARK, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 90-7660. *MOYAL v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-7673. *TALLEY ET AL. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 914 F. 2d 264.

No. 90-7676. *RAY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 923 F. 2d 853.

No. 90-7679. *STEVE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 287 U. S. App. D. C. 73, 919 F. 2d 182.

No. 90-7689. *RAMIREZ-FERNANDEZ v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 922 F. 2d 33.

No. 90-7704. *NESBIT v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 526 Pa. 631, 584 A. 2d 315.

No. 90-7706. *MCCATTY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 924 F. 2d 1055.

No. 90-7707. *LOPEZ-BAZUA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 923 F. 2d 864.

No. 90-7710. *BEN-MOSHE v. MILTON ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 927 F. 2d 613.

No. 90-7711. *RAMIREZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 929 F. 2d 705.

No. 90-7712. *BARNES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 922 F. 2d 842.

No. 90-7714. *ELLIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 923 F. 2d 863.

No. 90-7724. *NOYOLA-VALENCIA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 923 F. 2d 864.

No. 90-7725. *MCDONNELL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 922 F. 2d 413.

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No. 90-7729. *LACY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 924 F. 2d 1066.

No. 90-380. *CONSOLIDATED RAIL CORPORATION v. DELAWARE & HUDSON RAILWAY CO.* C. A. 2d Cir. Certiorari denied. JUSTICE WHITE and JUSTICE KENNEDY would grant certiorari. Reported below: 902 F. 2d 174.

No. 90-644. *LEDBETTER, COMMISSIONER, GEORGIA DEPARTMENT OF HUMAN RESOURCES v. TURNER ET AL.* C. A. 11th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE O'CONNOR would grant certiorari. Reported below: 906 F. 2d 606.

No. 90-1003. *SOUTH DAKOTA v. SPOTTED HORSE*. Sup. Ct. S. D. Motion for leave to proceed *in forma pauperis* without an affidavit of indigency executed by respondent granted. Certiorari denied. Reported below: 462 N. W. 2d 463.

No. 90-1280. *INSURANCE COMPANY OF PENNSYLVANIA ET AL. v. BEN COOPER, INC.* C. A. 2d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 924 F. 2d 36.

No. 90-1444. *TEXAS v. COX*. Ct. App. Tex., 2d Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. JUSTICE WHITE would grant certiorari.

No. 90-1462. *J. A. JONES CONSTRUCTION CO. v. CITY OF ATLANTA*. Sup. Ct. Ga. Certiorari denied. JUSTICE WHITE and JUSTICE MARSHALL would grant certiorari. Reported below: 260 Ga. 658, 398 S. E. 2d 369.

No. 90-1464. *VOLKSWAGEN OF AMERICA, INC., ET AL. v. ROY ET AL.* C. A. 9th Cir. Motion of Product Liability Advisory Council, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 896 F. 2d 1174 and 920 F. 2d 618.

No. 90-1494. *MISSISSIPPI v. BERRY*. Sup. Ct. Miss. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 575 So. 2d 1.

No. 90-6683. *WEST v. ILLINOIS*. Sup. Ct. Ill.;

No. 90-7132. *SMITH v. MISSOURI*. Sup. Ct. Mo.;

No. 90-7295. *PARDO v. FLORIDA*. Sup. Ct. Fla.;

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No. 90-7317. CUEVAS *v.* COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. C. A. 5th Cir.;

No. 90-7344. WILLIAMS *v.* ARIZONA. Sup. Ct. Ariz.;

No. 90-7398. PICKENS *v.* ARKANSAS. Sup. Ct. Ark.;

No. 90-7422. KORNAHRENS *v.* EVATT, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL. Ct. Common Pleas, Charleston County, S. C.;

No. 90-7509. MALONE *v.* MISSOURI. Sup. Ct. Mo.;

No. 90-7547. AMAYA-RUIZ *v.* ARIZONA. Sup. Ct. Ariz.; and

No. 90-7579. SANCHEZ-VELASCO *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: No. 90-6683, 137 Ill. 2d 558, 560 N. E. 2d 594; No. 90-7132, 798 S. W. 2d 152; No. 90-7295, 563 So. 2d 77; No. 90-7317, 922 F. 2d 242; No. 90-7344, 166 Ariz. 132, 800 P. 2d 1240; No. 90-7398, 304 Ark. xxiv; No. 90-7509, 798 S. W. 2d 149; No. 90-7547, 166 Ariz. 152, 800 P. 2d 1260; No. 90-7579, 570 So. 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. 90-7436. SINDRAM *v.* AHALT ET AL. C. A. 4th Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 923 F. 2d 849.

No. 90-7503. SZOKE *v.* MINNESOTA MINING & MANUFACTURING Co., INC. C. A. 2d Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 923 F. 2d 845.

#### *Rehearing Denied*

No. 117, Orig. MISSISSIPPI *v.* UNITED STATES ET AL., 499 U. S. 916;

No. 90-846. UBEROI *v.* BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO ET AL., 498 U. S. 1068;

No. 90-919. REEL ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE, 499 U. S. 1086;

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No. 90-1002. KASCHAK *v.* SUPERIOR COURT OF CALIFORNIA, KERN COUNTY, 499 U. S. 920;

No. 90-1088. RETTIG *v.* KENT CITY SCHOOL DISTRICT ET AL., 499 U. S. 921;

No. 90-1168. TOWN OF CONCORD, MASSACHUSETTS, ET AL. *v.* BOSTON EDISON Co., 499 U. S. 931;

No. 90-6059. STEINES *v.* ADMINISTRATOR OF VETERANS AFFAIRS, 499 U. S. 923;

No. 90-6388. RETTIG *v.* KENT CITY SCHOOL DISTRICT ET AL., 499 U. S. 921;

No. 90-6497. JAMES *v.* DROPSIE COLLEGE, AKA ANNENBERG RESEARCH INSTITUTE, 499 U. S. 938;

No. 90-6601. STARR *v.* DISTRICT OF COLUMBIA DEPARTMENT OF EMPLOYMENT SERVICES (WORKERS COMPENSATION), 498 U. S. 1102;

No. 90-6824. BRENNAN *v.* OHIO ET AL., 499 U. S. 926;

No. 90-6904. JEFFRIES *v.* NIX, WARDEN, 499 U. S. 927;

No. 90-6925. BOSA *v.* BOSA, 499 U. S. 927;

No. 90-6950. WATTS *v.* JOHNSON, WARDEN, ET AL., 499 U. S. 928;

No. 90-6979. BROWN *v.* VIRGINIA ET AL., 499 U. S. 939;

No. 90-7027. MARTIN *v.* HUYETT, 499 U. S. 951;

No. 90-7119. WATSON *v.* UNITED STATES; and JACKSON *v.* UNITED STATES, 499 U. S. 941;

No. 90-7189. HENRY *v.* UNITED STATES DEPARTMENT OF THE INTERIOR, 499 U. S. 953; and

No. 90-7215. LEIBOWITZ *v.* UNITED STATES, 499 U. S. 953. Petitions for rehearing denied.

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*Certiorari Granted—Vacated and Remanded*

No. 90-707. DEAN WITTER REYNOLDS INC. ET AL. *v.* ALFORD. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Gilmer v. Interstate/Johnson Lane Corp.*, ante, p. 20. Reported below: 905 F. 2d 104.

*Miscellaneous Orders*

No. A-805. WARD *v.* ROY H. PARK BROADCASTING Co., INC., ET AL. Gen. Ct. Justice, Super. Ct. Div., Pitt County, N. C.

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Application for stay, addressed to JUSTICE WHITE and referred to the Court, denied.

No. D-954. IN RE DISBARMENT OF DOHE. Disbarment entered. [For earlier order herein, see 498 U. S. 978.]

No. D-956. IN RE DISBARMENT OF TOOTHAKER. Disbarment entered. [For earlier order herein, see 498 U. S. 1010.]

No. D-975. IN RE DISBARMENT OF HEIDECKE. Disbarment entered. [For earlier order herein, see 499 U. S. 902.]

No. D-997. IN RE DISBARMENT OF ALEXANDER. It is ordered that James Richard Alexander, of Dallas, Tex., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-998. IN RE DISBARMENT OF SUSSKIND. It is ordered that Jerome A. Susskind, of Jackson, Mich., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-999. IN RE DISBARMENT OF COLEMAN. It is ordered that Carlo Bradley Coleman, of Jeffersonville, Ind., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-1000. IN RE DISBARMENT OF YOUMANS. It is ordered that Louis B. Youmans, of Tinton Falls, 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. 90-1499. ROWLAND, DIRECTOR, CALIFORNIA DEPARTMENT OF CORRECTIONS, ET AL. *v.* THOMPSON ET AL. C. A. 9th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted.

No. 90-7569. IN RE CARSON. Petition for writ of mandamus denied.

*Certiorari Granted*

No. 90-1126. NORMAN ET AL. *v.* REED ET AL.; and

No. 90-1435. COOK COUNTY OFFICERS ELECTORAL BOARD ET AL. *v.* REED ET AL. Sup. Ct. Ill. Motion of Independent

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Voters of Illinois Independent Precinct Organization for leave to file a brief as *amicus curiae* in No. 90-1126 granted. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument.

*Certiorari Denied*

No. 90-702. *COOK v. BARRATT AMERICAN, INC., ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-1176. *ILLINOIS v. BERNASCO.* Sup. Ct. Ill. Certiorari denied. Reported below: 138 Ill. 2d 349, 562 N. E. 2d 958.

No. 90-1184. *QUALITY TECHNOLOGY CO. v. STONE & WEBSTER ENGINEERING CO., INC., ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 909 F. 2d 1484.

No. 90-1324. *NEVADA v. JAMISON, DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 918 F. 2d 854.

No. 90-1340. *SIMPSON v. SIMPSON ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 920 F. 2d 11.

No. 90-1384. *BOBST v. NORFOLK SOUTHERN CORP. ET AL.* Ct. App. Ohio, Hamilton County. Certiorari denied. Reported below: 66 Ohio App. 3d 688, 586 N. E. 2d 137.

No. 90-1385. *ANGLADA-ALVAREZ v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 920 F. 2d 77.

No. 90-1388. *DEMPSEY ET AL. v. BENDIBURG, INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF BENDIBURG, DECEASED.* C. A. 11th Cir. Certiorari denied. Reported below: 909 F. 2d 463.

No. 90-1498. *GARDNER, INDIVIDUALLY AND AS EXECUTIVE DIRECTOR OF THE FLORIDA DEPARTMENT OF NATURAL RESOURCES, ET AL. v. BATEMAN.* C. A. 11th Cir. Certiorari denied. Reported below: 922 F. 2d 847.

No. 90-1500. *TODA v. CITY AND COUNTY OF HONOLULU.* C. A. 9th Cir. Certiorari denied. Reported below: 923 F. 2d 863.

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No. 90-1504. *PIERCE COUNTY DISTRICT COURT PROBATION OFFICE ET AL. v. WARNER*. C. A. 9th Cir. Certiorari denied. Reported below: 911 F. 2d 738.

No. 90-1522. *640 BROADWAY RENAISSANCE Co. v. CUOMO, GOVERNOR OF NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 927 F. 2d 593.

No. 90-1545. *MOSS v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 32 M. J. 301.

No. 90-1547. *RUSCITTI ET AL. v. NUCKOLS*. Ct. App. Colo. Certiorari denied.

No. 90-1585. *HANSON v. UNITED STATES*. Ct. Mil. App. Certiorari denied. Reported below: 32 M. J. 309.

No. 90-1618. *KINGSTON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 922 F. 2d 1234.

No. 90-1633. *PHILLIPS v. CITY OF MARTINEZ, CALIFORNIA, ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-5392. *KANEKO ET AL. v. CITY AND COUNTY OF HONOLULU ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 879 F. 2d 607.

No. 90-6656. *SPELL v. LOUISIANA DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 90-6874. *PEREZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 918 F. 2d 488.

No. 90-6926. *ALLEN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 869 F. 2d 1501.

No. 90-6929. *DUNCAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 918 F. 2d 647.

No. 90-6940. *GONZALEZ-LOPEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 911 F. 2d 542.

No. 90-7069. *BROWN, AKA JOHNSON v. CRAWFORD*. C. A. 11th Cir. Certiorari denied. Reported below: 906 F. 2d 667.

No. 90-7070. *FELDER v. HUFFMAN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 917 F. 2d 557.

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No. 90-7074. *JORDAN v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied.

No. 90-7076. *MCKEE v. SPECKARD, SUPERINTENDENT, GROVELAND CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 90-7087. *PONDER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 916 F. 2d 720.

No. 90-7183. *HINOJOSA v. UNITED STATES*; and  
No. 90-7198. *ROCHA ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 916 F. 2d 219.

No. 90-7216. *MASSA v. UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT*. C. A. 8th Cir. Certiorari denied.

No. 90-7217. *BOISE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 916 F. 2d 497.

No. 90-7258. *ALVAREZ v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 914 F. 2d 915.

No. 90-7261. *SIMMONS v. MARSH, SECRETARY OF THE ARMY*. C. A. 4th Cir. Certiorari denied. Reported below: 917 F. 2d 23.

No. 90-7309. *WAGNER v. UNITED STATES DEPARTMENT OF JUSTICE*. C. A. 7th Cir. Certiorari denied.

No. 90-7332. *DAVIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 921 F. 2d 281.

No. 90-7389. *HARRIS v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA*. C. A. 4th Cir. Certiorari denied. Reported below: 920 F. 2d 926.

No. 90-7399. *WEST v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 90-7413. *CAHILL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 920 F. 2d 421.

No. 90-7442. *ASSA'AD-FALTAS v. ARMSTRONG ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 923 F. 2d 858.

No. 90-7510. *MARTIN v. THOMPSON ET AL.* C. A. 7th Cir. Certiorari denied.

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No. 90-7513. *BLACK v. DEAN WITTER REYNOLDS INC.* C. A. 4th Cir. Certiorari denied. Reported below: 922 F. 2d 835.

No. 90-7517. *PITTS v. MEANS.* Ct. Civ. App. Ala. Certiorari denied. Reported below: 571 So. 2d 1138.

No. 90-7519. *GREEN v. GEORGIA.* Sup. Ct. Ga. Certiorari denied. Reported below: 260 Ga. 625, 398 S. E. 2d 360.

No. 90-7525. *VINIK v. MIDDLESEX COUNTY PROBATION DEPARTMENT ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 925 F. 2d 420.

No. 90-7527. *GORENC v. PINAL COUNTY, ARIZONA, SHERIFFS OFFICE, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 919 F. 2d 144.

No. 90-7528. *GRAVES v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 921 F. 2d 272.

No. 90-7529. *ANDERSON v. WILLIAMS, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 720.

No. 90-7531. *BROWDER v. CASTLEN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 919 F. 2d 738.

No. 90-7532. *RODRIGUEZ v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION.* C. A. 5th Cir. Certiorari denied. Reported below: 920 F. 2d 929.

No. 90-7535. *BARKER v. ESTELLE, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 913 F. 2d 1433.

No. 90-7537. *ASCH v. MERRILL LYNCH, PIERCE, FENNER & SMITH INC.* C. A. 3d Cir. Certiorari denied. Reported below: 915 F. 2d 1561.

No. 90-7540. *MCDONALD v. SULLIVAN.* C. A. 10th Cir. Certiorari denied.

No. 90-7542. *MONTGOMERY v. INDIANA DEPARTMENT OF CORRECTIONS ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 921 F. 2d 278.

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No. 90-7543. *CARROLL v. STEPHENSON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 925 F. 2d 1456.

No. 90-7546. *RUDOLPH v. WHITLEY, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 928 F. 2d 402.

No. 90-7564. *MCDONALD v. YELLOW CAB METRO, INC.* Ct. App. Tenn. Certiorari denied.

No. 90-7588. *HAMPTON v. KELLY, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 927 F. 2d 593.

No. 90-7602. *HADFIELD ET UX. v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 918 F. 2d 987.

No. 90-7609. *BUSCH v. JEFFES ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 924 F. 2d 1050.

No. 90-7610. *FONTANEZ v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 919 F. 2d 137.

No. 90-7638. *HEFFERNAN v. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION.* C. A. 8th Cir. Certiorari denied. Reported below: 923 F. 2d 857.

No. 90-7651. *RIASCOS VALENCI v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 927 F. 2d 614.

No. 90-7658. *MCNEIL v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 923 F. 2d 450.

No. 90-7671. *JONES v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 918 F. 2d 176.

No. 90-7683. *BRYANT v. TEXAS.* Ct. App. Tex., 3d Dist. Certiorari denied. Reported below: 793 S. W. 2d 59.

No. 90-7692. *DOMINGUEZ-PRIETO v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 923 F. 2d 464.

No. 90-7700. *MARTIN v. UNITED STATES POSTAL SERVICE.* C. A. 5th Cir. Certiorari denied. Reported below: 929 F. 2d 697.

No. 90-7720. *SCARIA v. DEPARTMENT OF LABOR ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 927 F. 2d 594.

No. 90-7721. *ALLEN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 922 F. 2d 249.

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No. 90-7736. *MONTEMAYOR v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 924 F. 2d 1055.

No. 90-7742. *FRAZIER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 921 F. 2d 285.

No. 90-7748. *SMITH v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 924 F. 2d 1065.

No. 90-7751. *JUDD v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 90-7752. *WILLIAMS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 897 F. 2d 1034.

No. 90-7753. *BROWN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 919 F. 2d 732.

No. 90-7758. *OWENS v. LIBHART*. C. A. 3d Cir. Certiorari denied.

No. 90-7763. *SINGH v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 923 F. 2d 1039.

No. 90-7765. *MIZYED v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 927 F. 2d 979.

No. 90-7771. *BROWN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 925 F. 2d 1473 and 1474.

No. 90-7773. *WILSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 925 F. 2d 420.

No. 90-7775. *EASTERLING, AKA DOYLE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 921 F. 2d 1073.

No. 90-7776. *FIELDS, AKA NEILLEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 923 F. 2d 358.

No. 90-7780. *TAORID v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 927 F. 2d 594.

No. 90-7798. *LOWE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 923 F. 2d 528.

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No. 90-7806. SINGH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 922 F. 2d 1169.

No. 90-1505. TORRES, DBA LEGAL SECRETARIAL SERVICES, LTD., ET AL. *v.* ILLINOIS BELL TELEPHONE CO. ET AL. C. A. 7th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 914 F. 2d 260.

No. 90-7541. OCCHICONE *v.* FLORIDA. Sup. Ct. Fla.; and  
 No. 90-7549. WILLIAMS *v.* ALABAMA. Sup. Ct. Ala. Certiorari denied. Reported below: No. 90-7541, 570 So. 2d 902; No. 90-7549, 571 So. 2d 338.

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. 89-839. ARIZONA *v.* FULMINANTE, 499 U. S. 279;  
 No. 89-6482. COOEY *v.* OHIO, 499 U. S. 954;  
 No. 90-1253. FASSE ET AL. *v.* HODGSON, 499 U. S. 948;  
 No. 90-1343. BOND *v.* ST. JOSEPH'S HOSPITAL, INC., ET AL., 499 U. S. 962;  
 No. 90-1350. BEN-PORAT ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE, 499 U. S. 949;  
 No. 90-5414. LEE *v.* LOUISIANA, 499 U. S. 954;  
 No. 90-6759. MAGUIRE *v.* UNITED STATES, 499 U. S. 950;  
 No. 90-6807. MITCHELL *v.* JONES ET AL., 499 U. S. 925;  
 No. 90-6997. ALLEN *v.* UNITED STATES POSTAL SERVICE, 499 U. S. 951;  
 No. 90-7016. HIGH *v.* ZANT, WARDEN, 499 U. S. 954;  
 No. 90-7019. CHILDS *v.* LISKEY, 499 U. S. 951;  
 No. 90-7031. FISHER *v.* CHICAGO TRANSIT AUTHORITY ET AL., 499 U. S. 951;  
 No. 90-7062. CHRISTIAN *v.* PACIFIC GAS & ELECTRIC Co., 499 U. S. 952;  
 No. 90-7083. MARTIN *v.* FISHER ET AL., 499 U. S. 952;

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No. 90-7101. LUCARELLI *v.* SINICROPI ET AL., 499 U. S. 964;  
No. 90-7143. WILSON *v.* CLARKE, WARDEN, 499 U. S. 965;  
and  
No. 90-7386. IN RE GAMBLE, 499 U. S. 958. Petitions for re-  
hearing denied.

No. 90-1214. WILLIAMSON *v.* ABILENE INDEPENDENT SCHOOL  
DISTRICT ET AL., 499 U. S. 937. Motion of petitioner for leave to  
proceed further herein *in forma pauperis* granted. Petition for  
rehearing denied.

MAY 22, 1991

*Miscellaneous Order*

No. A-886. CUEVAS *v.* COLLINS, DIRECTOR, TEXAS DEPART-  
MENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. Applica-  
tion for stay of execution of sentence of death, presented to JUS-  
TICE SCALIA, and by him referred to the Court, denied.

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,  
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 certio-  
rari and would grant the petition and vacate the death sentence in  
this case.

*Certiorari Denied*

No. 90-8102 (A-885). CUEVAS *v.* TEXAS. Ct. Crim. App.  
Tex. Application for stay of execution of sentence of death, pre-  
sented to JUSTICE SCALIA, and by him referred to the Court, de-  
nied. Certiorari denied.

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,  
231 (1976), I would grant the application for stay of execution and  
the petition for writ of certiorari and would vacate the death sen-  
tence in this case.

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*Appeal Dismissed*

No. 90-1352. MEXICAN AMERICAN BAR ASSOCIATION OF TEXAS (MABA) ET AL. *v.* TEXAS ET AL. Appeal from D. C. W. D. Tex. dismissed for want of jurisdiction. JUSTICE BLACKMUN and JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 755 F. Supp. 735.

*Miscellaneous Orders*

No. — — —. TRAYLOR *v.* BEHRENS ET AL. Motion of respondents for an order to direct the Clerk to refuse to file a petition for writ of certiorari directed to the United States Court of Appeals for the Eleventh Circuit, case No. 88-5242, granted.

No. A-818 (90-1600). ALABAMA *v.* YELDER. Sup. Ct. Ala. Application for stay, addressed to JUSTICE SCALIA and referred to the Court, denied.

No. D-959. IN RE DISBARMENT OF BRAXTON. Disbarment entered. [For earlier order herein, see 498 U. S. 1020.]

No. D-1001. IN RE DISBARMENT OF TRACY. It is ordered that Joseph A. Tracy, of Scarborough, 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. 89-1290. FREEMAN ET AL. *v.* PITTS ET AL. C. A. 11th Cir. [Certiorari granted, 498 U. S. 1081.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 90-681. HAFER *v.* MELO ET AL. C. A. 3d Cir. [Certiorari granted, 498 U. S. 1118.] Motion of American Civil Liberties Union et al. for leave to file a brief as *amici curiae* granted.

No. 90-7381. BLAIR *v.* ARMONTROUT, WARDEN. C. A. 8th Cir. Motion of petitioner for leave to amend petition for writ of certiorari granted. Motion of petitioner to strike Attorney General's brief in opposition denied.

No. 90-7594. IN RE WILEY. Petition for writ of mandamus denied.

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No. 90-7447. *IN RE ALSTON*. Petition for writ of mandamus and/or prohibition denied.

*Certiorari Granted*

No. 90-1361. *HOLYWELL CORP. ET AL. v. SMITH ET AL.*; and

No. 90-1484. *UNITED STATES v. SMITH ET AL.* C. A. 11th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 911 F. 2d 1539.

*Certiorari Denied*

No. 90-1075. *WALKER, DBA THE LAST CHANCE LOUNGE v. CITY OF KANSAS CITY, MISSOURI, FT AL.* C. A. 8th Cir. Certiorari denied. Reported below: 911 F. 2d 80.

No. 90-1211. *LAUVER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 911 F. 2d 734.

No. 90-1254. *NEW YORK v. GUZMAN.* Ct. App. N. Y. Certiorari denied. Reported below: 76 N. Y. 2d 824, 559 N. E. 2d 675.

No. 90-1337. *UNITED STATES v. NORTH*; and

No. 90-1501. *NORTH v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 285 U. S. App. D. C. 343, 910 F. 2d 843, and 287 U. S. App. D. C. 146, 920 F. 2d 940.

No. 90-1356. *PATTERSON v. MAINE.* Sup. Jud. Ct. Me. Certiorari denied. Reported below: 582 A. 2d 1204.

No. 90-1360. *SEA-LAND SERVICE, INC. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 919 F. 2d 888.

No. 90-1382. *MCCULLOUGH ET UX. v. FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER OF TWIN CITY SAVINGS, FSA.* C. A. 11th Cir. Certiorari denied. Reported below: 911 F. 2d 593.

No. 90-1386. *TARBELL ET AL. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 922 F. 2d 1026.

No. 90-1389. *CLARK EQUIPMENT CO. ET AL. v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 912 F. 2d 113.

No. 90-1437. *DOTSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 912 F. 2d 1466.

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No. 90-1468. *DETWILER v. CITY OF AKRON*. Ct. App. Ohio, Summit County. Certiorari denied.

No. 90-1490. *CELOTEX CORP. v. KING ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 906 F. 2d 1022.

No. 90-1496. *STEEG ET UX. v. CITY OF DEARBORN HEIGHTS, MICHIGAN, ET AL.* Ct. App. Mich. Certiorari denied.

No. 90-1515. *YARCHAK, FATHER AND ADMINISTRATOR OF THE ESTATE OF YARCHAK, DECEASED v. MUNFORD, INC., ET AL.* Sup. Ct. Ala. Certiorari denied. Reported below: 570 So. 2d 648.

No. 90-1523. *AMERICAN BOOKSELLERS ASSN., INC., ET AL. v. WEBB ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 919 F. 2d 1493.

No. 90-1524. *SMITH v. SMITH*. Super. Ct. Pa. Certiorari denied.

No. 90-1529. *LUBART v. COLLINS, COLLINS & DINARDO*. C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 844.

No. 90-1531. *SOUTHEAST KANSAS COMMUNITY ACTION PROGRAM v. GRANT, SECRETARY, KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT*. Ct. App. Kan. Certiorari denied. Reported below: 14 Kan. App. 2d xxxv, 799 P. 2d 1052.

No. 90-1534. *HOLLINGSWORTH v. TEXAS ET AL.* Ct. App. Tex., 3d Dist. Certiorari denied. Reported below: 784 S. W. 2d 461.

No. 90-1535. *CONE CORP. ET AL. v. FLORIDA DEPARTMENT OF TRANSPORTATION ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 921 F. 2d 1190.

No. 90-1536. *HUNT ET AL. v. BUTLER ET AL.* C. A. 11th Cir. Certiorari denied.

No. 90-1537. *LOCAL 322, ALLIED INDUSTRIAL WORKERS OF AMERICA, AFL-CIO v. JOHNSON CONTROLS, INC.* C. A. 7th Cir. Certiorari denied. Reported below: 921 F. 2d 732.

No. 90-1540. *WEISS v. FEDERAL RESERVE BANK OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 843.

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No. 90-1546. *BEAVERS ET UX. v. WOODS ET UX.* C. A. 6th Cir. Certiorari denied. Reported below: 922 F. 2d 842.

No. 90-1554. *KING, AS FATHER AND NEXT FRIEND OF KING, A MINOR, ET AL. v. EASTERN AIRLINES, INC.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 561 So. 2d 1220.

No. 90-1559. *ERLANDSON, INDIVIDUALLY AND AS INDEPENDENT EXECUTOR OF THE ESTATE OF NEE, ET AL. v. INTERNATIONAL BANK OF CORPUS CHRISTI, N. A., ET AL.* Ct. App. Tex., 13th Dist. Certiorari denied.

No. 90-1568. *AMERICAN CIVIL LIBERTIES UNION/EASTERN MISSOURI FUND ET AL. v. MILLER.* Sup. Ct. Mo. Certiorari denied. Reported below: 803 S. W. 2d 592.

No. 90-1617. *HATCH v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 926 F. 2d 387.

No. 90-1637. *MILLS v. NORTH DAKOTA.* Sup. Ct. N. D. Certiorari denied. Reported below: 466 N. W. 2d 111.

No. 90-1638. *LAND v. KENTUCKY.* Ct. App. Ky. Certiorari denied.

No. 90-1654. *PATTON v. VARDELL ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 920 F. 2d 927.

No. 90-6099. *MECKLEY v. MAGNUM ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 911 F. 2d 723.

No. 90-6657. *SCOTT v. NEW YORK.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 124 App. Div. 2d 684, 508 N. Y. S. 2d 59.

No. 90-7023. *MERIWETHER v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 914 F. 2d 1527.

No. 90-7073. *HOWARD v. UNITED STATES;* and

No. 90-7432. *STANLEY v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 918 F. 2d 1529.

No. 90-7221. *JONES v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 911 F. 2d 551.

No. 90-7229. *PINEDA v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 846.

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No. 90-7275. *LEWIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 919 F. 2d 146.

No. 90-7284. *CHAMBERS v. PRUDENTIAL INSURANCE COMPANY OF AMERICA*. C. A. 7th Cir. Certiorari denied.

No. 90-7293. *BORER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 920 F. 2d 936.

No. 90-7438. *COZZETTI v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 90-7558. *THOMAS v. NEBRASKA*. Dist. Ct. Buffalo County, Neb. Certiorari denied.

No. 90-7559. *WUNDER v. WUNDER*. Ct. Sp. App. Md. Certiorari denied.

No. 90-7561. *LEE v. GODINEZ, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 90-7565. *MCCONE v. SAGEBRUSH PROPERTIES, INC., ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-7568. *COOPER v. EBERLE ET AL.* C. A. 8th Cir. Certiorari denied.

No. 90-7573. *DAVIS v. SENKOWSKI, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY ANNEX*. C. A. 2d Cir. Certiorari denied. Reported below: 930 F. 2d 909.

No. 90-7577. *BASHAM v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 90-7580. *VASTELICA v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 90-7583. *ZIEGLER v. CHAMPION, WARDEN, ET AL.* Ct. Crim. App. Okla. Certiorari denied.

No. 90-7587. *HUGHES v. WASHINGTON POST CO.* C. A. 4th Cir. Certiorari denied. Reported below: 923 F. 2d 324.

No. 90-7589. *LONGSTRETH v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 90-7593. *SUTTON v. ESTATE OF SUTTON ET AL.* C. A. 3d Cir. Certiorari denied.

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No. 90-7595. REESE *v.* HILL, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 919 F. 2d 141.

No. 90-7604. OWENS *v.* LIBHART ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 925 F. 2d 419.

No. 90-7605. BURNLEY *v.* MURRAY ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 929 F. 2d 691.

No. 90-7608. FERENC *v.* BUTTERWORTH. Sup. Ct. Fla. Certiorari denied. Reported below: 581 So. 2d 164.

No. 90-7650. RUSSELL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 90-7708. McDONALD *v.* COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. C. A. 5th Cir. Certiorari denied.

No. 90-7734. CURIALE *v.* ALASKA. C. A. 9th Cir. Certiorari denied. Reported below: 922 F. 2d 844.

No. 90-7746. GRANT *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 90-7747. TRIPLETT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 922 F. 2d 1174.

No. 90-7749. SZYMANSKI *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 925 F. 2d 1466.

No. 90-7772. PEREZ-RODRIGUEZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 925 F. 2d 776.

No. 90-7799. HAMPEL ET VIR *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 930 F. 2d 905.

No. 90-7808. FLOREZ-BORRERO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 923 F. 2d 843.

No. 90-7812. JOHNSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 925 F. 2d 1471.

No. 90-7814. PENALVER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 923 F. 2d 865.

No. 90-7815. ALVAREZ *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 927 F. 2d 300.

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No. 90-7825. *WINDLE v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 84 Md. App. 770.

No. 90-7827. *GARDINER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 920 F. 2d 1395.

No. 90-7829. *KRECH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 917 F. 2d 567.

No. 90-7831. *JORDAN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 913 F. 2d 1286.

No. 90-7834. *MITCHELL v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 918 F. 2d 182.

No. 90-7843. *SALAHUDDIN v. RONE, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 90-7852. *AYCOX v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-7856. *JENNINGS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 927 F. 2d 611.

No. 90-1530. *PAN AM CORP. ET AL. v. SECTION 1110 PARTIES ET AL.* C. A. 2d Cir. Motion of American Association of Equipment Lessors for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 929 F. 2d 109.

No. 90-7163. *HERRING v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 916 F. 2d 1543.

JUSTICE WHITE, with whom JUSTICE BLACKMUN joins, dissenting.

The question presented in this case is the scope of federal jurisdiction under 18 U. S. C. §1001, which criminalizes the making of false statements "in any matter within the jurisdiction of any department or agency of the United States." Petitioner was convicted under that statute for making false statements on an application for Georgia state unemployment insurance benefits. The state program is certified by the United States Department of Labor to receive federal funds which are used only for administrative expenses, not for benefits. Receipt by the state program of these federal funds entitles the Department of Labor to oversee whether the state program's administrative structure complies with federal requirements, but does not entitle it to monitor the

program's operation or award of benefits. The Department of Labor is also entitled to receive information about benefit claimants as part of the certification process, but it cannot withhold certification based on the state program's payment of fraudulent claims. Petitioner's false statements were discovered during an investigation of the state program by the Department of Labor.

The trial court rejected petitioner's claim that the statute did not confer federal jurisdiction over his conduct. Petitioner then entered a conditional guilty plea and was sentenced to one year in prison, which was suspended, and two years' probation. In affirming petitioner's conviction, the United States Court of Appeals for the Eleventh Circuit determined that its prior decision in *United States v. Suggs*, 755 F. 2d 1538 (1985), was controlling. See 916 F. 2d 1543 (1990). In *Suggs*, the court had held that the use of federal funds by a state agency is generally sufficient to establish federal jurisdiction under § 1001. 755 F. 2d, at 1542. The court in the instant case recognized, however, that the Court of Appeals for the Ninth Circuit has reached a contrary result on similar facts. In *United States v. Facchini*, 874 F. 2d 638 (1989) (en banc), that court declared that jurisdiction under § 1001 does not exist "unless a direct relationship obtains between the false statement and an authorized function of a federal agency or department," *id.*, at 641, and that because the Department of Labor has no power to control the award of state unemployment benefits, this direct relationship is lacking, *id.*, at 641-642.

Respondent United States also acknowledges the conflict between the Eleventh Circuit and the Ninth Circuit, but asserts that the issue does not merit review both because it arises infrequently and because the Justice Department has determined that it is inappropriate for the Department of Labor to investigate false statements on state applications for unemployment benefits, so that future prosecutions are unlikely. Although the Government maintains that the Eleventh Circuit was correct in determining that federal jurisdiction exists, the asserted position of the Justice Department suggests otherwise. If the Eleventh Circuit's view is indeed erroneous, then petitioner has been convicted for conduct which is not a federal crime, and for which he would not have been convicted had his prosecution arisen in the Ninth Circuit. I would grant certiorari to resolve the conflict.

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No. 90-7210. *FERNANDEZ v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 916 F. 2d 125.

JUSTICE WHITE, with whom JUSTICE BLACKMUN and JUSTICE O'CONNOR join, dissenting.

This case presents the question whether drug conspiracy convictions must be vacated on double jeopardy grounds in light of an additional conviction for engaging in a continuing criminal enterprise. I would grant certiorari to resolve the confusion that this question has caused among the Courts of Appeals.

Petitioner Carlos Fernandez was convicted on one count of conspiring to distribute and possess cocaine, 21 U. S. C. § 841(a)(1); one count of conspiring to import cocaine, § 952(a); one count of engaging in a continuing criminal enterprise (CCE), § 848; and five counts of using a telephone to facilitate a drug offense, § 843(b). On appeal, Fernandez argued that the District Court should have vacated his conspiracy convictions to prevent cumulative punishment since these were predicate offenses for his continuing criminal enterprise conviction. The Court of Appeals rejected Fernandez' claim and affirmed. 916 F. 2d 125 (CA3 1990). As the court acknowledged, its holding is inconsistent with the decisions of other Courts of Appeals. *Id.*, at 128-129. The majority to have considered the issue require the vacation of a drug conspiracy conviction when it is a predicate to a CCE conviction. See, e. g., *United States v. Rivera*, 900 F. 2d 1462, 1478 (CA10 1990); *United States v. Hernandez-Escarsega*, 886 F. 2d 1560, 1582 (CA9 1989); *United States v. Possick*, 849 F. 2d 332, 341 (CA8 1988). The Court of Appeals for the Second Circuit has adopted a somewhat different approach, "combining" the convictions without vacating those on the lesser counts and then imposing a single sentence. *United States v. Aiello*, 771 F. 2d 621, 632-635 (1985). Conversely, the Court of Appeals for the Seventh Circuit not only permits predicate conspiracy convictions to stand, but goes beyond the Third Circuit in letting stand concurrent sentences. *United States v. Bond*, 847 F. 2d 1233, 1238-1239 (1988).

This evident disarray among the Courts of Appeals calls for a grant of certiorari.

- No. 90-7259. *SANDERS v. CALIFORNIA*. Sup. Ct. Cal.;  
No. 90-7518. *HAFDAHL v. TEXAS*. Ct. Crim. App. Tex.;  
No. 90-7592. *WALLACE v. INDIANA*. Sup. Ct. Ind.; and

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No. 90-7733. GRAY *v.* THOMPSON, WARDEN. Sup. Ct. Va. Certiorari denied. Reported below: No. 90-7259, 51 Cal. 3d 471, 797 P. 2d 561; No. 90-7518, 805 S. W. 2d 396; No. 90-7592, 553 N. E. 2d 456.

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. 90-7655. MOISTER, AS CHAPTER 7 TRUSTEE FOR BUSENLEHNER ET AL. *v.* GENERAL MOTORS ACCEPTANCE CORP.; and MOISTER, AS CHAPTER 7 TRUSTEE FOR HOWARD *v.* FIRST NATIONAL BANK OF ATLANTA. C. A. 11th Cir. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 918 F. 2d 928 (first case); 920 F. 2d 887 (second case).

*Rehearing Denied*

No. 90-7056. SCOTT *v.* BUEHLER FOOD MARKETS, INC., 499 U. S. 952; and

No. 90-7127. ENGLAND *v.* PENNSYLVANIA, 499 U. S. 964. Petitions for rehearing denied.

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*Certiorari Granted—Vacated and Remanded*

No. 89-1929. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES *v.* MASSACHUSETTS ET AL. C. A. 1st Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Rust v. Sullivan*, *ante*, p. 173. Reported below: 899 F. 2d 53.

No. 90-890. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES *v.* PLANNED PARENTHOOD FEDERATION OF AMERICA ET AL. C. A. 10th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Rust v. Sullivan*, *ante*, p. 173. Reported below: 913 F. 2d 1492.

No. 90-1578. BACH ET AL. *v.* TRIDENT STEAMSHIP CO., INC., ET AL. C. A. 5th Cir. Certiorari granted, judgment vacated,

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and case remanded for further consideration in light of *McDermott Int'l, Inc. v. Wilander*, 498 U. S. 337 (1991). Reported below: 920 F. 2d 322.

No. 90-1611. *TRANSAMERICA OCCIDENTAL LIFE INSURANCE Co. v. KOIRE*. Ct. App. Cal., 2d App. Dist. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Pacific Mut. Life Ins. Co. v. Haslip*, 499 U. S. 1 (1991).

No. 90-6522. *PATTERSON v. SOUTH CAROLINA*. Sup. Ct. S. C. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Hernandez v. New York*, *ante*, p. 352. Reported below: 302 S. C. 384, 396 S. E. 2d 366.

#### *Miscellaneous Orders*

No. D-978. *IN RE DISBARMENT OF MCCLURE*. Disbarment entered. [For earlier order herein, see 499 U. S. 902.]

No. D-984. *IN RE DISBARMENT OF FLINN*. Disbarment entered. [For earlier order herein, see 499 U. S. 934.]

No. D-986. *IN RE DISBARMENT OF ZAUBER*. Disbarment entered. [For earlier order herein, see 499 U. S. 934.]

No. D-1002. *IN RE DISBARMENT OF BRAZIL*. It is ordered that Dan McCall Brazil, of Lufkin, 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-1003. *IN RE DISBARMENT OF CAMPBELL*. It is ordered that Darryl Glenn Campbell, of Houston, Tex., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-1004. *IN RE DISBARMENT OF LOONEY*. It is ordered that Robert E. L. Looney, of Austin, 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. 108, Orig. *NEBRASKA v. WYOMING ET AL.* Motion of the Special Master for award of compensation and expenses granted,

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and the Special Master is awarded a total of \$70,718.52 for the period October 1, 1990, through May 15, 1991, to be paid as follows: 20% by the United States and 40% each by Nebraska and Wyoming. [For earlier order herein, see, *e. g.*, 498 U. S. 934.]

No. 90-584. *SOUTHWEST MARINE, INC. v. GIZONI*. C. A. 9th Cir. [Certiorari granted, 498 U. S. 1119.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 90-681. *HAFER v. MELO ET AL.* C. A. 3d Cir. [Certiorari granted, 498 U. S. 1118.] Motion of Nancy Haberstroh for leave to file a brief as *amicus curiae* granted.

No. 90-769. *RENNE, SAN FRANCISCO CITY ATTORNEY, ET AL. v. GEARY ET AL.* C. A. 9th Cir. [Certiorari granted, 498 U. S. 1046.] Motion of respondents for leave to file appendices denied.

No. 90-1342. *IMMIGRATION AND NATURALIZATION SERVICE v. ELIAS-ZACARIAS*. C. A. 9th Cir. [Certiorari granted, *ante*, p. 915.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 90-7941. *IN RE GARNER*; and

No. 90-7961. *IN RE SEAGRAVE*. Petitions for writs of habeas corpus denied.

No. 90-7817. *IN RE CARDINE*. Petition for writ of mandamus denied.

*Certiorari Granted*

No. 90-1603. *R. H. MACY & Co., INC., ET AL. v. CONTRA COSTA COUNTY, CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari granted. Reported below: 226 Cal. App. 3d 352, 276 Cal. Rptr. 530.

No. 90-1341. *UNITED STATES DEPARTMENT OF ENERGY v. OHIO ET AL.*; and

No. 90-1517. *OHIO ET AL. v. UNITED STATES DEPARTMENT OF ENERGY*. C. A. 6th Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 904 F. 2d 1058.

No. 90-6105. *EVANS v. UNITED STATES*. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 910 F. 2d 790.

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*Certiorari Denied*

No. 90-44. GREEN *v.* SNOW ET UX. C. A. 4th Cir. Certiorari denied. Reported below: 899 F. 2d 337.

No. 90-870. SOCIETY NATIONAL BANK ET AL. *v.* WARREN ET UX. C. A. 6th Cir. Certiorari denied. Reported below: 905 F. 2d 975.

No. 90-1169. PLANNED PARENTHOOD FEDERATION OF AMERICA, INC., ET AL. *v.* AGENCY FOR INTERNATIONAL DEVELOPMENT ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 915 F. 2d 59.

No. 90-1195. LEARY *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 90-1237. THEIS *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied. Reported below: 98 N. C. App. 700, 392 S. E. 2d 780.

No. 90-1290. BAGDON *v.* FIRESTONE TIRE & RUBBER CO. C. A. 7th Cir. Certiorari denied. Reported below: 916 F. 2d 379.

No. 90-1297. WEBSTER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 917 F. 2d 1302.

No. 90-1355. PATEL *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 90-1406. ROWE INDUSTRIES, INC. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 918 F. 2d 186.

No. 90-1414. NORTH DAKOTA BOARD OF UNIVERSITY AND SCHOOL LANDS *v.* MADIGAN, SECRETARY OF AGRICULTURE, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 914 F. 2d 1031.

No. 90-1420. MCKINNEY ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 915 F. 2d 916.

No. 90-1467. CHURCH OF SCIENTOLOGY OF CALIFORNIA *v.* UNITED STATES ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 920 F. 2d 1481.

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No. 90-1548. KAISER, AKA BLOCK *v.* PEER ET AL. Super. Ct. Fulton County, Ga. Certiorari denied.

No. 90-1549. STAHN *v.* HAECKEL. C. A. 8th Cir. Certiorari denied. Reported below: 920 F. 2d 555.

No. 90-1551. HOLYWELL CORP. ET AL. *v.* BANK OF NEW YORK ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 923 F. 2d 865.

No. 90-1553. FLINN *v.* FLORIDA BAR. Sup. Ct. Fla. Certiorari denied. Reported below: 575 So. 2d 634.

No. 90-1558. WILLIAMS *v.* FIRST UNION NATIONAL BANK OF NORTH CAROLINA. C. A. 4th Cir. Certiorari denied. Reported below: 920 F. 2d 232.

No. 90-1561. BORDEN, INC. *v.* MEIJI MILK PRODUCTS CO., LTD. C. A. 2d Cir. Certiorari denied. Reported below: 919 F. 2d 822.

No. 90-1565. HARBERT *v.* OHIO. Ct. App. Ohio, Stark County. Certiorari denied.

No. 90-1567. ARDRA INSURANCE CO., LTD., ET AL. *v.* CURIALE, SUPERINTENDENT OF INSURANCE OF THE STATE OF NEW YORK, AS LIQUIDATOR OF NASSAU INSURANCE CO. Ct. App. N. Y. Certiorari denied. Reported below: 77 N. Y. 2d 225, 567 N. E. 2d 969.

No. 90-1570. GUNTER *v.* VIRGINIA STATE BAR ET AL. Sup. Ct. Va. Certiorari denied. Reported below: 241 Va. 186, 399 S. E. 2d 820.

No. 90-1571. ZEPPEIRO *v.* SEAMAN & GRAHAM ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 918 F. 2d 174.

No. 90-1572. ALABAMA POWER CO. *v.* TURNER, ADMINISTRATOR OF THE ESTATE OF TURNER, DECEASED. Sup. Ct. Ala. Certiorari denied. Reported below: 575 So. 2d 551.

No. 90-1574. KELLEY *v.* ALASKA. Ct. App. Alaska. Certiorari denied.

No. 90-1576. CAMPING CONSTRUCTION CO. *v.* DISTRICT COUNCIL OF IRON WORKERS OF CALIFORNIA AND VICINITY,

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AFL-CIO, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 915 F. 2d 1333.

No. 90-1579. IMMUNO, AG *v.* MOOR-JANKOWSKI. Ct. App. N. Y. Certiorari denied. Reported below: 77 N. Y. 2d 235, 567 N. E. 2d 1270.

No. 90-1586. DOBARD *v.* SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT ET AL. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 90-1589. CHAWLA *v.* MCC AUSLAND, DIRECTOR, DEFENSE LOGISTICS AGENCY. C. A. 6th Cir. Certiorari denied. Reported below: 924 F. 2d 1057.

No. 90-1592. MILWAUKEE COUNTY PAVERS ASSN., INC., ET AL. *v.* FIEDLER, INDIVIDUALLY AND AS SECRETARY OF THE WISCONSIN DEPARTMENT OF TRANSPORTATION, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 922 F. 2d 419.

No. 90-1614. PRITCHARD ET AL. *v.* LOUDON COUNTY, TENNESSEE, EX REL. LAWRENCE, BUILDING COMMISSIONER. Ct. App. Tenn. Certiorari denied.

No. 90-1645. TATE, WARDEN *v.* BELL. C. A. 6th Cir. Certiorari denied. Reported below: 923 F. 2d 854.

No. 90-1648. GEORGIU *v.* GAUTHIER. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 198 Ill. App. 3d 1104, 584 N. E. 2d 1077.

No. 90-1698. RODOLITZ *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 930 F. 2d 908.

No. 90-1706. BLANKENSHIP *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 923 F. 2d 1110.

No. 90-5615. FORTE *v.* GOVERNMENT OF THE VIRGIN ISLANDS. C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 2d 694.

No. 90-6212. PRINE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 909 F. 2d 1109.

No. 90-6501. BARFIELD *v.* LAMAR. C. A. 11th Cir. Certiorari denied. Reported below: 911 F. 2d 644.

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No. 90-7104. *TETER v. JONES, SUPERINTENDENT, MOBERLY CORRECTIONAL CENTER*. C. A. 8th Cir. Certiorari denied.

No. 90-7159. *HARRIS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 915 F. 2d 1573.

No. 90-7190. *SMITH v. NEW MEXICO*. C. A. 10th Cir. Certiorari denied.

No. 90-7200. *DE LA CERDA v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied.

No. 90-7272. *PRESTON ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 913 F. 2d 211.

No. 90-7273. *MERRITT v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 166 App. Div. 2d 912, 561 N. Y. S. 2d 666.

No. 90-7334. *TREECE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 919 F. 2d 739.

No. 90-7458. *MARTINEZ-ALVARADO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 922 F. 2d 838.

No. 90-7500. *BRUNO v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 923 F. 2d 858.

No. 90-7584. *CANO v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 90-7612. *FARRELL v. O'BANNON ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 925 F. 2d 1468.

No. 90-7617. *BROWN v. CALIFORNIA*. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 90-7618. *WILLIAMS ET AL. v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 565 So. 2d 714.

No. 90-7622. *WHITTEN v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 90-7624. *SADDLER v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 166 App. Div. 2d 878, 560 N. Y. S. 2d 539.

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No. 90-7625. *STACY v. SULLIVAN, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 90-7627. *JACKSON v. CUYAHOGA COUNTY WELFARE DEPARTMENT ET AL.* C. A. 6th Cir. Certiorari denied.

No. 90-7630. *JORDAN v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 576 So. 2d 145.

No. 90-7632. *GAUDREAU v. MUNICIPALITY OF SALEM, MASSACHUSETTS, ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 923 F. 2d 203.

No. 90-7636. *MEEHAN v. METRO NASHVILLE POLICE DEPARTMENT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 916 F. 2d 713.

No. 90-7637. *HEATON v. NIX, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 924 F. 2d 130.

No. 90-7640. *HEAD v. PINION, SUPERINTENDENT, PIEDMONT CORRECTIONAL INSTITUTION*. C. A. 4th Cir. Certiorari denied. Reported below: 927 F. 2d 595.

No. 90-7642. *ARCENEUX v. SMITH ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 928 F. 2d 401.

No. 90-7648. *MORRISON v. LEE ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 920 F. 2d 927.

No. 90-7653. *BLUE v. BELLOWS, JUDGE OF THE CIRCUIT COURT OF COOK COUNTY, ET AL.* Sup. Ct. Ill. Certiorari denied.

No. 90-7656. *KUKES v. VANDERVOORT ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 927 F. 2d 609.

No. 90-7657. *NICKLESON v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 90-7661. *MAGHE v. CODY, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 90-7666. *CRUMP v. DULMISON, INC.* C. A. 11th Cir. Certiorari denied. Reported below: 923 F. 2d 865.

No. 90-7668. *CARLTON v. HIRSCHL*. C. A. 6th Cir. Certiorari denied. Reported below: 924 F. 2d 1057.

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No. 90-7670. *GRIFFIN v. GREENE, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 923 F. 2d 848.

No. 90-7672. *HARRIS v. WASHINGTON*. Ct. App. Wash. Certiorari denied. Reported below: 58 Wash. App. 1065.

No. 90-7677. *PEREZ v. RATELLE, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 90-7681. *WHETSTINE v. FULCOMER, DEPUTY COMMISSIONER, WESTERN REGION, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 90-7686. *SILVIOUS v. AMERICAN FAMILY PUBLISHERS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 922 F. 2d 836.

No. 90-7701. *MOORE v. SOUTH CAROLINA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 924 F. 2d 1052.

No. 90-7703. *HOLMES v. JONES, SUPERINTENDENT, MOBERLY CORRECTIONAL CENTER*. Sup. Ct. Mo. Certiorari denied.

No. 90-7705. *KETCHUM v. BRIGHAM CITY POLICE ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-7709. *GALLARDO v. SPOHN HOSPITAL*. C. A. 5th Cir. Certiorari denied. Reported below: 920 F. 2d 929.

No. 90-7719. *WELTMAN v. INDEPENDENCE SAVINGS BANK*. C. A. 2d Cir. Certiorari denied. Reported below: 927 F. 2d 593.

No. 90-7731. *FOSTER v. ARIZONA*. Ct. App. Ariz. Certiorari denied.

No. 90-7738. *GLASS v. COWLEY, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 90-7779. *PROWS v. KASTNER, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 922 F. 2d 839.

No. 90-7783. *AUSTIN ET UX. v. WASHINGTON ET AL.* Ct. App. Wash. Certiorari denied. Reported below: 59 Wash. App. 1019.

No. 90-7787. *ENGLAND ET AL. v. RYAN, SUPERINTENDENT, SCI-DALLAS*. C. A. 3d Cir. Certiorari denied.

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No. 90-7793. *LADD v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 564 So. 2d 587.

No. 90-7810. *MAVARES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 917 F. 2d 567.

No. 90-7833. *MENN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 907 F. 2d 148.

No. 90-7837. *TAPE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 921 F. 2d 1569.

No. 90-7846. *WILLIAMS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 917 F. 2d 1308.

No. 90-7848. *STEPHENSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 925 F. 2d 1459.

No. 90-7850. *PRITZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 923 F. 2d 864.

No. 90-7851. *TREFF v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 924 F. 2d 975.

No. 90-7870. *HARVEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 924 F. 2d 1053.

No. 90-7873. *HERNANDEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 925 F. 2d 1475.

No. 90-7884. *OTSUKI v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 924 F. 2d 1056.

No. 90-7885. *SCHERL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 923 F. 2d 64.

No. 90-7900. *ROBINSON v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 288 U. S. App. D. C. 259, 925 F. 2d 490.

No. 90-7902. *DOSS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 924 F. 2d 1059.

No. 90-7904. *D'AMICO v. UNITED STATES*; and

No. 90-7910. *LINK v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 921 F. 2d 1523.

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No. 90-7911. *LAWRENCE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 922 F. 2d 836.

No. 90-7920. *KING v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 924 F. 2d 1063.

No. 90-7922. *BUTCHER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 926 F. 2d 811.

No. 90-7949. *HORSEY v. ROLLINS, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 922 F. 2d 835.

No. 90-1344. *SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES v. LIDY*. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 911 F. 2d 1075.

No. 90-1552. *CHEVRON CORP. ET AL. v. ARIZONA ET AL.* C. A. 9th Cir. Motions of Chamber of Commerce of the United States of America et al., Business Roundtable, and American Advertising Federation, Inc., for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 906 F. 2d 432.

No. 90-1562. *S. J. GROVES & SONS CO. ET AL. v. FULTON COUNTY, GEORGIA*. C. A. 11th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 920 F. 2d 752.

No. 90-7382. *PHARR v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 916 F. 2d 129.

No. 90-1591. *FORBES, TRUSTEE v. HOLIDAY CORPORATION SAVINGS AND RETIREMENT PLAN*. C. A. 6th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE O'CONNOR would grant certiorari. Reported below: 924 F. 2d 597.

No. 90-6427. *DE LA ROSA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. JUSTICE WHITE and JUSTICE MARSHALL would grant certiorari. Reported below: 911 F. 2d 985.

No. 90-7167. *JOHNSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. JUSTICE BLACKMUN would grant certiorari, vacate the judgment, and remand the case for further consider-

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ation in light of *Florida v. Jimeno*, ante, p. 248. Reported below: 918 F. 2d 181.

No. 90-7315. *HERNANDEZ v. TEXAS*. Ct. Crim. App. Tex.;  
No. 90-7757. *HOLTON v. FLORIDA*. Sup. Ct. Fla.;  
No. 90-7786. *CASTOR v. CLARK, WARDEN, ET AL.* C. A. 7th  
Cir.; and

No. 90-7882. *NUCKOLS v. OKLAHOMA ET AL.* Ct. Crim. App. Okla. Certiorari denied. Reported below: No. 90-7315, 805 S. W. 2d 409; No. 90-7757, 573 So. 2d 284; No. 90-7882, 805 P. 2d 672.

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. 90-7435. *SPENCER v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 260 Ga. 640, 398 S. E. 2d 179.

JUSTICE KENNEDY, concurring.

A majority of the Court has voted to deny certiorari and, after initial reservations, I now concur in that judgment. This case appears to present important questions of federal law, and if I thought our decision in *Teague v. Lane*, 489 U. S. 288 (1989), would prevent us from reaching those issues on federal habeas review, I would have voted to grant certiorari. I have confidence that petitioner's equal protection claim will not be barred in federal habeas corpus proceedings by *Teague* and its progeny, and that habeas review presents an appropriate and adequate forum for making a record and resolving petitioner's contentions.

Petitioner James Lee Spencer, a black man, was convicted and sentenced to death by a jury made up of six whites and six blacks, after the prosecutor used nine peremptory challenges to exclude black venirepersons from the jury. Petitioner argued that racial bias had infected the jury deliberations at his trial, see *McCleskey v. Kemp*, 481 U. S. 279 (1987), submitting the affidavit of a juror in support of this claim. The juror alleged that other jurors uttered racial slurs concerning petitioner during deliberations. The affiant also purported to know that petitioner's race was an important factor in the decision of certain jurors to convict petitioner

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and sentence him to death. Though the Georgia Supreme Court's decision is somewhat ambiguous, its rejection of petitioner's *McCleskey* claim rested at least in part on Ga. Code Ann. § 17-9-41 (1990), which provides that "affidavits of jurors may be taken to sustain but not to impeach their verdict."

State rules of evidence have no direct application in federal habeas courts. Those courts, however, will have to determine whether the statute relied on by the Georgia Supreme Court to reject petitioner's *McCleskey* claim represents an adequate state ground for its decision, barring federal court review. See *James v. Kentucky*, 466 U. S. 341 (1984); *Henry v. Mississippi*, 379 U. S. 443 (1965); *Brown v. Western R. Co. of Alabama*, 338 U. S. 294 (1949); *Davis v. Wechsler*, 263 U. S. 22 (1923); Meltzer, *State Court Forfeitures of Federal Rights*, 99 Harv. L. Rev. 1128, 1142-1145 (1986); see also *Howlett v. Rose*, 496 U. S. 356 (1990); *Rock v. Arkansas*, 483 U. S. 44 (1987); *Green v. Georgia*, 442 U. S. 95 (1979) (*per curiam*).

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. 90-7469. *GASKINS v. MCKELLAR, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. JUSTICE BLACKMUN would grant certiorari, vacate the judgment, and remand the case for further consideration in light of *Yates v. Evatt, ante*, p. 391. Reported below: 916 F. 2d 941.

Opinion of JUSTICE STEVENS respecting the denial of the petition for a writ of certiorari.

One of the questions presented in the certiorari petition is whether our *per curiam* decision in *Cage v. Louisiana*, 498 U. S. 39 (1990), announced a new rule. This question, however, would only be presented by the record if the instructions in this case contained the same flaw as the instructions in *Cage*. In *Cage*, the jury was instructed that a reasonable doubt "must be [a] doubt as would give rise to a grave uncertainty. . . ." *Id.*, at 40 (emphasis omitted). Because the instructions to the jury in this case did not contain this improper language, the question whether *Cage* announced a new rule is not actually presented here. For this rea-

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son, I think the Court has correctly decided not to grant certiorari to review that question.

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. 90-6517. PAIZ ET AL. *v.* UNITED STATES, 499 U. S. 924;  
No. 90-6749. ELLERY *v.* GROSSMONT UNION HIGH SCHOOL DISTRICT ET AL., 499 U. S. 963;

No. 90-7103. WATTS *v.* WILDER, GOVERNOR OF VIRGINIA, ET AL., 499 U. S. 963;

No. 90-7164. LYONS *v.* HOLMES INTERNATIONAL, INC., ET AL., 499 U. S. 965;

No. 90-7231. ELRICH *v.* UNION DIME SAVINGS BANK ET AL., 499 U. S. 966;

No. 90-7233. FLEMING *v.* COLORADO, 499 U. S. 979;

No. 90-7333. THAKKAR *v.* DEBEVOISE, 499 U. S. 980; and

No. 90-7379. DEMPSEY *v.* MASSACHUSETTS, 499 U. S. 969.  
Petitions for rehearing denied.

No. 90-6094. WILKEN *v.* WHITLEY, WARDEN, ET AL., 498 U. S. 1032. Motion for leave to file petition for rehearing denied.