

ORDERS FOR MAY 6 THROUGH
JUNE 17, 1992

MAY 6, 1992

Certiorari Denied

No. 91-7832 (A-783). MAY *v.* COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Certiorari denied. Reported below: 955 F. 2d 299.

No. 91-8166 (A-823). MAY *v.* COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Certiorari denied. Reported below: 961 F. 2d 74.

MAY 7, 1992

Dismissal Under Rule 46

No. 91-980. COLORADO ET AL. *v.* KUHN ET AL. Sup. Ct. Colo. Certiorari dismissed under this Court's Rule 46. Reported below: 817 P. 2d 101.

Miscellaneous Orders

No. A-824. HILL *v.* LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. Application for stay of execution of sentence of death, presented to JUSTICE BLACKMUN, and by him referred to the Court, denied.

No. A-824. HILL *v.* LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. Motion to reconsider order of May 7, 1992, denying application for stay of execution denied.

MAY 11, 1992

Miscellaneous Order

No. A-838. MARTIN *v.* SINGLETARY, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Application for stay of execution

May 11, 13, 15, 18, 1992

504 U. S.

of sentence of death, presented to JUSTICE KENNEDY, and by him referred to the Court, denied.

Certiorari Denied

No. 91-8190 (A-835). MARTIN *v.* SINGLETARY, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. Sup. Ct. Fla. Application for stay of execution of sentence of death, presented to JUSTICE KENNEDY, and by him referred to the Court, denied. Certiorari denied. Reported below: 599 So. 2d 119.

MAY 13, 1992

Miscellaneous Order

No. A-829. GANTT ET AL. *v.* SKELOS ET AL. Application to stay an order of the United States District Court for the Eastern District of New York, presented to JUSTICE THOMAS, and by him referred to the Court, granted, and it is ordered that the portion of the order of the United States District Court for the Eastern District of New York, case Nos. CV-92-1521 (SJ) and CV-92-1776 (SJ), entered May 5, 1992, enjoining further proceedings in *Reid v. Marino*, Index No. 9567/92, now pending in the Supreme Court of New York, County of Kings, is stayed pending the timely filing and disposition of an appeal in this Court. Further consideration of motion to expedite is deferred to timely filing of a statement as to jurisdiction in the above-entitled appeal.

MAY 15, 1992

Dismissal Under Rule 46

No. 91-7963. IN RE DEMPSEY. Petition for writ of mandamus dismissed under this Court's Rule 46.

MAY 18, 1992

Affirmed on Appeal

No. 91-1553. CAMP, SECRETARY OF STATE OF ALABAMA *v.* WESCH ET AL. Affirmed on appeal from D. C. S. D. Ala. Reported below: 785 F. Supp. 1491.

Certiorari Granted—Vacated and Remanded

No. 91-169. LUJAN, SECRETARY OF THE INTERIOR, ET AL. *v.* SIERRA CLUB ET AL. C. A. 10th Cir. Certiorari granted, judg-

504 U. S.

May 18, 1992

ment vacated, and case remanded for further consideration in light of *Department of Energy v. Ohio*, 503 U. S. 607 (1992). Reported below: 931 F. 2d 1421.

No. 91-1475. *FLORIDA v. WALKER*. Dist. Ct. App. Fla., 5th Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *McNeil v. Wisconsin*, 501 U. S. 171 (1991). Reported below: 573 So. 2d 415.

Miscellaneous Orders

No. — — —. *HAUGH ET AL. v. BULLIS SCHOOL, INC.* Motion for reconsideration of denial of leave to file petition for writ of certiorari out of time [503 U. S. 931] denied.

No. A-693 (91-1618). *VOINOVICH, GOVERNOR OF OHIO, ET AL. v. QUILTER, SPEAKER PRO TEMPORE OF OHIO HOUSE OF REPRESENTATIVES, ET AL.* Appeal from D. C. N. D. Ohio. Motion of appellees to dismiss this Court's stay order of April 20, 1992 [503 U. S. 979], denied.

No. A-797. *TRINSEY v. VALENTI ET AL.* C. A. 3d Cir. Application for stay, addressed to JUSTICE THOMAS and referred to the Court, denied.

No. A-821. *GONZALEZ v. WILKEY, SPECIAL COUNSEL*. D. C. D. C. Application for stay, addressed to JUSTICE BLACKMUN and referred to the Court, denied.

No. D-1086. *IN RE DISBARMENT OF NUZZO*. Disbarment entered. [For earlier order herein, see 503 U. S. 902.]

No. D-1104. *IN RE DISBARMENT OF BLANK*. Gary L. Blank, of Chicago, Ill., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. The rule to show cause, heretofore issued on March 30, 1992 [503 U. S. 956], is hereby discharged.

No. D-1105. *IN RE DISBARMENT OF MEKAS*. Disbarment entered. [For earlier order herein, see 503 U. S. 956.]

No. D-1117. *IN RE DISBARMENT OF HUGHES*. It is ordered that Stephen D. Hughes, of Dunedin, Fla., be suspended from the practice of law in this Court and that a rule issue, returnable

May 18, 1992

504 U. S.

within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-1118. *IN RE DISBARMENT OF PLAIA*. It is ordered that Alan A. Plaia, of Newport Beach, Cal., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-1119. *IN RE DISBARMENT OF O'HARA*. It is ordered that James F. O'Hara, of Little Rock, Ark., 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-1120. *IN RE DISBARMENT OF SEGERS*. It is ordered that Joseph Wm. Segers, Jr., of Fort Worth, 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-1121. *IN RE DISBARMENT OF RAGANO*. It is ordered that Frank Ragano, of Tampa, Fla., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-1122. *IN RE DISBARMENT OF BALES*. It is ordered that Lester Bales, of Zephyrhills, Fla., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-1123. *IN RE DISBARMENT OF HOUCK*. It is ordered that William Jerome Houck, of Hickory, N. C., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-1124. *IN RE DISBARMENT OF GLUBIN*. It is ordered that Bruce Allan Glubin, of Lynbrook, 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.

504 U. S.

May 18, 1992

No. D-1125. *IN RE DISBARMENT OF SCHULZ*. It is ordered that Richard C. Schulz, of Bay Shore, 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. 108, Orig. *NEBRASKA v. WYOMING ET AL.* Second Interim Report of the Special Master received and ordered filed. Exceptions to this Report and the first Interim Report of the Special Master, with supporting briefs, may be filed by the parties within 45 days. Replies thereto, if any, may be filed within 30 days. The *amici curiae* may file exceptions and replies within the time allowed the parties. Further consideration of motion of Nebraska for leave to file an amended petition deferred to consideration of the exceptions and replies. [For earlier order herein, see, *e. g.*, 503 U. S. 981.]

No. 119, Orig. *CONNECTICUT ET AL. v. NEW HAMPSHIRE*. Motions of Connecticut Office of Consumer Counsel and United Illuminating Co. et al. for leave to intervene referred to the Special Master. JUSTICE SOUTER took no part in the consideration or decision of these motions. [For earlier order herein, see, *e. g.*, 503 U. S. 1002.]

No. 87-746. *MICHAEL H. ET AL. v. GERALD D.*, 491 U. S. 110. Motion of appellants to recall and amend or, in the alternative, to clarify judgment of this Court denied. JUSTICE SOUTER and JUSTICE THOMAS took no part in the consideration or decision of this motion.

No. 91-321. *ITEL CONTAINERS INTERNATIONAL CORP. v. HUDLESTON, COMMISSIONER OF REVENUE OF TENNESSEE*. Sup. Ct. Tenn. [Certiorari granted, 502 U. S. 1090.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. Motion of Institute of International Container Lessors et al. for leave to participate in oral argument as *amici curiae*, for divided argument, and for additional time for argument denied.

No. 91-719. *PARKE, WARDEN v. RALEY*. C. A. 6th Cir. [Certiorari granted, 503 U. S. 905.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

May 18, 1992

504 U. S.

No. 91-886. *REVES ET AL. v. ERNST & YOUNG*. C. A. 8th Cir. [Certiorari granted, 502 U.S. 1090.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 91-871. *BATH IRON WORKS CORP. ET AL. v. DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, ET AL.* C. A. 1st Cir. [Certiorari granted, 503 U.S. 935.] Motion of petitioners to dispense with printing the joint appendix granted.

No. 91-1328. *CITY OF CHICAGO ET AL. v. ENVIRONMENTAL DEFENSE FUND ET AL.* C. A. 7th Cir.; and

No. 91-1546. *SLAGLE v. TERRAZAS ET AL.* Appeal from D. C. W. D. Tex. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 91-1523. *FLORENCE COUNTY SCHOOL DISTRICT FOUR ET AL. v. CARTER, A MINOR, BY AND THROUGH HER FATHER AND NEXT FRIEND, CARTER*. C. A. 4th Cir. Motion of National Association of State Boards of Education for leave to file a brief as *amicus curiae* granted. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 91-1527. *OHIO PUBLIC EMPLOYEES DEFERRED COMPENSATION PROGRAM v. SICHERMAN, TRUSTEE*. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted.

No. 91-1550. *MCCLEARY v. NAVARRO ET UX*. C. A. 9th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted.

No. 91-6824. *ZAFIRO ET AL. v. UNITED STATES*. C. A. 7th Cir. [Certiorari granted, 503 U.S. 935.] Motion for appointment of counsel granted, and it is ordered that Kenneth L. Cunniff, Esq., of Chicago, Ill., be appointed to serve as counsel for petitioners in this case.

No. 91-7340. *GARSON v. COMMODITY FUTURES TRADING COMMISSION*. C. A. 7th Cir.; and

No. 91-7783. *VADEN v. LUJAN, SECRETARY OF THE INTERIOR*. C. A. 9th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until June 8,

504 U. S.

May 18, 1992

1992, within which to pay the docketing fee required by Rule 38(a) and to submit petitions in compliance with Rule 33 of the Rules of this Court.

No. 91-7742. HUFFSMITH *v.* WYOMING COUNTY PRISON BOARD ET AL. C. A. 3d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. See this Court's Rule 39.8. Petitioner is allowed until June 8, 1992, 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 BLACKMUN and JUSTICE STEVENS would deny the petition for writ of certiorari.

No. 91-8019. IN RE HILL; and

No. 91-8023. IN RE ALDRIDGE. Petitions for writs of habeas corpus denied.

No. 91-7656. IN RE COX;

No. 91-7686. IN RE DESANTIS; and

No. 91-7858. IN RE STROMAN. Petitions for writs of mandamus denied.

No. 91-7472. IN RE BALLARD. Petition for writ of mandamus and/or prohibition denied.

No. 91-7640. IN RE TEDDER. Petition for writ of prohibition denied.

Certiorari Granted

No. 91-794. HARPER ET AL. *v.* VIRGINIA DEPARTMENT OF TAXATION. Sup. Ct. Va. Certiorari granted.* Reported below: 242 Va. 322, 410 S. E. 2d 629.

No. 91-1496. REITER ET AL. *v.* COOPER, TRUSTEE FOR CAROLINA MOTOR EXPRESS, INC., ET AL. C. A. 4th Cir. Certiorari granted. Reported below: 949 F. 2d 107.

No. 91-1513. UNITED STATES DEPARTMENT OF THE TREASURY ET AL. *v.* FABE, SUPERINTENDENT OF INSURANCE OF OHIO. C. A. 6th Cir. Certiorari granted. Reported below: 939 F. 2d 341.

*[REPORTER'S NOTE: For amendment of this order, see *post*, p. 954.]

May 18, 1992

504 U. S.

No. 91-261. BUILDING & CONSTRUCTION TRADES COUNCIL OF THE METROPOLITAN DISTRICT *v.* ASSOCIATED BUILDERS & CONTRACTORS OF MASSACHUSETTS/RHODE ISLAND, INC., ET AL.; and

No. 91-274. MASSACHUSETTS WATER RESOURCES AUTHORITY ET AL. *v.* ASSOCIATED BUILDERS & CONTRACTORS OF MASSACHUSETTS/RHODE ISLAND, INC., ET AL. C. A. 1st Cir. Certiorari granted, cases consolidated, and a total of one hour allotted for oral argument. Reported below: 935 F. 2d 345.

No. 91-1306. UNITED STATES *v.* OLANO ET AL. C. A. 9th Cir. Motion of respondent Guy W. Olano, Jr., for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 934 F. 2d 1425.

No. 91-1393. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION *v.* FRETWELL. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 946 F. 2d 571.

No. 91-1521. UNITED STATES *v.* GREEN. Ct. App. D. C. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 592 A. 2d 985.

No. 91-7873. FEX *v.* MICHIGAN. Sup. Ct. Mich. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 439 Mich. 117, 479 N. W. 2d 625.

Certiorari Denied

No. 91-381. ILLINOIS EX REL. OFFICE OF PUBLIC COUNSEL ET AL. *v.* ILLINOIS COMMERCE COMMISSION ET AL. Sup. Ct. Ill. Certiorari denied. Reported below: 143 Ill. 2d 407, 574 N. E. 2d 650.

No. 91-1035. BUSSEY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 942 F. 2d 1241.

No. 91-1118. BAUMANN *v.* SAVERS FEDERAL SAVINGS & LOAN ASSN. ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 934 F. 2d 1506.

No. 91-1151. ADKINS ET AL. *v.* GENERAL MOTORS CORP. ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 946 F. 2d 1201.

504 U. S.

May 18, 1992

No. 91-1197. WESTCHESTER MANAGEMENT CORP., DBA SALEM PARK NURSING HOME *v.* DEPARTMENT OF HEALTH AND HUMAN SERVICES. C. A. 6th Cir. Certiorari denied. Reported below: 948 F. 2d 279.

No. 91-1248. ESTATE OF HOFFPAUIR ET AL. *v.* SUDWISHER. Sup. Ct. La. Certiorari denied. Reported below: 589 So. 2d 474.

No. 91-1251. RAINEY BROTHERS CONSTRUCTION CO., INC., ET AL. *v.* MEMPHIS AND SHELBY COUNTY BOARD OF ADJUSTMENT ET AL. Ct. App. Tenn. Certiorari denied. Reported below: 821 S. W. 2d 938.

No. 91-1263. SEWELL-ALLEN BIG STAR, INC., ET AL. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 943 F. 2d 52.

No. 91-1272. LEVY ET AL. *v.* MARTIN, SECRETARY OF LABOR, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 947 F. 2d 639.

No. 91-1274. WRIGHT *v.* FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER OF UNION NATIONAL BANK OF CHICAGO. C. A. 7th Cir. Certiorari denied. Reported below: 942 F. 2d 1089.

No. 91-1295. ELMORE *v.* UNITED STATES. Ct. Mil. App. Certiorari denied. Reported below: 33 M. J. 387.

No. 91-1303. TRIPLE M DRILLING CO. ET AL. *v.* FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR MBANK HOUSTON, NATIONAL ASSN. C. A. 5th Cir. Certiorari denied. Reported below: 949 F. 2d 1158.

No. 91-1304. LAMORTE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 950 F. 2d 80.

No. 91-1314. MURPHY *v.* MARCUM ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 946 F. 2d 886.

No. 91-1330. COMBS ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 946 F. 2d 903.

No. 91-1332. CHANG, EXECUTRIX OF THE ESTATE OF CHANG *v.* ARGONNE NATIONAL LABORATORY. C. A. 7th Cir. Certiorari denied.

May 18, 1992

504 U. S.

No. 91-1337. *McCOY, ADMINISTRATOR OF THE ELECTRICAL WORKERS TRUST FUNDS, LOCAL 103 I. B. E. W. v. MASSACHUSETTS INSTITUTE OF TECHNOLOGY*. C. A. 1st Cir. Certiorari denied. Reported below: 950 F. 2d 13.

No. 91-1339. *FERRA v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 948 F. 2d 352.

No. 91-1354. *CHEROKEE NATION OF OKLAHOMA v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 937 F. 2d 1539.

No. 91-1360. *BENNETT, INDIVIDUALLY AND AS MAYOR OF PALOS HILLS, ET AL. v. HANSEN*. C. A. 7th Cir. Certiorari denied. Reported below: 948 F. 2d 397.

No. 91-1368. *FALK ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. Reported below: 954 F. 2d 836.

No. 91-1369. *LERMAN ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 3d Cir. Certiorari denied. Reported below: 950 F. 2d 722.

No. 91-1371. *CANINO v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 949 F. 2d 928.

No. 91-1378. *MOHNEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 949 F. 2d 1397.

No. 91-1379. *PITTMAN, A MINOR, BY HIS NEXT FRIEND AND FATHER, PITTMAN, ET AL. v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 949 F. 2d 1163.

No. 91-1387. *CITY OF CATHEDRAL CITY ET AL. v. HOESTEREY*. C. A. 9th Cir. Certiorari denied. Reported below: 945 F. 2d 317.

No. 91-1415. *LOXLEY v. NEWPORT NEWS SHIPBUILDING & DRY DOCK Co. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 934 F. 2d 511.

No. 91-1430. *TEXACO INC. v. MASON, INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF MASON, DECEASED*. C. A. 10th Cir. Certiorari denied. Reported below: 948 F. 2d 1546.

No. 91-1432. *NIGERIAN NATIONAL PETROLEUM CORP. v. CARIBBEAN TRADING & FIDELITY CORP.* C. A. 2d Cir. Certiorari denied. Reported below: 948 F. 2d 111.

504 U. S.

May 18, 1992

No. 91-1433. GREAT WESTERN COAL (KENTUCKY), INC., ET AL. *v.* SOUTH CAROLINA PUBLIC SERVICE AUTHORITY ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 951 F. 2d 349.

No. 91-1434. BAILEY ET AL. *v.* NORTH CAROLINA ET AL. Sup. Ct. N. C. Certiorari denied. Reported below: 330 N. C. 227, 412 S. E. 2d 295.

No. 91-1437. BROADCAST MUSIC, INC., ET AL. *v.* CLAIRE'S BOUTIQUES, INC. C. A. 7th Cir. Certiorari denied. Reported below: 949 F. 2d 1482.

No. 91-1442. COOK, WARDEN *v.* LAFFERTY. C. A. 10th Cir. Certiorari denied. Reported below: 949 F. 2d 1546.

No. 91-1449. PHILLIPS ET AL. *v.* ALASKA HOTEL & RESTAURANT EMPLOYEES PENSION FUND. C. A. 9th Cir. Certiorari denied. Reported below: 944 F. 2d 509.

No. 91-1450. ROBINSON ET AL. *v.* BRUNING. C. A. 10th Cir. Certiorari denied. Reported below: 949 F. 2d 352.

No. 91-1451. MESA PETROLEUM CO. ET AL. *v.* COLAN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 1512.

No. 91-1459. OEHMKE *v.* FREED. C. A. 6th Cir. Certiorari denied. Reported below: 951 F. 2d 349.

No. 91-1460. EASTON *v.* SUNDRAM ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 947 F. 2d 1011.

No. 91-1461. MARTIN *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 588 So. 2d 526.

No. 91-1469. BRUTO CO ENGINEERING & CONSTRUCTION, INC. *v.* AMERICAN INTERNATIONAL GROUP, INC., ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 234 Cal. App. 3d 749, 285 Cal. Rptr. 765.

No. 91-1470. FRYAR *v.* ABELL ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 946 F. 2d 1160.

No. 91-1471. VELOZ-GERTRUDIS ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 953 F. 2d 636.

May 18, 1992

504 U. S.

No. 91-1472. *WADE v. SECRETARY OF THE ARMY*. C. A. 11th Cir. Certiorari denied. Reported below: 948 F. 2d 730.

No. 91-1474. *FARRINGTON v. BUREAU OF NATIONAL AFFAIRS, INC., ET AL.* Ct. App. D. C. Certiorari denied. Reported below: 596 A. 2d 58.

No. 91-1478. *ANDERSON ET AL. v. BATTLE ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 945 F. 2d 411.

No. 91-1479. *KLEIN v. HARTNETT, COMMISSIONER OF LABOR OF NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 78 N. Y. 2d 662, 585 N. E. 2d 809.

No. 91-1480. *CITY OF PONCA CITY v. HOUSING AUTHORITY OF KAW TRIBE OF INDIANS OF OKLAHOMA*. C. A. 10th Cir. Certiorari denied. Reported below: 952 F. 2d 1183.

No. 91-1484. *MOORE ET AL. v. KELLER INDUSTRIES, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 948 F. 2d 199.

No. 91-1485. *MYERS v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 588 So. 2d 105.

No. 91-1486. *ISAACS v. WALKER*. C. A. 4th Cir. Certiorari denied. Reported below: 948 F. 2d 1281.

No. 91-1487. *JONES ET AL. v. ANDERSON ET AL.* Sup. Ct. Kan. Certiorari denied. Reported below: 249 Kan. 458, 819 P. 2d 1192.

No. 91-1490. *MOSESIAN v. MCCLATCHY NEWSPAPERS, INC., ET AL.* Ct. App. Cal., 5th App. Dist. Certiorari denied. Reported below: 223 Cal. App. 3d 1685, 285 Cal. Rptr. 430.

No. 91-1492. *PHILLIPS v. NEVADA*. Sup. Ct. Nev. Certiorari denied. Reported below: 107 Nev. 1131, 838 P. 2d 953.

No. 91-1495. *BURKHART ET UX. v. DAVIES ET AL.* Sup. Ct. Del. Certiorari denied. Reported below: 602 A. 2d 56.

No. 91-1498. *ALTAMORE v. NEWSDAY, INC.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 175 App. Div. 2d 684, 573 N. Y. S. 2d 957.

No. 91-1499. *JONES ET UX. v. MELLON BANK, N. A.* Super. Ct. Pa. Certiorari denied. Reported below: 414 Pa. Super. 659, 598 A. 2d 1337.

504 U. S.

May 18, 1992

No. 91-1501. POMINI FARREL S. P. A. ET AL. *v.* FARREL CORP. ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 949 F. 2d 1147.

No. 91-1505. GTE DIRECTORIES CORP. ET AL. *v.* YELLOW PAGES COST CONSULTANTS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 1158.

No. 91-1506. TERRY *v.* M/S "BIRTE" RITSCHER KG ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 952 F. 2d 1393.

No. 91-1507. KOCZAK *v.* SMITH, SECRETARY OF STATE OF FLORIDA, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 937 F. 2d 618.

No. 91-1509. GULF COAST HELICOPTERS, INC., ET AL. *v.* BAY AREA BANK & TRUST. C. A. 5th Cir. Certiorari denied. Reported below: 951 F. 2d 1257.

No. 91-1510. SULLIVAN *v.* CHESAPEAKE & OHIO RAILWAY CO. C. A. 6th Cir. Certiorari denied. Reported below: 947 F. 2d 946.

No. 91-1512. ROUSH *v.* ROUSH ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 952 F. 2d 396.

No. 91-1516. STUART ET AL. *v.* ROACHE, POLICE COMMISSIONER OF CITY OF BOSTON, ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 951 F. 2d 446.

No. 91-1520. HEART OF DIXIE NISSAN, INC., DBA DIXIE NISSAN *v.* REYNOLDS, TRUSTEE OF BANKRUPTCY ESTATE OF CAR RENOVATORS, INC. C. A. 11th Cir. Certiorari denied. Reported below: 946 F. 2d 780.

No. 91-1532. FARNAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 948 F. 2d 1283.

No. 91-1536. KRUSE ET AL. *v.* COURT OF APPEAL OF CALIFORNIA, FIRST APPELLATE DISTRICT, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 947 F. 2d 950.

No. 91-1539. WIECH ET VIR *v.* FAIRFAX COUNTY DEPARTMENT OF HUMAN DEVELOPMENT. Sup. Ct. Va. Certiorari denied.

No. 91-1540. SHUMA ET AL. *v.* KEMP, TRUSTEE. C. A. 3d Cir. Certiorari denied. Reported below: 950 F. 2d 723.

May 18, 1992

504 U. S.

No. 91-1541. *EWING ET AL. v. CITY OF CARMEL-BY-THE-SEA ET AL.* Ct. App. Cal., 6th App. Dist. Certiorari denied. Reported below: 234 Cal. App. 3d 1579, 286 Cal. Rptr. 382.

No. 91-1543. *LONG v. SMYTHE, CHIEF OF POLICE, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 947 F. 2d 936.

No. 91-1545. *AMERICAN SOCIETY OF COMPOSERS, AUTHORS & PUBLISHERS v. TURNER BROADCASTING SYSTEM, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 956 F. 2d 21.

No. 91-1547. *AHAM-NEZE v. SOHIO SUPPLY CO. ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 951 F. 2d 573.

No. 91-1552. *COLLINS v. UNIFIED COURT SYSTEM OF NEW YORK ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 962 F. 2d 3.

No. 91-1557. *YADAV ET UX. v. CHARLES SCHWAB & Co., INC.* C. A. 2d Cir. Certiorari denied. Reported below: 948 F. 2d 1277.

No. 91-1558. *ORTEZ-MIRANDA v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 945 F. 2d 405.

No. 91-1562. *JEWEL FOOD STORES, A DIVISION OF JEWEL COS., INC. v. MERK ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 945 F. 2d 889.

No. 91-1564. *CITY AND COUNTY OF SAN FRANCISCO v. GAUDIYA VAISHNAVA SOCIETY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 952 F. 2d 1059.

No. 91-1565. *MABRY v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 953 F. 2d 127.

No. 91-1566. *REPUBLICAN PARTY OF OREGON ET AL. v. KEISLING, SECRETARY OF STATE OF OREGON.* C. A. 9th Cir. Certiorari denied. Reported below: 959 F. 2d 144.

No. 91-1567. *BRAILEY v. SECRETARY OF THE TREASURY ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 951 F. 2d 352.

No. 91-1568. *HESKETT ET AL. v. SILOAM LODGE #35 OF THE FREE AND ACCEPTED MASONS OF MICHIGAN.* Ct. App. Mich. Certiorari denied.

504 U. S.

May 18, 1992

No. 91-1572. *ASH v. STERNWEST CORP.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 91-1573. *HURST v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 951 F. 2d 1490.

No. 91-1574. *PERKINS v. WESTERN SURETY Co.* C. A. 5th Cir. Certiorari denied. Reported below: 946 F. 2d 891.

No. 91-1579. *KRAIN v. NADLER ET AL.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 91-1588. *SULLIVAN v. UNITED CAROLINA BANK.* C. A. 4th Cir. Certiorari denied. Reported below: 946 F. 2d 886.

No. 91-1590. *FAWELL v. CESENA ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 145 Ill. 2d 32, 582 N. E. 2d 177.

No. 91-1598. *YAMAMOTO v. UNITED STATES.* C. A. Fed. Cir. Certiorari denied. Reported below: 950 F. 2d 731.

No. 91-1599. *SCHWARMAN v. OFFICE OF PERSONNEL MANAGEMENT.* C. A. Fed. Cir. Certiorari denied. Reported below: 950 F. 2d 731.

No. 91-1601. *LOWRY v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 947 F. 2d 942.

No. 91-1602. *SMITH, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF SMITH v. FRELAND ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 954 F. 2d 343.

No. 91-1621. *MICHIGAN v. SLIGH.* Ct. App. Mich. Certiorari denied.

No. 91-1623. *GIBBS ET UX. v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 947 F. 2d 1490.

No. 91-1632. *MARCUM v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 949 F. 2d 928.

No. 91-1640. *NELSON v. UNITED STATES DEPARTMENT OF JUSTICE.* C. A. 11th Cir. Certiorari denied. Reported below: 953 F. 2d 650.

No. 91-1642. *LOWERY v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 953 F. 2d 640.

May 18, 1992

504 U. S.

No. 91-1649. *HAUPTLI ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 10th Cir. Certiorari denied. Reported below: 951 F. 2d 1193.

No. 91-1651. *ATRAQCHI ET UX. v. UNKNOWN NAMED AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 959 F. 2d 740.

No. 91-1658. *BRUMFIELD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 953 F. 2d 643.

No. 91-1670. *POPE v. MCI TELECOMMUNICATIONS CORP.* C. A. 5th Cir. Certiorari denied. Reported below: 937 F. 2d 258.

No. 91-1673. *CONNORS v. HOWARD JOHNSON CO.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 410 Mass. 1102, 576 N. E. 2d 685.

No. 91-6358. *WHITE v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 584 So. 2d 1152.

No. 91-6428. *MORAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 943 F. 2d 1317.

No. 91-6686. *CHAMBERS v. BUSTAMANTE ET AL.* C. A. 6th Cir. Certiorari denied.

No. 91-6963. *ROOSEVELTAUSE v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 209 Ill. App. 3d 772, 568 N. E. 2d 403.

No. 91-6972. *DAVIS ET AL. v. BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM*. C. A. 10th Cir. Certiorari denied. Reported below: 940 F. 2d 1360.

No. 91-7048. *CRANDALL v. LEONARDO, SUPERINTENDENT, GREAT MEADOW CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied.

No. 91-7103. *CHAMBERLIN v. DEPARTMENT OF CORRECTIONS ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 91-7122. *WILSON v. SOUTH CAROLINA*. Sup. Ct. S. C. Certiorari denied.

No. 91-7131. *MAISANO v. INTERNAL REVENUE SERVICE ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 940 F. 2d 499.

504 U. S.

May 18, 1992

No. 91-7181. *KEMP v. MOORE, DIRECTOR, MISSOURI DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 946 F. 2d 588.

No. 91-7229. *LABOUNTY v. COUGHLIN, COMMISSIONER, NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES.* C. A. 2d Cir. Certiorari denied.

No. 91-7231. *EDWARDS v. UNITED STATES*; and

No. 91-7335. *GRIFFIN v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 945 F. 2d 378.

No. 91-7243. *STEWART v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 952 F. 2d 393.

No. 91-7252. *NEWMAN ET AL. v. ORENTREICH.* Ct. App. N. Y. Certiorari denied. Reported below: 78 N. Y. 2d 857, 580 N. E. 2d 410.

No. 91-7269. *CAMPUSANO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 952 F. 2d 394.

No. 91-7292. *AMOS v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 819 S. W. 2d 156.

No. 91-7301. *COPELAND v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 948 F. 2d 1290.

No. 91-7304. *SOMERS v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 950 F. 2d 1279.

No. 91-7313. *KNIGHT v. MARICOPA COUNTY SHERIFF'S OFFICE ET AL.* C. A. 9th Cir. Certiorari denied.

No. 91-7323. *TARPLEY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 945 F. 2d 806.

No. 91-7337. *HARLAN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 951 F. 2d 345.

No. 91-7344. *REYNOLDS v. LOCAL 24, UNITED STEEL WORKERS OF AMERICA, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 945 F. 2d 405.

No. 91-7356. *MARAVILLA v. UNITED STATES*; and

No. 91-7363. *DOMINGUEZ v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 951 F. 2d 412.

May 18, 1992

504 U. S.

No. 91-7370. *FELK v. DUGGER, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. Sup. Ct. Fla. Certiorari denied. Reported below: 589 So. 2d 905.

No. 91-7375. *MAQUEIRA v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 588 So. 2d 221.

No. 91-7388. *WHITE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 949 F. 2d 1161.

No. 91-7397. *JACKSON v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 292 U. S. App. D. C. 190, 948 F. 2d 782.

No. 91-7409. *MANNING v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 62 Ohio St. 3d 1434, 578 N. E. 2d 825.

No. 91-7458. *D'AMICO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 951 F. 2d 498.

No. 91-7491. *LIMEHOUSE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 950 F. 2d 501.

No. 91-7561. *SCOTT v. VETERANS ADMINISTRATION ET AL.* C. A. 9th Cir. Certiorari denied.

No. 91-7566. *WIGHTMAN v. STONE, SECRETARY OF THE ARMY, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 946 F. 2d 1542.

No. 91-7575. *OLATUNJI v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 4th Cir. Certiorari denied. Reported below: 947 F. 2d 941.

No. 91-7588. *K. B. v. N. B.* Ct. App. Tex., 4th Dist. Certiorari denied. Reported below: 811 S. W. 2d 634.

No. 91-7595. *HARRIS v. GRAY ET AL.* C. A. 9th Cir. Certiorari denied.

No. 91-7601. *CALESHU v. MERRILL LYNCH, PIERCE, FENNER & SMITH, INC., ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 985 F. 2d 564.

No. 91-7602. *GIBBS v. ODEN ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 952 F. 2d 410.

504 U. S.

May 18, 1992

No. 91-7614. *BROWN-EL v. SAMANIEGO ET AL.* C. A. 5th Cir. Certiorari denied.

No. 91-7618. *COE v. ROWLAND.* C. A. 9th Cir. Certiorari denied.

No. 91-7619. *SHOWN v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied.

No. 91-7620. *BATES v. GUNTER, DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 947 F. 2d 953.

No. 91-7621. *COOPER v. MISSOURI ET AL.* Ct. App. Mo., Western Dist. Certiorari denied. Reported below: 818 S. W. 2d 653.

No. 91-7622. *BROWN v. ATTORNEY GENERAL OF MARYLAND ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 952 F. 2d 395.

No. 91-7624. *TAYLOR v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 951 F. 2d 1256.

No. 91-7632. *FRAZIER v. LEHMAN, COMMISSIONER, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 91-7635. *FEAGINS v. FULCOMER ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 952 F. 2d 1391.

No. 91-7636. *DAVIS v. ILLINOIS.* App. Ct. Ill., 4th Dist. Certiorari denied.

No. 91-7638. *WALLS v. COOPER ET AL.* Sup. Ct. Del. Certiorari denied. Reported below: 604 A. 2d 419.

No. 91-7653. *LOWE v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 953 F. 2d 648.

No. 91-7657. *CARTER v. FLORIDA.* Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 591 So. 2d 192.

No. 91-7658. *JACKSON v. TEXAS DEPARTMENT OF PUBLIC SAFETY ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 952 F. 2d 400.

May 18, 1992

504 U. S.

No. 91-7660. *RAMOS v. NEW YORK*. C. A. 2d Cir. Certiorari denied.

No. 91-7663. *JONES v. POLL ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 971 F. 2d 752.

No. 91-7665. *EVANS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 951 F. 2d 729.

No. 91-7670. *JONES v. HOWARD, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 951 F. 2d 1264.

No. 91-7671. *WINTERS v. RUSSELL, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 943 F. 2d 53.

No. 91-7673. *SMITH v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 91-7674. *JOHNSON v. BLODGETT, SUPERINTENDENT, WASHINGTON STATE PENITENTIARY*. C. A. 9th Cir. Certiorari denied. Reported below: 942 F. 2d 792.

No. 91-7675. *RANDOLPH v. DELO, SUPERINTENDENT, POTOSI CORRECTIONAL CENTER*. C. A. 8th Cir. Certiorari denied. Reported below: 952 F. 2d 243.

No. 91-7676. *ROGERS v. WALLIS ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 985 F. 2d 568.

No. 91-7677. *NYBERG v. BELL ET AL.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 592 So. 2d 247.

No. 91-7678. *LANE v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 822 S. W. 2d 35.

No. 91-7679. *MCDONALD v. NEW MEXICO PAROLE BOARD*. C. A. 10th Cir. Certiorari denied. Reported below: 955 F. 2d 631.

No. 91-7681. *PATTERSON v. DISTRICT OF COLUMBIA COMMISSION ON HUMAN RIGHTS*. Ct. App. D. C. Certiorari denied.

No. 91-7683. *ROSENFELD v. VERMONT*. Sup. Ct. Vt. Certiorari denied. Reported below: 157 Vt. 537, 601 A. 2d 972.

No. 91-7684. *BARONI v. CONRAD ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 952 F. 2d 1391.

504 U. S.

May 18, 1992

No. 91-7688. *SANCHEZ v. MANN*, SUPERINTENDENT, SHAWANGUNK CORRECTIONAL FACILITY, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 952 F. 2d 393.

No. 91-7689. *ABDULLAH v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 947 F. 2d 306.

No. 91-7690. *DAVIS v. CARROLL COUNTY SHERIFF'S DEPARTMENT ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 947 F. 2d 940.

No. 91-7694. *ORGAIN v. ORGAIN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 947 F. 2d 941.

No. 91-7695. *RAMIREZ v. SCULLY*, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, ET AL. C. A. 2d Cir. Certiorari denied.

No. 91-7699. *GUSTAFSON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 953 F. 2d 650.

No. 91-7700. *HANSEN v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. Reported below: 592 So. 2d 114.

No. 91-7705. *GHENT v. SINGLETARY*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 948 F. 2d 1296.

No. 91-7706. *DAVIS v. WALDRON ET AL.* C. A. 5th Cir. Certiorari denied.

No. 91-7707. *WASHINGTON v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of Los Angeles. Certiorari denied.

No. 91-7710. *FARNUM v. THALACKER*, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 985 F. 2d 566.

No. 91-7712. *HAMMOND v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 91-7714. *WALKER v. PENNSYLVANIA LEGISLATIVE REAPPORTIONMENT COMMISSION*. Sup. Ct. Pa. Certiorari denied. Reported below: 530 Pa. 335, 609 A. 2d 132.

No. 91-7716. *CASEBOLT v. SUPERIOR COURT OF CALIFORNIA, VENTURA COUNTY*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

May 18, 1992

504 U. S.

No. 91-7718. *CHADWICK v. IOWA*. C. A. 8th Cir. Certiorari denied. Reported below: 951 F. 2d 863.

No. 91-7719. *ADKINS v. RATELLE, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 91-7724. *REDDICK v. McMACKIN, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 946 F. 2d 895.

No. 91-7725. *LEWIS v. BEELER, WARDEN, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 949 F. 2d 325.

No. 91-7726. *GAMBRILL v. TALLY, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 91-7728. *WILSON v. DELO, SUPERINTENDENT, POTOSI CORRECTIONAL CENTER*. C. A. 8th Cir. Certiorari denied.

No. 91-7729. *PHILLIPS v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 136 Ill. 2d 551, 567 N. E. 2d 339.

No. 91-7730. *MATTHEWS v. RAKIEY, SUPERINTENDENT, MASSACHUSETTS CORRECTIONAL INSTITUTION*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 411 Mass. 1105, 586 N. E. 2d 10.

No. 91-7731. *NEBOLSKY v. ILLINOIS DEPARTMENT OF EMPLOYMENT SECURITY*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 213 Ill. App. 3d 1103, 621 N. E. 2d 301.

No. 91-7732. *LEDBETTER v. CAPITOL REPORTERS ET AL.*; *LEDBETTER v. TONEY ET AL.*; and *LEDBETTER v. GRAHAM*. C. A. 9th Cir. Certiorari denied. Reported below: 952 F. 2d 407 (second and third cases).

No. 91-7734. *WILSON v. LEE, SUPERINTENDENT, CALEDONIA CORRECTIONAL INSTITUTION, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 946 F. 2d 889.

No. 91-7735. *SHORE v. WARDEN, STATEVILLE PRISON*. C. A. 7th Cir. Certiorari denied. Reported below: 942 F. 2d 1117.

No. 91-7736. *WARDLAW v. CITY OF DETROIT ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 951 F. 2d 351.

No. 91-7738. *WALTON v. AMERICAN STEEL CONTAINER ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 952 F. 2d 405.

504 U. S.

May 18, 1992

No. 91-7740. *KNIGHT v. LOVE*, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION OF HUNTINGDON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 91-7741. *JOHNSON v. GUNTER*, EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 948 F. 2d 1294.

No. 91-7747. *ABERNATHY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 934 F. 2d 1265.

No. 91-7748. *AWKAKEWAKEYES v. DRAGOVICH*, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT CRESSON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 91-7750. *MARTS, AKA BISHOP v. EDWARDS*, GOVERNOR OF LOUISIANA, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 956 F. 2d 265.

No. 91-7751. *PAGLIASSO v. WORKERS' COMPENSATION APPEALS BOARD ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 91-7752. *SALAZAR v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 945 F. 2d 47.

No. 91-7753. *MCDONALD v. LECUREUX*, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 91-7756. *ALASHKAR v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 91-7757. *WILSON v. PETERS*, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 947 F. 2d 1487.

No. 91-7761. *BROWN v. WILLIAM ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 952 F. 2d 395.

No. 91-7764. *EVANS v. REDMAN*, WARDEN, ET AL. C. A. 3d Cir. Certiorari denied.

No. 91-7765. *HILL v. PENNSYLVANIA*. C. A. 3d Cir. Certiorari denied.

No. 91-7768. *DIAZ v. INDIANA*. Ct. App. Ind. Certiorari denied. Reported below: 583 N. E. 2d 207.

May 18, 1992

504 U. S.

No. 91-7771. *PATE v. LISEBY ET AL.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 592 So. 2d 1092.

No. 91-7773. *ZOLLIFFER ET AL. v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Reported below: 293 U.S. App. D. C. 24, 951 F. 2d 1291.

No. 91-7776. *SCOTT v. MCMACKIN, WARDEN.* C. A. 6th Cir. Certiorari denied.

No. 91-7782. *QUINTANA v. NEW JERSEY.* Sup. Ct. N. J. Certiorari denied. Reported below: 127 N. J. 541, 606 A. 2d 358.

No. 91-7786. *CIRIACO-MADRANO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 953 F. 2d 636.

No. 91-7791. *ONOKPEVWE v. SENKOWSKI, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY.* C. A. 2d Cir. Certiorari denied. Reported below: 953 F. 2d 636.

No. 91-7793. *GEURIN v. DEPARTMENT OF THE ARMY.* C. A. 9th Cir. Certiorari denied. Reported below: 952 F. 2d 406.

No. 91-7795. *CRANE v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 145 Ill. 2d 520, 585 N. E. 2d 99.

No. 91-7796. *HOFFMAN v. FREILICH ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 943 F. 2d 49.

No. 91-7798. *HERNANDEZ v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 952 F. 2d 1394.

No. 91-7799. *CASIMONO v. NEW JERSEY.* Super. Ct. N. J., App. Div. Certiorari denied. Reported below: 250 N. J. Super. 173, 593 A. 2d 827.

No. 91-7806. *GLENN v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 944 F. 2d 1223.

No. 91-7809. *JONES v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Reported below: 952 F. 2d 397.

No. 91-7812. *ALDRED v. FLORIDA.* Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 590 So. 2d 424.

No. 91-7815. *O'CONNOR v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Reported below: 953 F. 2d 338.

504 U. S.

May 18, 1992

No. 91-7817. *MASON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 954 F. 2d 219.

No. 91-7819. *RATNAWEERA ET UX. v. RESOLUTION TRUST CORPORATION ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 362.

No. 91-7820. *LUCAS v. ESTELLE, WARDEN, ET AL.* (two cases). C. A. 9th Cir. Certiorari denied.

No. 91-7821. *DARVEAUX v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 91-7824. *RAYGOZA-TORRES v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 951 F. 2d 1261.

No. 91-7825. *GROBMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 363.

No. 91-7828. *HUNTE, AKA HINES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 946 F. 2d 887.

No. 91-7834. *SCOTT v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 952 F. 2d 410.

No. 91-7835. *THOMPSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 952 F. 2d 1394.

No. 91-7836. *WILLIAMS v. UNITED STATES POSTAL SERVICE*. C. A. Fed. Cir. Certiorari denied. Reported below: 950 F. 2d 730.

No. 91-7837. *CRABB v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 952 F. 2d 1245.

No. 91-7838. *DICKS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 948 F. 2d 1278.

No. 91-7842. *WILBURN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 951 F. 2d 351.

No. 91-7843. *MULLER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 952 F. 2d 410.

No. 91-7844. *LOGAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 949 F. 2d 1370.

May 18, 1992

504 U. S.

No. 91-7845. *STAVROULAKIS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 952 F. 2d 686.

No. 91-7847. *POU v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 953 F. 2d 363.

No. 91-7848. *LEWIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 952 F. 2d 408.

No. 91-7850. *GOUGH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 952 F. 2d 1400.

No. 91-7852. *MONDEJAR v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 953 F. 2d 363.

No. 91-7855. *MEJIA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 953 F. 2d 461.

No. 91-7857. *POU v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 953 F. 2d 363.

No. 91-7859. *AGERTON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 953 F. 2d 650.

No. 91-7863. *LEVY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 956 F. 2d 274.

No. 91-7865. *MEJIA-BEJARANO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 958 F. 2d 1082.

No. 91-7867. *THOMAS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 91-7869. *REIDT v. DEPARTMENT OF TRANSPORTATION ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 362.

No. 91-7874. *SUI FUN HO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 951 F. 2d 1257.

No. 91-7877. *JOHNSON v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 823 P. 2d 370.

No. 91-7879. *MARTINEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 950 F. 2d 222.

No. 91-7880. *LAFOON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 956 F. 2d 264.

504 U. S.

May 18, 1992

No. 91-7882. *PARKER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 957 F. 2d 871.

No. 91-7883. *LUNA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 958 F. 2d 1082.

No. 91-7884. *MITCHELL, AKA JONES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 947 F. 2d 942.

No. 91-7885. *BRADIX v. UNITED STATES* (two cases). C. A. 9th Cir. Certiorari denied.

No. 91-7888. *KIBA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 364.

No. 91-7892. *BAILEY v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 91-7895. *CHURCH v. HUFFMAN, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 958 F. 2d 367.

No. 91-7896. *MUMIT, AKA BRYANT v. UNITED STATES PAROLE COMMISSION ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 961 F. 2d 1568.

No. 91-7898. *ROGERS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 949 F. 2d 396.

No. 91-7899. *CHAPPELL v. UNITED STATES* (two cases). C. A. 7th Cir. Certiorari denied. Reported below: 956 F. 2d 272.

No. 91-7900. *MCGHEE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 949 F. 2d 1023.

No. 91-7903. *BYROM v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 952 F. 2d 403.

No. 91-7904. *SOLIS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 956 F. 2d 276.

No. 91-7905. *BULLOCK v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 596 A. 2d 980.

No. 91-7906. *TUCKER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 952 F. 2d 411.

No. 91-7911. *JUDGE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 944 F. 2d 523.

May 18, 1992

504 U. S.

No. 91-7915. *EXCELL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 953 F. 2d 640.

No. 91-7919. *SIMPKINS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 953 F. 2d 443.

No. 91-7922. *JOSEPH v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 591 A. 2d 14.

No. 91-7928. *MOORE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 956 F. 2d 1164.

No. 91-7929. *KERRIDAN v. UNITED STATES*; and
No. 91-7930. *LAPORTA v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 949 F. 2d 1465.

No. 91-7932. *WATSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 953 F. 2d 895.

No. 91-7934. *MARTES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 962 F. 2d 1.

No. 91-7935. *COOK v. SINGLETARY, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 946 F. 2d 903.

No. 91-7936. *COX v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 955 F. 2d 42.

No. 91-7940. *BODENSTEIN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 953 F. 2d 635.

No. 91-7941. *HENTHORN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 91-7944. *CASTANEDA-GALLARDO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 951 F. 2d 1451.

No. 91-7945. *BEZOLD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 952 F. 2d 407.

No. 91-7947. *RAMIREZ-CARRANZA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 952 F. 2d 98.

No. 91-7948. *NDUKA ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 952 F. 2d 400.

504 U. S.

May 18, 1992

No. 91-7951. *BENEDETTO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 952 F. 2d 1394.

No. 91-7952. *OLIVO PEGUERO v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 953 F. 2d 641.

No. 91-7958. *STICKLES v. DERWINSKI, SECRETARY OF VETERANS AFFAIRS*. C. A. 4th Cir. Certiorari denied. Reported below: 947 F. 2d 942.

No. 91-7959. *BLEECKER v. MURPHY*. Sup. Ct. Va. Certiorari denied.

No. 91-7961. *MOURSUND v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 951 F. 2d 345.

No. 91-7970. *KELLEY v. UNITED STATES*. C. A. Fed. Cir. Certiorari denied. Reported below: 954 F. 2d 734.

No. 91-7971. *CHRISTOPHER, AKA WILLIAMS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 293 U. S. App. D. C. 57, 951 F. 2d 1324.

No. 91-7977. *BODINE v. DEPARTMENT OF TRANSPORTATION*. C. A. Fed. Cir. Certiorari denied. Reported below: 951 F. 2d 1267.

No. 91-7991. *CADET v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 953 F. 2d 651.

No. 91-7993. *CARDENAS-BARRERA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 933 F. 2d 1016.

No. 91-7994. *CICALESE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 953 F. 2d 640.

No. 91-7999. *GARDNER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 953 F. 2d 640.

No. 91-8001. *INGRAM v. SMITH, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 954 F. 2d 724.

No. 91-8002. *KING v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 957 F. 2d 870.

No. 91-8021. *JAMES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 953 F. 2d 643.

May 18, 1992

504 U. S.

No. 91-1202. RICHARDS, GOVERNOR OF TEXAS, ET AL. *v.* LINDSAY, HARRIS COUNTY JUDGE, ET AL. C. A. 5th Cir. Motion of petitioners to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 937 F. 2d 984.

No. 91-7152. PHILLIP *v.* UNITED STATES. C. A. 6th Cir. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 948 F. 2d 241.

No. 91-7687. THOMAS *v.* OHIO. Ct. App. Ohio, Montgomery County. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied.

No. 91-1299. RUSCITTO *v.* MERRILL LYNCH, PIERCE, FENNER & SMITH, INC. C. A. 5th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 948 F. 2d 1286.

No. 91-1438. BROADCAST MUSIC, INC. *v.* EDISON BROTHERS STORES, INC. C. A. 8th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 954 F. 2d 1419.

No. 91-1355. J. ARON & Co. *v.* HAVILAND. C. A. 2d Cir. Motion of Securities Industry Association for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 947 F. 2d 601.

No. 91-1383. ALABAMA *v.* FLOWERS. Ct. Crim. App. Ala. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 586 So. 2d 978.

No. 91-1491. CLARKE, DIRECTOR, NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICE *v.* MOORE. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 904 F. 2d 1226.

No. 91-1494. GUNTER ET AL. *v.* ABDULLAH. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 949 F. 2d 1032.

No. 91-1419. GUAM HAKUBOTAN, INC. *v.* FURUSAWA INVESTMENT CORP. ET AL. C. A. 9th Cir. Motion of Ben Blaz for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 947 F. 2d 398.

504 U. S.

May 18, 1992

No. 91-1440. SCHNABEL FOUNDATION CO. *v.* HARBOR INSURANCE CO. C. A. D. C. Cir. Motion of District of Columbia Chapter of the Federal Bar Association for leave to file a brief as *amicus curiae* granted. Motion of petitioner to seek the view of the United States denied. Certiorari denied. Reported below: 292 U. S. App. D. C. 56, 946 F. 2d 930.

No. 91-1446. BROOKS, MEMBER OF CONGRESS *v.* WILLIAMS ET AL. C. A. 5th Cir. Certiorari denied. JUSTICE BLACKMUN took no part in the consideration or decision of this petition. Reported below: 945 F. 2d 1322.

No. 91-1481. BACH ET AL. *v.* TRIDENT STEAMSHIP CO., INC., ET AL. C. A. 5th Cir. Motion of American Trial Lawyers Association et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 947 F. 2d 1290.

No. 91-1482. WOODS *v.* AT&T INFORMATION SERVICES, INC., ET AL. C. A. 10th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 951 F. 2d 1262.

No. 91-1542. FANTASY, INC., DBA JONDORA/PARKER MUSIC *v.* MARASCALCO, DBA ROBIN HOOD MUSIC. C. A. 9th Cir. Motion of Twentieth Century Fox Film Corp. et al. for leave to file a brief as *amici curiae* granted. Certiorari denied. Reported below: 953 F. 2d 469.

No. 91-1555. NATIONAL ADVERTISING CO. *v.* CITY OF RALEIGH, NORTH CAROLINA. C. A. 4th Cir. Motion of respondent to withdraw its consent to the filing of *amicus curiae* brief by Defenders of Property Rights denied. Certiorari denied. Reported below: 947 F. 2d 1158.

No. 91-1556. COMMERCIAL BUILDERS OF NORTHERN CALIFORNIA *v.* CITY OF SACRAMENTO ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE KENNEDY took no part in the consideration or decision of this petition. Reported below: 941 F. 2d 872.

No. 91-6801. ALONZO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. JUSTICE WHITE and JUSTICE BLACKMUN would grant certiorari. Reported below: 938 F. 2d 1431.

May 18, 1992

504 U. S.

No. 91-7051. *FELJOO TOMALA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 946 F. 2d 883.

JUSTICE WHITE, with whom JUSTICE THOMAS joins, dissenting.

The issue in this case is whether the trial court erred in instructing a jury that petitioner could be convicted for importing illegal drugs if she consciously avoided knowledge that drugs were concealed in a suitcase she was carrying.

Petitioner, who had just arrived from Ecuador with her two young daughters, was arrested at Kennedy International Airport when a Customs inspector found three kilograms of cocaine in a hidden compartment of a suitcase. She was charged with importing cocaine into the United States in violation of 21 U.S.C. § 952(a). At trial, petitioner defended on the theory that she had been unwittingly duped into serving as a drug courier. She testified that a woman had approached her at the Ecuador airport, identified herself as Maria Alcivar, and asked her to deliver the suitcase to Alcivar's sister, Georgina de Rodrigues. The woman opened the suitcase to show petitioner that it contained several new dresses and explained that she was returning the dresses to her sister because she had been unable to sell them in Ecuador. She provided petitioner with an incomplete New Jersey address and a telephone number, which had a New Jersey area code followed by an eight-digit number.

The trial court charged the jury that the Government bore the burden of proving beyond a reasonable doubt that petitioner knew she possessed narcotics. But the court added:

“‘[I]t is not necessary for the government to prove to an absolute certainty that [petitioner] knew that she possessed narcotics. [Petitioner's] knowledge may be established by proof beyond a reasonable doubt that [petitioner] was aware, was aware of a high probability that the suitcase contained narcotics unless, despite this high probability, the facts show that [petitioner] actually believed that the suitcase did not contain narcotics.’” Brief for United States 6.

Petitioner's first trial ended in a hung jury. On retrial, she was convicted and sentenced to 60 months' imprisonment. The Court of Appeals for the Second Circuit affirmed. 946 F. 2d 883 (1991) (judgment order).

Petitioner contends that the trial court erred in giving the instruction quoted above because the Government had not argued

504 U. S.

May 18, 1992

that she consciously avoided knowledge that she was transporting drugs and because the instruction allows a conviction on the basis of recklessness or negligence, thereby vitiating the statutory requirement that the Government prove petitioner acted knowingly. She urges that the outcome of her case would have been different had she been tried in another circuit. The Government concedes as much, citing conflicting decisions by the Courts of Appeals for the Ninth and Tenth Circuits, and suggests that we grant certiorari. See *United States v. De Francisco-Lopez*, 939 F. 2d 1405 (CA10 1991); *United States v. Sanchez-Robles*, 927 F. 2d 1070 (CA9 1991).

I agree with petitioner and the Government that the outcome of a federal criminal prosecution should not depend upon the circuit in which the case is tried. I therefore would grant certiorari to resolve the conflict in the Courts of Appeals.

No. 91-7169. FOWNER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 947 F. 2d 954.

JUSTICE WHITE, dissenting.

This case presents the question whether the weight of uningestible waste material should be included in calculating the weight of a “mixture or substance” containing a detectable amount of a controlled substance for purposes of §2D1.1 of the United States Sentencing Commission, Guidelines Manual (Nov. 1992). Petitioner was arrested in possession of 79.7 grams of methamphetamine, as well as approximately 24 gallons of a liquid mixture containing detectable amounts of a controlled substance. At trial, an expert testified that the liquid was a waste byproduct of methamphetamine manufacturing. Petitioner claims that his sentence should not have been based on the entire weight of the 24 gallons of liquid because it is an uningestible waste. In the decision below, the Court of Appeals for the Tenth Circuit held that it was unnecessary to make a determination whether the liquid was waste and intended to be discarded. Following Tenth Circuit precedent, the Court of Appeals held that so long as the liquid contained a detectable amount of a controlled substance, its entire weight was properly included in the calculation of the defendant’s sentence under the Guidelines. See also *United States v. Dorrough*, 927 F. 2d 498 (CA10 1991); *United States v. Callihan*, 915 F. 2d 1462, 1463 (CA10 1990).

Several Courts of Appeals have followed a different rationale, holding that sentencing calculations may not be based on the total weight of mixtures containing uningestible “waste” material. In *United States v. Rolande-Gabriel*, 938 F. 2d 1231 (CA11 1991), the defendant had been arrested in possession of a liquid substance containing cocaine base, a cutting agent, and liquid waste. The Court of Appeals there noted that the liquid waste did not facilitate the use, marketing, or access of the drug, and concluded that its use in sentencing calculations was irrational. *Id.*, at 1237. The Court of Appeals therefore held that the weight of unusable waste material should not be used for sentencing purposes. Similarly, in *United States v. Jennings*, 945 F. 2d 129 (1991), the Court of Appeals for the Sixth Circuit ruled that it would be inappropriate to sentence defendants on the basis of the entire weight of an undistributable methamphetamine “cooking” mixture containing a small amount of methamphetamine mixed with poisonous unreacted chemicals and byproducts. See also *United States v. Touby*, 909 F. 2d 759, 773 (CA3 1990) (suggesting that, while weight of cutting ingredients may properly be included in sentencing calculation, weight of unconsumable manufacturing byproducts may not), *aff’d* on other grounds, 500 U. S. 160 (1991).

Several other Courts of Appeals, like the court below, have taken a contrary approach. In *United States v. Mahecha-Onofre*, 936 F. 2d 623 (CA1), *cert. denied*, 502 U. S. 1009 (1991), cocaine had been chemically bonded to the acrylic material of which two suitcases were constructed. When calculating the defendant’s sentence, the District Court included the total weight of the suitcases, minus all metal parts. 936 F. 2d, at 625. The Court of Appeals noted that, unlike blotter paper or cutting agents, the suitcase material obviously could not be consumed and that the cocaine had to be separated from the suitcase material before it could be used; however, the court held, this distinction did not make a difference for sentencing purposes. *Id.*, at 626. Similarly, in *United States v. Beltran-Felix*, 934 F. 2d 1075 (1991), *cert. denied*, 502 U. S. 1065 (1991), the Court of Appeals for the Ninth Circuit held that, for purposes of sentencing under 21 U. S. C. § 841(b)(1)(B), a solution containing methamphetamine need not be a “marketable mixture” in a distributable state. In *United States v. Baker*, 883 F. 2d 13 (1989), the Court of Appeals for the Fifth Circuit followed an analogous course. Although most of a liquid containing methamphetamine was waste material,

504 U. S.

May 18, 1992

the Court of Appeals upheld the use of the weight of the whole solution for sentencing purposes. *Id.*, at 14, 15.

The issue is a recurring one. Because of the conflict, identical conduct in violation of the same federal laws may give rise to widely disparate sentences in different areas of the country. I would grant certiorari to resolve this conflict.

Rehearing Denied

No. 90-1150. *WILLY v. COASTAL CORP. ET AL.*, 503 U. S. 131;
No. 91-122. *PFZ PROPERTIES, INC. v. RODRIGUEZ ET AL.*, 503 U. S. 257;

No. 91-756. *WHITMER ET UX. v. JOHN HANCOCK MUTUAL LIFE INSURANCE CO. ET AL.*, 502 U. S. 1033;

No. 91-1095. *BINKLEY ET AL. v. CATERPILLAR, INC.*, 503 U. S. 926;

No. 91-1174. *MEYERS v. KALLESTEAD, DBA BETTE MOM'S TAVERN*, 503 U. S. 920;

No. 91-1175. *MORGAN v. COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF LOS ANGELES ET AL.*, 503 U. S. 937;

No. 91-1216. *SUTHERLAND v. SUTHERLAND*, 503 U. S. 952;

No. 91-1220. *VIEHWEG v. DEVEREUX*, 503 U. S. 927;

No. 91-1228. *CSOKA v. WALDEN ET AL.*, 503 U. S. 938;

No. 91-1287. *IRBY ET UX. v. UNITED STATES*, 503 U. S. 939;

No. 91-1290. *SCHWARZER v. DOUGLAS COUNTY, NEVADA*, 503 U. S. 960;

No. 91-1389. *VIGIL v. SOLANO ET AL.*, 503 U. S. 961;

No. 91-6160. *HENTHORN v. UNITED STATES*; and *LAWRENCE v. UNITED STATES*, 503 U. S. 972;

No. 91-6211. *BELL v. CITY AND COUNTY OF DENVER*, 502 U. S. 1016;

No. 91-6454. *ALLEN v. MADIGAN, SECRETARY OF AGRICULTURE*, 502 U. S. 1102;

No. 91-6538. *IN RE JARRETT*, 502 U. S. 1070;

No. 91-6633. *WILLIAMS v. OFFICE OF PERSONNEL MANAGEMENT*, 503 U. S. 941;

No. 91-6668. *LEWIS v. RUSSE ET AL.*, 503 U. S. 921;

No. 91-6850. *EDDMONDS v. ILLINOIS*, 503 U. S. 942;

No. 91-7022. *MURRAY v. DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES*, 503 U. S. 911;

No. 91-7033. *FRESQUEZ v. CALIFORNIA*, 503 U. S. 922;

May 18, 19, 1992

504 U. S.

No. 91-7035. *KEYES v. HUCKLEBERRY HOUSE ET AL.*, 503 U. S. 922;

No. 91-7101. *MONTGOMERY v. UNIVERSITY OF CHICAGO ET AL.*, 503 U. S. 944;

No. 91-7171. *JUSTICE v. LTV STEEL CO., INC., FOR ITSELF AND AS SUCCESSOR TO REPUBLIC STEEL CORP., ET AL.*, 503 U. S. 946;

No. 91-7172. *HUFFSMITH v. WYOMING COUNTY PRISON BOARD ET AL.*, 503 U. S. 946;

No. 91-7182. *KEYES v. HUCKLEBERRY HOUSE ET AL.*; and *KEYES v. McISSAC, CHIEF PROBATION OFFICER, CITY AND COUNTY OF SAN FRANCISCO*, 503 U. S. 962;

No. 91-7205. *GALLARDO v. UNITED STATES*, 503 U. S. 923;

No. 91-7207. *CONNER v. INDIANA*, 503 U. S. 946;

No. 91-7256. *IN RE COX*, 503 U. S. 935;

No. 91-7278. *VALLADARES v. TEXAS*, 503 U. S. 964;

No. 91-7366. *JOHNSON v. DERWINSKI, SECRETARY OF VETERANS AFFAIRS*, 503 U. S. 990;

No. 91-7428. *IN RE JOHNS*, 503 U. S. 935; and

No. 91-7511. *IN RE ZZIE*, 503 U. S. 958. Petitions for rehearing denied.

No. 91-654. *CAFARO v. NEW YORK*, 502 U. S. 1005 and 1124. Motion for leave to file second petition for rehearing denied.

No. 91-786. *CLARKE v. LOMA LINDA FOODS, INC., ET AL.*, 502 U. S. 1034. Petition for rehearing denied. JUSTICE BLACKMUN would grant this petition.

No. 91-1341. *THANH VONG HOAI ET AL. v. THANH VAN VO ET AL.*, 503 U. S. 967. Petition for rehearing denied. JUSTICE THOMAS took no part in the consideration or decision of this petition.

No. 91-6693. *FISHER v. ALABAMA*, 503 U. S. 941. Petition for rehearing denied. JUSTICE BLACKMUN, JUSTICE STEVENS, JUSTICE O'CONNOR, and JUSTICE KENNEDY would call for a response to the petition for rehearing.

MAY 19, 1992

Miscellaneous Order

No. A-854 (91-7914). *ROMERO v. TEXAS*. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented

504 U. S.

May 19, 20, 21, 1992

to JUSTICE SCALIA, and by him referred to the Court, denied. JUSTICE O'CONNOR would grant the application for stay of execution.

JUSTICE STEVENS, with whom JUSTICE BLACKMUN and JUSTICE KENNEDY join, dissenting.

In *Graham v. Collins*, 950 F. 2d 1009 (1992) (en banc), cert. pending, No. 91-7580, the Court of Appeals for the Fifth Circuit rejected the claim advanced by the petitioner in this case by a vote of 7 to 6. Obviously, the claim cannot be frivolous. At its Conference on May 29, the Court will consider the petition for certiorari in *Graham*, along with two other petitions raising the same claim. In my opinion it is unseemly not to stay petitioner's execution until after that time so that his application and petition receive at least the same consideration as will be given to those whose petitions for certiorari are now pending on the Conference list. Accordingly, I respectfully dissent.

MAY 20, 1992

Miscellaneous Order. (See also No. A-877, *ante*, p. 188.)

No. A-874. *ROMERO v. COLLINS*, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. JUSTICE BLACKMUN, JUSTICE STEVENS, and JUSTICE KENNEDY would grant the application for stay of execution.

MAY 21, 1992

Miscellaneous Orders

No. A-885 (91-8341). *BLACK v. TEXAS*. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. JUSTICE BLACKMUN, JUSTICE STEVENS, and JUSTICE O'CONNOR would grant the application for stay of execution pending the disposition of the petition for writ of certiorari.

No. A-887 (91-8361). *BLACK v. COLLINS*, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. JUSTICE BLACKMUN, JUSTICE STEVENS, and JUSTICE

May 21, 26, 1992

504 U. S.

TICE O'CONNOR would grant the application for stay of execution pending the disposition of the petition for writ of certiorari.

MAY 26, 1992

Affirmed on Appeal

No. 91-1514. ANNE ARUNDEL COUNTY REPUBLICAN CENTRAL COMMITTEE ET AL. *v.* STATE ADMINISTRATIVE BOARD OF ELECTION LAWS ET AL. Affirmed on appeal from D. C. Md. JUSTICE STEVENS would note probable jurisdiction and set case for oral argument. Reported below: 781 F. Supp. 394.

Miscellaneous Orders

No. D-1084. IN RE DISBARMENT OF GREENSPAN. Disbarment entered. [For earlier order herein, see 502 U. S. 1087.]

No. D-1085. IN RE DISBARMENT OF KENNEY. Disbarment entered. [For earlier order herein, see 503 U. S. 902.]

No. D-1090. IN RE DISBARMENT OF GARNER. Disbarment entered. [For earlier order herein, see 503 U. S. 903.]

No. D-1091. IN RE DISBARMENT OF CRABTREE. Disbarment entered. [For earlier order herein, see 503 U. S. 916.]

No. D-1092. IN RE DISBARMENT OF DEVINE. Disbarment entered. [For earlier order herein, see 503 U. S. 916.]

No. D-1093. IN RE DISBARMENT OF ROBBINS. Disbarment entered. [For earlier order herein, see 503 U. S. 916.]

No. D-1095. IN RE DISBARMENT OF O'BRYAN. Disbarment entered. [For earlier order herein, see 503 U. S. 932.]

No. D-1126. IN RE DISBARMENT OF MARTIN. It is ordered that John T. Martin, of Springfield, Mo., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-1127. IN RE DISBARMENT OF WHITNALL. It is ordered that William Dalton Whitnall, of Ripon, Wis., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

504 U. S.

May 26, 1992

No. D-1128. *IN RE DISBARMENT OF RODRIGUEZ*. It is ordered that Carlos Alberto Rodriguez, of Miami, Fla., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 111, Orig. *DELAWARE v. NEW YORK*. Fee application dated March 27, 1992, submitted by the Special Master in this action approved, and payment shall be made to "Thomas H. Jackson, Special Master" in the total amount of \$105,824.85. It is further ordered that the participating jurisdictions shall bear these costs equally, with each jurisdiction which is a party or which has a pending application to intervene at the date of this order contributing an equal share. It is further ordered that each such jurisdiction may make payment either to the firm of Dickstein, Shapiro & Morin, as coordinating counsel for this purpose, or may make payment directly or via separate counsel to the Special Master. It is further ordered that payment of fees, costs, and expenses pursuant to this order shall be due within 45 days from the date hereof. [For earlier order herein, see, *e. g.*, 502 U. S. 1088.]

No. 91-32. *SORBOTHANE, INC., ET AL. v. MCQUILLAN ET VIR, DBA SORBOTURF ENTERPRISES*. C. A. 9th Cir. Motion of respondents to expedite consideration of petition for writ of certiorari denied. JUSTICE BLACKMUN would grant this motion.

No. 91-1270. *RICHARDS, GOVERNOR OF TEXAS, ET AL. v. TERRAZAS ET AL.* Appeal from D. C. W. D. Tex. Motion of potential intervenors Guadalupe Mena et al. for leave to proceed *in forma pauperis* granted. Motion of Guadalupe Mena et al. for leave to intervene denied.

No. 91-7497. *RUSSELL v. FRANK, POSTMASTER GENERAL*. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until June 16, 1992, 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.

Certiorari Granted

No. 91-1229. *UNITED STATES BY AND THROUGH INTERNAL REVENUE SERVICE v. McDERMOTT ET AL.* C. A. 10th Cir. Certiorari granted. Reported below: 945 F. 2d 1475.

May 26, 1992

504 U. S.

No. 91-1300. UNITED STATES *v.* DUNNIGAN. C. A. 4th Cir. Certiorari granted. Reported below: 944 F. 2d 178.

No. 91-1594. EDENFIELD ET AL. *v.* FANE. C. A. 11th Cir. Certiorari granted. Reported below: 945 F. 2d 1514.

No. 91-904. CONCRETE PIPE & PRODUCTS OF CALIFORNIA, INC. *v.* CONSTRUCTION LABORERS PENSION TRUST FOR SOUTHERN CALIFORNIA. C. A. 9th Cir. Certiorari granted limited to Questions 2 and 4 presented by the petition. Reported below: 936 F. 2d 576.

Certiorari Denied

No. 91-1233. ZARZECKI *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 937 F. 2d 823 and 946 F. 2d 188.

No. 91-1376. CHURCH OF SCIENTOLOGY INTERNATIONAL ET AL. *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA (AZNARAN ET AL., REAL PARTIES IN INTEREST). C. A. 9th Cir. Certiorari denied.

No. 91-1399. UTE DISTRIBUTION CORP. ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 938 F. 2d 1157.

No. 91-1404. AMEJI *v.* COWAN, ATTORNEY GENERAL OF KENTUCKY. C. A. 6th Cir. Certiorari denied. Reported below: 943 F. 2d 51.

No. 91-1422. HOBBS ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 947 F. 2d 941.

No. 91-1544. KRASNIQI *v.* DALLAS COUNTY CHILD PROTECTIVE SERVICES UNIT OF THE TEXAS DEPARTMENT OF HUMAN SERVICES. Ct. App. Tex., 5th Dist. Certiorari denied. Reported below: 809 S. W. 2d 927.

No. 91-1575. THOMPSON *v.* KRAMER. C. A. 3d Cir. Certiorari denied. Reported below: 947 F. 2d 935.

No. 91-1576. LEVENE ET AL. *v.* PINTAIL ENTERPRISES, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 943 F. 2d 528.

No. 91-1578. TOMCZYK *v.* BLUE CROSS & BLUE SHIELD UNITED OF WISCONSIN. C. A. 7th Cir. Certiorari denied. Reported below: 951 F. 2d 771.

504 U. S.

May 26, 1992

No. 91-1580. *TOWER v. NORTHERN VIRGINIA TRANSPORTATION DISTRICT COMMISSION ET AL.* Sup. Ct. Va. Certiorari denied. Reported below: 242 Va. 357, 411 S. E. 2d 1.

No. 91-1583. *KINSEY v. SALADO INDEPENDENT SCHOOL DISTRICT.* C. A. 5th Cir. Certiorari denied. Reported below: 950 F. 2d 988.

No. 91-1584. *RIMELL ET VIR v. MARK TWAIN BANK ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 946 F. 2d 1363.

No. 91-1585. *THOMPSON ET VIR v. PEOPLES LIBERTY BANK ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 940 F. 2d 662.

No. 91-1591. *OSEI-AFRIYIE v. MEDICAL COLLEGE OF PENNSYLVANIA ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 952 F. 2d 1393.

No. 91-1605. *CONTRERAS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 950 F. 2d 232.

No. 91-1606. *ZURAK v. NEW YORK.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 168 App. Div. 2d 196, 571 N. Y. S. 2d 577.

No. 91-1614. *INDUSTRIAL RISK INSURERS v. COTTON BROTHERS BAKING Co., INC.* C. A. 5th Cir. Certiorari denied. Reported below: 941 F. 2d 380 and 951 F. 2d 54.

No. 91-1622. *GREGORY ET AL. v. UNITED STATES ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 942 F. 2d 1498.

No. 91-1627. *MITCHELL ET UX., AS NEXT FRIENDS FOR MITCHELL, A MINOR v. METROPOLITAN LIFE INSURANCE Co.* C. A. 5th Cir. Certiorari denied. Reported below: 947 F. 2d 1487.

No. 91-1635. *RENTZ v. EAGLE ASSOCIATES ET AL.* Ct. App. Kan. Certiorari denied. Reported below: 15 Kan. App. 2d xxxiii, 815 P. 2d 128.

No. 91-1660. *BRENNEN v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 958 F. 2d 365.

May 26, 1992

504 U. S.

No. 91-1664. *DYKES v. NORTHERN VIRGINIA TRANSPORTATION DISTRICT COMMISSION ET AL.* Sup. Ct. Va. Certiorari denied. Reported below: 242 Va. 357, 411 S. E. 2d 1.

No. 91-1684. *WILLIAMS v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 947 F. 2d 37.

No. 91-1713. *ZUMBO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied.

No. 91-6462. *VAN HORN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 942 F. 2d 787.

No. 91-6627. *MALANDRINI v. UNITED STATES.* C. A. 10th Cir. Certiorari denied.

No. 91-6876. *EDWARDS v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. Reported below: 144 Ill. 2d 108, 579 N. E. 2d 336.

No. 91-6943. *MILLSAPS v. MASTERS ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 947 F. 2d 945.

No. 91-7129. *PERDOMO RODRIGUEZ v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 946 F. 2d 1100.

No. 91-7448. *CARTER v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 953 F. 2d 635.

No. 91-7462. *SALGADO-ARISTIZABEL v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 954 F. 2d 729.

No. 91-7463. *UBRI v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 951 F. 2d 1263.

No. 91-7469. *AGU v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 949 F. 2d 63.

No. 91-7516. *ORTIZ-MORILLO v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 951 F. 2d 1264.

No. 91-7654. *RICH v. UNITED STATES;* and

No. 91-7907. *HOOPER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 949 F. 2d 1158.

No. 91-7792. *CORONEL v. COMMISSIONER, PATENT AND TRADE-MARK OFFICE.* C. A. Fed. Cir. Certiorari denied. Reported below: 965 F. 2d 1063.

504 U. S.

May 26, 1992

No. 91-7803. *BARBER v. VOSE, DIRECTOR, RHODE ISLAND DEPARTMENT OF CORRECTIONS*. C. A. 1st Cir. Certiorari denied.

No. 91-7805. *TAYLOR v. SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES*. C. A. 8th Cir. Certiorari denied. Reported below: 951 F. 2d 878.

No. 91-7807. *HOWARD v. RILEY, SUPERINTENDENT, FISHKILL CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 953 F. 2d 636.

No. 91-7808. *ISENBERG v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 947 F. 2d 938.

No. 91-7810. *BOYE v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 91-7811. *WEST v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 594 So. 2d 285.

No. 91-7813. *BOLDEN v. SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY*. C. A. 3d Cir. Certiorari denied. Reported below: 953 F. 2d 807.

No. 91-7822. *KELLEY ET AL. v. FRYE*. Sup. Ct. N. C. Certiorari denied. Reported below: 330 N. C. 441, 412 S. E. 2d 71.

No. 91-7823. *SINDRAM v. ROTH*. Ct. App. D. C. Certiorari denied.

No. 91-7827. *CARPENTER v. LOUISIANA*. C. A. 5th Cir. Certiorari denied.

No. 91-7829. *BRADFORD v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied. Reported below: 954 F. 2d 721.

No. 91-7830. *GOOCH, FKA VIGORITA v. VIGORITA*. Sup. Ct. N. J. Certiorari denied. Reported below: 127 N. J. 554, 606 A. 2d 367.

No. 91-7840. *FARMER v. GROOSE ET AL.* C. A. 8th Cir. Certiorari denied.

No. 91-7841. *BLANCO v. SINGLETARY, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. Reported below: 943 F. 2d 1477.

May 26, 1992

504 U. S.

No. 91-7856. *DANIELSON v. ROSZKOWSKI*. C. A. 7th Cir. Certiorari denied. Reported below: 958 F. 2d 374.

No. 91-7860. *MCCOY v. NEWSOME, WARDEN*. C. A. 11th Cir. Certiorari denied. Reported below: 953 F. 2d 1252.

No. 91-7862. *CASWELL v. RYAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 953 F. 2d 853.

No. 91-7868. *SINDRAM v. SAXTON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 955 F. 2d 42.

No. 91-7870. *McLAURIN v. NORTHLAND SECURITY POLICE DETAIL ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 946 F. 2d 895.

No. 91-7871. *McLAURIN v. NORTHLAND SECURITY POLICE DETAIL ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 946 F. 2d 895.

No. 91-7875. *HULL v. PARKER, WARDEN, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 948 F. 2d 1289.

No. 91-7878. *HAMPSON v. BOARD OF EDUCATION, THORNTON FRACTIONAL TOWNSHIP HIGH SCHOOLS, DISTRICT 215, COOK COUNTY, ILLINOIS, ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 215 Ill. App. 3d 817, 576 N. E. 2d 54.

No. 91-7955. *BOONE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 953 F. 2d 639.

No. 91-7965. *CASEY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 951 F. 2d 892.

No. 91-7966. *ATKINS v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied. Reported below: 953 F. 2d 643.

No. 91-7967. *BROWN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 955 F. 2d 498.

No. 91-7986. *COLLINS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 957 F. 2d 72.

No. 91-7987. *UPSHAW v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 956 F. 2d 271.

504 U. S.

May 26, 1992

No. 91-7989. *WICKSTROM v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 953 F. 2d 1381.

No. 91-7996. *BAILEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 954 F. 2d 725.

No. 91-8004. *PRECIADO-LEON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 953 F. 2d 1389.

No. 91-8012. *DAVIS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 953 F. 2d 1482.

No. 91-8015. *WRICE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 954 F. 2d 406.

No. 91-8026. *BECAK v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 954 F. 2d 386.

No. 91-8030. *LUETH v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 985 F. 2d 569.

No. 91-8033. *HELMY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 988.

No. 91-8035. *CRUMITY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 953 F. 2d 640.

No. 91-8039. *HOLMES v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 953 F. 2d 650.

No. 91-8044. *DANIELS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 951 F. 2d 350.

No. 91-8047. *RODRIGUEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 922 F. 2d 847.

No. 91-8055. *ARMENDARIZ-MATA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 949 F. 2d 151.

No. 91-8057. *MORENO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 953 F. 2d 643.

No. 91-8061. *CHRISTENSON v. MICHIGAN*. Cir. Ct. Montcalm County, Mich. Certiorari denied.

No. 91-8063. *CHUKWUBIKE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 956 F. 2d 209.

May 26, 1992

504 U. S.

No. 91-8065. *GOMEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 953 F. 2d 176.

No. 91-8066. *KURASHIGE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 953 F. 2d 1389.

No. 91-8068. *CONEY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 953 F. 2d 650.

No. 91-8069. *NUNEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 947 F. 2d 919.

No. 91-8089. *VASQUEZ v. HENDERSON, WARDEN*. C. A. 2d Cir. Certiorari denied. Reported below: 953 F. 2d 636.

No. 91-1382. *SHUBERT ORGANIZATION, INC., ET AL. v. LANDMARKS PRESERVATION COMMISSION OF THE CITY OF NEW YORK ET AL.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Motions of Real Estate Board of New York, Inc., and Pacific Legal Foundation for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 166 App. Div. 2d 115, 570 N. Y. S. 2d 504.

No. 91-1417. *SINGLETARY, SECRETARY, DEPARTMENT OF CORRECTIONS OF FLORIDA v. BLANCO*. C. A. 11th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 943 F. 2d 1477.

No. 91-1595. *GLASSER v. A. H. ROBINS CO., INC., ET AL.* C. A. 4th Cir. Motion of Dalkon Shield Alliance for Justice for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 950 F. 2d 147.

No. 91-1597. *PENNSYLVANIA v. CHAMBERS*. Sup. Ct. Pa. Motion of Institute in Basic Life Principles for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 528 Pa. 558, 599 A. 2d 630.

No. 91-6658. *KINDER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 946 F. 2d 362.

JUSTICE WHITE, dissenting.

Petitioner Larry Kinder presents three issues related to his guilty plea and sentence for conspiring to possess methamphetamine with intent to distribute: (1) the burden of proof at the sentencing hearing; (2) District Court reliance on conduct made

the basis of counts dismissed pursuant to a plea bargain; and (3) Fifth Amendment self-incrimination implications of the acceptance of responsibility guideline, United States Sentencing Commission, Guidelines Manual §3E1.1 (Nov. 1992) (USSG). The Courts of Appeals have come into conflict on each of these issues, which reflect important and recurring problems in procedures under the Sentencing Guidelines. For the following reasons, I would grant the petition for certiorari as to each of these issues.

Petitioner was arrested following an undercover investigation into major methamphetamine dealers in the area of Waco, Texas. During the operation, petitioner expressed to an undercover officer that he had not wanted to buy a large amount “because he had 17 ounces of methamphetamine on the street and had not collected all of the money from the sale of [it].” 946 F. 2d 362, 365 (CA5 1991). Instead, petitioner, with the assistance of his brother, David,¹ purchased approximately one-half pound (269 grams) of methamphetamine. Following his arrest, petitioner pleaded guilty to a one-count indictment of conspiring to possess more than 100 grams of methamphetamine with intent to distribute. 21 U.S.C. §§846 and 841(a)(1). In exchange for the plea, the Government promised not to prosecute him for any additional offenses. At sentencing, however, when calculating the base offense level, the District Court included, upon recommendation by the Government, the noncharged 17 ounces (481.93 grams) of methamphetamine of which petitioner had spoken. The District Court also declined to grant petitioner a downward adjustment for acceptance of responsibility, in part because he refused to admit to possession of this additional methamphetamine.

A

Before the Fifth Circuit, petitioner asserted that, when including the noncharged amounts of methamphetamine as relevant conduct which raised his base offense level from 26 to 30 points, the District Court relied on evidence lacking sufficient indicia of reliability to meet the dictates of due process. See *Townsend v. Burke*, 334 U.S. 736, 741 (1948); USSG §6A1.3(a), p. s. (resolution of disputed factors requires information with “sufficient indicia of

¹ David Kinder’s petition for certiorari, No. 91–6659, presented the same issues raised by his brother here, and was denied on April 20, 1992, 503 U.S. 987.

reliability to support its probable accuracy"). Petitioner argued that his statement was mere "puffery" that lacked corroboration, emphasizing that he made such statements only to engender confidence in his distribution capabilities.

Like most Courts of Appeals, the Fifth Circuit requires district courts to determine their factual findings at sentencing by a preponderance of the evidence, which findings are reviewed on appeal solely for clear error. *United States v. Angulo*, 927 F. 2d 202, 205 (1991); see also *United States v. Blanco*, 888 F. 2d 907, 909 (CA1 1989); *United States v. Guerra*, 888 F. 2d 247, 250–251 (CA2 1989), cert. denied, 494 U. S. 1090 (1990); *United States v. Urrego-Linares*, 879 F. 2d 1234, 1237–1238 (CA4), cert. denied, 493 U. S. 943 (1989); *United States v. Carroll*, 893 F. 2d 1502, 1506 (CA6 1990); *United States v. White*, 888 F. 2d 490, 499 (CA7 1989); *United States v. Frederick*, 897 F. 2d 490, 491–493 (CA10), cert. denied, 498 U. S. 863 (1990); *United States v. Alston*, 895 F. 2d 1362, 1372–1373 (CA11 1990). However, at least one Circuit has held, *United States v. Kikumura*, 918 F. 2d 1084, 1098–1102 (CA3 1990), and two have suggested, *United States v. Townley*, 929 F. 2d 365, 369–370 (CA8 1991); *United States v. Restrepo*, 946 F. 2d 654, 661, n. 12 (CA9 1991) (en banc), cert. denied, 503 U. S. 961 (1992); *Restrepo*, 946 F. 2d, at 661–663 (Tang, J., concurring), *id.*, at 664–679 (Norris, J., dissenting), that a clear-and-convincing-evidence standard is appropriate when the relevant conduct offered at sentencing would dramatically increase the sentence.² Cf. *id.*, at 663–664 (Pregerson, J., dissenting) (advocating beyond-reasonable-doubt standard). However, even these Circuits recognize that the preponderance standard ordinarily pertains. See *United States v. McDowell*, 888 F. 2d 285, 290–291 (CA3 1989); *United States v. Sleet*, 893 F. 2d 947, 949 (CA8 1990); *United States v. Wilson*, 900 F. 2d 1350, 1353–1354 (CA9 1990).

² Whether any Circuit would consider petitioner's heightened exposure here "dramatic" is open to question. Petitioner had a criminal history category of IV. Brief in Opposition 4. Looking only to the increase in the unadjusted base offense level from 26 to 30 shows an increase in his Guideline range from 92–115 to 135–168 months of imprisonment. In real terms, then, the District Court's acceptance of the controverted statement as probative evidence for sentencing purposes exposed petitioner to roughly four additional years' imprisonment—a 50% increase. Cf. *United States v. Kikumura*, 918 F. 2d 1084, 1102 (CA3 1990) (12-fold, 330-month departure from the median of an applicable Guideline range).

In a marginal case, such a difference in the standard of review could well prove dispositive, especially where, as in the Fifth Circuit, “[a] defendant who objects to the use of information bears the burden of proving that it is ‘materially untrue, inaccurate or unreliable.’” 946 F. 2d, at 366 (quoting *Angulo, supra*, at 205). The Sentencing Guidelines do not explicitly adopt a standard of proof required for relevant conduct, and we have not visited this issue since its new procedures took effect in November 1987. See *McMillan v. Pennsylvania*, 477 U. S. 79, 91–93 (1986) (preponderance standard for sentencing enhancements satisfies due process). The burden of proof at sentencing proceedings is an issue of daily importance to the district courts, with implications for all sentencing findings, whether they be the base offense level, specific offense characteristics, or any adjustments thereto, or even to those facts found to warrant departure altogether. The resolution of disputed matters at sentencing obviously has serious implications for both the defendant and the Government, as it controls the length of sentence actually to be imposed. I would grant certiorari to clarify the applicable standards under the new sentencing regime.

B

Petitioner also argued that the Government violated his plea agreement not to prosecute him for additional offenses by recommending inclusion of the additional 17 ounces of methamphetamine in sentencing.³ The Fifth Circuit rejected this argument, finding the Government to have kept its promise by *prosecuting* only the 269 grams involved in the actual sale. “Inclusion of the other 17 ounces in sentencing,” the Fifth Circuit held, “is not equivalent to prosecution.” 946 F. 2d, at 367 (citing *United States v. Rodriguez*, 925 F. 2d 107, 112 (CA5 1991)); see also *United States v. Kim*, 896 F. 2d 678, 684 (CA2 1990); *United States v. Frierson*, 945 F. 2d 650, 654–655 (CA3 1991), cert. denied, 503 U. S. 952 (1992); *United States v. Smallwood*, 920 F. 2d 1231,

³ Petitioner’s plea bargain in pertinent part stated: “In exchange for Defendant’s plea, the United States Attorney agrees to refrain from prosecuting Defendant for other Title 21, United States Code, violations of which the United States is now aware, which may have been committed by the Defendant in the Western District of Texas. That is, this action now pending is the extent of the Federal prosecution against the Defendant in the Western District of Texas based upon all facts at hand.” Pet. for Cert. 15 (emphasis omitted).

1239–1240 (CA5), cert. denied, 501 U. S. 1238 (1991); *United States v. Jimenez*, 928 F. 2d 356, 363–364 (CA10), cert. denied, 502 U. S. 854 (1991); *United States v. Salazar*, 909 F. 2d 1447, 1448–1449 (CA10 1990); *United States v. Scroggins*, 880 F. 2d 1204, 1212–1214 (CA11 1989). The Fifth Circuit also rejected petitioner’s argument that the Government misrepresented that his base offense level would be based only on 269 grams, finding instead that the guilty plea was voluntary because the District Court informed him of the maximum possible statutory punishment he faced. 946 F. 2d, at 367 (citing *United States v. Pearson*, 910 F. 2d 221, 223 (CA5 1990), cert. denied, 498 U. S. 1093 (1991)). To the contrary, the Ninth Circuit has several times held that the Government may not introduce counts dismissed as part of a plea bargain in order to increase the sentence. *United States v. Faulkner*, 952 F. 2d 1066, 1069–1071 (1991); *United States v. Fine*, 946 F. 2d 650, 651–652 (1991); *United States v. Castro-Cervantes*, 927 F. 2d 1079, 1081–1082 (1991).

The issue is of considerable importance. Petitioner pleaded guilty to conspiring to possess more than 100 grams of methamphetamine with intent to distribute, and with that plea he could expect a mandatory minimum sentence of 10 years’ imprisonment, with the possibility of a life term. 21 U. S. C. § 841(b)(1)(A)(viii) (1988 ed., Supp. II). As to this substantive count of conviction, there is no distinction to be drawn between 269 grams and 751 grams of methamphetamine. But as to sentencing, the distinction is of the utmost importance, because *where* the exact sentence will fall between 10 years and life depends largely on the base offense level, USSG § 2D1.1(a)(3), which derives *solely* from the amounts listed in the Drug Quantity Table. Compare § 2D1.1(c)(7) (base offense level 30 for “[a]t least 700 G but less than 1 KG of Methamphetamine”) with § 2D1.1(c)(9) (base offense level 26 for “[a]t least 100 G but less than 400 G of Methamphetamine”). The question is whether a plea bargain that deletes conduct from the offense of conviction nevertheless permits that conduct to be fully punished in the sentence for the conviction from which the conduct was supposedly deleted. Because this substantial issue frequently recurs, and because of the apparent conflict in the Circuits, I would grant certiorari on this issue as well.

504 U. S.

May 26, 1992

C

Finally, petitioner argued that the District Court erred in refusing to reduce his base offense level for acceptance of responsibility. See USSG §3E1.1. The Fifth Circuit affirmed the District Court, finding, *inter alia*, that he “ha[s] denied [his] culpability for any criminal conduct beyond the specific offense charged,” and specifically that he “continue[s] to deny any involvement in the extra 17 ounces.” 946 F. 2d, at 367. Petitioner protests that requiring him to admit to incriminating conduct abridges the protections of the Fifth Amendment. The Fifth Circuit has disagreed with this assertion, see *United States v. Mourning*, 914 F. 2d 699, 706–707 (1990), as have the Fourth and Eleventh Circuits, see *United States v. Gordon*, 895 F. 2d 932, 936–937 (CA4), cert. denied, 498 U.S. 846 (1990); *United States v. Henry*, 883 F. 2d 1010, 1011–1012 (CA11 1989). Firmly to the contrary are the First, Second, and Ninth Circuits, which have determined that conditioning the acceptance of responsibility reduction on confession of uncharged conduct denies the defendant his right against self-incrimination. *United States v. Perez-Franco*, 873 F. 2d 455 (CA1 1989); *United States v. Oliveras*, 905 F. 2d 623 (CA2 1990); *United States v. Piper*, 918 F. 2d 839, 840–841 (CA9 1990). See also *United States v. Frierson*, *supra* (§3E1.1 implicates Fifth Amendment protections, but defendant must invoke the privilege and not simply lie in response to questioning regarding related conduct); *United States v. Rogers*, 899 F. 2d 917, 924 (CA10) (dictum approving *Perez-Franco*), cert. denied, 498 U.S. 839 (1990).

Amendments to this Guideline have not mended the split between the Circuits. Cf. *Braxton v. United States*, 500 U.S. 344 (1991). In any event, this is not a question of the mere application or simple interpretation of this Guideline, but is instead a recurring issue of constitutional dimension, where the varying conclusions of the Courts of Appeals determine the length of sentence actually imposed. I would also grant certiorari on this issue.

No. 91–7470. *WILSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 951 F. 2d 586.

May 26, 1992

504 U. S.

Rehearing Denied

- No. 91-1145. CAMPBELL *v.* DONDERO ET AL., 503 U. S. 983;
No. 91-1453. HOANG *v.* SIMS ET AL., 503 U. S. 986;
No. 91-5707. GAGE *v.* BORG, WARDEN, 502 U. S. 944;
No. 91-6446. BANKS *v.* CALIFORNIA, 502 U. S. 1045;
No. 91-6682. JEFFRESS *v.* JEFFRESS, 503 U. S. 961;
No. 91-6886. ABATE *v.* DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT ET AL., 503 U. S. 942;
No. 91-6927. REID *v.* CITY OF FLINT, 502 U. S. 1116;
No. 91-6944. NABKEY *v.* PECKERAL ET AL., 503 U. S. 909;
No. 91-7175. ROSS *v.* DAKOTA RAIL, INC., ET AL., 503 U. S. 962;
No. 91-7186. JONES *v.* MURRAY, DIRECTOR, VIRGINIA DEPART-
MENT OF CORRECTIONS, 503 U. S. 973;
No. 91-7211. CORDLE *v.* SQUARE D Co., 503 U. S. 963;
No. 91-7283. YOUNG *v.* UNITED STATES, 503 U. S. 964;
No. 91-7294. GAMBLE *v.* WEBSTER, ATTORNEY GENERAL OF
MISSOURI, 503 U. S. 974; and
No. 91-7455. SOLIS *v.* TEXAS, 503 U. S. 992. Petitions for re-
hearing denied.
- No. 91-6122. WHITAKER *v.* UNITED STATES, 502 U. S. 1076.
Motion for leave to file petition for rehearing denied.

JUNE 1, 1992

Affirmed on Appeal

No. 91-1615. TURNER ET AL. *v.* ARKANSAS ET AL. Affirmed on appeal from D. C. E. D. Ark. JUSTICE WHITE and JUSTICE BLACKMUN would note probable jurisdiction and set case for oral argument. Reported below: 784 F. Supp. 553 and 585.

Certificate Dismissed

No. 91-1841. IN RE SLAGLE. C. A. 5th Cir. Certificate dismissed. See this Court's Rule 19.3; *Wisniewski v. United States*, 353 U. S. 901 (1957). Reported below: 961 F. 2d 513.

JUSTICE WHITE, with whom JUSTICE BLACKMUN and JUSTICE STEVENS join, regarding dismissal.

In dismissing the certificate of question from the Court of Appeals, the Court expresses no opinion whether a petition for mandamus to compel disqualification of an individual member of a three-judge court who has denied a motion to disqualify himself

504 U. S.

June 1, 1992

lies in the United States Court of Appeals or in this Court. I think it evident that the Court of Appeals has jurisdiction in such a situation. Our cases have indicated that we narrowly view our appellate jurisdiction in three-judge court cases pursuant to 28 U. S. C. § 1253. See *Gonzalez v. Automatic Employees Credit Union*, 419 U. S. 90, 96 (1974). We have thus declined to review the actions, orders, and rulings of a single judge sitting on a three-judge court, see *id.*, at 96, n. 14; dismissed an appeal of a temporary restraining order by a single judge of a three-judge court for want of jurisdiction, see, *e. g.*, *Hicks v. Pleasure House, Inc.*, 404 U. S. 1 (1971) (*per curiam*); and stated that a court of appeals is not powerless to “give any guidance when a single judge has erroneously invaded the province of a three-judge court,” *Idlewild Bon Voyage Liquor Corp. v. Epstein*, 370 U. S. 713, 716 (1962) (*per curiam*). See also *Schackman v. Arnebergh*, 387 U. S. 427 (1967) (*per curiam*). In light of these cases, I think it clear that jurisdiction over a petition for mandamus in a case such as this rests in the first instance in the Court of Appeals.

Miscellaneous Orders

No. — — —. *DOE v. UNITED STATES*. Motion of petitioner for leave to file petition for writ of certiorari under seal denied. Petitioner may file a redacted petition for writ of certiorari on or before June 19, 1992.

No. A-669 (91-1780). *COLORADO v. GASKINS*. Ct. App. Colo. Application for stay, addressed to JUSTICE SCALIA and referred to the Court, denied.

No. D-1089. *IN RE DISBARMENT OF WELLMAN*. Disbarment entered. [For earlier order herein, see 503 U. S. 903.]

No. D-1096. *IN RE DISBARMENT OF GARRICK*. Disbarment entered. [For earlier order herein, see 503 U. S. 932.]

No. D-1102. *IN RE DISBARMENT OF CONNER*. Disbarment entered. [For earlier order herein, see 503 U. S. 956.]

No. D-1107. *IN RE DISBARMENT OF CHATZ*. Disbarment entered. [For earlier order herein, see 503 U. S. 968.]

No. D-1129. *IN RE DISBARMENT OF SMITH*. It is ordered that David Paul Smith, of Englewood, Colo., be suspended from the practice of law in this Court and that a rule issue, returnable

June 1, 1992

504 U. S.

within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-1130. *IN RE DISBARMENT OF BANDY*. It is ordered that James R. Bandy, of River Rouge, 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. 65, Orig. *TEXAS v. NEW MEXICO*. Motion of the River Master for approval of fees and expenses granted, and the River Master is awarded \$4,208.44 for the period January 1 through March 31, 1992, to be paid equally by the parties. [For earlier order herein, see, *e. g.*, 502 U. S. 1087.]

No. 91-794. *HARPER ET AL. v. VIRGINIA DEPARTMENT OF TAXATION*. Sup. Ct. Va. The order granting certiorari entered on May 18, 1992 [*ante*, p. 907], is amended to read as follows: Certiorari granted limited to Question 1 presented by the petition.

No. 91-1862. *GANTT ET AL. v. SKELOS ET AL.* Appeal from D. C. E. D. N. Y. Motion of appellants to expedite consideration of appeal denied.

No. 91-7925. *YAGOW v. MUSICH ET AL.* Sup. Ct. N. D. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until June 22, 1992, 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 BLACKMUN and JUSTICE STEVENS, dissenting.

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

No. 91-7926. *IN RE THOMAS*. Petition for writ of mandamus denied.

Probable Jurisdiction Noted

No. 91-1618. *VOINOVICH, GOVERNOR OF OHIO, ET AL. v. QUILTER, SPEAKER PRO TEMPORE OF OHIO HOUSE OF REPRESENTATIVES*.

504 U. S.

June 1, 1992

SENTATIVES, ET AL. Appeal from D. C. N. D. Ohio. Probable jurisdiction noted. Reported below: 794 F. Supp. 756 and 760.

Certiorari Denied

No. 91-383. PENNSYLVANIA DEPARTMENT OF REVENUE ET AL. *v.* BLOOMINGDALE'S BY MAIL, LTD. Sup. Ct. Pa. Certiorari denied. Reported below: 527 Pa. 347, 591 A. 2d 1047.

No. 91-664. MILLS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 933 F. 2d 1010.

No. 91-1284. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL NO. 111 *v.* COLORADO-UTE ELECTRIC ASSN., INC., ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 939 F. 2d 1392.

No. 91-1324. CONSOL PENNSYLVANIA COAL CO. ET AL. *v.* HUGHES ET AL.;

No. 91-1561. HUGHES ET AL. *v.* CONSOL PENNSYLVANIA COAL CO. ET AL.; and

No. 91-1681. POLLOCK ET AL. *v.* HUGHES ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 945 F. 2d 594.

No. 91-1366. DARTEZ ET AL. *v.* OWENS-ILLINOIS, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 910 F. 2d 1291.

No. 91-1380. DAVID *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 940 F. 2d 722.

No. 91-1441. SHWC, INC., ET AL. *v.* FEDERAL DEPOSIT INSURANCE CORPORATION, AS MANAGER OF FSLIC RESOLUTION FUND AND AS RECEIVER FOR VERNON SAVINGS & LOAN ASSN. C. A. 5th Cir. Certiorari denied. Reported below: 945 F. 2d 853.

No. 91-1452. CHICAGO TRIBUNE CO. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 943 F. 2d 791.

No. 91-1463. SWORDS ET AL. *v.* FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, AS RECEIVER FOR NEW ORLEANS FEDERAL SAVINGS & LOAN ASSN. C. A. 5th Cir. Certiorari denied. Reported below: 951 F. 2d 345.

June 1, 1992

504 U. S.

No. 91-1483. *IDAHO v. DEPARTMENT OF ENERGY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 945 F. 2d 295.

No. 91-1497. *JOINER ET AL. v. ROBERTS ET AL.*; and
No. 91-1648. *ROBERTS ET AL. v. JOINER ET AL.* Sup. Ct. Ala. Certiorari denied. Reported below: 590 So. 2d 195.

No. 91-1587. *TONEY v. ALABAMA.* Ct. Crim. App. Ala. Certiorari denied. Reported below: 587 So. 2d 1118.

No. 91-1604. *WEIDMAN ET AL. v. WEIDMAN.* Sup. Ct. Va. Certiorari denied.

No. 91-1608. *WINSTON, A MINOR BY HIS PARENTS, WINSTON ET VIR v. CHILDREN AND YOUTH SERVICES OF DELAWARE COUNTY ET AL.*; and

No. 91-1669. *CHILDREN AND YOUTH SERVICES OF DELAWARE COUNTY ET AL. v. WINSTON ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 948 F. 2d 1380.

No. 91-1609. *ANIS v. NEW JERSEY COMMITTEE ON ATTORNEY ADVERTISING ET AL.* Sup. Ct. N. J. Certiorari denied. Reported below: 126 N. J. 448, 599 A. 2d 1265.

No. 91-1610. *JENNINGS v. JOSHUA INDEPENDENT SCHOOL DISTRICT ET AL.*; and

No. 91-1611. *GLADDEN v. JOSHUA INDEPENDENT SCHOOL DISTRICT ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 948 F. 2d 194.

No. 91-1612. *THOMAS v. HOFFMANN-LAROCHE, INC.* C. A. 5th Cir. Certiorari denied. Reported below: 949 F. 2d 806.

No. 91-1616. *POTTER v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 91-1624. *KOLOKOFF ET UX. v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 953 F. 2d 651.

No. 91-1625. *CAIN PARTNERSHIP, LTD. v. PIONEER INVESTMENT SERVICES CO. ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 946 F. 2d 445.

No. 91-1630. *KING v. NCNB TEXAS NATIONAL BANK, SUCCESSOR IN INTEREST TO FIRST REPUBLICBANK DALLAS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 951 F. 2d 345.

504 U. S.

June 1, 1992

No. 91-1631. *ST. MARY'S HOSPITAL, INC. v. ARKANSAS BLUE CROSS & BLUE SHIELD*. C. A. 8th Cir. Certiorari denied. Reported below: 947 F. 2d 1341.

No. 91-1637. *ALFRED v. UNITED PARCEL SERVICE, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 952 F. 2d 401.

No. 91-1638. *EVANS v. CITY OF TULSA*. C. A. 10th Cir. Certiorari denied. Reported below: 951 F. 2d 1258.

No. 91-1639. *NELSON v. OFFICE OF SAM NUNN; NELSON v. OFFICE OF WYCHE FOWLER; and NELSON v. OFFICE OF RICHARD RAY*. C. A. 11th Cir. Certiorari denied. Reported below: 953 F. 2d 650.

No. 91-1643. *SIMON WIESENTHAL CENTER FOR HOLOCAUST STUDIES ET AL. v. MCCALDEN, ADMINISTRATOR OF ESTATE OF MCCALDEN; and*

No. 91-1699. *MCCALDEN, ADMINISTRATOR OF ESTATE OF MCCALDEN v. SIMON WIESENTHAL CENTER, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 955 F. 2d 1214.

No. 91-1652. *DIAZ REYES ET AL. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 971 F. 2d 744.

No. 91-1653. *H. J. INC. ET AL. v. NORTHWESTERN BELL TELEPHONE CO. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 954 F. 2d 485.

No. 91-1662. *JADER FUEL CO., INC. v. WILLIAMS*. C. A. 7th Cir. Certiorari denied. Reported below: 944 F. 2d 1388.

No. 91-1676. *KNIGIN v. MANGANO, INDIVIDUALLY AND AS PRESIDING JUSTICE OF THE APPELLATE DIVISION OF THE STATE OF NEW YORK, ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 162 App. Div. 2d 82, 560 N. Y. S. 2d 677.

No. 91-1683. *POLYAK v. HULEN ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 948 F. 2d 1289.

No. 91-1685. *TIMMS v. COUGHLIN, ACTING POSTMASTER GENERAL*. C. A. 7th Cir. Certiorari denied. Reported below: 953 F. 2d 281.

June 1, 1992

504 U. S.

No. 91-1722. *BARROW v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 951 F. 2d 1263.

No. 91-1734. *BERRIDGE ET UX. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 951 F. 2d 348.

No. 91-1764. *CUDA ET UX. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 953 F. 2d 644.

No. 91-5465. *PATTAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 931 F. 2d 1035.

No. 91-7274. *WILLIAMS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 949 F. 2d 220.

No. 91-7316. *MARTINI v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 948 F. 2d 1297.

No. 91-7500. *MCGEARY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 947 F. 2d 938.

No. 91-7530. *REVELS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 951 F. 2d 351.

No. 91-7545. *NAGI v. UNITED STATES*; and

No. 91-7564. *BARASH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 947 F. 2d 211.

No. 91-7546. *RYAN v. UNITED STATES DEPARTMENT OF JUSTICE*. C. A. 7th Cir. Certiorari denied. Reported below: 950 F. 2d 458.

No. 91-7555. *KITCHENS v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 823 S. W. 2d 256.

No. 91-7569. *DAMRON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 952 F. 2d 399.

No. 91-7593. *EDGAR v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 363.

No. 91-7603. *BENTSON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 947 F. 2d 1353.

No. 91-7766. *HALL v. TURNAGE, FORMER ADMINISTRATOR OF VETERANS ADMINISTRATION*. C. A. 6th Cir. Certiorari denied. Reported below: 946 F. 2d 895.

504 U. S.

June 1, 1992

No. 91-7767. *FRALEY v. ROBERTS ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 946 F. 2d 891.

No. 91-7839. *FRANCHI v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 952 F. 2d 1394.

No. 91-7851. *COFIELD v. OFFICE OF PERSONNEL MANAGEMENT.* C. A. Fed. Cir. Certiorari denied. Reported below: 960 F. 2d 155.

No. 91-7886. *TUCKER v. BORGERT, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 949 F. 2d 397.

No. 91-7889. *GRANT v. INDIANA.* Ct. App. Ind. Certiorari denied. Reported below: 585 N. E. 2d 284.

No. 91-7890. *KRAUL ET AL. v. MAINE BONDING & CASUALTY Co.* Sup. Jud. Ct. Me. Certiorari denied. Reported below: 600 A. 2d 389.

No. 91-7891. *SMITH v. OKLAHOMA.* Ct. Crim. App. Okla. Certiorari denied. Reported below: 819 P. 2d 270.

No. 91-7893. *STOIANOFF v. FRANCIS ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 172 App. Div. 2d 744, 570 N. Y. S. 2d 971.

No. 91-7897. *MORRISON v. MISSOURI ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 946 F. 2d 1340.

No. 91-7902. *THOMAS v. BOARD OF LAW EXAMINERS ET AL.* Ct. App. Tex., 3d Dist. Certiorari denied.

No. 91-7908. *GARCIA v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 91-7909. *KINNEY v. INDIANA YOUTH CENTER, BY AND THROUGH ITS DULY APPOINTED AGENTS, EMPLOYEES, AND REPRESENTATIVES, ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 950 F. 2d 462.

No. 91-7910. *GRIFFIN v. WILLIAMS ET AL.* Dist. Ct. App. Fla., 5th Dist. Certiorari denied.

No. 91-7916. *ROTT v. CONNECTICUT GENERAL LIFE INSURANCE CO. ET AL.* Sup. Ct. N. D. Certiorari denied. Reported below: 478 N. W. 2d 570.

June 1, 1992

504 U. S.

No. 91-7918. *CONWAY-EL v. JONES, SUPERINTENDENT, MOB-
ERLY CORRECTIONAL CENTER.* C. A. 8th Cir. Certiorari denied.

No. 91-7923. *JONES v. INDIANAPOLIS POLICE DEPARTMENT
ET AL.* C. A. 7th Cir. Certiorari denied.

No. 91-7924. *TAYLOR v. DUCKWORTH, WARDEN, ET AL.* C. A.
7th Cir. Certiorari denied.

No. 91-7927. *THOMAS-EL v. MISSOURI.* C. A. 8th Cir. Cer-
tiorari denied.

No. 91-7931. *MERCIER v. TRIPPETT, WARDEN.* C. A. 6th Cir.
Certiorari denied.

No. 91-7937. *MONTGOMERY v. WELLS, WARDEN.* C. A. 6th
Cir. Certiorari denied. Reported below: 955 F. 2d 44.

No. 91-7939. *TURNER v. OKLAHOMA.* Ct. Crim. App. Okla.
Certiorari denied.

No. 91-7942. *GARNER v. ROTH, WARDEN.* C. A. 7th Cir. Cer-
tiorari denied.

No. 91-7949. *ESPENSHADE v. PHILADELPHIA HIGHER EDUCA-
TION AGENCY ET AL.* Commw. Ct. Pa. Certiorari denied. Re-
ported below: 139 Pa. Commw. 666, 589 A. 2d 1194.

No. 91-7950. *ANDRISANI v. VOGEL ET AL.* C. A. 9th Cir.
Certiorari denied. Reported below: 951 F. 2d 358.

No. 91-7953. *ROY v. SAN FRANCISCO POLICE DEPARTMENT
ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 953
F. 2d 1388.

No. 91-7954. *CHASE v. OREGON.* Ct. App. Ore. Certiorari
denied.

No. 91-7957. *BRIGAERTS v. CARDOZA ET AL.* C. A. 9th Cir.
Certiorari denied. Reported below: 952 F. 2d 1399.

No. 91-7969. *HOFFMAN v. UNITED STATES.* C. A. 7th Cir.
Certiorari denied. Reported below: 957 F. 2d 296.

No. 91-7973. *FRANKLIN v. OHIO.* Sup. Ct. Ohio. Certiorari
denied. Reported below: 62 Ohio St. 3d 118, 580 N. E. 2d 1.

504 U. S.

June 1, 1992

No. 91-7979. *CHASE v. BOARD OF PAROLE*. Ct. App. Ore. Certiorari denied.

No. 91-8017. *SINITO v. KINDT, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 954 F. 2d 467.

No. 91-8046. *CLEMAS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 91-8054. *THAKKAR v. DEBEVOISE*. C. A. 3d Cir. Certiorari denied.

No. 91-8059. *WEBB v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 950 F. 2d 226.

No. 91-8062. *CASELLA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 953 F. 2d 635.

No. 91-8073. *LANDT v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 951 F. 2d 351.

No. 91-8085. *CASTILLO-MORALES ET AL. v. INTERNAL REVENUE SERVICE ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 971 F. 2d 744.

No. 91-8087. *WINKLEMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 956 F. 2d 1169.

No. 91-8088. *TERRY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 944 F. 2d 1223.

No. 91-8093. *GARRETT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 363.

No. 91-8098. *WYATT v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 959 F. 2d 237.

No. 91-8107. *GREEN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 952 F. 2d 164.

No. 91-8109. *MCLEOD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 955 F. 2d 48.

No. 91-8113. *BISHOP v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 294 U. S. App. D. C. 163, 957 F. 2d 912.

June 1, 1992

504 U. S.

No. 91-8114. *TALLMAN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 952 F. 2d 164.

No. 91-8118. *HARRIS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 956 F. 2d 279.

No. 91-8120. *TROUT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 954 F. 2d 722.

No. 91-8122. *STUTTS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 953 F. 2d 641.

No. 91-8125. *CATES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 952 F. 2d 149.

No. 91-8135. *ALLISON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 953 F. 2d 870.

No. 91-8148. *MATHENEY v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: 583 N. E. 2d 1202.

No. 91-8155. *PEREZ-DOMINGUEZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 956 F. 2d 279.

No. 91-8158. *ELDER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 956 F. 2d 270.

No. 91-8159. *FERRIOL v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 958 F. 2d 365.

No. 90-6315. *PEREZ v. LOUISIANA*. Sup. Ct. La. Certiorari denied. JUSTICE BLACKMUN, JUSTICE O'CONNOR, and JUSTICE SOUTER would grant the petition, vacate the judgment, and remand the case for further consideration in light of *Foucha v. Louisiana*, ante, p. 71. Reported below: 563 So. 2d 841.

No. 91-1410. *WALLER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 364.

JUSTICE WHITE, with whom JUSTICE O'CONNOR joins, dissenting.

Title 28 U. S. C. § 455(a) provides that “[a]ny justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” This case presents the question whether the cause of apparent partiality or bias must stem from an extrajudicial source.

I would grant the petition for writ of certiorari to resolve a recognized split among the Courts of Appeals on this issue.

Petitioner Samuel Waller and his stepfather, Gentry McKinney, were charged with 61 counts of structuring deposits to avoid currency transaction reporting requirements and one count of conspiring to commit those offenses. The District Court granted petitioner's motion to sever his trial from that of McKinney. In connection with that motion, petitioner and the Government agreed that McKinney would be tried by a jury prior to petitioner's trial. Petitioner agreed to waive his right to a jury trial and to have a bench trial using the relevant evidence from McKinney's trial, as supplemented by any evidence adduced relative to petitioner's role in the offense.

The same judge presided at both trials. McKinney was convicted on all counts in September 1989 and sentenced in December 1989. As part of the sentencing record, the judge reviewed a Federal Bureau of Investigation (FBI) memorandum appended to McKinney's presentence report. This memo alleged that McKinney and petitioner had been involved in drug trafficking and disclosed the full scope of criminal activity in which the Government suspected petitioner and McKinney were involved. Petitioner was later convicted after his bench trial in April 1990. Prior to his sentencing in January 1991, petitioner received a copy of his presentence report, which also had the FBI memorandum attached. Petitioner discovered that the District Court used the memo in McKinney's sentence and, consequently, that the judge had read all of its prejudicial allegations about petitioner prior to the time he presided at the bench trial.

Petitioner moved for a new trial, alleging that the judge should have disqualified himself, pursuant to 28 U. S. C. § 455(a), because of the appearance of bias and partiality created by prior receipt of the FBI memorandum and failure to disclose its existence prior to bench trial. The District Court denied the motion because the prejudicial information about petitioner was not received from an extrajudicial source, *i. e.*, one independent of the prosecution of petitioner and McKinney. The judge acknowledged that the appearance of bias existed, but stated further that he did not believe he was in fact biased, that he either rejected or failed to recall specific allegations from the memo during trial, and that he ignored any inadmissible evidence in adjudicating petitioner's guilt.

Relying on *United States v. Monaco*, 852 F. 2d 1143, 1147 (CA9 1988), cert. denied, 488 U.S. 1040 (1989), and *United States v. Winston*, 613 F. 2d 221, 223 (CA9 1980), the Ninth Circuit affirmed in an unpublished opinion, holding that “[i]nformation obtained by a judge through judicial duties in relation to one co-defendant . . . cannot serve to disqualify that judge from the subsequent trial of another codefendant.” App. to Pet. for Cert. A-4. The appellate court supported its conclusion by noting that the judge read the memo more than five months prior to petitioner’s bench trial and had forgotten the significance and the specific allegations of the memo; that a judge is presumed to ignore inadmissible evidence in deciding a case; and that petitioner agreed the judge could consider evidence from McKinney’s trial and was aware the judge would have access to all information from those proceedings. “Given these facts,” the Ninth Circuit concluded, “we see no reasonable grounds for questioning [the trial judge’s] impartiality because of bias or prejudice.” *Id.*, at A-6.

The Ninth Circuit explicitly rejected the First Circuit’s contrary approach in *United States v. Chantal*, 902 F. 2d 1018 (1990), where the First Circuit emphasized that it “has repeatedly subscribed to what all commentators characterize as the correct view that . . . the source of the asserted bias/prejudice in a §455(a) claim can originate explicitly in judicial proceedings,” *id.*, at 1022. See *Panzardi-Alvarez v. United States*, 879 F. 2d 975, 983-984 (CA1 1989); *United States v. Kelley*, 712 F. 2d 884, 889-890 (CA1 1983); *United States v. Cepeda Penes*, 577 F. 2d 754, 758 (CA1 1978); *United States v. Cowden*, 545 F. 2d 257, 265 (CA1 1976), cert. denied, 430 U.S. 909 (1977). The First Circuit has concluded that the language of §455(a) is “automatic, mandatory and self-executing”; that “[i]t did away with the ‘duty to sit’ doctrine”; and that “[i]t attacks the appearance of bias, not just bias in fact.” *Chantal*, *supra*, at 1023. That the First Circuit would consider appearances of judicial bias and prejudice originating in judicial proceedings conflicts not only with the Ninth Circuit, but also with the Fourth, Fifth, Sixth, and Eleventh Circuits. See *United States v. Mitchell*, 886 F. 2d 667, 671 (CA4 1989); *United States v. Merkt*, 794 F. 2d 950, 960 (CA5 1986), cert. denied, 480 U.S. 946 (1987); *United States v. Sammons*, 918 F. 2d 592, 599 (CA6 1990); *McWhorter v. Birmingham*, 906 F. 2d 674, 678 (CA11 1990).

Here, the trial judge stated: “I do believe that the appearance of the question exists, and I think it is aggravated here by the fact I allowed a waiver of the jury.” Reply to Brief in Opposition 6

504 U. S.

June 1, 1992

(quoting Transcript of Motions Hearings). The District Court, in line with its precedent in the Ninth Circuit and other Circuits, pretermitted any such consideration upon the conclusion that only extrajudicial sources can lead to reasonable questions about the judge's impartiality, a rule that the First Circuit rejects.

The statute itself gives no indication regarding the correct resolution of this recurring question. Because the Courts of Appeals have settled into differing interpretations of this statutory recusal provision, I would grant certiorari to resolve the conflict.

No. 91-1447. *BINGHAM v. INLAND DIVISION OF GENERAL MOTORS*. C. A. 6th Cir. Certiorari denied. JUSTICE BLACKMUN would grant the petition, vacate the judgment, and remand the case for further consideration in light of the 1991 Amendments to Federal Rule of Civil Procedure 15(c). Reported below: 947 F. 2d 944.

No. 91-1515. *CAMPBELL ET AL. v. BRUMMETT*. C. A. 5th Cir. Certiorari denied. Reported below: 946 F. 2d 1178.

JUSTICE WHITE, dissenting.

The Court once again declines to grant certiorari in a case in which the petitioners raise a subject of clear disagreement among the Courts of Appeals. Once again, I dissent. The questions presented concern whether Rev. Stat. §1979, 42 U.S.C. §1983, provides a cause of action for malicious prosecution and, if so, when the cause of action accrues.

Respondent was prosecuted for failing to repay a loan to petitioner First State Bank of Cleburne, Texas. The loan, for more than \$30,000, had been collateralized by the equipment and inventory of his stereo business. Respondent, who said that he sold the inventory in the normal course of business, was indicted under a provision of the Texas Penal Code that makes it a felony to "remove" from the State collateral securing a debt. Tex. Penal Code Ann. §32.33 (1983). After three years of court appearances, the charge was dismissed for insufficient evidence.

Respondent sued the prosecuting attorneys, the county, the bank, and certain bank employees, alleging that they conspired to prosecute him maliciously in violation of state law and §1983. The District Court dismissed the action as to the county and the prosecuting attorneys on immunity grounds and entered summary judgment as to the remaining defendants on the ground that respondent's claims were time barred.

June 1, 1992

504 U. S.

The Court of Appeals reversed in relevant part.* Although it noted that there has been considerable confusion in the Courts of Appeals concerning the availability and contours of a § 1983 malicious prosecution claim, see *Brummett v. Camble[sic]*, 946 F. 2d 1178, 1180, n. 2 (CA5 1991) (collecting cases), the court observed that recent Fifth Circuit cases “have assumed that malicious prosecution violates § 1983.” *Ibid.* The court then held that respondent’s claim was not time barred because a cause of action for malicious prosecution under § 1983 does not accrue until the underlying prosecution has terminated in favor of the criminal defendant. *Id.*, at 1184.

The Third, Sixth, and Tenth Circuits follow the rule that the Fifth Circuit applied here. See *Robinson v. Maruffi*, 895 F. 2d 649, 654 (CA10 1990); *Rose v. Bartle*, 871 F. 2d 331, 349 (CA3 1989); *McCune v. Grand Rapids*, 842 F. 2d 903, 907 (CA6 1988). However, the First Circuit has held that a malicious prosecution claim accrues at the time of arrest and not when the allegedly abusive proceeding comes to a conclusion, which may be years later. *Walden, III, Inc. v. Rhode Island*, 576 F. 2d 945, 947, n. 5 (1978). The Ninth Circuit’s treatment of the question has been inconsistent. Compare *Cline v. Brusett*, 661 F. 2d 108, 111 (1981) (following majority rule), with *Gowin v. Altmiller*, 663 F. 2d 820, 822 (1981) (following minority rule).

Clearly, this is an area of law that requires our attention. Therefore, I would grant certiorari to determine if a cause of action for malicious prosecution is available under § 1983 and, if it is, when the cause of action accrues.

No. 91-1550. *MCCLEARY v. NAVARRO ET UX.* C. A. 9th Cir. Certiorari denied. Reported below: 952 F. 2d 331.

JUSTICE WHITE, with whom THE CHIEF JUSTICE, JUSTICE O’CONNOR, and JUSTICE THOMAS join, dissenting.

Respondents filed this lawsuit after police, who were attempting to execute a search warrant, began kicking at their door at 11 o’clock one night. The police were looking for a suspected

*The Fifth Circuit agreed with the District Court that the prosecutors were immune, but vacated the judgment as to the county to allow “for further consideration in light of later events in the trial court.” *Brummett v. Camble[sic]*, 946 F. 2d 1178, 1183 (1991). The county is not a party to this petition.

cocaine dealer, but they got the wrong house. The question presented is whether petitioner, the officer who drafted the search warrant affidavit describing the house to be searched, is entitled to qualified immunity. Because the Court of Appeals applied the wrong legal standard in answering that question, I would reverse the judgment and remand the case for further consideration.

Petitioner, a detective, received a tip from a confidential informant that one Andres Villa had drugs in his home, one of several small houses on an access road to a plant. The first building was set back from the road, along a separate driveway. The informant did not count this structure when he told petitioner that Villa lived in the second house on the right. Consequently, the warrant that petitioner obtained directed officers to go to the second house on the right. The officers executing the warrant counted differently, so they ended up at the wrong house.

Respondents sued petitioner and others not party to this petition under Rev. Stat. § 1979, 42 U.S.C. § 1983, alleging a violation of their Fourth Amendment rights. The District Court denied petitioner's motion for summary judgment on grounds of qualified immunity. The Court of Appeals affirmed, holding "that the question in this case is whether a police officer in [petitioner's] position would reasonably have described the location with sufficient particularity to direct those executing the warrant to the *correct* house on the right" and "that it is for the jury to decide whether [petitioner] acted reasonably" *Navarro v. Barthel*, 952 F.2d 331, 333 (CA9 1991) (*per curiam*).

The decision of the Court of Appeals was entered just a few days after our judgment in *Hunter v. Bryant*, 502 U.S. 224, 227 (1991), in which we explained that the appropriate inquiry was whether a reasonable officer *could* have thought that he had acted in accordance with the Constitution, and not whether an officer *would* have acted otherwise (the standard applied by the Ninth Circuit in *Hunter* and the present case). This distinction provides "ample room for mistaken judgments," because qualified immunity protects "all but the plainly incompetent or those who knowingly violate the law." *Malley v. Briggs*, 475 U.S. 335, 343, 341 (1986), quoted in *Hunter*, *supra*, at 229.

In *Hunter* we also reiterated the principle that questions of immunity ordinarily should be decided by the court, not by the jury, 502 U.S., at 228, because "[t]he entitlement is an *immunity from suit* rather than a mere defense to liability," *Mitchell v.*

June 1, 3, 8, 1992

504 U. S.

Forsyth, 472 U. S. 511, 526 (1985). See *Hunter*, *supra*, at 227 (collecting cases).

Because the Court of Appeals did not have the benefit of our decision in *Hunter* when it was deciding this case, I would summarily reverse the judgment and remand the case so the Ninth Circuit may reexamine its decision in light of the correct legal standards.

No. 91-1667. *CEN TRA ET AL. v. MCDONALD ET AL.* C. A. 4th Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 946 F. 2d 1059.

Rehearing Denied

No. 91-7247. *WILLIAMSON v. OKLAHOMA*, 503 U. S. 973;
No. 91-7648. *ANDERSON v. UNITED STATES*, 503 U. S. 995; and
No. 91-7655. *LLOYD v. UNITED STATES*, 503 U. S. 996. Petitions for rehearing denied.

JUNE 3, 1992

Miscellaneous Order

No. A-913 (91-8475). *GRANVIEL v. TEXAS*. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, granted pending the disposition by this Court of the petition for writ of certiorari. Should the petition for writ of certiorari be denied, this stay terminates automatically. In the event the petition for writ of certiorari is granted, this stay shall continue pending the issuance of the mandate of this Court.

JUNE 8, 1992

Certiorari Granted—Vacated and Remanded

No. 91-734. *NORTHWEST AIRLINES, INC. v. WEST*. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Morales v. Trans World Airlines, Inc.*, *ante*, p. 374. Reported below: 923 F. 2d 657.

No. 91-6762. *CORLEY v. UNITED STATES*. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for fur-

504 U. S.

June 8, 1992

ther consideration in light of *Williams v. United States*, 503 U. S. 193 (1992). Reported below: 943 F. 2d 1313.

Miscellaneous Orders

No. A-747 (91-1863). *KLAGISS v. INDIANA*. Ct. App. Ind. Application for stay, addressed to JUSTICE BLACKMUN and referred to the Court, denied.

No. D-1097. *IN RE DISBARMENT OF FRIEDMAN*. Disbarment entered. [For earlier order herein, see 503 U. S. 932.]

No. D-1098. *IN RE DISBARMENT OF KENNEY*. Disbarment entered. [For earlier order herein, see 503 U. S. 932.]

No. D-1099. *IN RE DISBARMENT OF HART*. Disbarment entered. [For earlier order herein, see 503 U. S. 956.]

No. D-1101. *IN RE DISBARMENT OF WATSON*. Disbarment entered. [For earlier order herein, see 503 U. S. 956.]

No. D-1106. *IN RE DISBARMENT OF HOROWITZ*. Howard Horowitz, of Coral Gables, Fla., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court. The rule to show cause, heretofore issued on April 6, 1992 [503 U. S. 968], is hereby discharged.

No. D-1108. *IN RE DISBARMENT OF ROSCH*. Disbarment entered. [For earlier order herein, see 503 U. S. 968.]

No. D-1131. *IN RE DISBARMENT OF BRITTON*. It is ordered that James R. Britton, of Bismarck, N. D., 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-1132. *IN RE DISBARMENT OF KAISER*. It is ordered that Marvin L. Kaiser, of Williston, N. D., 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-1133. *IN RE DISBARMENT OF SNYDER*. It is ordered that Vincent Thomas Snyder, of Philadelphia, Pa., be suspended from the practice of law in this Court and that a rule issue,

June 8, 1992

504 U. S.

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-1134. *IN RE DISBARMENT OF KIMURA*. It is ordered that Robert Yutaka Kimura, of Honolulu, Haw., 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-1135. *IN RE DISBARMENT OF PIKEN*. It is ordered that Arthur J. Piken, of Kew Gardens, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-1136. *IN RE DISBARMENT OF PARKER*. It is ordered that Valentine Fraser Parker, of Huntington, N. Y., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-1137. *IN RE DISBARMENT OF CAHN*. It is ordered that William Cahn, of Tido Beach, 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. 90-985. *BRAY ET AL. v. ALEXANDRIA WOMEN'S HEALTH CLINIC ET AL.* C. A. 4th Cir. [Certiorari granted, 498 U. S. 1119.] Case restored to calendar for reargument.

No. 91-453. *LUCAS v. SOUTH CAROLINA COASTAL COUNCIL*. Sup. Ct. S. C. [Certiorari granted, 502 U. S. 966.] Motion of National Growth Management Leadership Project et al. to withdraw Chesapeake Bay Foundation from the list of members joining its *amicus curiae* brief granted.

No. 91-871. *BATH IRON WORKS CORP. ET AL. v. DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, ET AL.* C. A. 1st Cir. [Certiorari granted, 503 U. S. 935.] Motion of the Solicitor General for divided argument granted.

No. 91-1075. *BAILES v. UNITED STATES*, 503 U. S. 1001. Motion of petitioner for costs and fees denied.

504 U. S.

June 8, 1992

No. 91-1521. UNITED STATES *v.* GREEN. Ct. App. D. C. [Certiorari granted, *ante*, p. 908.] Motion of the Solicitor General to dispense with printing the joint appendix granted.

No. 91-1671. MERTENS ET AL. *v.* HEWITT ASSOCIATES. C. A. 9th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 91-7328. HERRERA *v.* COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. C. A. 5th Cir. [Certiorari granted, 502 U.S. 1085.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 91-7758. IN RE LANDES. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until June 29, 1992, 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.

No. 91-7938. IN RE VISSER. Motion of petitioner for leave to proceed *in forma pauperis* denied. See this Court's Rule 39.8. Petitioner is allowed until June 29, 1992, 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 BLACKMUN and JUSTICE STEVENS would deny the petition for writ of mandamus.

No. 91-8013. CLAMPITT *v.* INTERINSURANCE EXCHANGE ET AL. Ct. App. Cal., 2d App. Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until June 29, 1992, 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.

No. 91-1709. IN RE MILLS. Ct. App. N. Y. Petition for writ of common-law certiorari and/or mandamus denied. Reported below: 78 N. Y. 2d 1121, 586 N. E. 2d 57.

No. 91-8281. IN RE KWOH CHENG SUN. Petition for writ of habeas corpus denied.

No. 91-7876. IN RE KALTENBACH;
No. 91-7943. IN RE CRENSHAW; and

June 8, 1992

504 U. S.

No. 91-8067. IN RE BACHYNSKY. Petitions for writs of mandamus denied.

Certiorari Granted

No. 91-522. SAUDI ARABIA ET AL. *v.* NELSON ET UX. C. A. 11th Cir. Certiorari granted. Reported below: 923 F. 2d 1528.

No. 91-1645. WOOD *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 4th Cir. Certiorari granted. Reported below: 955 F. 2d 908.

No. 91-7580. GRAHAM *v.* COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 950 F. 2d 1009.

No. 91-7358. BRECHT *v.* ABRAHAMSON, SUPERINTENDENT, DODGE CORRECTIONAL INSTITUTION. C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question I presented by the petition. Reported below: 944 F. 2d 1363.

Certiorari Denied. (See also No. 91-1709, *supra*.)

No. 91-505. WEST *v.* NORTHWEST AIRLINES, INC. C. A. 9th Cir. Certiorari denied. Reported below: 923 F. 2d 657.

No. 91-1396. MARSHALL ET AL. *v.* SAN FRANCISCO DEPARTMENT OF SOCIAL SERVICES ET AL. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 91-1398. WALDMAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 941 F. 2d 1544.

No. 91-1443. MACKIE, DBA WARWICK *v.* FEDERAL DEPOSIT INSURANCE CORPORATION, AS MANAGER OF FSLIC RESOLUTION FUND. C. A. 5th Cir. Certiorari denied. Reported below: 948 F. 2d 1285.

No. 91-1489. LEE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 942 F. 2d 792.

No. 91-1504. DEGEROLAMO ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 954 F. 2d 79.

504 U. S.

June 8, 1992

No. 91-1517. *BREGNARD v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 951 F. 2d 457.

No. 91-1581. *UNIVERSAL UNDERWRITERS INSURANCE CO. v. GERRISH CORP., DBA GERRISH MOTORS ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 947 F. 2d 1023.

No. 91-1628. *ROSENGARD v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 949 F. 2d 905.

No. 91-1647. *SEPE v. FLORIDA*. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 592 So. 2d 250.

No. 91-1650. *LEE v. BAPTIST MEDICAL CENTER OF OKLAHOMA, INC., ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 948 F. 2d 1162.

No. 91-1654. *STARKEY LABORATORIES, INC. v. GN DANAVOX, INC.* Ct. App. Minn. Certiorari denied. Reported below: 476 N. W. 2d 172.

No. 91-1655. *GARDNER ET AL. v. RYAN, SECRETARY OF STATE OF ILLINOIS, ET AL.* Sup. Ct. Ill. Certiorari denied. Reported below: 147 Ill. 2d 270, 588 N. E. 2d 1033.

No. 91-1656. *OKLAHOMA v. BURKE*. Ct. Crim. App. Okla. Certiorari denied. Reported below: 820 P. 2d 1344.

No. 91-1659. *BYRD ET AL. v. BUHAROV ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 91-1661. *FERRIS v. BOARD OF COUNTY COMMISSIONERS OF MESA COUNTY, COLORADO, ET AL.* Ct. App. Colo. Certiorari denied.

No. 91-1666. *INTERNATIONAL RESOURCES, INC., ET AL. v. NEW YORK LIFE INSURANCE Co.* C. A. 6th Cir. Certiorari denied. Reported below: 950 F. 2d 294.

No. 91-1675. *ZARDA ET AL. v. KANSAS ET AL.; and DEAN ET AL. v. KANSAS ET AL.* Sup. Ct. Kan. Certiorari denied. Reported below: 250 Kan. 364, 826 P. 2d 1365 (first case); 250 Kan. 417, 826 P. 2d 1372 (second case).

No. 91-1678. *MERCADO LATINO, INC. v. SOLER ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 361.

June 8, 1992

504 U. S.

No. 91-1687. *BLANKINSHIP ET AL. v. CINCO ENTERPRISES, INC.* Ct. App. Okla. Certiorari denied.

No. 91-1689. *PATTERSON v. KEANE*, SUPERINTENDENT, SING SING CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 91-1705. *MALTA ET AL. v. SCHULMERICH CARILLONS, INC., ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 952 F. 2d 1320.

No. 91-1714. *PRICE v. CARPENTER*, SHERIFF OF TARRANT COUNTY, TEXAS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 951 F. 2d 346.

No. 91-1726. *PHANTOM TOURING CO. v. AFFILIATED PUBLICATIONS, INC., ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 953 F. 2d 724.

No. 91-1731. *STRANCZEK*, MAYOR OF THE VILLAGE OF CRESTWOOD, ET AL. *v. SCHULTZ ET AL.* C. A. 7th Cir. Certiorari denied.

No. 91-1761. *PRAVDA v. UNITED STATES ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 962 F. 2d 1.

No. 91-1768. *MCCARTY v. KENTUCKY*. Ct. App. Ky. Certiorari denied.

No. 91-1776. *ERWIN ET AL. v. CITY OF CHICAGO ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 951 F. 2d 352.

No. 91-1795. *DANIELS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 363.

No. 91-1801. *GILBERT v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 948 F. 2d 1290.

No. 91-1810. *TOLER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 364.

No. 91-1828. *COPLIN ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 952 F. 2d 403.

No. 91-6757. *HERNANDEZ v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 819 S. W. 2d 806.

504 U. S.

June 8, 1992

No. 91-7377. *MOOYMAN v. WORKMEN'S COMPENSATION APPEAL BOARD ET AL.* Sup. Ct. Pa. Certiorari denied. Reported below: 528 Pa. 646, 600 A. 2d 197.

No. 91-7494. *RUCKINGER v. FULCOMER, DEPUTY COMMISSIONER, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 947 F. 2d 936.

No. 91-7574. *MARQUEZ v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 951 F. 2d 345.

No. 91-7583. *WAKE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 948 F. 2d 1422.

No. 91-7589. *DEBS v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 949 F. 2d 199.

No. 91-7597. *GUNTER v. OHIO.* Ct. App. Ohio, Lorain County. Certiorari denied.

No. 91-7598. *HILL, AKA ROBINSON v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. Reported below: 951 F. 2d 867.

No. 91-7610. *MEDRANO v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 951 F. 2d 1264.

No. 91-7629. *COOPER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 949 F. 2d 737.

No. 91-7666. *SCHANDL v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 947 F. 2d 462.

No. 91-7759. *SINDRAM v. NELSON ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 294 U. S. App. D. C. 163, 957 F. 2d 912.

No. 91-7866. *MCCONNELL v. DERWINSKI, SECRETARY OF VETERANS AFFAIRS.* C. A. 8th Cir. Certiorari denied. Reported below: 985 F. 2d 569.

No. 91-7894. *STOIANOFF v. WACHTLER.* C. A. 2d Cir. Certiorari denied. Reported below: 956 F. 2d 1160.

No. 91-7956. *ANDERSSON ET AL. v. FIBER COMPOSITES, INC.* Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 592 So. 2d 1093.

June 8, 1992

504 U. S.

No. 91-7962. *BOLINDER v. GALLARDO*. Ct. App. Utah. Certiorari denied.

No. 91-7964. *SHAW v. SENKOWSKI, WARDEN*. C. A. 2d Cir. Certiorari denied. Reported below: 956 F. 2d 1159.

No. 91-7968. *DELLAERO v. ABRAMS, ATTORNEY GENERAL OF NEW YORK*. C. A. 2d Cir. Certiorari denied.

No. 91-7976. *SHUMATE v. NCNB NATIONAL BANK OF NORTH CAROLINA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 953 F. 2d 639.

No. 91-7978. *ALKATABI ET AL. v. UNITED STATES DEPARTMENT OF JUSTICE ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 962 F. 2d 4.

No. 91-7981. *DAVIS v. COLORADO*. Ct. App. Colo. Certiorari denied.

No. 91-7982. *HOWELL v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 91-7983. *EAST v. WEST ONE BANK, N. A., PERSONAL REPRESENTATIVE OF THE ESTATE OF LOGAN*. Ct. App. Idaho. Certiorari denied. Reported below: 120 Idaho 226, 815 P. 2d 35.

No. 91-7985. *DAVASHER v. ARKANSAS*. Sup. Ct. Ark. Certiorari denied. Reported below: 308 Ark. 154, 823 S. W. 2d 863.

No. 91-7988. *ZICHKO v. NAVARRO*. Sup. Ct. Idaho. Certiorari denied.

No. 91-7990. *WHIGHAM v. NEW YORK TELEPHONE*. C. A. 2d Cir. Certiorari denied.

No. 91-7992. *WOHLFORD ET UX. v. MAYS ET AL.* Cir. Ct. Wythe County, Va. Certiorari denied.

No. 91-7998. *CRUSE v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 588 So. 2d 983.

No. 91-8006. *MASTERSON v. GROOSE, SUPERINTENDENT, JEFFERSON CITY CORRECTIONAL CENTER, ET AL.* C. A. 8th Cir. Certiorari denied.

504 U. S.

June 8, 1992

No. 91-8008. *BROOKS v. TANSY, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 952 F. 2d 409.

No. 91-8011. *AZIZ v. MISSOURI ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 953 F. 2d 649.

No. 91-8014. *CASSIDY v. REDMAN, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 91-8016. *BURNETT v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 293 U. S. App. D. C. 292, 953 F. 2d 688.

No. 91-8027. *COMBS v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 62 Ohio St. 3d 278, 581 N. E. 2d 1071.

No. 91-8032. *MIDGYETTE v. GRAYSON, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 91-8034. *FUENTES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 954 F. 2d 151.

No. 91-8038. *CHATMAN, AKA PALTON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 985 F. 2d 569.

No. 91-8041. *WHALEY v. MAASS*. Ct. App. Ore. Certiorari denied. Reported below: 108 Ore. App. 365, 815 P. 2d 722.

No. 91-8048. *PASCUAS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 956 F. 2d 1159.

No. 91-8072. *MILLER, AKA WOODS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 944 F. 2d 396.

No. 91-8077. *FIELDS v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied.

No. 91-8090. *ZOLICOFFER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 950 F. 2d 724.

No. 91-8101. *AULTMAN v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 529 Pa. 268, 602 A. 2d 1290.

No. 91-8112. *ADAMS v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

June 8, 1992

504 U. S.

No. 91-8133. *GUZMAN v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 166 Wis. 2d 577, 480 N. W. 2d 446.

No. 91-8134. *FRAZIER v. CUSTODIAN OF THE KENTUCKY STATE REFORMATORY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 956 F. 2d 1164.

No. 91-8138. *PRUNEDA-GONZALEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 953 F. 2d 190.

No. 91-8145. *COUSINO v. ACTION MAILERS ET AL.* C. A. 6th Cir. Certiorari denied.

No. 91-8149. *PATRONE v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 948 F. 2d 813.

No. 91-8151. *PETTAWAY ET AL. v. BEYER, ADMINISTRATOR, NEW JERSEY STATE PRISON, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 961 F. 2d 209.

No. 91-8156. *BANKS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 953 F. 2d 1384.

No. 91-8157. *KRAUSE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 956 F. 2d 265.

No. 91-8163. *TIMBERS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 293 U. S. App. D. C. 292, 953 F. 2d 688.

No. 91-8170. *ZSIDO v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 948 F. 2d 1291.

No. 91-8176. *BLAIZE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 959 F. 2d 850.

No. 91-8178. *MCNEIL v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 952 F. 2d 1394.

No. 91-8194. *DIGGS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 294 U. S. App. D. C. 299, 958 F. 2d 1157.

No. 91-8197. *LARIOS CORTES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 363.

504 U. S.

June 8, 1992

No. 91-8205. *McCOY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 944 F. 2d 903.

No. 91-8208. *DAVIS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 955 F. 2d 42.

No. 91-8210. *PORTWOOD v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 985 F. 2d 568.

No. 91-8213. *MCCALL v. HESSON, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 91-8215. *METZGER v. RYAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS*. C. A. 3d Cir. Certiorari denied.

No. 91-8252. *ROBINSON v. JABE, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 955 F. 2d 45.

No. 90-1606. *ATTORNEY GENERAL OF CALIFORNIA ET AL. v. TRANS WORLD AIRLINES, INC., ET AL.* C. A. 5th Cir. Certiorari denied. JUSTICE BLACKMUN would grant certiorari. JUSTICE SOUTER took no part in the consideration or decision of this petition. Reported below: 949 F. 2d 141.

No. 91-142. *TIDEWATER MARINE SERVICE, INC., ET AL. v. AUBRY ET AL.* C. A. 9th Cir. Motion of Maritime Law Association of the United States for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 918 F. 2d 1409.

No. 91-349. *PACIFIC MERCHANT SHIPPING ASSN. ET AL. v. AUBRY, LABOR COMMISSIONER, DIVISION OF LABOR STANDARDS ENFORCEMENT, DEPARTMENT OF INDUSTRIAL RELATIONS OF CALIFORNIA*. C. A. 9th Cir. Motion of American Waterways Operators, Inc., for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 918 F. 2d 1409.

No. 91-502. *PUBLIC UTILITIES COMMISSION OF CALIFORNIA ET AL. v. FEDERAL EXPRESS CORP.* C. A. 9th Cir. Motions of California Trucking Association, International Brotherhood of Teamsters, and National Association of Regulatory Utility Commissioners for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 936 F. 2d 1075.

No. 91-1426. *CALIFORNIA v. HARDEN*. Ct. App. Cal., 6th App. Dist. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

June 8, 11, 15, 1992

504 U. S.

No. 91-1519. *COSTELLO v. MCENERY ET AL.* C. A. 2d Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 948 F. 2d 1278.

No. 91-1672. *BIODEX CORP. v. LOREDAN BIOMEDICAL, INC., ET AL.* C. A. Fed. Cir. Certiorari denied. JUSTICE WHITE would grant certiorari. Reported below: 946 F. 2d 850.

No. 91-7972. *JONES v. AT&T TECHNOLOGIES, INC.* C. A. 4th Cir. Certiorari denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition. Reported below: 943 F. 2d 49.

Rehearing Denied

No. 91-1405. *OPTIMAL DATA CORP. v. UNITED STATES*, 503 U. S. 986;

No. 91-1457. *PIOTROWSKI ET AL. v. CITY OF CHICAGO*, 503 U. S. 986;

No. 91-7026. *COVILLION v. AETNA LIFE & CASUALTY ET AL.*, 503 U. S. 922;

No. 91-7264. *IN RE JARVI*, 503 U. S. 982;

No. 91-7298. *WICKLIFFE v. AIKEN, COMMISSIONER, INDIANA DEPARTMENT OF CORRECTION, ET AL.*, 503 U. S. 974;

No. 91-7520. *FITE v. CANTRELL ET AL.*, 503 U. S. 1007; and

No. 91-7532. *MEYER v. MEYER* (two cases), 503 U. S. 993. Petitions for rehearing denied.

JUNE 11, 1992

Dismissal Under Rule 46

No. 91-7864. *LOPEZ-GIL v. UNITED STATES*. C. A. 1st Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 965 F. 2d 1124.

JUNE 15, 1992

Certiorari Granted—Vacated and Remanded

No. 91-7295. *KYLE v. UNITED STATES*. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *United States v. Shano*, 955 F. 2d 291 (CA5 1992) (withdrawing *United States v. Shano*, 947 F. 2d

504 U. S.

June 15, 1992

1263 (1991)), and United States Sentencing Commission, Guidelines Manual §4B1.2, comment., n. 2 (Nov. 1991). THE CHIEF JUSTICE, JUSTICE SCALIA, JUSTICE KENNEDY, and JUSTICE THOMAS dissent. Reported below: 946 F. 2d 891.

Miscellaneous Orders

No. A-894. INTERCONTINENTAL LIFE INSURANCE CO. *v.* LINDBLOM. Sup. Ct. Ala. Application for stay, presented to JUSTICE KENNEDY, and by him referred to the Court, denied. JUSTICE O'CONNOR would grant the application.

No. D-1103. IN RE DISBARMENT OF WINN. Disbarment entered. [For earlier order herein, see 503 U. S. 956.]

No. D-1109. IN RE DISBARMENT OF PRESNICK. Disbarment entered. [For earlier order herein, see 503 U. S. 980.]

No. D-1111. IN RE DISBARMENT OF TESSLER. Disbarment entered. [For earlier order herein, see 503 U. S. 980.]

No. D-1114. IN RE DISBARMENT OF HARRISON. Disbarment entered. [For earlier order herein, see 503 U. S. 980.]

No. D-1115. IN RE DISBARMENT OF D'ALBORA. Disbarment entered. [For earlier order herein, see 503 U. S. 980.]

No. D-1138. IN RE DISBARMENT OF JACOBO. It is ordered that Winston W. Jacobo, of St. Augustine, Fla., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-1139. IN RE DISBARMENT OF FINE. It is ordered that David M. Fine, of Richmond, Va., be suspended from the practice of law in this Court and that a rule issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D-1140. IN RE DISBARMENT OF FITZPATRICK. It is ordered that James Joseph Fitzpatrick, of Portsmouth, N. H., 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. JUSTICE SOUTER took no part in the consideration or decision of this order.

June 15, 1992

504 U. S.

No. 108, Orig. NEBRASKA *v.* WYOMING ET AL. The Court by order dated April 20, 1992 [503 U.S. 981], awarded the Special Master interim compensation and reimbursement of expenses. The Court also allowed the parties and the proposed intervenors/*amici* to comment further on the Special Master's suggestion of a one-time special assessment of costs to the intervenors/*amici*.

Although different arguments have been advanced as to the appropriate amounts to be assessed, no party or proposed intervenor/*amicus* has objected to the propriety of including nonobjecting *amici* in the assessment. We therefore do not reach the issue, deeming the parties to have agreed with the procedure. The Special Master found that the proceedings were expanded and made more costly by reason of *amici* participation, and the *amici* presumably acknowledge this to be the case. In light of these considerations, the interim award to the Special Master shall be paid as follows:

- (1) the State of Colorado, a party to this original action, is assessed the amount of \$25,000, the amount recommended by the Special Master;
- (2) the four proposed intervenors/*amici*, Basin Electric Power Cooperative, Central Nebraska Public Power and Irrigation District, the National Audubon Society, and the Platte River Whooping Crane Critical Habitat Maintenance Trust, are each assessed \$5,000, an amount to which none have objected; and
- (3) the remaining award is to be paid 40% by Nebraska, 40% by Wyoming, and 20% by the United States.

JUSTICE WHITE would adopt the recommendation of the Special Master respecting the allocation of his fees and expenses among the parties and the *amici*. [For earlier order herein, see, *e.g.*, *ante*, p. 905.]

JUSTICE STEVENS, dissenting.

Because I do not believe that the Court has authority to assess costs against nonparties, I respectfully dissent from the order to the extent it provides for an assessment against *amici curiae*.¹

¹ Cf. Comment, Protecting Defendant-Intervenors from Attorneys' Fee Liability in Civil Rights Cases, 23 Harv. J. Legis. 579, 588 (1986) ("Courts have consistently assumed that an *amicus curiae* is exempt from attorneys' fee liability"); *Chance v. Board of Examiners*, 70 F. R. D. 334, 340 (SDNY 1976).

504 U. S.

June 15, 1992

I do not think that it is proper for the Court to justify its exercise of this authority on the basis of the *amici's* failure to object, especially when the assessment is for an interim payment to the Special Master in the course of an ongoing proceeding.²

No. 119, Orig. CONNECTICUT ET AL. *v.* NEW HAMPSHIRE. First Interim Report of the Special Master is received and ordered filed. Recommendations of the Special Master are adopted. It is ordered that the motion of Connecticut Office of Consumer Counsel for leave to intervene is denied. It is further ordered that the motion of United Illuminating Co., New England Power Co., Connecticut Light & Power Co., Canal Electric Co., Montaup Electric Co., and Taunton Municipal Lighting Plant for leave to intervene is granted. Defendant is allowed 20 days within which to file and serve its answer to the complaint of the intervening plaintiffs. JUSTICE SOUTER took no part in the consideration or decision of these orders. [For earlier order herein, see, *e. g.*, *ante*, p. 905.]

No. 91-10. SPECTRUM SPORTS, INC., ET AL. *v.* MCQUILLAN ET VIR, DBA SORBOTURF ENTERPRISES. C. A. 9th Cir. [Certiorari granted, 503 U. S. 958.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 91-882. LEWY ET AL. *v.* VIRGINIA DEPARTMENT OF TAXATION. Sup. Ct. Va. Motion of petitioners to grant petition for writ of certiorari denied.

No. 91-1030. WITHROW *v.* WILLIAMS. C. A. 6th Cir. [Certiorari granted, 503 U. S. 983.] Motion for appointment of counsel granted, and it is ordered that Seth P. Waxman, Esq., of Washington, D. C., be appointed to serve as counsel for respondent in this case.

No. 91-1210. CLINTON, GOVERNOR OF ARKANSAS, ET AL. *v.* JEFFERS ET AL., 503 U. S. 930. Motion of appellees to retax costs granted.

²Cf. 2 Administrative Office of the United States Courts, Guide to Judiciary Policies and Procedures, Judicial Code of Conduct, Canons 3(C)(1)(a)-(e) and 3(D), pp. I-7, I-9 (1990) (limiting circumstances in which parties may waive judicial disqualification).

June 15, 1992

504 U. S.

No. 91-1393. LOCKHART, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION *v.* FRETWELL. C. A. 8th Cir. [Certiorari granted, *ante*, p. 908.] Motion for appointment of counsel granted, and it is ordered that Ricky B. Medlock, Esq., of Little Rock, Ark., be appointed to serve as counsel for respondent in this case.

No. 91-1420. GROWE, SECRETARY OF STATE OF MINNESOTA, ET AL. *v.* EMISON ET AL. D. C. Minn. [Probable jurisdiction noted, 503 U.S. 958.] Motion of Martin Frost et al. for leave to file a brief as *amici curiae* granted.

No. 91-8385. IN RE PORZIO. Petition for writ of habeas corpus denied.

No. 91-1811. IN RE POLYAK; and

No. 91-8219. IN RE DALL. Petitions for writs of mandamus denied.

No. 91-1707. IN RE UNITED SERVICES AUTOMOBILE ASSN. Petition for writ of mandamus denied. JUSTICE O'CONNOR took no part in the consideration or decision of this petition.

Certiorari Granted

No. 91-1538. SMITH *v.* UNITED STATES. C. A. 9th Cir. Certiorari granted. Reported below: 953 F. 2d 1116.

No. 91-1695. PIONEER INVESTMENT SERVICES CO. *v.* BRUNSWICK ASSOCIATES LIMITED PARTNERSHIP ET AL. C. A. 6th Cir. Certiorari granted. Reported below: 943 F. 2d 673.

No. 91-1160. ARAVE, WARDEN *v.* CREECH. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 947 F. 2d 873.

No. 91-7749. ORTEGA-RODRIGUEZ *v.* UNITED STATES. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted.

504 U. S.

June 15, 1992

Certiorari Denied

No. 91-1363. JOHNSON, STATE'S ATTORNEY OF KANE COUNTY, ET AL. *v.* CHI FENG SU. C. A. 7th Cir. Certiorari denied. Reported below: 944 F. 2d 907.

No. 91-1367. STURMAN *v.* UNITED STATES;

No. 91-1533. LEVINE ET AL. *v.* UNITED STATES; and

No. 91-1596. STURMAN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 951 F. 2d 1466.

No. 91-1374. QUATTROCCHI ET AL. *v.* COCHRANE. C. A. 1st Cir. Certiorari denied. Reported below: 949 F. 2d 11.

No. 91-1388. HANNA BOYS CENTER *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 940 F. 2d 1295.

No. 91-1464. PALMER *v.* LEVY. C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 196.

No. 91-1525. NEW MEDICO NEUROLOGIC CENTER OF MICHIGAN, INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 6th Cir. Certiorari denied. Reported below: 951 F. 2d 350.

No. 91-1528. MESNICK *v.* GENERAL ELECTRIC CO. C. A. 1st Cir. Certiorari denied. Reported below: 950 F. 2d 816.

No. 91-1534. TOTAL CARE, INC. *v.* SULLIVAN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 952 F. 2d 397.

No. 91-1535. BASH *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 91-1537. GARZA ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 942 F. 2d 903.

No. 91-1559. AVERY ET UX. *v.* TURNER, TRUSTEE; and

No. 91-1725. TURNER, TRUSTEE *v.* AVERY ET UX. C. A. 5th Cir. Certiorari denied. Reported below: 947 F. 2d 772.

No. 91-1560. HOCHSTEIN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 952 F. 2d 393.

June 15, 1992

504 U. S.

No. 91-1563. *AIU INSURANCE CO. ET AL. v. SUPERINTENDENT, MAINE BUREAU OF INSURANCE*. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 600 A. 2d 1115.

No. 91-1629. *FEITT v. OFFICE OF THRIFT SUPERVISION, DEPARTMENT OF TREASURY*. C. A. 3d Cir. Certiorari denied. Reported below: 950 F. 2d 721.

No. 91-1691. *MOORE v. CALIFORNIA*. Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 91-1694. *LATIAN, INC., ET AL. v. BANCO DO BRASIL, S. A., ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 234 Cal. App. 3d 973, 285 Cal. Rptr. 870.

No. 91-1696. *BOWMAN v. INDIANA*. Ct. App. Ind. Certiorari denied. Reported below: 573 N. E. 2d 910.

No. 91-1698. *OLSON v. GENERAL DYNAMICS CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 960 F. 2d 1418.

No. 91-1701. *COSTELLO ET AL. v. JANSON, ADMINISTRATRIX OF THE ESTATE OF MONTOUR, ET AL.* App. Ct. Mass. Certiorari denied. Reported below: 32 Mass. App. 1101, 585 N. E. 2d 353.

No. 91-1708. *LESLIE v. MALVEAUX ET AL.* C. A. 9th Cir. Certiorari denied.

No. 91-1711. *GORDON v. MISSOURI*. Ct. App. Mo., Southern Dist. Certiorari denied. Reported below: 821 S. W. 2d 132.

No. 91-1712. *CONSTRUCTIVIST FOUNDATION, FKA LEE FOUNDATION, INC. v. DEKALB COUNTY BOARD OF TAX ASSESSORS*. Sup. Ct. Ga. Certiorari denied. Reported below: 261 Ga. XXIX, 411 S. E. 2d 42.

No. 91-1724. *CEMCO, INC., ET AL. v. NEWMAN ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 950 F. 2d 1364.

No. 91-1783. *SCHMIDT v. SCHMIDT*. Sup. Ct. Va. Certiorari denied.

No. 91-1807. *WEBBER ET AL. v. GULF OIL CORP. ET AL.* C. A. 9th Cir. Certiorari denied.

504 U. S.

June 15, 1992

No. 91-1830. *UPCHURCH ET AL. v. CLARK*. C. A. 6th Cir. Certiorari denied. Reported below: 955 F. 2d 44.

No. 91-5550. *FAIN v. IDAHO*. Sup. Ct. Idaho. Certiorari denied. Reported below: 119 Idaho 670, 809 P. 2d 1149.

No. 91-6732. *RHOADES v. IDAHO*. Sup. Ct. Idaho. Certiorari denied. Reported below: 120 Idaho 795, 820 P. 2d 665.

No. 91-7376. *MCDONALD v. YELLOW CAB METRO, INC., ET AL.* Sup. Ct. Tenn. Certiorari denied.

No. 91-7449. *RODRIGUEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 948 F. 2d 914.

No. 91-7484. *GOSIER v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 145 Ill. 2d 127, 582 N. E. 2d 89.

No. 91-7702. *BENNETT v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 943 F. 2d 738.

No. 91-7737. *GILSENAN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 949 F. 2d 90.

No. 91-7779. *HALLMAN v. UNITED STATES*; and

No. 91-8082. *GAUNT v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 293 U. S. App. D. C. 356, 954 F. 2d 787.

No. 91-7920. *VITRANO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 956 F. 2d 1159.

No. 91-7997. *BENEFIEL v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: 578 N. E. 2d 338.

No. 91-8018. *KELLY v. FIVE UNIDENTIFIED BOOKING OFFICERS ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 952 F. 2d 396.

No. 91-8020. *JOHNSON v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 957 F. 2d 866.

No. 91-8024. *URDENIS v. THERMAL INDUSTRIES, INC.* C. A. 3d Cir. Certiorari denied. Reported below: 952 F. 2d 1394.

June 15, 1992

504 U. S.

No. 91-8025. *CASELL v. LANDISVILLE DISTRICT OF THE LANCASTER MENNONITE CONFERENCE*. Super. Ct. Pa. Certiorari denied. Reported below: 410 Pa. Super. 648, 590 A. 2d 370.

No. 91-8029. *LYLE ET VIR v. DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES*. Sup. Ct. Fla. Certiorari denied. Reported below: 593 So. 2d 1052.

No. 91-8040. *BENTLEY v. SCULLY, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 177 App. Div. 2d 732, 576 N. Y. S. 2d 1021.

No. 91-8042. *WELDON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 952 F. 2d 394.

No. 91-8045. *CORLEY v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 91-8051. *FRASER v. FULCOMER ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 953 F. 2d 1379.

No. 91-8056. *LEDLOW v. BURTON, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 954 F. 2d 730.

No. 91-8058. *CLEMENS v. NEVADA*. Sup. Ct. Nev. Certiorari denied. Reported below: 108 Nev. 1231, 872 P. 2d 813.

No. 91-8070. *SCOTT v. DIME SAVINGS BANK OF NEW YORK*. C. A. 2d Cir. Certiorari denied. Reported below: 956 F. 2d 1161.

No. 91-8071. *AGUALO v. TERRITORY OF GUAM*. C. A. 9th Cir. Certiorari denied. Reported below: 948 F. 2d 1116.

No. 91-8074. *PARKUS v. DELO, SUPERINTENDENT, POTOSI CORRECTIONAL CENTER*. Sup. Ct. Mo. Certiorari denied.

No. 91-8078. *GAMBLE v. ASHCROFT, GOVERNOR OF MISSOURI, ET AL.* Sup. Ct. Mo. Certiorari denied.

No. 91-8079. *HENTHORN v. SWINSON, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 955 F. 2d 351.

No. 91-8081. *HARDIN v. ELKINS ET AL.* C. A. 6th Cir. Certiorari denied.

504 U. S.

June 15, 1992

No. 91-8139. *McKNIGHT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 953 F. 2d 898.

No. 91-8165. *TOSTE v. UNITED STATES POSTAL SERVICE*. C. A. Fed. Cir. Certiorari denied. Reported below: 956 F. 2d 1172.

No. 91-8177. *BOSCH v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 951 F. 2d 1546.

No. 91-8181. *MOORE v. ATTORNEY GENERAL OF THE UNITED STATES ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 951 F. 2d 1200.

No. 91-8188. *FULFORD v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 961 F. 2d 222.

No. 91-8195. *ADAMS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 954 F. 2d 722.

No. 91-8196. *VARGAS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 953 F. 2d 597.

No. 91-8201. *FARKAS ET AL. v. ELLIS*. C. A. 2d Cir. Certiorari denied. Reported below: 953 F. 2d 636.

No. 91-8202. *KINNEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 953 F. 2d 863.

No. 91-8204. *MULLINS ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 954 F. 2d 725.

No. 91-8206. *MOUSSA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 961 F. 2d 1569.

No. 91-8207. *PHELPS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 955 F. 2d 1258.

No. 91-8209. *MAYERS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 957 F. 2d 858.

No. 91-8214. *McKINNEY v. SMITH, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 91-8224. *BLANTON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 955 F. 2d 49.

June 15, 1992

504 U. S.

No. 91-8226. *JENKINS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 954 F. 2d 730.

No. 91-8229. *GRADO v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 956 F. 2d 279.

No. 91-8242. *CAPPS, AKA JONESON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 952 F. 2d 1026.

No. 91-8243. *CHAPPELL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 956 F. 2d 272.

No. 91-8244. *DAVIS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 953 F. 2d 651.

No. 91-8246. *EDWARDS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 956 F. 2d 1079.

No. 91-8248. *KIRSCH v. WISCONSIN*. Ct. App. Wis. Certiorari denied. Reported below: 166 Wis. 2d 4, 480 N. W. 2d 569.

No. 91-8250. *MORGAN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 958 F. 2d 847.

No. 91-8256. *CESPEDES v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 952 F. 2d 394.

No. 91-8263. *NEALY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 956 F. 2d 264.

No. 91-8264. *MORTON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 961 F. 2d 1579.

No. 91-8268. *ROSALES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 91-8275. *MELVIN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 954 F. 2d 720.

No. 91-8276. *MANNING v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 955 F. 2d 1238.

No. 91-8277. *LEWIS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 954 F. 2d 720.

No. 91-8288. *HAMMACK v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 953 F. 2d 1449.

504 U. S.

June 15, 1992

No. 91-8289. JACKSON ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 953 F. 2d 640.

No. 91-8290. BROWN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 955 F. 2d 45.

No. 91-8298. CLARK *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 958 F. 2d 1083.

No. 91-8299. RUIZ *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 950 F. 2d 724.

No. 91-8326. BELL *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 593 So. 2d 123.

No. 91-1710. TOYOTA MOTOR CORP. ET AL. *v.* WOOD, JUDGE, 127TH JUDICIAL DISTRICT COURT, HARRIS COUNTY, TEXAS (HENRY ET AL., REAL PARTIES IN INTEREST). Ct. App. Tex., 1st Dist. Motion of Product Liability Advisory Council, Inc., et al. for leave to file a brief as *amici curiae* granted. Certiorari denied.

No. 91-7050. TAYLOR *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 947 F. 2d 1002.

JUSTICE WHITE, dissenting.

The Court of Appeals held that the Interstate Agreement on Detainers Act (IAD), 18 U. S. C. App. §2, Art. IV(e), did not compel dismissal of the indictment against petitioner, who was taken from state custody in Massachusetts to Federal District Court on a writ of habeas corpus *ad prosequendum* for arraignment on an unrelated crime and returned to state custody the same day. The Courts of Appeals are divided as to the propriety of dismissal when technical violations of the IAD occur. Some courts take the First Circuit's view that such violations do not merit dismissal, see, *e. g.*, *United States v. Roy*, 830 F. 2d 628, 636 (CA7 1987), cert. denied, 484 U. S. 1068 (1988); *United States v. Roy*, 771 F. 2d 54, 60 (CA2 1985), cert. denied, 475 U. S. 1110 (1986); *Sassoon v. Stynchombe*, 654 F. 2d 371, 374-375 (CA5 Unit B Aug. 1981); but others do not, see, *e. g.*, *United States v. Thompson*, 562 F. 2d 232, 234 (CA3 1977) (en banc), cert. denied, 436 U. S. 949 (1978); *United States v. Schrum*, 638 F. 2d 214 (CA10 1981), aff'g 504 F. Supp. 23 (Kan. 1980). The Ninth Circuit has expressly recognized this conflict, and sided with the position taken

June 15, 1992

504 U. S.

by the First, Second, Fifth, and Seventh Circuits. See, *e.g.*, *United States v. Johnson*, 953 F. 2d 1167, 1171 (1992).

One of the Court's duties is to do its best to see that the federal law is not being applied differently in the various circuits around the country. The Court is surely not doing its best when it denies certiorari in this case, which presents an issue on which the Courts of Appeals are recurringly at odds. I would grant certiorari.

No. 91-7914. *ROMERO v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. JUSTICE BLACKMUN would dismiss the petition for writ of certiorari as moot.

No. 91-8336. *COLEMAN v. THOMPSON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. JUSTICE BLACKMUN would dismiss the petition for writ of certiorari as moot. Reported below: 966 F. 2d 1441.

No. 91-8341. *BLACK v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. JUSTICE BLACKMUN would dismiss the petition for writ of certiorari as moot.

No. 91-8361. *BLACK v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*. C. A. 5th Cir. Certiorari denied. JUSTICE BLACKMUN would dismiss the petition for writ of certiorari as moot. Reported below: 962 F. 2d 394.

No. 91-8286. *BAGGETT v. UNITED STATES*. C. A. 11th Cir. Motion of petitioner to amend petition for writ of certiorari denied. Certiorari denied. Reported below: 954 F. 2d 674.

Rehearing Denied

No. 91-6866. *HENLEY v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*, 502 U. S. 1113;

No. 91-6994. *MITCHELL v. RENFRO ET AL.*, 503 U. S. 910;

No. 91-7185. *JEFFRESS v. PETERSON, COMMISSIONER OF INTERNAL REVENUE, ET AL.*, 503 U. S. 989;

No. 91-7360. *YATES v. McMACKIN, WARDEN*, 503 U. S. 990;

No. 91-7384. *DOERR v. EMERSON*, 503 U. S. 990;

No. 91-7416. *McCULLOUGH v. KERSH ET AL.*, 503 U. S. 991;

No. 91-7419. *McCULLOUGH v. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION*, 503 U. S. 991;

504 U. S.

June 15, 17, 1992

No. 91-7547. VAN WOUNDENBERG *v.* OKLAHOMA, 503 U. S. 993; and

No. 91-7793. GEURIN *v.* DEPARTMENT OF THE ARMY, *ante*, p. 924. Petitions for rehearing denied.

No. 91-370. PERRY *v.* SCHULZE, 502 U. S. 925. Petition for rehearing denied. JUSTICE THOMAS took no part in the consideration or decision of this petition.

JUNE 17, 1992

Dismissal Under Rule 46

No. 91-1717. DYNAMIC SEALS, INC., ET AL. *v.* SANDERS. Ct. App. Mich. Certiorari dismissed under this Court's Rule 46.