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CONSTITUTIONAL LAW.

I. Cases and Controversies.

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speech that is an “electioneering communication” or for speech expressly advocating a candidate’s election or defeat violate First Amendment, but BCRA’s disclaimer and disclosure requirements are valid as applied in this case. *Citizens United v. Federal Election Comm’n*, p. 310.

III. Right to Public Trial.

Jury selection—Closed voir dire proceedings.—Sixth Amendment right to a public trial extends to *voir dire* of prospective jurors; when a party seeking to close proceeding advances an overriding interest, trial court is required to consider alternatives to closure even when they are not offered by opposing party. *Presley v. Georgia*, p. 209.

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Electricity rate setting—Mobile-Sierra doctrine—Wholesale-energy contract.—Presumption mandated by *Mobile-Sierra* doctrine—which requires Federal Energy Regulatory Commission to presume that an electricity rate set by a freely negotiated wholesale-energy contract meets FPA’s “just and reasonable” requirement, 16 U.S.C. § 7824d(a), unless FERC concludes that contract seriously harms public interest—does not depend on identity of complainant seeking FERC investigation and is not limited to rate challenges brought by contracting parties, but applies, as well, to challenges initiated by noncontracting parties. *NRG Power Marketing, LLC v. Maine Pub. Util. Comm’n*, p. 165.

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HABEAS CORPUS.

1. *Adequate and independent state-law grounds for judgment—Discretionary procedural rule.*—A state procedural rule is not automatically “inadequate” under adequate state grounds doctrine—and therefore unenforceable on federal habeas corpus review—because that state rule is discretionary rather than mandatory. *Beard v. Kindler*, p. 53.

2. *Capital murder—Misconduct by trial officials—Discovery and evidentiary hearing.*—This capital case is remanded for Eleventh Circuit to determine, in light of *Cone v. Bell*, 556 U. S. 449, whether petitioner’s allegations of judge, jury, and bailiff misconduct warrant discovery and an evidentiary hearing. *Wellons v. Hall*, p. 220.

3. *Capital murder—Mitigation evidence—Ineffective assistance of counsel.*—Because Ohio state-court decisions denying Spisak’s challenge to his mitigation instruction and his ineffective-assistance-of-counsel claim were not “contrary to, or . . . an unreasonable application of, clearly established Federal law,” 28 U. S. C. § 2254(d)(1), Sixth Circuit erred in accepting them and ordering habeas relief. *Smith v. Spisak*, p. 139.

4. *Capital murder—Sentencing phase—Disposal of unresolved claims.*—Where District Court granted Corcoran habeas relief based on a Sixth Amendment violation and thus did not address his other challenges to his death sentence, Seventh Circuit erred when, in reversing Sixth Amendment ruling, it disposed of unresolved claims without explanation rather than permitting District Court to consider them on remand or explaining why such consideration was unnecessary. *Corcoran v. Levenhagen*, p. 1.

5. *Capital murder—Sentencing phase—Ineffective assistance of counsel.*—Because respondent’s attorneys met constitutional minimum of competence under correct standard, Sixth Circuit erred in granting habeas relief based on ground that respondent had not received effective assistance of counsel during his capital murder trial’s sentencing phase. *Bobby v. Van Hook*, p. 4.

6. *Capital murder—Sentencing phase—Ineffective assistance of counsel.*—Even if performance of Belmontes’ attorney during sentencing phase of his capital murder trial was deficient, he cannot establish prejudice sufficient to show that counsel’s assistance was constitutionally ineffective under *Strickland v. Washington*, 466 U. S. 668. *Wong v. Belmontes*, p. 15.

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7. *Capital murder—Sentencing phase—Ineffective assistance of counsel.*—It was objectively unreasonable under *Strickland v. Washington*, 466 U.S. 668, for Florida Supreme Court and Eleventh Circuit to conclude that there was no reasonable probability that Porter's death sentence would have been different if sentencing judge and jury at his state-court murder trial had heard significant mitigation evidence that his counsel had failed to discover or present. *Porter v. McCollum*, p. 30.

8. *Capital murder—Sentencing phase—Ineffective assistance of counsel.—Unreasonable determination of facts.*—For purposes of 28 U.S.C. § 2254(d)(2), an Alabama court's conclusion, during postconviction proceedings, that petitioner's counsel made a strategic decision not to pursue or present evidence of his mental deficiencies during his trial's penalty phase was not an unreasonable determination of facts in light of evidence presented in state-court proceedings. *Wood v. Allen*, p. 290.

9. *Evidence of guilt—Support for jury's verdict.*—Because trial record includes convincing DNA and other evidence of respondent's guilt, lower federal courts clearly misapplied *Jackson v. Virginia*, 443 U.S. 307, by granting habeas relief based on a report prepared by respondent's DNA expert over 11 years after trial that called into question some trial testimony of State's DNA expert. *McDaniel v. Brown*, p. 120.

10. *Searches and seizures—Warrantless entry.*—Michigan Court of Appeals' decision affirming suppression of evidence on ground that an officer's warrantless entry into respondent's house violated Fourth Amendment is contrary to this Court's case law, particularly *Brigham City v. Stuart*, 547 U.S. 398. *Michigan v. Fisher*, p. 45.

ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996. See **Immigration and Nationality Act.**

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IMMIGRATION AND NATIONALITY ACT.

Illegal Immigration Reform and Immigrant Responsibility Act of 1996—Review of Attorney General's determinations.—Title 8 U.S.C. § 1252(a)(2)(B)'s proscription of judicial review of certain immigration decisions applies only to Attorney General determinations made discretionary by statute, not to determinations declared discretionary by Attorney General himself through regulation. *Kucana v. Holder*, p. 233.

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Federal Courts of Appeals—Collateral-order doctrine—Disclosure orders implicating attorney-client privilege.—Disclosure orders adverse to attorney-client privilege do not qualify for immediate appeal under collateral-order doctrine. *Mohawk Industries, Inc. v. Carpenter*, p. 100.

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Labor dispute arbitration—National Railroad Adjustment Board jurisdiction.—By refusing to adjudicate railroad employees' grievances on false premise that it lacked "jurisdiction" to hear them, a National Railroad Adjustment Board panel failed "to conform, or confine itself, to matters [Congress placed] within the scope of [NRAB] jurisdiction," 45 U.S.C. § 153 First (q). *Union Pacific R. Co. v. Locomotive Engineers*, p. 67.

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Public broadcast of federal trials—Amending Local Rules.—Because it appears that courts below did not follow appropriate procedures set forth in federal law before amending their Rules to allow public broadcasting of federal trials, broadcast of instant case—a challenge to a California proposition that overturned a State Supreme Court ruling permitting same-sex marriage—is stayed pending filing, and disposition, of a certiorari and/or mandamus petition. *Hollingsworth v. Perry*, p. 183.

SUITS BETWEEN STATES.

Equitable distribution of river waters—Intervention.—In South Carolina's original action seeking an equitable apportionment with North Carolina of Catawba River's waters, Catawba River Water Supply Project and Duke Energy Carolinas, LLC, have satisfied appropriate standard for intervention as parties, see *New Jersey v. New York*, 345 U. S. 369, 373, but city of Charlotte, N. C., has not. *South Carolina v. North Carolina*, p. 256.

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Rules of the Supreme Court, p. 1161.

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