

## **ORDER LIST**

**MONDAY, JUNE 15, 1992**

### **CERTIORARI -- SUMMARY DISPOSITION**

91-7295 KYLE, JOE D. V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated and the case is remanded to the United States Court of Appeals for the Fifth Circuit for further consideration in light of *United States v. Shano*, 955 F. 2d 291 (CA5 1992) (withdrawing *United States v. Shano*, 947 F. 2d 1263 (CA5 1991)) and United States Sentencing Commission, Guidelines Manual, Sec. 4B1.2, comment., n.2 (Nov. 1991). The Chief Justice, Justice Scalia, Justice Kennedy and Justice Thomas dissent.

### **ORDERS IN PENDING CASES**

A-894 INTERCONTINENTAL LIFE INSURANCE COMPANY V. LOU R. LINDBLOM

The application for stay presented to Justice Kennedy and by him referred to the Court is denied. Justice O'Connor would grant the application.

D-1103 IN THE MATTER OF DISBARMENT OF NEWTON ALFRED WINN

It having been reported to the Court that Newton Alfred Winn, of St. Petersburg, Florida, has been disbarred from the practice of law by the Supreme Court of Florida and this Court by order of March 30, 1992, having suspended the said Newton Alfred Winn from the practice of law in this Court and directed that a rule issue requiring him to show cause why he should not be disbarred;

And it appearing that the said rule was duly issued;

It is ordered that the said Newton Alfred Winn be disbarred from the practice of law in this Court and that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court.

D-1109 IN THE MATTER OF DISBARMENT OF DANIEL V. PRESNICK

It having been reported to the Court that Daniel V. Presnick, of Orange, Connecticut, has been disbarred from the practice of law by the Supreme Court of Connecticut and this Court by order of April 20, 1992, having suspended the said Daniel V. Presnick from the practice of law in this Court and directed that a rule issue requiring him to show cause why he should not be

disbarred;

And it appearing that the said rule was duly issued and served upon the respondent and that a response has been filed;

It is ordered that the said Daniel V. Presnick be disbarred from the practice of law in this Court and that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court.

D-1111 IN THE MATTER OF DISBARMENT OF HARVEY TESSLER

It having been reported to the Court that Harvey Tessler, of St. Louis, Missouri, has been disbarred from the practice of law by the Supreme Court of Missouri and this Court by order of April 20, 1992, having suspended the said Harvey Tessler from the practice of law in this Court and directed that a rule issue requiring him to show cause why he should not be disbarred;

And it appearing that the said rule was duly issued and served upon the respondent and that the time to file a response has expired;

It is ordered that the said Harvey Tessler be disbarred from the practice of law in this Court and that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court.

D-1114 IN THE MATTER OF DISBARMENT OF GLADYS E. HARRISON

It having been reported to the Court that Gladys E. Harrison, of Cleveland, Ohio, has been suspended from the practice of law by the Supreme Court of Ohio and this Court by order of April 20, 1992, having suspended the said Gladys E. Harrison from the practice of law in this Court and directed that a rule issue requiring her to show cause why she should not be disbarred;

And it appearing that the said rule was duly issued and served upon the respondent and that the time to file a response has expired;

It is ordered that the said Gladys E. Harrison be disbarred from the practice of law in this Court and that her name be stricken from the roll of attorneys admitted to practice before the Bar of this Court.

D-1115 IN THE MATTER OF DISBARMENT OF JOHN B. D'ALBORA

It having been reported to the Court that John B. D'Albora, of Brooklyn, New York, has resigned from the practice of law before the Appellate Division, Supreme Court of New York, Second Judicial Department, and this Court by order of April 20, 1992, having suspended the said John B. D'Albora from the practice of law in this Court and directed that a rule issue requiring him to

show cause why he should not be disbarred;

And it appearing that the said rule was duly issued and served upon the respondent and that the time to file a response has expired;

It is ordered that the said John B. D'Albora be disbarred from the practice of law in this Court and that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court.

D-1138 IN THE MATTER OF DISBARMENT OF WINSTON W. JACOBO

It is ordered that Winston W. Jacobo, of St. Augustine, Florida, be suspended from the practice of law in this Court and that a rule issue, returnable within forty days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

D-1139 IN THE MATTER OF DISBARMENT OF DAVID M. FINE

It is ordered that David M. Fine, of Richmond, Virginia, be suspended from the practice of law in this Court and that a rule issue, returnable within forty days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

D-1140 IN THE MATTER OF DISBARMENT OF JAMES JOSEPH FITZPATRICK

It is ordered that James Joseph Fitzpatrick, of

Portsmouth, New Hampshire, be suspended from the practice of law in this Court and that a rule issue, returnable within forty 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 consideration or decision of this order.

119 ORIG. CONNECTICUT, ET AL. V. NEW HAMPSHIRE

The First Interim Report of the Special Master is received and ordered filed. The 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 the United Illuminating Company, New England Power Company, the Connecticut Light & Power Company, Canal Electric Company, Montaup Electric Company and Taunton Municipal Lighting Plant for leave to intervene is granted. The 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.

91-10 SPECTRUM SPORTS, INC., ET AL. V. McQUILLAN, SHIRLEY

The motion of the Solicitor General for leave to

participate in oral argument as *amicus curiae* and for divided argument is granted.

91-882 LEWY, LAWRENCE V. VIRGINIA DEPT. OF TAXATION

The motion of petitioners to grant the petition for a writ of certiorari is denied.

91-1030 WITHROW, PAMELA V. WILLIAMS, ROBERT

The motion for appointment of counsel is granted and it is ordered that Seth P. Waxman, Esquire, of Washington, D.C. is appointed to serve as counsel for the respondent in this case.

91-1210 CLINTON, GOV. OF ARKANSAS V. JEFFERS, M.C., ET AL.

The motion of appellees to retax costs is granted.

91-1393 LOCKHART, DIR. ARKANSAS DOC V. FRETWELL, BOBBY R.

The motion for appointment of counsel is granted and it is ordered that Ricky B. Medlock, Esquire, of Little Rock, Arkansas, is appointed to serve as counsel for the respondent in this case.

91-1420 GROWE, SEC. OF ST, MINNESOTA V. EMISON, JAMES, ET AL.

The motion of Martin Frost, et al. for leave to file a brief as *amici curiae* is granted.

**CERTIORARI GRANTED**

91-1538 SMITH, SANDRA V. UNITED STATES

91-1695 PIONEER INVESTMENT SERV. V. BRUNSWICK ASSOC., ET AL.

The petitions for writs of certiorari are granted.

91-1160 ARAVE, WARDEN V. CREECH, THOMAS E.

The motion of respondent for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is granted.

91-7749 ORTEGA-RODRIGUEZ, JOSE V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted.

**CERTIORARI DENIED**

91-1363 JOHNSON, STATE'S ATTORNEY V. SU, CHI FENG

91-1367 ) STURMAN, DAVID V. UNITED STATES

)  
91-1533 ) LEVINE, RALPH, ET AL. V. UNITED STATES

)  
91-1596 ) STURMAN, REUBEN V. UNITED STATES

91-1374 QUATTROCCHI, WILLIAM, ET AL. V. COCHRANE, DAWN



91-1388 HANNA BOYS CENTER V. NLRB, ET AL.

91-1464 PALMER, WILSON V. LEVY, TED

91-1525 NEW MEDICO NEUROLOGIC CENTER V. NLRB

91-1528 MESNICK, SAMUEL V. GENERAL ELECTRIC CO.

91-1534 TOTAL CARE, INC. V. SULLIVAN, SEC OF H&HS

91-1535 BASH, JOHN V. UNITED STATES

91-1537 GARZA, RICARDO, ET AL. V. UNITED STATES

91-1559 ) AVERY, GREGORY J., ET UX. V. TURNER, JEAN, TRUSTEE  
)

91-1725 ) TURNER, JEAN, TRUSTEE V. AVERY, GREGORY J., ET UX.

91-1560 HOCHSTEIN, ARNOLD V. UNITED STATES

91-1563 AIU INS. CO., ET AL. V. SUPT., MAINE BUR. OF INS.

91-1629 FEITT, WARD H. V. OFF. OF THRIFT SUPERVISION

91-1691 MOORE, JOHN W. V. CALIFORNIA

91-1694 LATIAN, INC., ET AL. V. BANCO do BRASIL, ET AL.

91-1696 BOWMAN, DAVID B. V. INDIANA

91-1698 OLSON, ROGER V. GENERAL DYNAMICS, ET AL.

91-1701 COSTELLO, THOMAS, ET AL. V. JANSON, YVONNE B., ET AL.

91-1708 LESLIE, ROBERT V. MALVEAUX, HERBERT, ET AL.

91-1711 GORDON, GEORGE V. MISSOURI

91-1712 CONSTRUCTIVIST FOUNDATION V. DeKALB CTY. BD. OF TAX

91-1724 CEMCO, INC., ET AL. V. NEWMAN, NORMAN, ET AL.

91-1783 SCHMIDT, WILLIAM B. V. SCHMIDT, DEE ANN

91-1807 WEBBER, STEVEN, ET AL. V. GULF OIL CORP., ET AL.

91-1830 UPCHURCH, BILLIE J., ET AL. V. CLARK, CONNIE M.  
91-5550 FAIN, CHARLES I. V. IDAHO  
91-6732 RHOADES, PAUL E. V. IDAHO  
91-7376 McDONALD, JESSIE D. V. YELLOW CAB METRO, INC., ET AL.  
91-7449 RODRIGUEZ, DIANE V. UNITED STATES  
91-7484 GOSIER, HARRY L. V. ILLINOIS  
91-7702 BENNETT, GARY V. UNITED STATES  
91-7737 GILSENAN, THOMAS V. UNITED STATES  
91-7779 ) HALLMAN, LYMUS E. V. UNITED STATES  
 )  
91-8082 ) GAUNT, ANNETTE V. UNITED STATES  
91-7920 VITRANO, RICHARD V. UNITED STATES  
91-7997 BENEFIEL, BILL J. V. INDIANA  
91-8018 KELLY, JOHN T. V. FIVE OFFICERS, ET AL.  
91-8020 JOHNSON, DANIEL V. COLLINS, DIR., TEXAS DCJ  
91-8024 URDENIS, CHARLES V. THERMAL INDUSTRIES, INC.  
91-8025 CASSELL, MARYFRANCES V. LANDISVILLE DIST. OF MEN. CNF.  
91-8029 LYLE, CHERYL, ET VIR V. DEPT. OF HEALTH AND REHAB.  
91-8040 BENTLEY, ROOSEVELT C. V. SCULLY, SUPT., ET AL.  
91-8042 WELDON, IRENE V. UNITED STATES  
91-8045 CORLEY, WILLIAM V. CALIFORNIA  
91-8051 FRASER, ALEXANDER V. FULCOMER, THOMAS A., ET AL.  
91-8056 LEDLOW, JOEY G. V. BURTON, WARDEN, ET AL.  
91-8058 CLEMENS, DAVID A. V. NEVADA

91-8070 SCOTT, LEON V. DIME SAVINGS BK. OF NEW YORK  
91-8071 AGUALO, JOSE V. V. GUAM  
91-8074 PARKUS, STEVEN W. V. DELO, SUPT.  
91-8078 GAMBLE, OREN V. ASHCROFT, GOV. OF MISSOURI  
91-8079 HENTHORN, DONALD G. V. SWINSON, WARDEN, ET AL.  
91-8081 HARDIN, TYRONE V. V. ELKINS, EVERETT, ET AL.  
91-8139 McKNIGHT, GERALD F. V. UNITED STATES  
91-8165 TOSTE, SALVATORE V. U.S. POSTAL SERVICE  
91-8177 BOSCH, GEORGE R. V. UNITED STATES  
91-8181 MOORE, LEE A. V. ATTY. GEN. OF THE U.S., ET AL.  
91-8188 FULFORD, LARRY V. UNITED STATES  
91-8195 ADAMS, RANDY C. V. UNITED STATES  
91-8196 VARGAS, ROBEL A. V. UNITED STATES  
91-8201 FARKAS, THOMAS, ET AL. V. ELLIS, WILLIAM  
91-8202 KINNEY, RUSSELL V. UNITED STATES  
91-8204 MULLINS, VERNON, ET AL. V. UNITED STATES  
91-8206 MOUSSA, RAYMOND V. UNITED STATES  
91-8207 PHELPS, COY R. V. UNITED STATES  
91-8209 MAYERS, PATRICIA A. V. UNITED STATES  
91-8214 McKINNEY, CALVIN A. V. SMITH, WARDEN  
91-8224 BLANTON, JOE L. V. UNITED STATES  
91-8226 JENKINS, WILL V. UNITED STATES  
91-8229 GRADO, JOSE A. V. UNITED STATES

91-8242 CAPPS, LYNN M. V. UNITED STATES  
91-8243 CHAPPELL, ROBERT S. V. UNITED STATES  
91-8244 DAVIS, HUBERT C. V. UNITED STATES  
91-8246 EDWARDS, IVAN F. V. UNITED STATES  
91-8248 KIRSCH, KEVIN V. WISCONSIN  
91-8250 MORGAN, RICHARD W. V. UNITED STATES  
91-8256 CESPEDES, STEVEN V. UNITED STATES  
91-8263 NEALY, JAMES E. V. UNITED STATES  
91-8264 MORTON, EDWARD E. V. UNITED STATES  
91-8268 ROSALES, JUVENAL B. V. UNITED STATES  
91-8275 MELVIN, BELINDA M. V. UNITED STATES  
91-8276 MANNING, PATRICIA V. UNITED STATES  
91-8277 LEWIS, SHIRLEY V. UNITED STATES  
91-8288 HAMMACK, JOSEPH E. V. UNITED STATES  
91-8289 JACKSON, CECIL E., ET AL. V. UNITED STATES  
91-8290 BROWN, CARL V. UNITED STATES  
91-8298 CLARK, JAMES L. V. UNITED STATES  
91-8299 RUIZ, GUSTAVO V. UNITED STATES  
91-8326 BELL, RANDY T. V. ALABAMA

The petitions for writs of certiorari are denied.

91-1710 TOYOTA MOTOR CORP., ET AL. V. WOOD, JUDGE, ETC.

The motion of Product Liability Advisory Council,  
Inc., et al. for leave to file a brief as *amici curiae*

is granted. The petition for a writ of certiorari is denied.

91-7914 ROMERO, JESUS V. TEXAS

91-8336 COLEMAN, ROGER K. V. THOMPSON, WARDEN, ET AL.

91-8341 BLACK, ROBERT V. V. TEXAS

91-8361 BLACK, ROBERT V. V. COLLINS, DIR., TEXAS DCJ

The petitions for writs of certiorari are denied.

Justice Blackmun would dismiss the petitions for writs of certiorari as moot.

91-8286 BAGGETT, LONNIE C. V. UNITED STATES

The motion of petitioner to amend the petition for writ of certiorari is denied. The petition for a writ of certiorari is denied.

### **HABEAS CORPUS DENIED**

91-8385 IN RE VERNA PORZIO

The petition for a writ of habeas corpus is denied.

### **MANDAMUS DENIED**

91-1811 IN RE EARLENE POLYAK

91-8219 IN RE HEINZ DALL

The petitions for writs of mandamus are denied.

91-1707 IN RE UNITED SERV. AUTO. ASSN.

The petition for a writ of mandamus is denied.

Justice O'Connor took no part in the consideration or decision of this petition.

### **REHEARINGS DENIED**

91-6866 HENLEY, FREDRICK J. V. COLLINS, DIR., TEXAS DCJ

91-6994 MITCHELL, EMMANUEL V. RENFRO, DARRELL, ET AL.

91-7185 JEFFRESS, JESSE W. V. PETERSON, COMMR., IRS, ET AL.

91-7360 YATES, DANNY V. McMACKIN, WARDEN

91-7384 DOERR, DONALD W. V. EMERSON, DANIEL

91-7416 McCULLOUGH, KENNETH W. V. KERSH, FNU, ET AL.

91-7419 McCULLOUGH, KENNETH W. V. COLLINS, DIR., TEXAS DCJ

91-7547 VAN WOUNDENBERG, SAMMY V. OKLAHOMA

91-7793 GEURIN, HENRY V. V. DEPT. OF THE ARMY

The petitions for rehearing are denied.

91-370 PERRY, EDGAR V. SCHULZE, STEVE

The petition for rehearing is denied. Justice Thomas took no part in the consideration or decision of this petition.

### **RECESS ORDER**

The Court will take a recess from Monday, June 15, 1992 until Thursday, June 18, 1992.

### **MOTIONS FOR ADMISSION**

The written motions for admission of the following lawyers to the Bar of this Court are granted: