

OFFICE OF THE CLERK

In the Supreme Court of the United States

Jason Davis, Kevin McClain, and George Brandt,
Petitioners,

v.

United States of America.

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Sixth Circuit

PETITION FOR A WRIT OF CERTIORARI

Richard L. Gaines
ELDRIDGE & GAINES PLLC
606 West Main St.
Knoxville, TN 37901-0084
Counsel for Petitioner McClain

Peter J. Strianse
TUNE, ENTREKIN & WHITE
AmSouth Center, Suite 1700
315 Deaderick St.
Nashville, TN 37238-1700
Counsel for Petitioner Brandt

July 28, 2006

Thomas C. Goldstein
AKIN, GUMP, STRAUSS,
HAUER & FELD LLP
1333 New Hampshire Ave., NW
Washington, DC 20036
(202) 887-4060
*Counsel of Record and
Counsel for Petitioner Davis*

R. Price Nimmo
NIMMO, HOEHN, & NIMMO
AmSouth Center, Suite 100
315 Deaderick St.
Nashville, TN 37238-0100
Counsel for Petitioner Davis

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L TO PETITIONER DAVIS

Pamela S. Karlan

Jeffrey L. Fisher

STANFORD LAW SCHOOL

SUPREME COURT

LITIGATION CLINIC

559 Nathan Abbott Way

Stanford, CA 94305

QUESTION PRESENTED

When police use the fruits of an illegal search to secure a search warrant, is evidence seized pursuant to the warrant admissible under the "good faith exception" to the exclusionary rule?

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Supreme Court, U.S.
FILED

06-161 JUL 31 2006

No. 06-OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

EDWARD P. DECHERT, as Trustee for
the Bankruptcy Estate of Judy A. Oyler,

Petitioner,

v.

THE CADLE COMPANY,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

DAVID J. PHILIPPS
GOMOLINSKI & PHILIPPS, LTD.
9760 South Roberts Road
Suite One
Palos Hills, Illinois 60465
(708) 974-2900

Attorneys for Petitioner

201685



COUNSEL PRESS
(800) 274-3321 • (800) 359-6859

QUESTION PRESENTED

The Seventh Circuit reversed the district court's decision awarding Edward P. Dechert ("Dechert"), as Trustee for the bankruptcy of Judy A. Oyler, attorneys' fees and costs pursuant to § 1692k of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA"), which followed the district court's entry of summary judgment as to liability against the defendant debt collector, The Cadle Company ("Cadle"), and also followed Dechert's decision to waive trial as to the "additional damages" sought in his lawsuit against Cadle, pursuant to § 1692k of the FDCPA. Dechert's decision to waive trial as to damages was done to end extremely protracted litigation in the district court, and because Dechert had already obtained a \$1,000 award, as sanctions against Cadle, which award was equivalent to the maximum damages recoverable at trial. Cadle thereafter appealed the fee award decision to the Seventh Circuit. In its appeal, Cadle conceded that the district court's order awarding attorneys' fees and costs to Dechert fully comported with the existing law of the Seventh Circuit at that time. Yet, Cadle questioned whether a fee award was appropriate based on the facts of the case, and asked the Seventh Circuit to overturn existing precedent. Although Cadle did not argue that Dechert was not a "prevailing party," the Seventh Circuit *sua sponte* held that Dechert was not, and reversed the district court's award of attorneys' fees and costs. The Seventh Circuit's decision directly conflicts with decisions of the Second and Third Circuits, as well as its own prior decisions, and also improperly applies this Court's decision in *Buckhannon Board and Care Home, Inc., v. West Virginia Department of Health and Human Services*, 532 U.S. 598, 121 S.Ct. 1835, 149 L.Ed.2d 855 (2001).

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(2)

One question is presented:

1. Whether a plaintiff is a “prevailing party” under this Court’s decision in *Buckhannon*, in an action brought pursuant to the FDCPA, or under other consumer protection, attorney fee-shifting statutes – where summary judgment as to liability was entered against a defendant and where no actual or additional damages were awarded to the plaintiff – and therefore the plaintiff is entitled to recover attorneys’ fees and costs, pursuant to §1692k of the FDCPA? *See*, 15 U.S.C. § 1692k, at Appendix E.

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QUESTION PRESE
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I. Review is
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No. _____ 06-162 JUL 31 2006

In The OFFICE OF THE CLERK
Supreme Court of the United States

SANDRA CANO, FORMERLY KNOWN AS
"MARY DOE" OF *DOE V. BOLTON*,

Petitioner,

v.

THURBERT E. BAKER, Attorney General of the
State of Georgia, PAUL L. HOWARD, JR., District
Attorney of Fulton County, Georgia, RICHARD
PENNINGTON, Chief of Police of the City of Atlanta,

Respondents.

**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit**

**PETITION FOR A WRIT OF CERTIORARI
AND APPENDIX
VOLUME I, PAGES 1 TO 175**

THE JUSTICE FOUNDATION
(Formerly Texas Justice
Foundation, and still doing
business in Texas as Texas
Justice Foundation)

ALLAN E. PARKER, JR.,
Counsel of Record

LINDA BOSTON SCHLUETER
RICHARD CLAYTON TROTTER
KATHLEEN CASSIDY GOODMAN
8122 Datapoint, Suite 812
San Antonio, Texas 78229
Phone: 210-614-7157

TERRY L. LLOYD
Georgia Local Counsel
249 Culver Street
Lawrenceville, GA 30045
Phone: 770-962-0118

Counsel for Petitioner

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QUESTIONS PRESENTED FOR REVIEW

Sandra Cano, the “Mary Doe” of *Doe v. Bolton* comes before this Court as an original party asking that her judgment be vacated pursuant to FRCP Rule 60(b). Since *Doe*, significant changes in the factual conditions surrounding abortion demonstrate that abortion hurts women as shown by: the sworn testimony of women harmed by abortion; medical articles and studies since 1973 documenting abortion injuries; and, sworn evidence that abortion clinics in fact do not provide the normal doctor-patient relationship anticipated by *Roe v. Wade* and *Doe v. Bolton*. Significant changes also occurred in legal conditions, including changes in the law of forty-six states that have enacted “Baby Moses” laws which transfer the burden of unwanted child care to society, and this Court’s Federalism jurisprudence restoring more autonomy to the states. *Doe* is also a case of great national importance, and therefore, the questions presented are:

1. Should the original judgment in *Doe v. Bolton* be vacated under Rule 60 due to the substantially changed factual and/or legal conditions that make it no longer just or equitable for prospective application?
2. Is Petitioner Sandra Cano entitled under Rule 60 to any relief, substantive or procedural?
3. Should the Court, at a minimum, require the district court to hold a hearing to afford fundamental due process that would lead to determining whether *Doe v. Bolton* and *Roe v. Wade* should be re-examined?
4. Does the district court have a role in preparing the factual basis in a Rule 60 motion based on *Agostini*?

Supreme Court, U.S.
FILED

06-163 JUL 24 2006

No.

OFFICE OF THE CLERK
IN THE
SUPREME COURT OF THE UNITED STATES

FIFTH AVENUE PRESBYTERIAN CHURCH, GLADYS
ESCALERA, NICHOLAS NESRON, WILLIAM P.
RASMUSSEN, DONALD J. ROBISON, VERONICA A.
LESTER, ALFRED MCKENZIE, ALFRED BROWN,
DENNIS PAIGE, PEABODY DENNIS, STEFAN PARY, and
MARGARET SHAFER,

Respondents,

-against-

THE CITY OF NEW YORK, BERNARD KERIK, and
RUDOLPH GIULIANI,

Petitioners.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR WRIT OF CERTIORARI

LEONARD J. KOERNER,*
LARRY A. SONNENSHEIN,
MORDECAI NEWMAN.
* Counsel of Record
August 26, 2004

MICHAEL CARDOZO
Corporation Counsel of
the City of New York,
100 Church Street,
New York, NY 10007.
(212) 788-1025 or 1067

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QUESTION PRESENTED

Did the holding of the United States Court of Appeals for the Second Circuit stating that the Church's maintaining of a nightly encampment on its steps is constitutionally protected religious conduct err by failing to consider that the Church's failure to provide security, toilets and sanitary facilities, and shelter from the elements stands in direct contradiction to the religious doctrine of serving the needy, which the Church cites as the basis for maintaining the encampment?

06-164 JUL 7 2006

No. _____
OFFICE OF THE CLERK

In The
Supreme Court of the United States

—◆—
RAYMOND D. MAY, et al.,

Petitioners,

v.

BP WEST COAST PRODUCTS LLC,

Respondent.

—◆—
**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit**

—◆—
PETITION FOR A WRIT OF CERTIORARI
—◆—

GENNADY L. LEBEDEV
BLEAU/FOX, a P.L.C.
(Counsel of Record)
3575 Cahuenga Boulevard West, Suite 580
Los Angeles, CA 90068
(323) 874-8613
Counsel for Petitioners

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QUESTIONS PRESENTED

1. Whether the Petroleum Marketing Practices Act ("PMPA") permits a motor fuel franchisor to solicit bids from third parties for the sale of its interest in marketing premises that are leased to its PMPA franchisees, through a process that it created pursuant to which third parties are forced into bidding on the value of the business "goodwill" that is not owned by the franchisor, but is owned by its franchisees.

2. Whether the factual question of a franchisor's subjective intent in deciding to nonrenew PMPA franchises can be *per se* decided, solely based on the franchisor's subjective declaration of good faith, without consideration of circumstantial evidence regarding such intent.

Supreme Court U.S.
FILED

06-166 JUL 31 2006

No. 06- OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

RENE VAZQUEZ-BOTET,

Petitioner,

v.

UNITED STATES,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

G. RICHARD STRAFER
G. RICHARD STRAFER, P.A.
2400 South Dixie Highway
Suite 200
Miami, FL 33133
(305) 857-9090

HOWARD SREBNICK *
BLACK, SREBNICK, KORNSPAN
& STUMPF, P.A.
201 South Biscayne Boulevard
Suite 1300
Miami, FL 33131
(305) 371-6421

EDGAR VEGA-PABON
239 Arterial Hostos Avenue
Suite 1005
San Juan, PR 00918-1477
(787) 771-9056

* Counsel of Record

Counsel for Petitioner

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QUESTION PRESENTED FOR REVIEW

In a criminal case, a circuit court's appellate jurisdiction to review the orders of a district judge is narrowly confined by statute. Only a select few orders can be appealed by the United States. See 18 U.S.C. § 3731. If, however, the district judge's "impartiality might reasonably be questioned," 28 U.S.C. § 455(a), the circuit court may exercise mandamus jurisdiction to disqualify the district judge from further proceedings. Before the First Circuit's opinion below, these avenues of jurisdiction were harmonious because "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion," and "only in the rarest circumstances" would they ever "evidence the degree of favoritism or antagonism required ... when no extrajudicial source is involved." *Liteky v. United States*, 510 U.S. 540, 555 (1994). However, in this criminal case, the First Circuit ordered a district judge to recuse himself based solely on its disagreement with the district judge's preliminary (non-appealable) rulings regarding claims of prosecutorial misconduct before the grand jury. *In re United States*, 441 F.3d 44 (1st Cir. 2006). The question presented in this petition, therefore, is:

Whether a circuit court may circumvent the statutory limitations on appellate jurisdiction in 18 U.S.C. § 3731 by invoking mandamus jurisdiction to disqualify a district judge under 28 U.S.C. § 455(a) based solely on the circuit court's disagreement with the district judge's non-appealable orders, where (1) the district judge is not actually biased and (2) no "extrajudicial source factors" indicate that "his impartiality might reasonably be questioned"?

No. _____ 06-167 JUL 31 2006

In The OFFICE OF THE CLERK
Supreme Court of the United States

JEANNE WOODFORD, DEWEY WOOTEN,
ANTHONY P. KANE, H. WILLIAMS,
D.A. DACANAY, AND I.A. NIENHUIS,

Petitioners,

v.

ROMIRICO REMEIDIO,

Respondent.

**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit**

PETITION FOR A WRIT OF CERTIORARI

BILL LOCKYER
Attorney General of the
State of California
JAMES M. HUMES
Chief Assistant Attorney General
MANUEL M. MEDEIROS
State Solicitor General
FRANCES T. GRUNDER
Senior Assistant Attorney General
THOMAS S. PATTERSON*
Deputy Attorney General
State Bar No. 202890
455 Golden Gate Avenue,
Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5727
Facsimile: (415) 703-5843
Counsel for Petitioners
**Counsel of Record*

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QUESTION PRESENTED

Can an inmate proceed on a civil-rights claim that prison officials retaliated against him for First Amendment expression if the action taken against the inmate objectively served a legitimate penological purpose?

Supreme Court, U.S.
FILED

06-169 JUL 31 2006

No. OFFICE OF THE CLERK

In the
Supreme Court of the United States

BRYAN E. MCDONNELL,
Petitioner,

v.

CARDIOTHORACIC & VASCULAR SURGICAL
ASSOCIATES, INC; GENESIS HEALTHCARE
SYSTEM; CARDIOTHORACIC & VASCULAR
SURGICAL SPECIALISTS, INC.,
Respondents.

On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

Of Counsel

JANE E. GARFINKEL
THOMPSON HINE LLP
312 WALNUT STREET
14TH FLOOR
CINCINNATI, OH 45202-4089
(513) 352-6700

THOMAS J. COLLIN
Counsel of Record
CHRISTOPHER R. JOHNSON
THOMPSON HINE LLP
127 PUBLIC SQUARE
CLEVELAND, OH 44114
(216) 566-5500

Counsel for Petitioner

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QUESTIONS PRESENTED

1. Whether a court of appeals can arbitrarily, and without any basis in abstention doctrine or otherwise, refuse to decide a dispositive issue properly raised and briefed on appeal?
2. Whether a district court can decide on summary judgment that, as a matter of law, firms had no intent to violate the Medicare/Medicaid Anti-Kickback Statute (42 U.S.C. §1320a-7b(b)) where there is probative evidence in the record that they intended to evade its prohibition against payments for patient referrals?