



# SUPREME COURT REPORTER



Volume 93

Pages 1-1561

*Covering*

VOLUMES 409-411 U. S. REPORTS

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*Cases Argued and Determined*

*in the*

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1972

ST. PAUL, MINN.  
WEST PUBLISHING CO.

1974

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**93 S. Ct.**

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# JUSTICES

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OCTOBER TERM, 1972

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## CHIEF JUSTICE

HON. WARREN E. BURGER

## ASSOCIATE JUSTICES

HON. WILLIAM O. DOUGLAS  
HON. WILLIAM J. BRENNAN, Jr.  
HON. POTTER STEWART  
HON. BYRON R. WHITE  
HON. THURGOOD MARSHALL  
HON. HARRY A. BLACKMUN  
HON. LEWIS F. POWELL, Jr.  
HON. WILLIAM H. REHNQUIST

## RETIRED

HON. EARL WARREN, Chief Justice  
HON. STANLEY REED, Associate Justice  
HON. TOM C. CLARK, Associate Justice

## ATTORNEY GENERAL

HON. RICHARD G. KLEINDIENST <sup>1</sup>  
HON. ELLIOTT L. RICHARDSON <sup>2</sup>

## SOLICITOR GENERAL

HON. ERWIN N. GRISWOLD

## CLERK

MICHAEL RODAK

## REPORTER OF DECISIONS

HENRY PUTZEL, jr.

## MARSHAL

FRANK M. HEPLER

## LIBRARIAN

HENRY CHARLES HALLAM, Jr.<sup>3</sup>  
EDWARD G. HUDON <sup>4</sup>

<sup>1</sup> Resigned, effective May 25, 1973.

<sup>2</sup> Took office May 25, 1973.

<sup>3</sup> Retired, effective November 30, 1972.

<sup>4</sup> Appointed, effective December 1, 1972.



# ALLOTMENT OF THE JUSTICES

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## DISTRICT OF COLUMBIA CIRCUIT

CHIEF JUSTICE WARREN E. BURGER, of Virginia.

Appointed Chief Justice by President Nixon June 23, 1969;  
took office June 23, 1969.

## FIRST CIRCUIT.

*Maine, Massachusetts, New Hampshire, Rhode Island, and Puerto Rico.*

JUSTICE WILLIAM J. BRENNAN, Jr., of New Jersey.

Appointed by President Eisenhower October 15, 1956;  
took office October 16, 1956.

## SECOND CIRCUIT.

*Connecticut, New York, and Vermont.*

JUSTICE THURGOOD MARSHALL, of New York.

Appointed by President Johnson August 30, 1967;  
took office October 2, 1967.

## THIRD CIRCUIT.

*Delaware, New Jersey, Pennsylvania, and Virgin Islands.*

JUSTICE WILLIAM J. BRENNAN, Jr., of New Jersey.

Appointed by President Eisenhower October 15, 1956;  
took office October 16, 1956.

## FOURTH CIRCUIT.

*Maryland, North Carolina, South Carolina, Virginia, and West Virginia.*

CHIEF JUSTICE WARREN E. BURGER, of Virginia.

Appointed Chief Justice by President Nixon June 23, 1969;  
took office June 23, 1969.

## FIFTH CIRCUIT.

*Alabama, Florida, Georgia, Louisiana, Mississippi, Texas, and Canal Zone.*

JUSTICE LEWIS F. POWELL, Jr., of Virginia.

Appointed by President Nixon December 9, 1971;  
took office January 7, 1972.

## ALLOTMENT OF THE JUSTICES

### SIXTH CIRCUIT.

*Kentucky, Michigan, Ohio, and Tennessee.*

JUSTICE POTTER STEWART, of Ohio.

Appointed by President Eisenhower October 14, 1958;  
took office October 14, 1958.

### SEVENTH CIRCUIT.

*Illinois, Indiana, and Wisconsin.*

JUSTICE WILLIAM H. REHNQUIST, of Arizona.

Appointed by President Nixon December 15, 1971;  
took office January 7, 1972.

### EIGHTH CIRCUIT.

*Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and  
South Dakota.*

JUSTICE HARRY A. BLACKMUN, of Minnesota.

Appointed by President Nixon May 14, 1970; took office May 14, 1970.

### NINTH CIRCUIT.

*Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada,  
Oregon, and Washington.*

JUSTICE WILLIAM O. DOUGLAS, of Connecticut.

Appointed by President Roosevelt April 15, 1939; took office April 17, 1939.

### TENTH CIRCUIT.

*Colorado, Kansas, New Mexico, Oklahoma, Utah, and Wyoming.*

JUSTICE BYRON R. WHITE, of Colorado.

Appointed by President Kennedy April 12, 1962; took office April 16, 1962.

**SUPREME COURT  
OF THE  
UNITED STATES**

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**ASSIGNMENT OF MR. JUSTICE CLARK**

**ORDER**

**October 10, 1972**

An order of the Chief Justice designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Appeals for the District of Columbia Circuit beginning December 4, 1972, and ending December 8, 1972, and for such further time as may be required to complete unfinished business, pursuant to 28 U.S.C. § 294(a), is ordered entered on the minutes of this Court, pursuant to 28 U.S.C. § 295.

**APPOINTMENT OF MR. EDWARD G. HUDON**

**ORDER**

**December, 4, 1972**

It is ordered that Edward G. Hudon be and he is hereby, appointed Librarian of this Court in the place of Henry Charles Hallam, Jr., retired.

**ASSIGNMENTS OF MR. JUSTICE CLARK**

**ORDERS**

**January 8, 1973**

An order of the Chief Justice designating and assigning Mr. Justice Clark (Retired) to perform judicial duties in the United States Court of Appeals for the Second Circuit beginning April 16, 1973, and ending April 20, 1973, and for such further time as may be required to complete unfinished business, pursuant to 28 U.S.C. § 294(a), is ordered entered on the minutes of this Court, pursuant to 28 U.S.C. § 295.

An order of the Chief Justice designating and assigning Mr. Justice Clark (Retired) to perform judicial duties in the United

## **SUPREME COURT OF THE UNITED STATES**

States Court of Appeals for the Eighth Circuit beginning June 11, 1973, and ending June 15, 1973, and for such further time as may be required to complete unfinished business, pursuant to 28 U.S.C. § 294(a), is ordered entered on the minutes of this Court, pursuant to 28 U.S.C. § 295.

### **ASSIGNMENT OF MR. JUSTICE CLARK**

#### **ORDER**

**January 15, 1973**

An order of the Chief Justice designating and assigning Mr. Justice Clark (Retired) to perform judicial duties in the United States Court of Customs and Patent Appeals for the period January 8 and 9, 1973, and for such further time as may be required to complete unfinished business, pursuant to 28 U.S.C. § 294(a), is ordered entered on the minutes of this Court, pursuant to 28 U.S.C. § 295.

### **INAUGURATION OF THE PRESIDENT**

#### **ORDER**

**January 20, 1973**

The Court convened and the Chief Justice announced that the Court will take a recess to attend the inauguration of the President of the United States.

The oath of office was administered to the Honorable Richard Milhous Nixon as President of the United States by the Chief Justice.

### **ASSIGNMENTS OF MR. JUSTICE CLARK**

#### **ORDERS**

**February 26, 1973**

An order of the Chief Justice designating and assigning Mr. Justice Clark (Retired) to perform judicial duties in the United States Court of Appeals for the Seventh Circuit for the week of April 2, 1973, and for such further time as may be required to complete unfinished business pursuant to 28 U.S.C. § 294(a), is ordered entered on the minutes of this Court, pursuant to 28 U.S.C. § 295.

An order of the Chief Justice designating and assigning Mr. Justice Clark (Retired) to perform judicial duties in the United

SUPREME COURT OF THE UNITED STATES

States Court of Appeals for the Seventh Circuit for the week of May 21, 1973, and for such further time as may be required to complete unfinished business, pursuant to 28 U.S.C. § 294(a), is ordered entered on the minutes of this Court, pursuant to 28 U.S.C. § 295.

ANNIVERSARY OF MR. WILLIAM O. DOUGLAS  
ASSOCIATE JUSTICE  
OF THE  
UNITED STATES

**April 17, 1973**

The Chief Justice said:

"Before proceeding with our regular matters this morning, we will pause for a moment to take note of an important anniversary of our Brother, Mr. Justice William O. Douglas. Thirty-four years ago today he took the oath of office as an Associate Justice of this Court and in the history of this Court, only Chief Justice Marshall, our late Brother Justice Black and Justice Field served longer. Very soon Justice Douglas will surpass the record of even those three Justices. In his long career on this Court he has been a strong, articulate individualist willing to blaze new trails whether in the majority or in dissent but also willing to tread ancient paths of the law.

"Several qualities distinguish Justice Douglas from many other illustrious predecessors on the Court but I will mention only one. He is possessed of a restless, questing mind and spirit not only in the law but in relation to the world around him and in the events of his time. On his vacations he has climbed mountains, visited strange parts of strange lands and he has written and lectured about them. He has also written of current developments on the social, economic and political scene and for all of his life he has been devoted to nature and the outdoor life. He was a student of ecology before the word had currency and in his concern for man's environment he was far ahead of his time. His service on the Court spans the tenure of five Chief Justices and by the end of this Term of Court his opinions will appear in 103 volumes or more than one-fourth of all volumes of reported cases of the Court.

"I know I speak for all Justices and retired Justices on this anniversary in extending to you, Bill, our best wishes for continued good health, long life and much happiness and many more mountains to climb."



SUPREME COURT OF THE UNITED STATES

ORDER

April 23, 1973

It is ordered that the call of the calendar, except for special assignments, be suspended for the term upon the conclusion of the arguments in the cases listed for hearing this week.

BANKRUPTCY RULES

AND

OFFICIAL BANKRUPTCY FORMS

ORDER

April 24, 1973

ORDERED:

1. That the rules and forms as approved by the Judicial Conference of the United States, to be known as the Bankruptcy Rules and Official Bankruptcy Forms, be, and they hereby are, prescribed pursuant to Section 2075, Title 28, United States Code, to govern the forms of process, writs, pleadings, and motions, and the practice and procedure under the Bankruptcy Act, in the proceedings and to the extent set forth therein, in the United States district courts, the District Court for the District of the Canal Zone, and the District Courts of Guam and the Virgin Islands.

2. That the aforementioned Bankruptcy Rules and Official Bankruptcy Forms shall take effect on October 1, 1973, and shall be applicable to proceedings then pending, except to the extent that in the opinion of the court their application in a particular proceeding then pending would not be feasible or would work injustice, in which event the former procedure applies.

3. That General Orders in Bankruptcy 1 to 7 inclusive, 9 to 12 inclusive, 14 to 26 inclusive, 28 to 40 inclusive, 42 to 45 inclusive, 47, 50, 51, 53, and 56 and Official Forms in Bankruptcy 1 to 13 inclusive, 15 to 20 inclusive, 22 to 47 inclusive, and 70 to 72 inclusive, heretofore prescribed by this Court, be, and they hereby are, abrogated, effective October 1, 1973.

4. That THE CHIEF JUSTICE be, and he hereby is, authorized to transmit the said new Bankruptcy Rules and Official