

420 U.S. 982, 43 L.Ed.2d 665

**ATHENEUM BOOK STORE, INC. v.
CITY OF MIAMI BEACH.**
No. 74-438.

On petition for writ of certiorari to the Circuit Court of the 11th Judicial Circuit, in and for Dade County, Florida.

March 17, 1975. The petition for a writ of certiorari is denied.

Mr. Justice BRENNAN, with whom Mr. Justice STEWART and Mr. Justice MARSHALL join, dissenting.

On June 15, 1971, a Miami Beach Municipal Court Judge ordered the materials in petitioner's bookstore seized for use as evidence at a subsequent trial. The order followed a 13-minute examination of the store's contents which convinced the judge that some of the publications on sale "based upon previous judicial decisions, constitute hard core pornography" and that the owners of the store were "pandering both to heterosexual and homosexual individuals." The Circuit Court of the Eleventh Judicial Circuit affirmed and the Third District Court of Appeal and the Supreme Court of Florida denied certiorari.

It is my view that "at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the State and Federal governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly 'obscene' contents." *Paris Adult Theatre I v. Slaton*, 413 U.S. 49, 113, 93 S.Ct. 2628, 37 L.Ed.2d 446 (1973) (Brennan, J., dissenting).

It is clear that, tested by that constitutional standard, the Municipal Court Judge's order was invalid. For the reasons stated in my dissent in *Miller v. California*, 413 U.S. 15, 47, 93 S.Ct. 2607, 37 L.Ed.2d 419 (1973), I would therefore grant certiorari, and since the judgment of the Supreme Court of Florida was rendered after *Miller*, reverse.

In that circumstance, I have no occasion to consider whether the other questions presented merit plenary review. See *Heller v. New York*, 413 U.S. 494, 495, 93 S.Ct. 2796, 37 L.Ed.2d 746 (1973) (Brennan, J., dissenting).

Mr. Justice DOUGLAS took no part in the consideration or decision of this petition.



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**W. L. STERRETT et al., petitioners, v.
Joseph TAYLOR et al.** No. 74-576.

Rehearing Denied May 12, 1975.

See 421 U.S. 971, 95 S.Ct. 1969.

Facts and opinion, D.C., 344 F.Supp. 411; 499 F.2d 367.

March 17, 1975. Motion of respondents for leave to proceed *in forma pauperis* granted. Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit denied.

Mr. Justice DOUGLAS took no part in the consideration or decision of this case.



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**MICHIGAN, petitioner, v. Leonard
RAINWATER.** No. 74-874.

March 17, 1975. Motion of respondent for leave to proceed *in forma pauperis* granted. Petition for writ of certiorari to the Court of Appeals of Michigan denied.

Mr. Justice DOUGLAS took no part in the consideration or decision of this case.