Volume 113 - Number 1 - Page 1 Wednesday, January 2, 1985

THE DAILY WASHINGTON

# Law Reporter

Established 1874

U.S. Court of Appeals for the D.C. Circuit

## CONSTITUTIONAL LAW

### PRIVACY RIGHT

**Rehearing En Banc is denied of decision upholding discharge of homosexual by U.S. Navy.**

DRONENBURG v. ZECH, ET AL., U.S.App.D.C. No. 82-2304, November 15, 1984. *Rehearing En Banc denied* (Opinion dissenting from denial filed by S. Robinson, C.J. and Wald, Mikva and Edwards, JJ.; statement of Ginsburg and Starr, JJ.; statement of Bork, joined by Scalia, J.) *Stephen V. Bomse, Leonard Graff* and *Calvin Steinmetz* were on the suggestion for rehearing *en banc* filed by appellant. *Charles Lister* and *Margaret R. Alexander* were on the supporting petition for amicus curiae the American Civil Liberties Union of the National Capital Area. *Abby R. Rubenfeld, Evan Wolfson, Sarah Wunsch* and *Anne E. Simon* were on the joint brief of amicus curiae LAMBDA Legal Defense and Education Fund, Inc., et al., in support of the suggestion for rehearing en banc.

PER CURIAM: The Suggestion for Rehearing *en banc* of Appellant, and the briefs *amici curiae* in support thereof, have been circulated to the full Court and a majority of the judges in regular active service have not voted in favor thereof. On consideration of the foregoing, it is

ORDERED, by the Court, *en banc*, that the aforesaid Suggestion for rehearing *en banc* is denied.

S. ROBINSON, C.J.; WALD, MIKVA and EDWARDS, JJ., *dissenting from denial of suggestion to hear case en banc:* We would vote to vacate the decision of the panel and to rehear the matter before the court *en banc*. This is a case of extreme importance in both a practical and a jurisprudential sense. For reasons discussed below, we do not think that *Doe v. Commonwealth's Attorney*, 425 U.S. 901 (1976), *aff'g mem.* 403 F.Supp. 901 (E.D.Va. 1975), is controlling precedent here. Moreover, we are deeply troubled by the use of the panel's decision to air a revisionist view of constitutional jurisprudence.

The panel's extravagant exegesis on the constitutional right of privacy was wholly unnecessary to decide the case before the court. The *ratio decidendi* of the panel decision is fairly well stated in the last paragraph of the opinion. Jurists are free to state their personal views in a variety of forums, but the opinions of this court are not proper occasions to throw down gauntlets to the Supreme Court.

We find particularly inappropriate the panel's attempt to wipe away selected Supreme Court decisions in the name of judicial restraint. Regardless whether it is the proper role of lower federal courts to "create new constitutional rights," *Dronenburg v. Zech*, No. 82-2304, slip op. at 17 (D.C. Cir. Aug. 17, 1984), surely it is not their function to conduct a general spring cleaning of constitutional law. Judicial restraint

(Cont'd. on p. 6 - Right)

U.S. Court of Appeals for the D.C. Circuit

## CIVIL SERVICE

### BIVENS ACTION

**Government employee who is member of pre-Civil Service Reform Act competitive service may not bring Bivens action against supervisor for infringing First Amendment rights in dispute arising out of employment relationship.**

KRODEL v. YOUNG, ET AL., U.S.App.D.C. Nos. 83-1426 & 83-1427, November 20, 1984. *Affirmed* per Wald, J. (Wright and MacKinnon, J.J. concur). *Erik L. Kitchen* with *Richard K. Willard, Joseph E. diGenova* and *Robert S. Greenspan* for cross-appellants in No. 83-1427 and appellees in No. 83-1426. *Roy J. Bucholtz* and *Charles A. Kuninski* for cross-appellee in No. 83-1427 and appellant in No. 83-1426. Trial Court—Flannery, J.

WALD, J.: This appeal concerns whether the Board of Hearings Appeals ("Board" or "BHA") of the Social Security Administration discriminated against the plaintiff, Richard Krodel, on the basis of age and whether Krodel can seek damages from his supervisors for infringing his first amendment rights. In 1976 and 1977, Krodel, then a 60 year old management analyst at the BHA, applied for five separate promotions and was rejected for each. After exhausting his administrative remedies, he brought suit against the Board and various BHA supervisors in their official capacity, claiming that the BHA's refusal to promote him violated the Age Discrimination in Employment Act (ADEA), 29 U.S.C. §621 *et seq.* He also sued various BHA officials, in their individual and official capacities, for infringing his first and fifth amendment rights. Krodel sought declaratory relief, promotion and back pay under the ADEA; he also sought damages from the individual defendants under his constitutional claim. Although the district court dismissed his constitutional claims, it found that the BHA had violated the ADEA in its refusal to promote Krodel to a Supervisory Management Analyst Position ("Position 1") in February of 1976. On appeal, the Board challenges the district court's age discrimination holding; Krodel challenges only its dismissal of his first amendment claim. We affirm the district court.

#### I. THE BACKGROUND

The age discrimination claim hinges on the circumstances surrounding the BHA's selection of Mary Pronovost rather than Krodel to fill Positon 1. Krodel was initially hired as a management analyst by the BHA in December of 1968; in July of 1971, he was promoted from level GS-11 to level GS-12. His eight years of experience as a management analyst and his qualifications for Position 1 are not disputed by the government. Pronovost, who was 39 years old at the time of the promotion, joined the BHA in 1973 as a GS-11 staff assistant in the BHA's Division of Facilities after serving as a confidential assistant in another section of the agency.

(Cont'd. on p. 5 - Action)

D.C. Court of Appeals

## CRIMINAL LAW & PROCEDURE

### HARMLESS ERROR

**Admission of voluntary statement made after failure to give Miranda warning was harmless error where virtually same admissions were made by defendant at trial.**

LEWIS v. UNITED STATES, D.C.App. No. 82-1522, October 2, 1984. *Affirmed* per Belson, J. (Nebeker and Kern, JJ. concur). *Terence McCourt*, appointed by the court, with *Stephen R. Lohman* for appellant. *Terence J. Keeney* with *Stanley S. Harris* and *Michael W. Farrell* for appellee. Trial Court—Hess, J.

BELSON, J.: Appellant was convicted of manslaughter while armed, D.C. Code §§22-2405, -3202 (1981 & Supp. 1983), in connection with the stabbing death of his nephew, Bernard Lee. We hold that a statement given to police shortly after appellant's arrest should have been suppressed because appellant was not advised of all of his *Miranda* rights. However, we further hold that the error was harmless beyond a reasonable doubt because the substance of the erroneously-admitted statement was presented to the jury through other, untainted, testimony. We therefore affirm the conviction.

The incident leading to appellant's arrest occurred in the early morning hours of February 27, 1981. At about 2 a.m., appellant and other members of his household were awakened by a disturbance at the front door. Bernard Lee, appellant's nephew who had been living in appellant's home for the past few months, was knocking at the door and hollering that he wanted to come in to get his clothes. After some delay, appellant got out of bed, picked up a knife from a nearby table and went downstairs. He then opened the door and confronted Lee. In the course of the ensuing encounter Lee received a stab wound that later proved fatal.

Although wounded, Lee left. Appellant went back upstairs and told Maxine Clark, the woman with whom he was living, that he had stabbed Lee. Appellant then went to the home of a friend, Thomasina Ingram.

In the meantime, Lee had been taken to the hospital and the police had been called. Detective Thomas Arnold testified at a pretrial suppression hearing that as a result of his investigation that morning, he suspected appellant was the person who had stabbed Lee. When he went to appellant's home, appellant was not there. Terrance Lewis, another nephew, called appellant at Thomasina Ingram's and told him to come home

(Cont'd. on p. 4 - Error)

## TABLE OF CASES

appropriate for us to supplement that regulatory scheme with a new judicial remedy.

*Id.* As a member of the pre-Civil Service Reform Act competitive civil service, Krodel enjoyed meaningful remedies against the government for a free speech related claim arising out of his employment relationship. In particular, Krodel could have possessed his complaint inside the agency, *see* 5 C.F.R. §771.108 (1977), and could have obtained direct judicial review of an adverse agency ruling under the Administrative Procedure Act, 5 U.S.C. §706. *See Carducci* v. *Regan*, 714 F.2d 171, 174 n.1 (D.C. Cir. 1982) (collecting cases); *see also Porter* v. *Califano*, 592 F.2d 770 (5th Cir. 1979). In fact, however, Krodel never raised his first amendment related complaints in any of the five separate grievances he filed at the agency level. His free speech claim is decidedly an afterthought and subsidiary to the age discrimination claim upon which he has prevailed. *Cf. Constitutional Opinion* at 2-3.

Krodel himself concedes that "[i]f *Bush* were the principal relevant case this Court should be inclined to affirm the district court . . . on the grounds that there was a 'comprehensive' scheme of civil service remedies both available and used." Brief for the Appellees/Cross Appellants at 25. Krodel argues, however, that *Bush* can be distinguished because his criticisms concerned public waste and were therefore in the public interest. This argument was squarely rejected in *Bush* itself. *See Bush*, 103 S.Ct. at 2417. Because Krodel enjoyed a comprehensive statutory forum for his free speech claims, we conclude that he cannot bring a *Bivens* action against his supervisors for infringing his first amendment rights in a dispute arising out of his employment relationship.

IV. CONCLUSION

For the reasons discussed above, we affirm the district court's ruling that the BHA violated the ADEA and its dismissal of Krodel's *Bivens* action.

*Affirmed.*



**RIGHT**

(Cont'd. from p. 1)

begins at home.

We object most strongly, however, not to what the panel opinion does, but to what it fails to do. No matter what else the opinions of an intermediate court may properly include, certainly they must still apply federal law as articulated by the Supreme Court, and they must apply it in good faith. The decisions of that Court make clear that the constitutional right of privacy, whatever its genesis, is by now firmly established. An intermediate judge may regret its presence, but he or she must apply it diligently. The panel opinion simply does not do so. Instead of conscientiously attempting to discern the principles underlying the Supreme Court's privacy decisions, the panel has in effect thrown up their hands and decided to confine those decisions to their facts. Such an approach to "interpretation" is as clear an abdication of judicial responsibility as would be a decision upholding all privacy claims the Supreme Court had not expressly rejected.

We find completely unconvincing the suggestion that *Doe v. Commonwealth's Attorney* controls this case. In *Doe*, the Supreme Court affirmed without opinion a three-judge district court's dismissal of a pre-enforcement constitutional challenge to a state criminal statute. Dronenburg, by contrast, challenges the constitutionality of his discharge pursuant to a military regulation not expressly authorized by statute. To hold Dronenburg's claims hostage to a one-word summary affirmance disregards the well-established principle that such a disposition by the Supreme Court decides the issue between the parties on the narrowest possible grounds. *See Mandel v. Bradley*, 432 U.S. 173, 176-77 (1976) (per curiam); *Fusari v. Steinberg*, 419 U.S. 379, 391-92 (1975) (Burger, C.J., concurring). Moreover, the Court has clearly indicated that the *Doe* issue remains open. *See Carey v. Population Services International*, 431 U.S. 678, 688 n.5, 694 n.17 (1977) ("[T]he Court has not definitively answered the difficult question whether and to what extent the Constitution prohibits state statutes regulating [private consensual sexual] behavior among adults."); *New York v. Uplinger*, 104 S.Ct. 2332 (1984) (dismissing certiorari as improvidently granted).

Even were we convinced by Judge Ginsburg's well-intentioned attempt to justify the panel decision as a simple application of *Doe*, we would still vote to vacate the opinion. The opinion purports to speak for the court throughout the text, and we cannot indulge its twelve-page attack on the right of privacy as a harmless exposition of a personal viewpoint. *Cf. Dronenburg*, slip op. at 17 n.5.

In its eagerness to address larger issues, the panel fails even to apply seriously the basic requirement that the challenged regulation be "rationally related to a permissible end." There may be a rational basis for the Navy's policy of discharging all homosexuals, but the panel opinion plainly does not describe it. The dangers hypothesized by the panel provide patently inadequate justification for a ban on homosexuality in a Navy that includes personnel of both sexes and places no parallel ban on all types of heterosexual conduct. In effect, the Navy presumes that any homosexual conduct constitutes cause for discharge, but it treats problems arising from heterosexual relations on a case-by-case basis giving fair regard to the surrounding circumstances. This disparity in treatment calls for serious equal protection analysis.

We intimate no view as to whether the constitutional right of privacy encompasses a right to engage in homosexual conduct, whether military regulations warrant a relaxed standard of review, or whether the Navy policy challenged in this case is ultimately sustainable. What we do maintain is that the panel failed to resolve *any* of these compelling issues in a satisfactory manner. Because we believe that the panel substituted its own doctrinal preferences for the constitutional principles established by the Supreme Court, we would vacate the decision of the panel and hear the case anew.

GINSBURG, J.: In challenging his discharge for engaging in homosexual acts in a Navy barracks, appellant argued that the conduct in question falls within the zone of constitutionally protected privacy. The panel held that, either because of the binding effect of the Supreme Court's summary affirmance in *Doe v. Commonwealth's Attorney*, 425 U.S. 901 (1976), *summarily aff'g* 403 F.Supp. 1199 (E.D.Va. 1975), or on the basis of principles set forth in other Supreme Court decisions, the Navy's determination could not be overturned. I agree with the first basis of that holding. *See Hicks v. Miranda*, 422 U.S. 332, 344-45 (1975).

It is true that, in its discussion of the alternative basis, the panel opinion airs a good deal more than disposition of the appeal required. Appellant and amici, in suggesting rehearing en banc, state grave concern that the panel opinion's "broad scope" creates correspondingly broad law for the circuit and, in so doing, sweeps away prior landmark holdings and divergent analyses.

The concern is unwarranted. No single panel is licensed to upset prior panel rulings, landmark or commonplace, or to impose its own philosophy on "the court." The panel in this case, I am confident, had no design to speak broadly and definitively *for the circuit*. I read the opinion's extended remarks on constitutional interpretation as a commentarial exposition of the opinion writer's viewpoint, a personal statement that does not carry or purport to carry the approbation of "the court."

Because I am of the view that the Supreme Court's disposition in *Doe* controls our judgment in this case, and that the panel has not tied the court to more than that, I vote against rehearing the case en banc.

BORK, J., joined by SCALIA, J.

BORK, J.: The dissent from the court's denial of the suggestion of rehearing en banc undertakes to chide the panel for criticizing the Supreme Court's right to privacy cases and for failing to extract discernible principle from those cases for application here. In rather extravagant terms the dissent accuses the panel of such sins as attempting to "wipe away " Supreme Court decisions, of "throw[ing] down gauntlets" to that Court, and "conduct[ing] a general spring cleaning of constitutional law." While rhetorical excess may be allowed to pass, we think that underlying it in this instance are serious misunderstandings that require a response.

In the first place, the dissent overlooks both what we actually did and the necessity for it. The appellant cited a series of cases—*Griswold* v. *Connecticut*, 381 U.S. 479 (1965); *Loving* v. *Virginia*, 388 U.S. 1 (1967); *Eisenstadt* v. *Baird*, 405 U.S. 438 (1972); and *Carey* v. *Population Services International*, 431 U.S. 678 (1977)—which he claimed established a privacy right to engage in homosexual conduct. It was, therefore, essential that the panel examine those decisions to determine whether they did enunciate a principle so broad. We quoted the pivotal language in each case and concluded that no principle had been articulated that enabled us to determine whether appellant's case fell within or without that principle. In these circumstances, we thought it improper for a court of appeals to create a new constitutional right of the sort appellant sought. That much is certainly straightforward exegesis. The dissenters appear to be exercised, however, because the conclusion that we could not discover a unifying principle underlying these cases seems to them an implicit criticism of the Supreme Court's performance in this area. So it may be, but, if so, the implied assessment was inevitable. It is difficult to know how to reach the conclusion that no principle is discernible in decisions without seeming to criticize those decisions. Had our real purpose been to propose, as the dissent says, that those cases be eliminated from constitutional law, we would have engaged in a much more extensive analysis than we undertook. As it was, we said no more than we thought required by the appellant's argument.

Unless the dissent believes that we are obliged to dissemble, enunciating a unifying principle where we think none exists, then its only criticism must be with the adequacy of our analysis rather than our bona fides. That criticism, we may note, would be a good deal more persuasive if the dissent set forth (as it conspicuously did not) the unifying principle that we so obviously overlooked.

Contrary to the dissent's assertion, moreover, the panel opinion explained the rational basis for the Navy's policy with respect to overt homosexual conduct. Slip op. at 20-21. We cannot take

seriously the dissent's suggestion that the Navy may be constitutionally required to treat heterosexual conduct and homosexual conduct as either morally equivalent or as posing equal dangers to the Navy's mission. Relativism in these matters may or may not be an arguable moral stance, a point that we as a court of appeals are not required to address, but moral relativism is hardly a constitutional command, nor is it, we are certain, the moral stance of a large majority of naval personnel.

Though we think that our analysis of the privacy cases was both required and accurate, we think it worth addressing the rather curious version of the duties of courts of appeals that the dissent urges. It is certainly refreshing to see "judicial restraint" advocated with such ardor, but we think the dissent misapprehends the concept. "Judicial restraint" is shorthand for the philosophy that courts ought not to invade the domain the Constitution marks out for democratic rather than judicial governance. That philosophy does not even remotely suggest that a court may not offer criticism of concepts employed by a superior court. Some very eminent jurists have done just that and have thereby contributed to the growth and rationality of legal doctrine. *See, e.g., Salerno* v. *American League of Professional Baseball Clubs*, 429 F.2d 1003, 1005 (2d Cir. 1970) (Friendly, J.) (criticizing Supreme Court cases holding professional baseball exempt from federal antitrust laws); *United States* v. *Dennis*, 183 F.2d 201, 207-212 (2d Cir. 1950) (L. Hand, J.), *aff'd*, 341 U.S. 494 (1951) (criticizing Supreme Court's explication and application of the "clear and present danger" test, and proposing a reformulation of that test which the Court proceeded to approve, 341 U.S. at 510); *United States* v. *Roth*, 237 F.2d 796, 801 (2d Cir. 1956) (Frank, J., concurring) (criticizing the Supreme Court's decisions affirming the constitutionality of an obscenity statute as overlooking a variety of historical, sociological, and psychological grounds for calling the constitutionality of the statute into question). *See also* Arnold, *Judge Jerome Frank*, 24 U.Chi.L.Rev. 633, 633 (1957) ("When forced by *stare decisis* to reach what he considered an undesirable result [Judge Frank] would write a concurring opinion analyzing the problem and plainly suggesting that either the Supreme Court or Congress do something about it. It was a unique and useful technique whereby a lower court judge could pay allegiance to precedent and at the same time encourage the processes of change."). None of the judges mentioned could be characterized as lacking judicial restraint.

The judicial hierarchy is not, as the dissent seems to suppose, properly modelled on the military hierarchy in which orders are not only carried out but accepted without any expression of doubt. Law is an intellectual system and courts are not required to approve uncritically any idea advanced by a constitutionally superior court. Lower court judges owe the Supreme Court obedience, not unquestioning approval. Without obedience by lower courts, the law would become chaos. Without reasoned criticism, the law would become less rational and responsive to difficulties. The fact that criticism may come from within the judicial system will often make it more valuable rather than less. We say this, however, only to clarify the question of the proper relationship between inferior and superior courts and more for its application to future cases than to this one. In the present case, as we have said, any criticism the dissent may believe it detects in the panel opinion was at most implicit and inseparable from the analysis required of us.

STARR, J.: It is not the province of the lower federal courts to chide the Supreme Court for decisions that, in the considered view of federal judges, may be ill-reasoned or misguided. It is our bounden duty, whatever our own views of the matter may be, to follow in good faith applicable precedent, no matter how disagreeable that precedent might be.

But in my judgment, the panel in its opinion for the court has simply not strayed from this elementary judicial obligation. To the contrary, the panel's moving beyond *Doe v. Commonwealth's Attorney*, 425 U.S. 901 (1976), to examine more broadly the Supreme Court's teachings on the right of privacy, beginning with *Griswold v. Connecticut*, 381 U.S. 479 (1965), seems not only appropriate but necessary to treat dispassionately and fairly the constitutional claims advanced by Mr. Dronenburg.

And I am satisfied that the panel has rightly analyzed the applicable materials. It simply cannot seriously be maintained under existing case law that the right of privacy extends beyond such traditionally protected areas as the home or beyond traditional relationships—the relationship of husband and wife, or parents to children, or other close relationships, including decisions in matters of childbearing—or that the analytical doctrines enunciated by the Court lead to the conclusion that government may not regulate sexually intimate consensual relationships. In our federal system, governments indisputably have done so for two centuries in a variety of ways that seem to have gone, until more recent times, utterly unquestioned. While bright lines in the law of privacy are difficult for the most earnestly conscientious judges to discern, the teachings and doctrines which we thus far have to guide our way in this troubling area suggest that the result here is entirely correct—a result that can be reached without resort to a single dissenting opinion from one or more members of the Supreme Court concerned by the legitimacy of creating judge-made rights, as opposed to rights clearly and broadly enumerated at the Founding. *Goldman v. Secretary of Defense*, No. 82-1723, slip op. (D.C. Cir. Aug. 10, 1984) (Starr, J., dissenting from denial of suggestion to hear case *en banc*).

# LEGAL NOTICES

## GOVERNMENT

The District of Columbia: Whereas on the 20th day of November, 1984, the District of Columbia filed a Libel in the Superior Court of the City of Washington, District of Columbia In Superior Court Case No. CA13553-84 against: $26,750.00 IN UNITED STATES CURRENCY (Charles Brodsky) $1,000.00 IN UNITED STATES CURRENCY (Charles Brodsky) $856.00 IN UNITED STATES CURRENCY (Charles Brodsky) $1,900.00 IN UNITED STATES CURRENCY (Frederick B. Porter) $4,408.00 IN UNITED STATES CURRENCY (John T. Bunyon) $2,000.00 IN UNITED STATES CURRENCY (Frederick B. Porter) $224.00 IN UNITED STATES CURRENCY (Jennifer L. Henke) $38,980.00 IN UNITED STATES CURRENCY (Frederick B. Porter) ONE 'ROLEX' WATCH (Frederick B. Porter) ONE 1978 4-DOOR BMW (Michael Yakas) ONE 1976 2-DOOR OLDSMOBILE (Jennifer L. Henke), And whereas by virtue of process in due form of law, to me directed, I have seized and taken into my possession, to wit: $26,750.00 IN UNITED STATES CURRENCY (Charles Brodsky) $1,000.00 IN UNITED STATES CURRENCY (Charles Brodsky) $856.00 IN UNITED STATES CURRENCY (Charles Brodsky) $1,900.00 IN UNITED STATES CURRENCY (Frederick B. Porter) $4,408.00 IN UNITED STATES CURRENCY (John T. Bunyon) $2,000.00 IN UNITED STATES CURRENCY (Frederick B. Porter) $224.00 IN UNITED STATES CURRENCY (Jennifer L. Henke) $38,980.00 IN UNITED STATES CURRENCY (Frederick B. Porter) ONE 'ROLEX' WATCH (Frederick B. Porter) ONE 1978 4-DOOR BMW (Michael Yakas) ONE 1976 2-DOOR OLDSMOBILE (Jennifer L. Henke), I hereby give notice to all persons claiming the said described above, or knowing or having anything to say why the same should not be condemned and forfeited, that they appear and assert said claim in the cause on or before the date returnable January 20, 1985, in the Superior Court of the City of Washington, District of Columbia, at 10:00 O'Clock a.m. /s/ R.L. MATTHEWS, UNITED STATES MARSHAL, DISTRICT OF COLUMBIA.

Jan. 2.

## ORDER NISI

TROTTER, Richard H.

Theodore E. Lombard, *Attorney*
4801 Massachusetts Avenue, N.W., Suite 400
Washington, D.C. 20016

[Filed Dec. 20, 1984. Register of Wills, Clerk of the Probate Division.] Superior Court of the District of Columbia. Probate Division. In Re: The Conservatorship of Richard H. Trotter. Fiduciary No. 94-83. ORDER NISI. Donald L. Trotter, Conservator for the estate of Richard H. Trotter, having reported to the Court receipt of an offer to purchase real estate described as Square 2969, Lot 22, premises known as 803 Aspen Street, N.W., Washington, D.C. for the sum of Eighty-Nine Thousand Dollars ($89,000.00), terms all cash to the estate, subject to a broker's commission of 6% payable 50/50 to Long and Foster and MSI, and also subject to a loan placement fee of not more than 3% of the loan, and said Conservator having recommended acceptance of said offer, it is this 20th day of December, 1984 , ORDERED, by the Court that said offer be accepted and the sale be ratified and confirmed unless cause be shown to the contrary or a higher offer for said real estate acceptable to the Court be made on or before the 20th day of February, 1985, at 9:30 a.m., before the Fiduciary Judge at which time higher offers will be considered and objections to said sale heard; provided that a copy of this order be published once in the Washington Law Reporter, and once in the District Weekly, publication to be made at least ten (10) days before the last mentioned date. /s/ H. CARL MOULTRIE I, Chief Judge. [Seal.] A True Copy. Attest: JOAN R. SAUNDERS, *Deputy Register of Wills for the District of Columbia, Clerk of the Probate Division.* Jan. 2.

## FIRST INSERTION

ADAMS, Evonne — Deceased

Superior Court of the District of Columbia
Probate Division
Administration No. 2499-84 S.E.
Evonne Adams, deceased
Notice of Appointment, Notice to Creditors
and Notice to Unknown Heirs

Victoria A. Dunbar, whose address is 202 Arrowwood Road, Charlotte, North Carolina 28210, was appointed Personal Representative of the estate of Evonne Adams, who died on December 17, 1984 without a Will. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., 500 Indiana Avenue, N.W., Washington, D.C. 20001, on or before February 6, 1985. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or to the Register of Wills with a copy to the undersigned, on or before February 6, 1985, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its publication shall so inform the Register of Wills, including name, address and relationship. V.A. DUNBAR. Name of Newspaper: Washington Law Reporter. TRUE TEST COPY. Henry L. Rucker, Register of Wills. [Seal.] Jan. 2.

BAR-DROMA, Nina

Glenn H. Angelo, *Attorney*
Hyatt Legal Services
1701 K Street, N.W., Washington, D.C. 20006

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA. CIVIL DIVISION. IN RE: Application of Nina Bar-Droma. Civil Action Number: CA13088-84. ORDER OF PUBLICATION—CHANGE OF NAME. Nina Bar-Droma, having filed a complaint for judgment changing Nina Bar-Droma's name to Nina Gail Levitt, and having applied to the Court for an order of publication of the notice required by law in such cases, it is by the Court, this 21st day of December, 1984, ORDERED that all persons concerned show cause, if any there be, on or before the 21st day of January, 1985, why the