

## EX PARTE ELMER DAVIS.

## ON MOTION FOR LEAVE TO FILE PETITION FOR HABEAS CORPUS.

No. —, Original. Decided March 8, 1943.

The applicant not having fully exhausted the remedies afforded by state appellate procedure, the application for leave to file a petition for habeas corpus in this case is denied without prejudice. Leave denied.

*Elmer Davis, pro se.*

PER CURIAM.

After we denied, without prejudice, petitioner's previous application for leave to file in this Court a petition for habeas corpus, 317 U. S. 592, the Circuit Court of Vigo County, Indiana, on December 29, 1942, sustained a demurrer to his petition for a writ of error coram nobis. Petitioner now alleges that he has filed an appeal from that court to the Supreme Court of Indiana. He also alleges that his request that a transcript of the coram nobis proceeding be furnished free of charge, because he is a poor person, has been denied. He contends that in the absence of a transcript of the coram nobis proceeding, he is left without a remedy by appeal in the courts of Indiana. But we cannot assume that the Supreme Court of Indiana will refuse to use its process to bring before it such parts of the record as may be necessary for a decision of the case, or that, in that event, it will refuse to enter an order finally disposing of the appeal. Until the Supreme Court of Indiana has acted upon an application for an order finally disposing of the appeal—which, if adverse to petitioner, he could make the subject of a petition for certiorari to this Court—the remedies afforded by state appellate procedure have not been fully exhausted. Accordingly, we deny petitioner's present application without prejudice.

*Leave denied.*