

362 U. S.

Per Curiam.

SUBLETT *v.* ADAMS, WARDEN.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF APPEALS OF WEST VIRGINIA.

No. 406, Misc.—Decided March 7, 1960.

Petitioner applied to a State Supreme Court for writ of habeas corpus, charging that his confinement was in violation of the Due Process Clause of the Fourteenth Amendment. That Court refused the writ without either a hearing or a response from the State. *Held*: The facts alleged entitle petitioner to a hearing under *Herman v. Claudy*, 350 U. S. 116. Certiorari granted; judgment vacated; and case remanded.

Petitioner *pro se*.

*W. W. Barron*, Attorney General of West Virginia, and *Fred H. Caplan*, Assistant Attorney General, for respondent.

## PER CURIAM.

The motion to proceed *in forma pauperis* and the petition for writ of certiorari are granted. Petitioner filed a petition for a writ of habeas corpus in the Supreme Court of Appeals of West Virginia. Petitioner charged that he was being held in prison without lawful authority and in violation of due process of law under the Fourteenth Amendment. The West Virginia Supreme Court of Appeals refused the writ without either a hearing or a response from the State.

We hold that the facts alleged are such as to entitle petitioner to a hearing under *Herman v. Claudy*, 350 U. S. 116. The judgment is vacated and the case remanded to the Supreme Court of Appeals of West Virginia for proceedings not inconsistent with this opinion.

THE CHIEF JUSTICE took no part in the consideration or decision of this case.