

364 U. S.

Per Curiam.

McCRARY v. INDIANA.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME
COURT OF INDIANA.

No. 417, Misc. Decided June 27, 1960.

Petitioner alleges he was denied equal protection because as a pauper he was unable to furnish and pay for transcript of trial required by court rules to be filed with appeal in post-conviction proceeding in state court, and also that he was denied services of public defender. *Held*: Certiorari granted; order of dismissal vacated; and case remanded for further consideration.

239 Ind. 707, 158 N. E. 2d 292, vacated and remanded.

Petitioner *pro se*.

Edwin K. Steers, Attorney General of Indiana, and *Richard M. Givan*, Deputy Attorney General, for respondent.

PER CURIAM.

The motion for leave to proceed *in forma pauperis* and the writ of certiorari are granted. Petitioner's attempted appeal to the Supreme Court of Indiana from a denial of relief in a post-conviction *coram nobis* proceeding was dismissed because of his failure to comply with rules of that court, requiring, *inter alia*, the filing of a transcript of the trial proceedings. He alleges that the dismissal denied him the equal protection of the laws because he was and is unable to pay for the preparation of such a transcript, see *Griffin v. Illinois*, 351 U. S. 12, and that although he attempted to avail himself of the services of the Indiana Public Defender, who is empowered to secure the preparation of such a transcript in paupers' cases, see *Burns' Indiana Stats. (1956 Repl.)*, § 13-1401 *et seq.*, that officer declined to assist him. The record before us does not disclose whether these allegations were made to, and passed on by, the Indiana Supreme Court in light of *Griffin v. Illinois, supra*. Accordingly we vacate the order of dismissal and remand the case to it for further consideration of the appeal.