

369 U. S.

Per Curiam.

## IN RE SHUTTLESWORTH.

MOTION FOR LEAVE TO FILE PETITION FOR WRIT OF HABEAS  
CORPUS.

No. 1073, Misc. Decided February 26, 1962.

Certiorari granted; order of Court of Appeals vacated; case remanded to District Court with instructions.

*William M. Kunstler* for petitioner.

## PER CURIAM.

Treating this application for habeas corpus as a petition for certiorari to review the denial by a judge of the Court of Appeals for the Fifth Circuit of a certificate of probable cause for appeal (28 U. S. C. § 2253) from the District Court for the Northern District of Alabama, cf. *In re Burwell*, 350 U. S. 521, 522, we grant it as such, vacate the order of the Court of Appeals, and remand the case to the District Court with instructions to hold the matter while petitioner pursues his state remedies (as indicated in the opinion of Judge Rives denying a certificate of probable cause), including an application for bail to state courts pending disposition of petitioner's application for state relief. In the event of failure to secure such relief, or to secure admission to bail pending such relief within five (5) days from the date of application for bail, petitioner may, upon appropriate showing, proceed on this application in the United States District Court which may then consider all state remedies exhausted and proceed to hear and determine the cause, including any application for bail pending that court's final disposition of the matter. The Clerk is directed to issue the judgment forthwith.