

370 U. S.

Per Curiam.

ALLEN v. BANNAN, WARDEN.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT.

No. 535, Misc. Decided June 25, 1962.

Certiorari granted; judgment vacated; case remanded to the District Court for a hearing on the merits of petitioner's application for a writ of habeas corpus, since petitioner has exhausted state remedies.

Petitioner *pro se*.

Frank J. Kelley, Attorney General of Michigan, *Eugene Krasicky*, Solicitor General, and *George Mason*, Assistant Attorney General, for respondent.

PER CURIAM.

The motion for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment of the United States Court of Appeals for the Sixth Circuit is vacated and the case is remanded to the United States District Court for the Eastern District of Michigan for a hearing on the merits of the petitioner's application for a writ of habeas corpus. After an examination of the briefs filed by the parties and of the record in this case as well as an examination of the record certified to this Court by the Clerk of the Supreme Court of Michigan in *Allen v. Michigan*, 364 U. S. 934, we conclude that the petitioner has exhausted state remedies. Cf. *Mattox v. Sacks*, 369 U. S. 656.

MR. JUSTICE FRANKFURTER took no part in the consideration or decision of this case.