

WALTON *v.* ARKANSAS.

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

No. 18, Misc. Decided October 22, 1962.

Certiorari granted; judgment vacated; and case remanded for consideration in light of *Hamilton v. Alabama*, 368 U. S. 52.

Reported below: 233 Ark. 999, 350 S. W. 2d 302.

John C. Finley, Jr. for petitioner.

Frank Holt, Attorney General of Arkansas, and *Thorp Thomas* and *Jack L. Lessenberry*, Assistant Attorneys General, for respondent.

PER CURIAM.

The motion for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted.

In this capital case the Supreme Court of Arkansas sustained petitioner's conviction against the claim, among others, that in violation of the Fourteenth Amendment to the Constitution of the United States his involuntary confession of the crime was introduced in evidence at the trial. *Walton v. State*, 233 Ark. 999, 350 S. W. 2d 302. Petitioner contends that independently of this claim his conviction was unconstitutional because he was not represented by counsel at the time of his arraignment in the course of which he acknowledged the voluntariness of his confession, such acknowledgment being later used in evidence against him at the trial.

When the Arkansas Supreme Court decided this case it did not have the benefit of this Court's decision in *Hamilton v. Alabama*, 368 U. S. 52, which was rendered subsequent to the state court's decision and on the same day that it denied rehearing upon a petition filed prior

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Per Curiam.

to the announcement of the *Hamilton* case. Further, we are unable to conclude from the record filed in this Court either that petitioner had counsel at the time of the arraignment proceedings or, if not, that he was advised of his right to have counsel at such proceedings and that he understandingly and intelligently waived that right.

In these circumstances we conclude that the judgment of the Supreme Court of Arkansas should be vacated and the case remanded to that court for further consideration in light of *Hamilton v. Alabama, supra*, or for such other appropriate proceedings as may be available under state law for resolution of this constitutional claim.

It is so ordered.