

376 U. S.

Per Curiam.

CITY OF NEW ORLEANS ET AL. *v.* BARTHE ET AL.APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF LOUISIANA.

No. 663. Decided February 17, 1964.

Appeal dismissed; certiorari granted; and judgment affirmed.

Reported below: 219 F. Supp. 788.

*Alvin J. Liska* for appellants.*Jack Greenberg, James M. Nabrit III, Ernest N. Morial* and *A. P. Tureaud* for appellees.

## PER CURIAM.

The motion to dismiss is granted and the appeal is dismissed. Treating the papers whereon the appeal was taken as a petition for a writ of certiorari, before judgment,\* pursuant to 28 U. S. C. § 1254 (1), to the United States Court of Appeals for the Fifth Circuit, the petition is granted. The judgment of the United States District Court for the Eastern District of Louisiana is affirmed. *Turner v. City of Memphis*, 369 U. S. 350; *Watson v. City of Memphis*, 373 U. S. 526.

MR. JUSTICE BLACK, MR. JUSTICE HARLAN and MR. JUSTICE WHITE are of the opinion that this case is not appealable to this Court under 28 U. S. C. § 1253 but is appealable to the Court of Appeals under 28 U. S. C. § 1291, and that this Court should dismiss the appeal for the Court of Appeals to consider and decide the appeal of this case now properly pending before it. See *Bailey v. Patterson*, 369 U. S. 31.

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\*See *Griffin v. Prince Edward County Bd.*, 375 U. S. 391, and cases cited.