

February 13, 1967.

386 U. S.

RUNDLE, CORRECTIONAL SUPERINTENDENT
v. JOHNSON.

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

No. 14. Decided February 13, 1967.

Certiorari granted; 349 F. 2d 416, reversed and remanded.

Frank P. Lawley, Jr., for petitioner.

Leonard J. D. Myers for respondent.

PER CURIAM.

The motion of respondent 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 Third Circuit is reversed, *Spencer v. Texas*, 385 U. S. 554, and the case is remanded to that court for consideration of the unresolved issues.

MR. JUSTICE DOUGLAS dissents from the reversal of the Court of Appeals in *United States v. Rundle*, 349 F. 2d 416, which affirmed *United States v. Rundle*, 243 F. Supp. 695, 700, where the District Court granted the petition for habeas corpus since the introduction of the accused's "prior criminal record for obstructing a railroad was so fundamentally unfair as to deny him due process of law."