

February 13, 1967.

386 U. S.

BARLOW *v.* TEXAS.

APPEAL FROM THE COURT OF CRIMINAL APPEALS OF TEXAS.

No. 109. Decided February 13, 1967.

398 S. W. 2d 933, appeal dismissed.

*Alto B. Cervin* for appellant.

*Waggoner Carr*, Attorney General of Texas, *Hawthorne Phillips*, First Assistant Attorney General, *T. B. Wright*, Executive Assistant Attorney General, and *Howard M. Fender* and *Charles B. Swanner*, Assistant Attorneys General, for appellee.

PER CURIAM.

The motion to dismiss is granted and the appeal is dismissed.

THE CHIEF JUSTICE, MR. JUSTICE DOUGLAS, and MR. JUSTICE FORTAS would reverse the judgment of the court below for the reasons stated in the opinion of THE CHIEF JUSTICE in *Spencer v. Texas*, 385 U. S. 554, 569.