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particular film presents a borderline question. However, laying aside my own personal estimate of the film, I cannot say that Kentucky has exceeded the constitutional speed limit in banning public showing of the film within its borders, and accordingly I vote to affirm the judgment below.

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SANCHEZ *v.* UNITED STATES

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

No. 943, Misc. Decided March 23, 1970

412 F. 2d 1177; certiorari granted, judgment vacated and case remanded to the United States District Court for the Southern District of Florida with respect to Count 3 of the indictment; certiorari otherwise denied.

*Alfred M. Carvajal* for petitioner.

*Solicitor General Griswold* for the United States.

PER CURIAM.

The motion for leave to proceed *in forma pauperis* is granted. Upon consideration of the suggestion of the Solicitor General and upon examination of the entire record, the petition for a writ of certiorari is granted insofar as it seeks review of the judgment of the United States Court of Appeals for the Fifth Circuit affirming petitioner's conviction on Count 3 of the indictment charging a violation of 26 U. S. C. § 4704. The judgment of the Court of Appeals with respect to Count 3 is vacated and the case is remanded to the United States District Court for the Southern District of Florida with directions to dismiss Count 3 of the indictment. The petition for a writ of certiorari is otherwise denied.