

397 U.S.

March 30, 1970

CRAYCROFT *v.* FERRALL ET AL.

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

No. 718, Misc. Decided March 30, 1970

Certiorari granted; 408 F. 2d 587, vacated and remanded.

*John Caughlan* for petitioner.*Solicitor General Griswold* for respondents.

## PER CURIAM.

The motion for leave to proceed *in forma pauperis* is granted.

Upon consideration of the suggestion of the Solicitor General and upon an examination of the entire record, the petition for a writ of certiorari is granted, the judgment of the United States Court of Appeals for the Ninth Circuit is vacated and the case is remanded to that court.

The Solicitor General concedes that the administrative remedies that the Court of Appeals held should first be exhausted by the petitioner, have either been exhausted or are nonexistent. The sole remaining question therefore seems to be whether petitioner's failure to seek relief in the Court of Military Appeals precludes consideration of petitioner's claims by the federal courts. While the Solicitor General concedes that resort to that judicial remedy does not preclude consideration of petitioner's claim by the federal courts, there is a conflict among the circuits. It is for consideration of that question, or alternatively the merits, that the case is remanded.