

IN THE COURT OF APPEALS OF MARYLAND

No. 91

SEPTEMBER TERM, 1961

ROBERT MACK BELL, et al.,

v.

STATE OF MARYLAND.

FILED NOV 23 1964
J. LLOYD YOUNG, CLERK
COURT OF APPEALS OF MARYLAND

PETITION FOR REHEARING

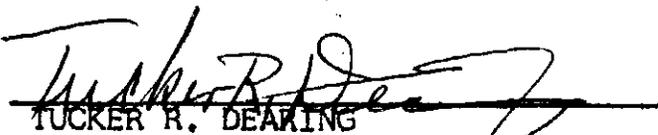
The appellants herein, by their attorneys, respectfully request that the court grant rehearing in this case on the grounds set forth below.

The opinion on remand filed herein on October, 22, 1964, decided that the Civil Rights Act of 1964 did not require abatement of these prosecutions or prohibit punishment of appellants. It is submitted that this issue presents substantial federal statutory and constitutional questions not yet decided by the United States Supreme Court. However, these very same issues are now pending before the United States Supreme Court in two cases which have already been briefed, argued and taken under advisement. Hamm v. City of Rock Hill, cert. granted, 377 U.S. 988, and Lupper v. Arkansas, cert. granted, 377 U.S. 989 (both cases argued October 12, 1964; 33 U.S.L. Week 3141). Appellants submit that, particularly in view of the prior opinion of the Supreme Court in this case on the abatement question (Bell v. Maryland, 378 U.S. 226), there is a substantial likelihood that the Supreme Court may hold that the Civil Rights Act of 1964 abates such

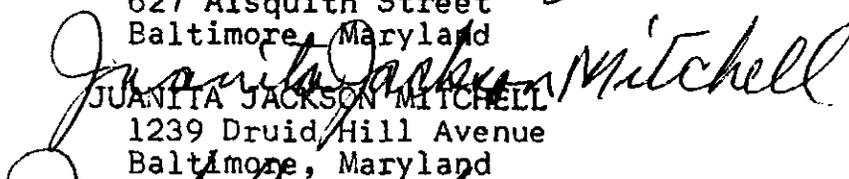
prosecutions. Such a decision would, of course, be determinative of this case and binding upon this Court.

In view of these circumstances, it is respectfully requested that this Court grant rehearing and defer final action on this appeal until the effect of the Civil Rights Act of 1964 is authoritatively determined. We believe that this course of action would be consonant with sound judicial management, in that, whatever the outcome of the pending cases in the United States Supreme Court, this Court can, by postponing final decision, avoid a possible unnecessary appeal concerning a settled question. Basic equity considerations favor the avoidance, where possible, of unnecessary appeals for the convenience of the courts and the parties.

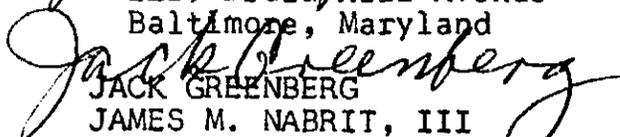
Respectfully submitted,



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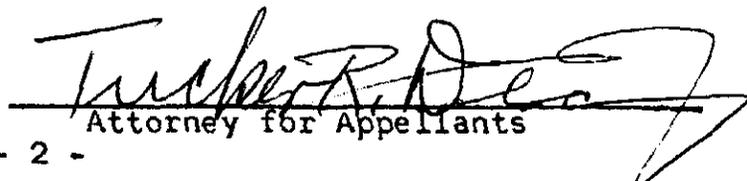


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CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of November, 1964, I served a copy of the foregoing Petition for Rehearing on the Honorable Thomas B. Finan, Attorney General of the State of Maryland; Robert C. Murphy, Esq., Deputy Attorney General, Baltimore, Maryland; and William J. O'Donnell, Esq., State's Attorney for Baltimore City, by United States mail, postage prepaid, addressed as indicated above.


Attorney for Appellants

