

## Supreme Court of the United States

October Term, 1968

In the Matter of:

TOMMIE E. L. WILLIAMS,

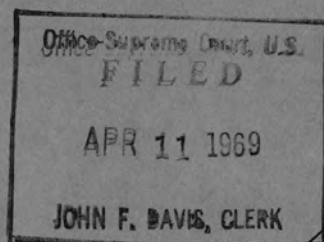
Petitioner;

vs.

CITY OF OKLAHOMA CITY, et al.

Repondents.

Docket No. 841



Pt. 2

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Place

Washington, D. C.

Date

April 2, 1969

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Washington, D. C.

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C O N T E N T S

ORAL ARGUMENT OF:

P A G E

Giles K. Ratcliffe, Esq.  
on behalf of Respondents

. . . . .

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1 IN THE SUPREME COURT OF THE UNITED STATES

2 October Term, 1968

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4 TOMMIE E. L. WILLIAMS, :  
5 Petitioner; :  
6 vs. : No. 841  
7 CITY OF OKLAHOMA CITY, et al., :  
8 Respondents. :  
9 - - - - -x

10 Washington, D. C.  
11 Wednesday, April 2, 1969

12 The above-entitled matter came on for further argu-  
13 ment at 10:25 a.m.

14 BEFORE:

15 EARL WARREN, Chief Justice  
16 HUGO L. BLACK, Associate Justice  
17 JOHN M. HARLAN, Associate Justice  
18 WILLIAM J. BRENNAN, JR., Associate Justice  
19 POTTER STEWART, Associate Justice  
20 BYRON R. WHITE, Associate Justice  
21 ABE FORTAS, Associate Justice  
22 THURGOOD MARSHALL, Associate Justice

23 APPEARANCES:

24 (The same as heretofore noted.)  
25 - - -

P R O C E E D I N G S

1 MR. CHIEF JUSTICE WARREN: No. 841, Tommie E. L.  
2 Williams, petitioner; versus City of Oklahoma City, et al.

3 FURTHER ARGUMENT OF GILES K. RATCLIFFE, ESQ.

4 ON BEHALF OF RESPONDENTS

5 MR. RATCLIFFE: Mr. Chief Justice, and may it please  
6 the Court:

7 Yesterday afternoon inquiry was made, I believe by  
8 Justice White, relative to the significance of some language in  
9 the Trial Court's order pertaining to the inability of the defen-  
10 dant or his counsel to prepare a transcript from memory.

11 The reason for this is, the courts in Oklahoma have  
12 set this as one of the prerequisites for furnishing a free case-  
13 made, and we think it is significant for the reason that, by  
14 implication, it indicates that for this requirement to have any  
15 relevance, it must mean that if the defendant or his counsel  
16 could prepare a transcript, that the court would consider it.

17 We would like to further remind the Court that part  
18 of this record has already been transcribed; that three of the  
19 witnesses that petitioner maintains are material, their testi-  
20 mony has already been prepared in narrative form; that the only  
21 testimony needed were the three witnesses who testified in be-  
22 half of the city and the defendant, and we believe that this  
23 could be prepared in narrative form and we think that the  
24 Appellate Court below would consider it in that fashion.

25 Q Mr. Ratcliffe, as I read the opinion of the

1 Court of Criminal Appeals, they didn't touch this at all.

2 A No, sir; they did not.

3 Q Was it argued to them?

4 A I wasn't in that proceeding at that time and I  
5 don't know, but it did not go to that.

6 Q Well, don't you think if there was a procedure in  
7 the Court of Criminal Appeals, as you suggest, that they would  
8 have mentioned it in their opinion?

9 A Well, I would like to think that they would have,  
10 but if the question was not put to them, I just don't know  
11 whether they would consider it or not.

12 Q They went on the merits and said that simply be-  
13 cause this was an ordinance and not a statute, that you didn't  
14 get it, period.

15 A Yes, that inasmuch as this was a violation of a  
16 municipal ordinance, that there was no statutory authority for  
17 it.

18 Q And if it had been a State statute, and the man  
19 had been given 90 days, there would have been.

20 A The State law authorizes the furnishing of case-  
21 made in those cases that are tried in the County and the District  
22 Courts.

23 Q So that is the only point that they decided.

24 A Yes.

25 Q Do you support that?



1           A     Yes.

2           Q     Why?

3           A     Well, I believe that --

4           Q     What is the magic difference between the viola-

5     tion of an ordinance -- well, let me first ask: Does he go to

6     the same jail?

7           A     No, sir.

8           Q     He goes to the City Jail.

9           A     Yes, sir.

10          Q     But he serves 90 days.

11          A     Yes, sir.

12          Q     And if he goes to the City Jail and serves 90

13     days and he is a pauper, no appeal; if he is sentenced by a

14     State statute, he goes to the State jail for 90 days, he gets a

15     record.

16          A     That is correct.

17          Q     And you say that is all right.

18          A     Well, I say in this particular case that there

19     has been no need or necessity shown that he had a reporter's

20     stenographic copy of the record; that this was a case that was

21     tried in less than a day; that it was not a particularly compli-

22     cated case; that there were just four witnesses; that this

23     testimony could have been prepared in narrative form and sub-

24     mitted to the court.

25          Q     Would you have answered that in a brief, if they

1 had prepared a narrative out of their mind, would you have  
2 answered it?

3 A Well, I think we have been given opportunity to  
4 approve it.

5 Q I mean, when the argument came up in the Court of  
6 Criminal Appeals, would you have had a transcript to work on?

7 A If we had ordered one; yes.

8 Q But the other side would not.

9 A Well, no.

10 Q And you don't see anything wrong with that?

11 A Well, I don't know why there would be any neces-  
12 sity for us to have a transcript if we could stipulate and agree  
13 and approve on a narrative-form statement of the issues. As I  
14 say, I can't cite you any cases where Oklahoma has held that  
15 they would consider it in this way, but by implication, I think  
16 that is there, that it could be.

17 Thank you, sir.

18 (Whereupon, at 10:30 a.m., the argument in the above-  
19 entitled matter was concluded.)  
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