PINCKNEY KING, Petitioner, e. His Honor, SAMUEL B. COLE, Judge of the Circuit Court of the Sixth Judicial Circuit, Montserrado County, #i of., Respondents.

MOTION FOR RBARG U ME NT ON APPLICATION FOR WRIT OF PROHIBITION TO THE CIRCUIT COURT OF THE SIXTH J UDICIAL CIRCU ITS MONTSERRADO COU NTB.

Argued April 11, 1962. Decided June 1, 1962.

Reargument or rehearing will be granted only when some decisive issue raised in the court of origin, and argued at the prior hearing, has been overlooked.

On petition for reargument after determination by the Supreme Court on 6nnc in prohibition proceedings, re- argument denied.

*Alb art H.* Re#c›#J for petitioner. *T. G yibli* goffinJ for respondents.

MR. JUSTICE PIERRE delivered the opinion of the Court.

This case was heard and determined by this Court on 6nnc during the October, '9\* , term. Upon application made to the Chief Justice, who was one of the Justices

concurring in the judgment, reargument, or rehearing as it is also called, was granted for this term of the Court- Rehearing in the Supreme Court can only be granted when some decisive issue raised in the court of origin, and argued at the prior hearing, has been overlooked. It will not be granted merely because the decision upon any particular issue did not satisfy the petitioning party; nor will it be granted because an issue which the Court refused to pass upon has not been referred to in the decid- ing opinion. To justify the granting of a rehearing or reargument, some point in the petition must have raised a doubt in the mind of the ordering justice ; and such a

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point must necessarily pertain to an issue which the peti- tioner raised in the court below and argued in the Supreme Court, but which was mistakenly overlooked in the de- cision. Only in such a case will reargument be allowed in the Supreme Court.

A petition for reargument is just another way of alleg- ing inaccuracy by the Justice who prepared and delivered the opinion of the previous hearing. It is necessary, therefore, for the petitioner to state with certainty and clearness what particular issues which he had raised in his pleadings in the court below, or in his brief before the Supreme Court, were overlooked. Rearguments should not be encouraged for the mere purpose of rehear- ing issues already decided.

“A rehearing will be granted where it is shown that some question decisive of the case and duly sub- mitted by counsel has been overlooked by the court, or that the decision is in conflict with a statute or a controlling decision to which the attention of the court was not drawn, through the neglect or inadvertence of counsel. A petition to rehear will also be granted when it clearly appears that the former decision re- sulted from overlooking material admissions in the pleadings of the prevailing party, or that the court has failed to consider certain exceptions which were prop- erly before it ; but not where the sole ground alleged is that the appellate court has failed to pass on the sufficiency of the petitioner’s pleadings in the lower court.

“Where all of the facts presented have in fact been duly considered by the court, and where the applica- tion presents no new facts, but simply reiterates the arguments made on the hearing, and is in effect an appeal to the court to review its decision on points and authorities already determined, a rehearing will be refused.

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“As a general rule a rehearing will not be granted on grounds which were not urged or considered on the hearing, and this rule will be departed f rom only in cases where the refusal of the application would work manifest injustice.” i 8 ENCYC. PL. AND PR. 36-to Brfirortap.

In the case before us, not only was each and every one

of the issues raised in the petition argued and determined in chambers, but M r. Justice M itchell, who spoke for the bench en *banc* on December I6, 9° , reviewed each of

these points separately and individually. This leaves us

no alternative but to deny the petition for reargument.