

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE, FLORIDA

FILED

JAN 29 1970

**OFFICE OF CLERK
U. S. DISTRICT COURT
NORTH. DIST. FLA.**

WILLIE CARL SINGLETON, a minor by
NEVA SINGLETON, his mother and next
friend, et al.,

Plaintiffs,

vs.

CIVIL ACTION
NO. 963

BOARD OF COMMISSIONERS OF STATE
INSTITUTIONS, ET AL.,

Defendants

Singleton v. Board of Commissioners



Jl-FL-0001-0023

SUPPLEMENTAL MEMORANDUM OF LAW

The original Memorandum of Law to accompany the Motion for Final Judgment in this cause was filed on October 8, 1969 with service made on opposing Counsel.

The Court through its Deputy Clerk indicated Counsel shall submit to the Court Memorandum of Law at least three days prior to Hearing.

It is not known what additional citations of authority are necessary, other than are included in the original Memorandum of Law submitted by Defendants herein but in accordance with the letter of the Deputy Clerk dated January 15, 1970, the following Citations of Authority are submitted herein.

The jurisdiction of the Court having been invoked pursuant to the provisions of Title 28, U. S. Code, Section 1343(3), and Title 42, U. S. Code, does not preclude judgment in accordance with the rules of this Court as provided by Rule 54 of the Federal Rules of Civil Procedure. A review of the initial pleading filed in this cause reveals a prayer for judgment pursuant to Title 28 with an additional prayer for a desegregation plan and a retention of jurisdiction pending Court approval and a full and complete implementation of said plan.

As was outlined in the original Memorandum of Law this Court heard argument of the parties, witnesses and counsel subsequent

to which it issued its Order approving of the plan and providing for the testing thereof by ordering progress reports which were submitted as previously indicated.

Assuming but not admitting the prayer is in the form of one for a declaratory judgment as provided in Rule 57 of the Federal Rules of Civil Procedure, a judgment as asked by defendants herein would appear proper. Where defendants appeared as in this instance, and the parties are at issue as they are, final judgment should grant relief prayed by the defendants since if there were any liability and responsibility, or if the complaint were sufficient, good faith on the part of these defendants purged them of any further responsibility other than to comply with the plan.

Defendants are now entitled to the final judgment requested. Troutman v. Modlin, C.A. Ark. 1965, 353 F.2d 382. The kind of final judgment which this Court enters would not depend on the prayer in the complaint, but on what the facts have revealed or will reveal to the Court upon introduction of any testimony requested by the Court at final hearing, because except in cases of default judgment, the Court is bound to grant whatever relief facts show are necessary or appropriate. Burton v. State Farm Mutual Auto Insurance Co. (C.A. Fla. 1964), 335 F.2d 317. It is submitted this judgment would not be a summary judgment as provided in Rule 56 of the Federal Rules of Civil Procedure, or strictly speaking, a judgment on the pleadings per se, but based upon findings by the Court as provided in Rule 52 as a preliminary for the effectuation under Rule 58 of the Federal Rules of Civil Procedure.

In order to assist the Court in its determination as to whether defendants have carried out all orders of this Court, defendants have filed a Notice of Intent to Present Testimony to alleviate any possibility that speculation or conjecture as to exact compliance exists.

WHEREFORE, Defendant prays for judgment in its favor and for such other and further relief as the Court deems appropriate, including dissolution of any injunctive order herein previously rendered.

EARL FAIRCLOTH
Attorney General

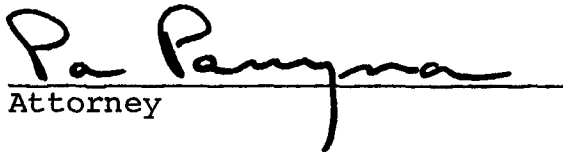


P. A. PACYNA
Assistant Attorney General

ATTORNEYS FOR DEFENDANTS
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Tallahassee, Florida 32304

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the above and foregoing have been furnished by Mail to MR. EARL M. JOHNSON and MR. REESE MARSHALL, 625 West Union Street, Jacksonville, Florida 32202, this 28th day of January, 1970.


Attorney