

The File

June 15, 1967

Owen M. Fiss
Special Assistant
Civil Rights Division

171-1-3
1-000-27A

State of Alabama v. John W. Gardner
No. 24468, No. 24561

I called Reid Barnes today since I have not yet received a copy of his letter of June 6, 1967, to the Court of Appeals asking for additional time to file a supplemental memorandum discussing recent Supreme Court decisions. He told me the cases that he had mentioned to the Court of Appeals (Abbott Laboratories, etc.) and then volunteered the remarkable statement that Judge Lynne had put him on to these cases. Apparently Judge Lynne telephoned him following oral argument, informed him of these recent decisions and suggested that he ask the Court for permission to file a supplemental brief on them. This confirms my view about dealing with the four-judge panel and also suggests to me that following oral argument that the strategy of the State has shifted to trying to avoid a decision on the merits and having the whole matter remanded to the district court.

cc: Doar
Owen
Fiss ✓

unfiled