

March 1, 1967

TO : John Doar

FROM : Owen Fiss

*Re: Gardner v. Alabama*

Yesterday you received this letter from the Deputy Clerk, advisingus that the Court has denied appellents' motion to proceed on original record in this appeal, but they would grant the motion for expedited consideration, stating that the hearing will be held after April 30. The letter also stated that we should advise the clerk's office as to when they could expect the printed record and appellents' brief, so that it could be placed on the May or June docket.

I spoke to Macy Taylor in the United States Attorney's office in Birmingham. He has the record that was previously transmitted to the Court of Appeals, and has made plans for the printing of the record. The printing should be completed in about ten days. Mr. Barnes, the attorney for the State in this case, has expressed some interest in having the state plan included as part of the record. The hearing examiner stated, in the course of the administrative proceeding, that he would take judicial notice of the plan, and this was brought to Judge Allgood's attention in the course of the hearing before him. I spoke to Mr. Barnes today, and he indicated that he had not intention to have any part of the state plan, which I understand is quite voluminous, printed. I indicated that we would have no objective to his making reference to the state plan, and that he could append copies of the pertinent portions of the plan to his brief. He assured me that he would write a letter to Macy Taylor stipulating that he did not want this part of the printed record and that this letter would be included in the record.

I asked Al Hirshen to start working on the brief, and I will try to get a draft from him about March 15. That should leave sufficient time for editing and revisions.

Attachment

*Om 7 - reading file*