

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE MIDDLE DISTRICT OF ALABAMA
 EASTERN DIVISION

Anthony T. Lee and Henry A. Lee,
 by Detroit Lee and Hattie M. Lee,
 their parents and next friends;
 Palmer Sullins, Jr., Alan D. Sullins
 and Marsha Marie Sullins, by Palmer
 Sullins and Della D. Sullins, their
 parents and next friends; Gerald
 Warren Billes and Heloise Elaine
 Billes, by I. V. Billes, their father
 and next friend; Willie M. Jackson,
 Jr., by Mabel N. Jackson, his mother
 and next friend; Willie B. Wyatt, Jr.,
 and Brenda J. Wyatt, by Willie B. Wyatt
 and Thelma A. Wyatt, their parents and
 next friends; Nelson N. Boggan, Jr., by
 Nelson Boggan, Sr., and Mamie Boggan,
 his parents and next friends; Willie C.
 Johnson, Jr., Brenda Faye Johnson and
 Dwight W. Johnson, by Willie C. Johnson
 and Ruth Johnson, their parents and
 next friends, and William H. Moore and
 Edwina M. Moore, by L. James Moore and
 Edna M. Moore, their parents and next
 friends

Civil Action

No. 604-E.

FILED

AUG 27 1963

R. C. DUNSON
 Clerk

By _____
 Deputy Clerk

vs

Macon County Board of Education (Wiley
 D. Ogletree, Chairman, Madison Davis,
 John M. Davis, Harry D. Raymon and
 F. E. Guthrie) and C. A. Pruitt,
 Superintendent of Schools of Macon County,
 Alabama

(The above cause coming on for trial at Opelika, Alabama,
 August 13, 1963, before Hon. Frank M. Johnson, Jr., Judge,
 a trial was held, at the conclusion of which the following
 was dictated by the Court:)

Tentative Findings and Conclusions

THE COURT: This Court finds upon this submission,
 the submission being upon the pleadings, requests for admissions and
 responses thereto, the deposition of Superintendent Pruitt, the exhibits
 thereto, the oral testimony of the various witnesses whose testimony has
 been taken this date, together with the exhibits thereto, that the named
 Plaintiffs in this action are authorized by law to bring and maintain thi
 law suit; that these authorized Plaintiffs are Negro children living and
 residing in various areas of Macon County, Alabama; that these Plaintiff
 Negro children and their parents, through whom they sue as next friend,
 represent a class; that these Plaintiffs are authorized under the evidenc

to sue on behalf of themselves and other members of their class that are similarly situated, because of the fact that there are common questions of law and fact, evolving out of circumstances that are common to these Plaintiffs and other members of their class.

The Court further finds that these Plaintiffs, minor Plaintiffs, are currently attending public schools in Macon County, Alabama, or expect to begin or continue during the 1963-64 year, the public schools in Macon County, Alabama. That the Defendants in this case, Madison Davis, and John M. Davis, F. E. Guthrie, as members of the Board, Macon County Board of Education, and Harry D. Raymon, as Chairman of the Macon County Board of Education, C. A. Pruitt, as Superintendent of the Schools of Macon County, Alabama, actively manage, control, and operate the public school system throughout Macon County, Alabama. This Court finds through custom, practice, and usage, the Macon County Board of Education, operating at the present time through these named Defendants, operate a dual school system based upon color; that is to say, through policy and practice and custom and usage, they operate one set of schools for Negro children, and one set of schools for white children. That because of the various assignments of teachers and the manner in which teachers are assigned, and because of the transportation facilities that are made available in getting to and from the schools, the effect of the operation of the Macon County school system on a biracial basis is a compulsory one. This Court further finds that the Defendants in operating this biracial school system are acting under color of the laws of the State of Alabama; that they have pursued for some time and continue to pursue this policy and practice and custom of operating the public school system of Macon County, Alabama upon a biracial basis. This includes the assignment of principals and teachers and other professional personnel that are used in the operation of the school system; that is to say, the assignment of teachers and principals and other school personnel is also upon a biracial basis.

This Court finds as a matter of law that the

operation of the school system in such a manner is discriminatory insofar as these Plaintiffs and members of their class is concerned. This Court specifically finds that the operation of such a school system in such a manner is in violation of the law of the United States, as set out originally in Brown against Board of Education, and dealt with in numerous cases that will be specifically referred to by the more formal order of this Court.

Based upon these findings and conclusions, the Defendants, the Macon County Board of Education, presently composed of Madison Davis, John M. Davis, F. E. Guthrie, as members, Harry D. Raymon, as Chairman, and C. A. Pruitt as Superintendent of Schools of Macon County, Alabama, their agents, servants, employees, successors in office, and those acting or who may act in concert with them, and who shall receive notice of this order, be and each of said individuals are hereby restrained and enjoined from requiring segregation of the races in any school under their supervision from and after this date. This means that these defendants are -- each of them is -- restrained and enjoined from failing to assign pupils without any regard to race or color, pursuant to the provisions of the Alabama Pupil Placement Act. This means that it is not necessary for any applicants for assignment under that Act to exhaust any other administrative remedies prior to the time that they are eligible for assignment without regard to race or color under that Act. Now, that takes effect immediately.

It is the further order, judgment, and decree of this Court that each of the Defendants, their agents -- or mark out their agents -- and their successors in office, if any, be and they are hereby required to submit to this Court not later than December 12, 1963, a plan under which said Defendants propose to make an immediate start in the desegregation of the schools in Macon County, Alabama, which plan shall effectively and in good faith provide for the carrying into effect not later than beginning of the school year commencing January, 1964, and thereafter, a general use, not only of the Alabama Pupil Placement Law as to each and every school grade without regard to

racial discrimination, but to include the admission of new pupils. Now, as to what grades they are to be admitted in, and the manner in which they are to be admitted, is subject to being decided upon submission of the plan. If you permit one -- present one in good faith, then if it is feasible and practical, and if it -- if it provides for general desegregation and abolition of the dual school system within a reasonable time, or is designed to, of course it will be approved. If not, it will be necessary that I reject it and put one into effect that I think will do it; but I believe in good faith -- and you demonstrate to me that you are acting in good faith -- you can present one to the Court that will be acceptable.

Have I made myself clear? The Alabama Placement Law as to all grades goes into effect immediately; that is, as of this time. The general plan for desegregation is to be presented by September 12 -- I mean December 12, excuse me; by December 12. You think of anything I overlooked, Mr. Norman, that I need to do as far as temporary relief is concerned in this case?

MR. NORMAN: It might be useful to all the parties and to the Court, the Government, the United States, if in the interim now before September there are applications for pupil assignment, if the Defendants could report their actions with respect to them to the Court, so that the Court will be kept apprised of their -- of what -- what it is they are doing in the interim with respect to these people.

THE COURT: All right, sir. Anything further you think of I need to do, Mr. Gray?

MR. GRAY: Your honor, I believe you omitted Mr. Dukes' name in naming the Board members, the new member.

THE COURT: I did.

MR. GRAY: I believe you did, your honor.

THE COURT: I did, and in each instance where I made reference to the individual members of the Board, it is ordered that Mr. B. O. Dukes be and is hereby added as a member; and the injunction, of course, as dictated, of course applies to Mr. Dukes, also.

It is the further order, judgment, and decree of the Court that Mr. Pruitt, as Superintendent, and Mr. Raymon, as Chairman of the Board, report to the Court within five days from the date that any action is taken by the Board upon an application for assignment by Negro students under the Alabama Pupil Placement Law. In other words, I am directing that you report what action you take with reference to it; where it is denied, I want you to state to the Court specifically the basis for the denial.

MR. HARRY D. RAYMON: (Nodded to indicate affirmative reply)

THE COURT: All right, sir; anything further?

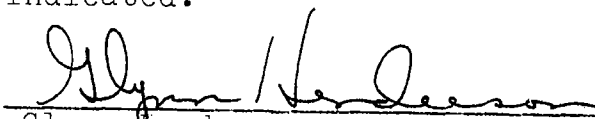
MR. GRAY: (Shook head to indicate negative reply)

THE COURT: Mr. Madison?

MR. MADISON: No, sir.

THE COURT: All right. I will give you -- there is no rush about it, Mr. Norman; some time in thirty days, if you will, file a -- file a proposed formal order in the case as Amicus, and you will have fifteen days after that to file any -- any brief or -- or substitute order that you want to file in it. You also have thirty days to file, thirty days from today. We will recess court until further ordered.

I hereby certify that the foregoing is a full, true, and correct transcript of notes taken by me in above matter the 13th day of August, 1963, or that portion indicated.



Glynn Henderson,
Official Court Reporter.