

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

FILED

FEB 11 1963

R. C. DOBSON  
Clerk

By JPS Deputy Clerk

ANTHONY T. LEE and HENRY A. LEE, )  
by DETROIT LEE and HATTIE M. LEE, )  
their parents and next friends, et al., )

Plaintiffs, )

VS. )

MACON COUNTY BOARD OF EDUCATION, et al., )  
Defendants. )

CIVIL ACTION

NO. 604 E

MOTION TO STRIKE AND DISMISS

Now come defendants and move to strike the following from Paragraph VI of the Complaint:

- A. ". . . principals, teachers and other professional personnel under defendants' jurisdiction are likewise assigned to the schools on the basis of race and color."
- B. "In no case are the assignments of either . . . teachers, principals or other professional personnel of the white race made to schools designated as Negro nor are assignments of . . . teachers, principals or other personnel of the Negro race assigned to schools designated as white."

And from Paragraph VII(a) of the Complaint:

- A. The entire averments of (a).
- B. ". . . principals, teachers and other professional personnel in the schools be assigned without regard to race or color."

From Paragraph XI of the Complaint:

- A. All averments as to principals, teachers and other professional personnel.
- B. ". . . teachers, principals and other administrative personnel."

All of paragraph numbered 4 of the prayer of the Complaint.

Defendants further move to strike all of Paragraph X of the Complaint.

As grounds for the Motion to Strike, defendants assign the following:

1. The above allegations in the Complaint are redundant, or immaterial, or impertinent, or scandalous.

2. No right is shown in plaintiffs to legally question in this suit the assignment of teachers, principals, or other administrative personnel.

Defendants further move to dismiss the Complaint on the following separate and several grounds:

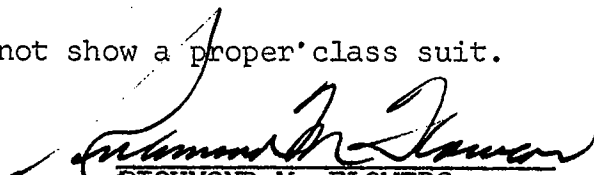
1. The Complaint fails to state a claim upon which relief may be granted.


2. The Complaint shows on its face that Section 297, Title 52, Code of Alabama 1940, as amended by Act No. 117 of the Alabama Legislature, Second Extra Session 1956, page 446, has not been complied with.


3. For that the Complaint shows upon its face that Act No. 367, General and Local Acts of Alabama 1957, page 482, commonly called the "Pupil Placement Law" has not been complied with.

4. For that the Complaint shows upon its face that the administrative remedies available to complainant under the laws of the State of Alabama have not been complied with, or exhausted.

5. The facts alleged do not show a proper class suit.

  
RICHMOND M. FLOWERS  
Attorney General of Alabama


  
ROBERT P. BRADLEY  
Assistant Attorney General  
of Alabama

  
GORDON MADISON  
Assistant Attorney General  
of Alabama

Attorneys for Defendants

CERTIFICATE OF SERVICE

I, the undersigned, certify that a copy of the above motion to strike and dismiss has been mailed to each of the attorneys of record for plaintiffs via first-class mail, postage prepaid at the addresses shown on the Complaint, on this the 11<sup>th</sup> day of February, 1963.

  
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GORDON MADISON  
Assistant Attorney General  
Attorney for Defendants