

DEFENDANTS.)

S T I P U L A T I O N

IT IS STIPULATED AND AGREED by and between the parties through their respective counsel that the deposition of MR. HAROLD E. LUTZ may be taken before Thomas E. Dempsey, Commissioner and Notary Public, State at Large, at the State Office Building, Montgomery, Alabama, on the 28th day of February, 1968.

IT IS FURTHER STIPULATED AND AGREED that
the signature to and the reading of the deposition
by the witness is waived, said deposition to have

DEPOSITION OF: MR. HAROLD E. LUTZ

1 the same force and effect as if full compliance
2 had been had with all laws and rules of Court re-
3 lating to the taking of depositions.

4 IT IS FURTHER STIPULATED AND AGREED that
5 it shall not be necessary for any objections to be
6 made by counsel to any questions, except as to form
7 or leading questions, and that counsel for the par-
8 ties may make objections and assign grounds at the
9 time of trial, or at the time said deposition is
10 offered in evidence, or prior thereto.

11 IT IS FURTHER STIPULATED AND AGREED that
12 notice of filing of the deposition by the Commis-
13 sioner is waived.
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IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

ANTHONY T. LEE, ET AL,)
)
 PLAINTIFFS,)
)
 UNITED STATES OF AMERICA,)
)
 PLAINTIFF-INTERVENOR)
 AND AMICUS CURIAE,) CIVIL ACTION NO. 604-E
)
 V.)
)
 MACON COUNTY BOARD OF EDU-)
 CATION, ET AL,)
)
 DEFENDANTS.) Montgomery, Alabama
 February 28, 1968

BEFORE:

Thomas E. Dempsey, Commissioner.

APPEARANCES:

Mr. Fred D. Gray, Attorney at Law, of the
firm of Gray, Seay, Langford & Pryor, 352 Dexter
Street, Montgomery, Alabama, appearing for the Plain-
tiff, Anthony T. Lee.

Mr. Charles Quaintance, Attorney at Law,
U. S. Department of Justice, Civil Rights Division,
PostOffice Box 751, Selma, Alabama, appearing for
the Plaintiff-Intervenor and Amicus Curiae, United

States of America.

Messrs. Maury Smith and T. W. Thagard, Jr.,
Attorneys at Law, of the firm of Goodwyn, Smith &
Bowman, 325 Bell Building, Montgomery, Alabama,
and Mr. Oakley W. Melton, Jr., Attorney at Law,
Room 1201 Bell Building, Montgomery, Alabama, and
Mr. Gordon Madison, Assistant Attorney General,
State Capitol Building, Montgomery, Alabama, appear-
ing for the Defendants.

I N D E X

EXAMINATION BY:

PAGE NO.:

Mr. Smith

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Mr. Quaintance

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Mr. Gray

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1 I, Thomas E. Dempsey, a Court Reporter of
2 Birmingham, Alabama, and a Notary Public for the
3 State of Alabama at Large, acting as Commissioner,
4 certify that on this date, as provided by the Rules
5 of Civil Procedure of the United States District
6 Court and the foregoing stipulation of counsel, there
7 came before me at the State Office Building, Mont-
8 gomery, Alabama, beginning at 9:20 A. M., Mr. Harold
9 E. Lutz, witness in the above cause, for oral exami-
10 nation, whereupon the following proceedings were
11 had:

12 HAROLD E. LUTZ,
13 being first duly sworn, testified as follows:
14

15 EXAMINATION BY MR. SMITH:

16 Q State your full name to the Court, please.

17 A Harold Edward Lutz.

18 Q And where are you from, Mr. Lutz?

19 A Now?

20 Q Yes, sir.

21 A From Birmingham -- Fairfield, Alabama. I
22 live in Birmingham. I teach at Fairfield High
23 School.

1 Q Where did you go to college, Mr. Lutz?

2 A University of Alabama.

3 Q And what year did you graduate from the
4 University of Alabama?

5 A Graduated in 1954.

6 Q Did you participate in athletics at the
7 University of Alabama?

8 A Yes, sir.

9 Q What athletics did you participate in?

10 A Football and track.

11 Q In fact, I believe you, for about three
12 years, played regularly for the Crimson Tide of
13 the University of Alabama?

14 A Yes, sir.

15 Q Now after graduating from the University
16 of Alabama, where did you then go and what employ-
17 ment did you seek?

18 A I went to Fairfield High School as Assistant
19 under Homer Smiles and stayed there as his assistant
20 for three years, and then took the head job in 1957,
21 and have been there since.

22 Q Well, then, would it be a fair statement
23 that you have been closely associated with college

1 and high school athletics over the past fifteen
2 years?

3 A Yes, sir.

4 Q And of course prior to that you were a
5 high school athlete?

6 A Right -- no, I was in the service after
7 high school. Then I had two years in the service
8 at Fort Benning.

9 Q Where did you play high school football?

10 A State of Ohio.

11 Q Did you participate in athletics while you
12 were in the military service?

13 A Yes, sir.

14 Q So then you have pretty well devoted your
15 career to the field of athletics, is this correct?

16 A Yes. It was as the results of my educa-
17 tion I feel.

18 Q Is the Fairfield school part of the Birming-
19 ham City School System?

20 A No. It is a separate school system.

21 Q Is it a separate city school system or is
22 it part of Jefferson County?

23 A Separate city school system under the

1 Fairfield Board of Education.

2 Q How many schools are within the Fairfield
3 system?

4 A Let's see. There is three grammar schools,
5 one junior high school and one high school.

6 Q There is only one senior high school in the
7 system, is this correct?

8 A This is correct.

9 Q Now has your system operated under a so-
10 called freedom of choice plan whereby pupils choose
11 the school which they attend?

12 A Yes, sir.

13 Q Approximately how long has your school
14 operated under this freedom of choice plan?

15 A Well, last year was the first year that
16 the letter was received telling the students they
17 had their choice. In other words, they could go
18 to any school. Now when I refer to one high school,
19 I refer to the white school. Now they do have a
20 colored high school there in Fairfield also. So
21 they do have two high schools.

22 Q Would you, for the record, state the name
23 of the Negro school in Fairfield?

1 A Fairfield Industrial High School.

2 Q Do you know the approximate enrollment of
3 that school?

4 A I do not.

5 Q And the name of your school is Fairfield
6 High School?

7 A Yes.

8 Q Do you know the approximate enrollment of
9 Fairfield High School?

10 A 425 as I remember in the upper three grades
11 now. It is a three year high school.

12 Q Tenth, eleventh and twelfth grades?

13 A Right.

14 Q Do Negro pupils attend the high school?

15 A Yes, sir.

16 Q Can you give the Court the approximate num-
17 ber that presently attend that school?

18 A I wrote down the figures. I went up to
19 the office and got the figures on how many colored
20 students we have in the school. Now in the tenth
21 grade we have 29 counting girls and boys. There
22 is 14 boys. In the eleventh grade we have 18 girls
23 and 7 boys, and the twelfth grade, 14 girls and 6

1 boys.

2 Q Do you have a total of the number of the
3 Negro pupils?

4 A No. There are 27 boys.

5 Q And it would total 74 students, I believe
6 of course the record will reflect that. Now, Coach,
7 what kind of athletic program do you have at Fair-
8 field High School?

9 A Well, we feel like we have a real good
10 athletic program. We have done real well in all
11 of our sports. And we feel that we give each boy
12 that enters our high school an opportunity to
13 play athletics. He is given the choice -- not a
14 choice, but our program is presented to each stu-
15 dent. And they are allowed to come out, regard-
16 less of what they are, ability, size, colored or
17 anything.

18 Q What sports do you participate in?

19 A We have football, basketball, wrestling,
20 track and baseball.

21 Q How is your athletic program financially
22 supported?

23 A Solely on what we take in through our

1 athletic funds for gate receipts.

2 Q Do you receive any monies from the Fairfield
3 City Board of Education?

4 A No.

5 Q Do you receive any from the State Board of
6 Education or from any state, county or city source?

7 A No.

8 Q So then it is supported entirely by gate
9 receipts, is this correct?

10 A Solely.

11 Q Since you have been affiliated with athletics
12 at this school, has the Fairfield City Board of Ed-
13 ucation or any county board of education or state
14 board of education or Dr. Ernest Stone, State Super-
15 intendent of Education, in any way directed the
16 athletic policies of your school?

17 A No.

18 Q Who does in fact, Coach, direct your ath-
19 letic policies?

20 A Well, I have done most of the scheduling.
21 Everything that is done in our athletic program
22 of course is worked through myself and the princi-
23 pal of the high school.

1 Q Have you ever consulted or have you ever
2 been directed by your City Board of Education to
3 schedule any particular athletic event?

4 A No.

5 Q And is it your statement that you and the
6 principal of the school make this determination?

7 A That's right.

8 Q And that you have made this determination
9 since you have been affiliated with the school,
10 is this correct?

11 A This is correct.

12 Q Is your athletic program at Fairfield High
13 School integrated?

14 A Yes.

15 Q And do you compete against other schools
16 which have integrated high school athletics?

17 A Yes.

18 Q To what extent have the schools that you
19 compete against been integrated, Coach?

20 A Well, all of the other schools that we
21 compete against, I am sure, are under this same
22 situation that we are with the colored students.
23 I think they were given the letter of freedom of

1 choice of school. And of course all those that
2 -- this year so far I think we have played a few
3 of them in basketball. We played one school this
4 year in football that had a colored boy on it.

5 Q To what extent is your own athletic pro-
6 gram integrated?

7 A Our athletic program is integrated in all
8 sports except -- it did not have a colored boy on
9 our wrestling squad this year.

10 Q How many boys participate in wrestling?

11 A I had 28 at the beginning of the season,
12 starters, and I wound up at the end of the season
13 with 24.

14 Q Is the participation in athletics at your
15 school purely voluntary, extracurricular activity
16 on the part of the student?

17 A Yes.

18 Q There is nothing compulsory by rule or regu-
19 lation that compels the student to participate in
20 any athletics?

21 A It is a little bit different. I compel no
22 boy to play any sport in order to prepare him for
23 another sport. A lot of coaches, if a boy plays

1 football, they will make him run track or play basket-
2 ball to keep him active in another sport. And I do
3 not require this. Our athletic program is strictly
4 on a voluntary basis. If he wants to play football,
5 he can play football as long as he will abide by
6 the training rules that we require as coaches, under
7 our athletic system.

8 Q Coach, to what extent since we are in the
9 basketball season, almost approaching its close, to
10 what extent is your basketball program integrated?

11 A We have two colored boys on the varsity
12 basketball team that are playing, and I think he
13 has a total of ten boys that he is dressing out on
14 the varsity now. Two of them are colored. One of
15 them starts regular, and is doing a real good job
16 for us.

17 Q How has your student body accepted the par-
18 ticipating of the Negro athlete in your athletic
19 program?

20 A Well, they seem more enthused about Big O
21 than they do anybody we have got playing for us.

22 Q Now you are referring to Big O?

23 A James Owens is the colored boy's name. And

1 he is one of our outstanding athletes in the school,
2 in football and basketball, and he will be in track
3 also.

4 Q And you say your student body has received
5 him well, so to speak, enthusiastically?

6 A Well thought of by all the students. I
7 feel James is well liked by everybody in the school.

8 Q Has he been a leader?

9 A Very much so. He has been a credit to his
10 race.

11 Q What effect, in your opinion, has his parti-
12 cipating in athletics had on the choice of pupils
13 that might in the future choose to attend the Fair-
14 field High School?

15 A Well, I feel sure that his playing there
16 at Fairfield is going to help encourage other boys
17 to come to Fairfield from the Fairfield Industrial
18 High School.

19 Q When you say encourage other boys, you mean
20 other Negro pupils?

21 A Right. Other Negro students, yes.

22 Q Can you think in any way how his participa-
23 tion in your athletic program would adversely affect

1 the Negro pupil in making his choice of school?

2 A None whatsoever. He has been an outstanding
3 athlete and was voted -- well, he was selected under
4 the All-Metro team in Birmingham, which was the
5 first time ever it has happened in the City of Birm-
6 ingham. He was selected under what they have -- we
7 are an independent school system. We are not in
8 the city system and not in Jefferson County system.
9 So they have what they call the independent league.
10 And they call this the All-Metro team, in order to
11 give us the recognition and award just like they
12 do for all the city or county. And James made the
13 All-Metro team this year, and consequently has re-
14 ceived letters from various colleges, questionnaires
15 for chances to go to college next year, and they are
16 interested in him. And I think that this will help
17 our school plus James also, and also other colored
18 athletes that may want to come to Fairfield High
19 School.

20 Q So it would be fair to say this athlete is
21 being actively recruited by colleges?

22 A Yes. Three colleges outside the SEC already.

23 Q Coach Lutz, what effect, in your opinion, has

1 this athlete had on the community or the City of
2 Fairfield?

3 A Well, I think he is helping our whole situa-
4 tion as far as our -- under racial questions in
5 Fairfield as far as integration of the white schools.
6 I think that you might say having the student being
7 accepted, other colored students being accepted
8 because he conducts himself in such a manner.

9 Q Would it be a fair statement to say he has
10 been a good will ambassador of his race in your
11 school?

12 A Very much so.

13 Q Let me go to your program of football, and
14 you have had an outstanding football program. You
15 have produced many college athletes. To what extent
16 have the Negro pupils participated in your football
17 program?

18 A We had twelve report for spring training
19 last spring.

20 Q Coach, did you do anything in preparation
21 of your team for the acceptance of the Negro athlete?

22 A The only preparation I did was to -- when we
23 had the first meeting of last spring, I talked to both --

1 all the boys that reported for spring training,
2 colored and white at the same time. And told them
3 that this was a new situation for us at Fairfield
4 High School, and that we had never had colored
5 boys playing before. It was going to be new to
6 them and was going to be new to the coaching and
7 new to the boys that they were going to be playing
8 with. It was one of the problems that we had to
9 put up with, as far as new experiences. And we
10 were all in it together, win, lose or draw we were
11 going to play together.

12 Q Did you treat your athletes the same way;
13 did you show any partiality or treat any differently
14 the Negro athlete from the white athlete?

15 A No. I felt that we were there for one
16 purpose, and that was to win the football games
17 for Fairfield High School. And we went at it with
18 that goal in mind. And we did a pretty good job,
19 I felt like. This last season we had a 7-2 record.

20 Q In your opinion will the participation
21 of the Negro athlete in your football program ad-
22 versely affect the choice of any Negro pupil in
23 that system choosing the Fairfield High School?

1 A Give it to me again, now.

2 Q Well, I want to ask you if the Negro ath-
3 lete participating in your football program, in your
4 opinion, would this discourage other Negro pupils
5 from choosing your school?

6 A No. I think we will have more, I am sure
7 that will be encouraged to come to Fairfield.

8 Q How do you make up your athletic schedules?

9 A We schedule our athletic program by how
10 we feel it would help us financially, especially
11 football. Because we know it has to carry all
12 of our athletics. We make no -- we charge no ad-
13 mission for baseball and charge no admission for
14 track. Everything we spend for those two sports
15 has to come from other sports that we can charge
16 for, which is football, basketball and wrestling.
17 Basketball now in our school this year is the
18 first year that we have had a winning season.
19 And probably the first year we will make a little
20 above the -- usually it breaks even. We may come
21 ahead a little bit this year. In wrestling, we
22 probably will make a couple of hundred dollars
23 on it this year. But football has to carry our

1 athletics in our school.

2 Q Would you decline to compete with another
3 high school that had Negro athletes?

4 A Another white high school?

5 Q Yes.

6 A No.

7 Q Have you ever declined to compete against
8 the Negro athlete?

9 A No.

10 Q Now you qualified your answer from the
11 standpoint of competing against another predomi-
12 nantly white high school. What, in your opinion,
13 as a coach and one interested and indeed familiar
14 with the problems of athletics, would be your
15 opinion if this Court were to compel your school
16 to compete in athletics against a Negro school?

17 A I don't feel like it would be good rela-
18 tions. I feel like that right now at this time,
19 I don't feel like it would be to our advantage to
20 play a colored school, because I feel like at
21 this time it would be competing against the two
22 different colors, the white against the black, or
23 the colored race instead of playing for a football

1 contest. I think you would have a more feeling
2 there of the situation than you would for the foot-
3 ball game. I don't think it would be good rela-
4 tions at this time. I never have even thought
5 about scheduling a colored school, because it
6 never has entered my mind, to be frank.

7 Q Can you see any specific objections to
8 scheduling a colored school?

9 A Well, I think that right now I would see
10 an objection, because I don't believe it would
11 help us financially. I don't believe the people
12 would accept this in my home city at this time.
13 The colored school is only four or five blocks
14 away from our high school. And I just don't believe
15 it would be ready for it at this time. I think
16 it would hurt our relations that we have now with
17 this situation.

18 Q How have the other Negro students in your
19 school been accepted by the student body?

20 A Good. We have not had any heated flare-ups,
21 fights. I think our high school has been real good,
22 has accepted this integration real well. I think
23 it would hurt us to play a colored school at this

1 time for that one reason. I think that we are
2 coming along real good. And I think it would
3 make tempers flare if we would schedule it at
4 this time. Maybe later on, I don't know. I think
5 the way our situation is now, I believe that we
6 will get some more boys that will want to come
7 to Fairfield off of the hill, I am sure, to play
8 athletics.

9 Q When you say on the hill --

10 A Well, I am referring to Fairfield Indus-
11 trial, they are up on the hill. I am sure we
12 will have a lot more athletes that want to come
13 to our school. And I think that if we would
14 schedule them, I don't believe they would change
15 schools. I think they would stay up there and
16 play for Industrial High, and would be a heated
17 situation there, I believe.

18 Q Has the Negro athletes' parents, in
19 their behalf, made any complaints to you or to
20 your principal or any school official charging
21 discrimination in your athletic program?

22 A None whatsoever.

23 MR. SMITH: You may take the witness.

EXAMINATION BY MR. QUAINANCE:

Q Coach Lutz, let me ask you by what you mean by good relations. Is it the white schools go their way and the Negro schools go their way?

A In athletic competition?

Q Yes.

A That's right. They never have approached me about scheduling, and I never have approached them.

Q Would it be accurate to say that in this state that the coaches and persons interested in athletics at the predominantly white schools generally ignore the athletes at the Negro schools?

A Not ignore. I keep up with a lot of their scores, and I am interested in their --

Q Well, let me ask you -- I didn't want to interrupt your answer.

A I keep up with their athletic program. I am interested in their competing in track and their football scores and baseball scores. And I often meet the coach from Industrial High School and tell him they played a good ball game if they win. And we confer with each other. So we don't

1 ignore them.

2 Q Well, when Mr. Smith asked you how many
3 schools there were in Fairfield, and you said there
4 is one high school and one junior high school and
5 three elementary, you meant white schools?

6 A Right. I was referring to white schools.

7 Q In fact, there is one Negro high school,
8 one Negro junior high school and two Negro elemen-
9 tary schools in Fairfield, aren't there?

10 A I am not familiar with them at all. I
11 don't even know if they have a junior high really.
12 Whether they have a junior high school that feeds
13 Fairfield Industrial High I don't know. I don't
14 even know how many grammar schools they have for
15 the colored students in Fairfield. I am not familiar
16 with it.

17 Q Do you know where the office of Alabama High
18 School Athletic Association is?

19 A Yes, sir.

20 Q Where is that?

21 A 404 State Office Building, Montgomery.

22 Q Do you know where the office for the Negro
23 Athletic Association is?

1 A No, sir.

2 Q It is not in this building, is it?

3 A I don't know.

4 Q You schedule games with predominantly white
5 schools, is that right?

6 A Yes, sir.

7 Q And you participate in the tournaments with
8 only other predominantly white schools?

9 A Yes, sir.

10 Q There is a state basketball tournament going
11 on right now?

12 A Yes, sir.

13 Q Fairfield just won last night, is that
14 right?

15 A No, it was Monday night.

16 Q How about is there a Negro tournament that
17 you are aware of?

18 A Yes. The Negro tournament -- well, Fairfield
19 Industrial High had just won their district and they
20 are also going to the state tournament, I think, in
21 their classification.

22 Q Let me show you the Birmingham Post Herald
23 for this morning and ask whether a person who would

1 be reading that would be aware of that Negro tourna-
2 ment that is going on right now, referring to pages
3 12 and 13 of the sports pages? And let me ask you
4 whether there is any report of that Negro tourna-
5 ment?

6 MR. THAGARD: Are you now planning to make
7 the Post Herald a party to this?

8 MR. QUAINANCE: No. We that that is fine
9 what they do. Perhaps you could just read into the
10 record the stories. Don't read the substance --
11 don't read the text of them, but just what contests
12 are reported in the sports page this morning. It has
13 four A results, just to set this up. On page 13
14 has a column of four A results. Is that just pre-
15 dominantly white schools?

16 A It seems it is, yes.

17 Q And two A results the same?

18 A Right.

19 Q And then on page 12 it has a story about
20 the various games, including the Fairfield victory,
21 is that correct?

22 A Yes, sir.

23 Q Are all those stories, stories about

1 predominantly white schools?

2 A I can't see any of the colored schools on
3 there, no.

4 Q You have separate state championships, I
5 suppose?

6 A For all sports.

7 Q And in fact, it could be possible that Fair-
8 field could be a state champion and Fairfield Indus-
9 trial be a state champion?

10 A Right.

11 Q In the same sport?

12 A Right.

13 Q Which sport do you coach?

14 A I have football and wrestling.

15 Q You are four A?

16 A Three A.

17 Q Who is the three A champion this year?

18 A In what, wrestling?

19 Q In football?

20 A Football was Russellville.

21 Q How about the Negro school?

22 A I am not sure. I don't know.

23 Q Do any of your players participate in all

Q

1 star football games or all star basketball games
2 in August?

3 A No.

4 Q Do you attend those games?

5 A Yes.

6 Q As part of the coaching clinic?

7 A Yes.

8 Q Those are games in which athletes only
9 from predominantly white schools participate, aren't
10 they?

11 A Yes.

A

12 Q How many Negro athletes have participated
13 in those all star games?

14 A I don't know.

15 Q Do you know of any?

16 A Not that I know of. Now there may have
17 been one -- no, I don't know.

18 Q Now the All-Metro team which the Big O
19 was chosen for this year, you spoke of him being
20 the first Negro, is that correct, to have been
21 named to the All-Metro team?

22 A Yes.

23 Q So those players come only from predominantly

1 white schools?

2 A Yes.

3 Q Do you think he is the first Negro in the
4 Birmingham metropolitan area to be of all star
5 quality?

6 A In a white school?

7 Q No, including the Negro schools?

8 A No. He is not the first outstanding Negro
9 athlete that came out of Jefferson County.

10 Q I guess Willie Mays went to Fairfield Indus-
11 trial?

12 A Fairfield Industrial High School, yes.

13 Q Do you belong to a coaches' association?

14 A Yes, sir.

15 Q Which coaches?

16 A Alabama High School Athletic Association.

17 Q Do any Negro coaches belong to that?

18 A Are there any Negro coaches?

19 Q Yes, how many?

20 A Excuse me, I didn't understand your ques-
21 tion.

22 Q How many Negroes are in that association?

23 A I do not know.

1 Q Do you know of any?

2 A No.

3 Q Does your team participate in any tourna-
4 ments, either your football or basketball team,
5 besides the state tournament or your baseball or
6 track for that matter?

7 A We competed in a jamboree.

8 Q A jamboree?

9 A In football. And our basketball team com-
10 peted in a holiday classic tournament in Bessemer.

11 Q Where was the jamboree?

12 A The jamboree last year was held at Fairfield
13 High School.

14 Q Is that an invitational sort of thing, or
15 what is that?

16 A No, it was an agreement between four high
17 school coaches to come together and have a football --
18 what they call a football jamboree, and each team
19 was to play a half. This was in the spring of the
20 year.

21 Q Would there be any rule of the Alabama High
22 School Athletic Association that you know of that
23 would have prevented your having a Negro school

1 participate in the jamboree?

2 A Well, my understanding is that the Alabama
3 High School Athletic Association has to compete
4 against schools in the Athletic Association. That
5 is the rule.

6 Q It is your understanding that is true even
7 when it is not an official game to be counted against
8 your limit of ten?

9 A Right. We compete against only schools that
10 are in the association.

11 Q I asked you a moment ago about this Birming-
12 ham newspaper. You haven't had a chance to read
13 the Montgomery paper, have you?

14 A I haven't read any papers.

15 Q I might mention for the record that is how
16 come I know about this Negro tournament, in case
17 you want to ask about that. There were only white
18 schools -- I should finish that question up there.
19 Only white schools participated in that jamboree?

20 A There were only white schools that partici-
21 pated, but we had Negro athletes playing.

22 Q Do you belong to any conference in any sport?

23 A We are independent in football.

1 Q Any other sport?

2 A In our athletic program in Fairfield, we
3 are independent. We are not in any league or con-
4 ference.

5 Q You play most of your games in the Birming-
6 ham area?

7 A Yes, sir.

8 Q Have you had any Negro officials in any of
9 your contests?

10 A No, sir.

11 Q How many students do you have at Fairfield?

12 A 425.

13 Q You spoke of finances. What is the least
14 and the most that you have cleared at a football
15 game?

16 A Through how many years?

17 Q Well, since you have been the head coach.
18 Have you gone into the hole on any of your games?

19 A I think the least that we ever made was
20 \$75.00 a few years back, about three years back.

21 Q What is the most that you made?

22 A The most, I am not certain. Let's see. I
23 am trying to think back. It would be in the Hueytown

1 game, which would probably be about \$1800 apiece.

2 Q You having played at the University of
3 Alabama, I am sure you are familiar with how re-
4 cruiting works in college athletics. Would you
5 say the publicity is an important element in who
6 gets recruited?

7 A No.

8 Q You don't think the coaches pay any atten-
9 tion to the newspaper when they decide who to re-
10 cruit?

11 A They may in other states, but I don't be-
12 lieve they do in Alabama.

13 Q In deciding who to go to see, they get
14 their leads from some place.

15 A That's right. I am sure they do, but not
16 in Alabama, I don't believe. Now when they go
17 to Georgia or Florida or some place like that,
18 I think they consult the newspapers to find out
19 who the good athletes are, because they might not
20 know the coaches in that area. In Alabama, they
21 know the majority of the coaches by name and where
22 he has played.

23 Q And they consult with the coaches?

1 A They contact the coach.

2 Q And ask for who their best athletes are?

3 A Right.

4 Q Do they know the Negro coaches by name?

5 A I do not know.

6 Q You don't know whether they consult with
7 them and find out who their stars are?

8 A They have consulted me about my boy.

9 Q That's right. And in fact, if they -- if
10 you were to play Negro schools, and they would
11 come to watch your athletes, they would certainly
12 see the Negro athletes and recruit the good ones
13 from the Negro schools, wouldn't they? They are
14 looking for good athletes, Negro or white.

15 A I don't know what they are after, as far
16 as their coaching staff -- I mean, I can't say
17 what kind of athletes they are after. The only
18 thing I can tell them is what I have at my school.
19 I will recommend him if I feel he can play foot-
20 ball in the SEC. As far as them telling me what
21 kind of athletes they are, after I tell him what
22 my boy feels like, if he can't play SEC football,
23 I won't recommend him.

1 MR. QUAINTANCE: That's all.

2
3 EXAMINATION BY MR. GRAY:

4 Q What percentage of the population of Fair-
5 field is Negro, and what is the population of white
6 in your best judgment?

7 A I don't know the percentage, the actual
8 percentage.

9 Q Do you have a judgment as to whether it is
10 pretty close to fifty per cent?

11 A I would say yes.

12 Q You have a highly concentrated Negro popu-
13 lation in Fairfield?

14 A Yes.

15 Q And yet I think you said that out of your 425
16 students, you have approximately I think some 67
17 more or less total enrollment in your high school?

18 A In the high school, yes.

19 Q Do you know how many Negroes are enrolled in
20 the predominantly white elementary schools in Fair-
21 field?

22 A No.

23 Q Do you have a judgment or have you been informed?

1 A No. The reason I am thinking is in the
2 junior high I am not sure. I would say there was
3 130 in our junior high school.

4 Q 130 Negroes?

5 A Yes.

6 Q Out of approximately a total enrollment of --

7 A I don't have any idea what they have en-
8 rolled.

9 Q In your best judgment, would it be more
10 than what you have in your high school?

11 A No.

12 Q It wouldn't be as many?

13 A It wouldn't be as many.

14 Q Do you know the various sports that the
15 Negro high school competes in in Fairfield?

16 A In the Industrial High School?

17 Q Yes.

18 A They have basketball, football and track,
19 that I know of.

20 Q Do you know whether they have wrestling?

21 A No.

22 Q Baseball?

23 A Baseball I think they do, yes. I am sure

1 they do if Willie Mays came from there.

2 Q I was about to ask you about that. You
3 have had an all white team that has competed against
4 an all white team, have you not?

5 A Yes.

6 Q Did you find anything objectionable about
7 that?

8 A No.

9 Q Do you find anything objectionable about
10 an all Negro team playing an all Negro team?

11 A No.

12 Q Do you find anything objectionable about
13 a predominantly white team playing an all white
14 team?

15 A No.

16 Q If a Negro team had one white player on
17 it, would you find anything wrong with your pre-
18 dominantly white team playing the Negro team with
19 one white player on it?

20 A I don't know. I would hate -- I don't under-
21 stand your question. Come again with it.

22 Q How many Negroes do you have on your team?

23 A Two on the varsity football team. We are

1 talking about football now.

2 Q All right, let's talk about football. You
3 have on your team two Negroes on your varsity team?

4 A Right.

5 Q Do you have any objection to that team play-
6 ing a team which had one white player on the varsity
7 and all the rest of them Negroes on the varsity?

8 A It would depend -- there is a lot of things
9 that I consider when I schedule a ball game.

10 Q Considering all of the facts being equal?

11 A I have no objection.

12 Q You have no objection. Then what objec-
13 tion, if any, do you have of a predominantly white
14 school playing a predominantly Negro school?

15 A The reason I don't play them is because we
16 are not in the same association.

17 Q So if you were in the same association,
18 would you have any objections?

19 A I don't know.

20 Q Well, you just said that was the reason
21 you didn't do it.

22 A At this time I don't think it would be good
23 for my school to play them in that situation.

1 Q What is the difference between a predomi-
2 nantly white team playing a white team, and a pre-
3 dominantly white team playing a predominantly colored
4 team?

5 A Well, I think you would be pitting colored
6 against colored, and I think it would just work it-
7 self against each other.

8 Q In other words, in all of my situations,
9 it is all right for white to play against white
10 and black to play against black, and white and black
11 play against white, but it is a little odd for a
12 white and black to play against all black or mostly
13 black?

14 A At this time I would say yes. I think you
15 would be -- I think you would have a fight. I
16 think there would be more concern about who was
17 going to win the situation of black against white.

18 Q Well, Coach, actually haven't your experiences
19 been with the Negro athletes and your white athletes
20 on both teams, if they got on the football field
21 and they forget about color and they are going to
22 win the game, and that is what in effect you told
23 your boys?

1 A Right.

2 Q And haven't they for the most part, haven't
3 the teams you played, haven't they demonstrated
4 that on the field?

5 A Yes.

6 Q For the most part you may have some inci-
7 dents that you are going to have that you can have
8 incidents about white playing white and black playing
9 black?

10 A Right. Football is a game of contact.

11 Q Right. So when those boys get out on that
12 field, they are interested in winning the game, and
13 don't you think they would have the same type interest
14 regardless of the racial composition on either side,
15 if they are really athletes and if they have good
16 coaches like you who really get out and tell the boys
17 like you said, how you tell your boys we are going
18 out to win this game?

19 A I don't think you would.

20 Q You know most of the white coaches in the
21 State of Alabama, don't you?

22 A Most of them.

23 Q In high school?

1 A Most of them, yes.

2 Q Don't you think you have a good group of
3 white coaches in Alabama?

4 A What do you mean by good; you mean excellent
5 coaches?

6 Q Yes. I mean on a whole, you are a member
7 of the coaching association, and I take it most of
8 the coaches throughout the State, white coaches
9 that is, are members of your coaching association?

10 A Yes.

11 Q And don't you think you have generally a
12 good group of coaches in Alabama?

13 A Yes. I feel like we have a very good group
14 of coaches.

15 Q Don't you think this very good group of
16 coaches could prepare those boys to compete against
17 any boys, regardless of their race?

18 A I am not going to speak for the other coaches.

19 Q I am asking you your opinion about this.

20 A In my opinion I don't think it would answer
21 your question, because personally in my situation I
22 think that you would be -- it would be hurting the
23 program in my school to play a colored school at

1 this time. I mean, within the next year or two.
2 I don't think it could be done, and as you say,
3 to put 44 good athletes against their 44 good ath-
4 letes and come out with an attitude after the ball
5 game that you have successfully played a good
6 football game.

7 Q Are you familiar with the athletic program
8 in the State of Georgia?

9 A No.

10 Q Did you know that in the State of Georgia
11 for football this past fall there was a Negro school
12 that competed against a white school in the State
13 of Georgia?

14 A I did not know that.

15 Q And the Negro team became champions of that
16 class in Georgia?

17 A I didn't know that.

18 Q Well, sir, if they could do that in Georgia,
19 do you see anything -- any reason why we could not
20 in our state do the same thing?

21 A No.

22 MR. GRAY: I have no further questions.
23

1 RE-EXAMINATION BY MR. QUAINTANCE:

2 Q I want to ask you a little bit further,
3 just what it is that you object to now. You wouldn't
4 have an objection to an all Negro team from a
5 predominantly white school playing an all Negro
6 team from a Negro school, would you?

7 A Make your statement again, please.

8 Q Say you have a basketball team at a Negro
9 school has five Negroes on it, and a basketball
10 team from a predominantly white school that has
11 five Negroes on it, would you have any objection
12 to those two teams competing?

13 A I wouldn't object as long as they were in
14 the same association, if it was under the Alabama
15 Athletic Association to play it.

16 Q What if there were four Negroes and one
17 white person on the team, would you object to
18 them playing against an all Negro school?

19 A I don't know what I would do frankly. I
20 am not faced with the situation and I don't know
21 what I would do. I would consider these things
22 when I schedule it, I think.

23 Q How many coaches do you have --

1 A I don't have -- never mind.

2 MR. SMITH: Go ahead.

3 Q Go ahead.

4 A I am not concerned when you are taking
5 into consideration playing a schedule. To me it
6 is not just competing against people for a win
7 and loss, it is what you are going to benefit
8 from it for your school and for your situation
9 that you have in your athletic program. That is
10 how I schedule my football games. I try to weigh
11 everything I can to find out whether it is going
12 to help our school, whether we can make out finan-
13 cially. Whether we are going to still uphold the
14 good athletic standings that we have had in the
15 past. And this is what I try to consider. If I
16 felt like it wasn't going to do this, then I wouldn't
17 schedule it. I wouldn't care whether it was all
18 white or all black. I mean, the colored situation
19 is not what I am concerned with a whole lot as far
20 as our schedule. In my situation now I wouldn't
21 schedule a colored school.

22 Q How many coaches do you have at this school?

23 A Four.

1 Q Are any of those Negroes?

2 A No.

3 Q The principal is white, isn't he?

4 A Yes.

5 MR. QUAINANCE: That is all we have.

6 MR. SMITH: Thank you.

7

8 FURTHER THE DEPONENT SAITH NOT.

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C E R T I F I C A T E

STATE OF ALABAMA)

JEFFERSON COUNTY)

I hereby certify that the above and foregoing deposition was taken down by me in stenotypy, and the questions and answers thereto were reduced to type-writing under my supervision, and that the foregoing represents a true and correct transcript of the deposition given by said witness upon said hearing.

I further certify that I am neither of counsel nor of kin to the parties to the action, nor am I in anywise interested in the result of said cause.


COMMISSIONER

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MONTGOMERY, ALA.

WAIVER

I hereby waive the reading, examination, and signing of the deposition I gave in the case of Lee v. Macon County Board of Education on February 29, 1968, in Montgomery, Alabama. I am signing this waiver voluntarily and with knowledge that I have the right to read and examine the deposition and make corrections before signing it.

Harold E. Lutz

March , 1968

604-E

U.S. Dist. Court - Middle Dist. - Ala.

Government's Exh. 16

3-9-68