

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

-----)
BOBBY BRUNSON, ELIZABETH BRUNSON and)
ELLIS BRUNSON, by McQUEEN BRUNSON,)
their father and next friend,)
and)
TISBIA E. DELAINE, a Minor by LEO)
DELAINE, her father and next friend,)
and)
ELOISE FELDER, a Minor, by NORA FELDER,)
her mother and next friend,)
and)
BLEASE C. GIBSON, JR., THOMAS GIBSON,)
EVELYN M. GIBSON and FRANCIS E. GIBSON,)
by FRANCES GIBSON, their mother and)
next friend,)
and)
JOSEPH GIPSON, FRANCINA GIPSON, and)
CALVIN GIPSON, by JOHNNIE GIPSON, their)
father and next friend,)
and)
SUSAN J. HILTON, BESSIE I. HILTON,)
EDWARD P. HILTON and CHARLES M. HILTON,)
by WILLIAM HILTON, their father and)
next friend,)
and)
HARRY G. McDONALD and RITTA McDONALD,)
by JOHN McDONALD, their father and next)
friend,)
and)
JEREMIAH OLIVER, JR. and MARY OLIVER,)
by MARY J. OLIVER, their mother and)
next friend,)
and)
VIDEL PEARSON, DELEWARE PEARSON, HAROLD)
PEARSON and CARRIE A. PEARSON, by LEVI)
PEARSON, their father and next friend,)
and)
CLEOLA RAGIN, ROBERT L. RAGIN, MOSES)
RAGIN, HENRY J. RAGIN, LUCRETIA RAGIN)
and WILLIE J. RAGIN, by MINNIE RAGIN,)
their mother and next friend,)
and)
GLENN RAGIN, a Minor by WILLIAM RAGIN,)
his father and next friend,)
and)
JACKSON D. RICHARDSON and JOHNNIE F.)
RICHARDSON, by LEE RICHARDSON, their)
father and next friend,)
and)
THELMA STUKES, ETHEL STUKES, LIONEL)
STUKES, MARION STUKES, ABEL STUKES,)
ROCHELLE STUKES and MARCIA STUKES, by)
LADSON STUKES, their father and next)
friend,)
and)
DELLA TINDAL, a Minor, by LAWRENCE TINDAL,)
her father and next friend,)
and)
EMANUEL RICHARDSON, a Minor by)
LUCHRESHER RICHARDSON, his father and)
next friend,)

Plaintiffs,)

FILED

APR 13 1960

ERNEST L. ALLEN
C.D.C.U.S.E.D.S.C.

v.

BOARD OF TRUSTEES OF SCHOOL DISTRICT
NO. 1 OF CLARENDON COUNTY, SOUTH
CAROLINA; L. B. McCORD, County Superin-
tendent of Education; C. E. BUTTES,
District Superintendent of Education;
J. W. Sengert ~~W. C. SPROTT~~, Chairman, Board of Trustees;)
C. N. PLOWDEN, W. A. BRUNSON, J. W. ~~Henry Everett~~,)
~~SCONYERS~~ and L. RICHARDSON, Members of)
the Board of Trustees,)

Defendants.)
-----)

COMPLAINT

1. The jurisdiction of this Court is invoked pursuant to Title 28, United States Code, §1343(3), this being an action which is authorized by law, Title 42, United States Code, §1983, to be commenced by any citizen of the United States to redress the deprivation under color of state law, statute, ordinance, regulation, custom or usage of rights, privileges and immunities secured by the Constitution and laws of the United States. The rights here sought to be redressed are rights guaranteed by the due process and equal protection clauses of the Fourteenth Amendment to the Constitution of the United States and by Title 42, United States Code, §1981.

2. This is a proceeding for a permanent injunction enjoining defendants from continuing to pursue the policy, practice, custom and usage of operating a biracial school system in School District No. 1, Clarendon County, South Carolina, in violation of rights secured to plaintiffs by the Constitution and laws of the United States referred to above.

3. This is a class action brought by the adult plaintiffs for the minor plaintiffs on behalf of themselves and on behalf of other adults and minors similarly situated, pursuant to the provisions of Rule 23(a)(3) of the Federal Rules of Civil Procedure. The members of this class are all adult Negro citizens and their minor children of the State of South Carolina who reside in School District No. 1, Clarendon County. The

minors are all eligible to attend the public schools in School District No. 1 of Clarendon County, South Carolina, and the members of the class are all similarly affected by the action of the defendants in maintaining and operating the public school system of School District No. 1, Clarendon County, on a racially segregated basis. There are involved common questions of law and fact affecting the rights of all other Negro children eligible to attend the public schools of School District No. 1, Clarendon County, and their respective parents and guardians, who are so numerous as to make it impracticable to bring all before the Court, but whose interests are adequately represented by plaintiffs.

4. The adult plaintiffs in this case are all citizens of the United States and of the State of South Carolina, residing in School District No. 1, Clarendon County. Each adult plaintiff is the parent of one or more minor children who are eligible to attend the public schools in District 1 of Clarendon County. Each minor plaintiff is likewise a citizen of the United States and of the State of South Carolina, residing in District No. 1, Clarendon County.

5. The plaintiffs in this case are Bobby Brunson, Elizabeth Brunson and Ellis Brunson, minors, by their father and next friend, McQueen Brunson; Tisbia E. Delaine, a minor, by her father and next friend, Leo Delaine; Eloise Felder, a minor, by her mother and next friend, Nora Felder; Blease C. Gibson, Jr., Thomas Gibson, Evelyn M. Gibson and Frances E. Gibson, minors, by their mother and next friend, Frances Gibson; Joseph Gipson, Francina Gipson and Calvin Gipson, minors, by their father and next friend Johnnie Gipson; Susan J. Hilton, Bessie I. Hilton, Edward P. Hilton and Charles M. Hilton, minors, by their father and next friend, Charles M. Hilton; Harry G. McDonald and Ritta McDonald, minors, by their father and next friend, John McDonald; Jeremiah Oliver, Jr. and Mary Oliver, minors, by their mother and next friend, Mary J. Oliver; Videl Pearson, Delaware Pearson, Harold Pearson and Carrie A. Pearson, minors by their father and next friend, Levi Pearson; Cleola

Ragin, Robert L. Ragin, Moses Ragin, Henry J. Ragin, Lucretia Ragin and Willie J. Ragin, minors, by their mother and next friend, Minnie Ragin; Glenn Ragin, a minor, by his father and next friend, William Ragin; Jackson D. Richardson and Johnnie F. Richardson, minors, by their father and next friend, Lee Richardson; Thelma Stukes, Ethel Stukes, Lionel Stukes, Marion Stukes, Abel Stukes, Rochelle Stukes and Marcia Stukes, minors, by their father and next friend, Ladson Stukes; Della Tindal, a minor, by her father and next friend, Lawrence Tindal, and Emanuel Richardson, a minor, by his father and next friend, Luchresher Richardson.

6. Defendant L. B. McCord is County Superintendent of Education of Clarendon County, South Carolina, including School District No. 1, and holding office pursuant to the laws of the State of South Carolina.

 7. Defendant C. E. Buttes is District Superintendent of Education in School District No. 1 of Clarendon County. Defendant W. C. Sprott is Chairman of the Board of Trustees of School District No. 1. Defendants C. N. Plowden, W. A. Brunson, W. W. Sconyers and L. Richardson are members of the Board of Trustees of School District No. 1.

8. The defendants maintain and generally supervise, as indicated by their titles, the public schools in School District No. 1 of Clarendon County, South Carolina, acting pursuant to the direction and authority contained in state constitutional provisions and statutes, and as such are officers of the State of South Carolina enforcing and exercising state laws and policies. This suit is brought against the defendants in their official and individual capacities.

9. Acting under color of the laws of the State of South Carolina, the defendants have pursued and are presently pursuing a policy, practice, custom and usage of operating a biracial school system in District No. 1 of Clarendon County. The biracial school system operated by defendants consists of a system of elementary and high schools limited to attendance by

white children only. Said schools are staffed by white teachers, white principals, and while located in various parts of the district, may be attended by white children only. The defendants also maintain a system of schools limited to attendance by Negro children only. These schools, likewise located in various parts of the district, are staffed entirely by Negro personnel: the teachers are all Negroes and the principals are all Negroes. Attendance at the various schools is determined by race and color and the assignment of personnel is determined by race and color of the children and the race and color of the personnel.

 10. After the decision of the United States Supreme Court in the School Segregation Cases, the United States District Court for the Eastern District of South Carolina, on July 15, 1955, issued its decree in the case of Briggs v. Elliott providing that the officials of School District No. 1, Clarendon County, comply with the decision and mandate of the United States District Court in the School Segregation Cases, namely, that they operate them on a nondiscriminatory basis, with race no longer as a standard of school assignment. Defendants have failed and refused to take any steps to eliminate racial segregation in the school system and have steadfastly failed and refused to employ a plan for the reorganization of the school system into a unitary, nonracial school system as required by said decisions.

11. Plaintiffs residing in School District No. 1 have each made written application to the appropriate defendant requesting reassignment to a public school limited to attendance by white students only, to no avail. Adult plaintiffs, some of whom were plaintiffs in the aforementioned case of Briggs v. Elliott, and all of whom by reason of their residing in School District No. 1, would have benefited by the proper implementation of the decree entered in that case on July 15, 1955, requiring that schools be operated on a nondiscriminatory basis, waited for over four years for the defendant to begin compliance with

the order of this court. On August 27, 1959, the plaintiffs, through their attorney, Lincoln C. Jenkins, Jr., wrote to defendant W. C. Sprott, Chairman, Board of Trustees, School District No. 1, requesting assignment of their children to a school to which a white child similarly situated to them would attend. They received no reply to this request. Subsequently, on October 8, 1959, the adult plaintiffs in writing called upon defendant W. C. Sprott to institute a plan for the complete desegregation of the schools within his jurisdiction. A reply from defendants dated October 13, 1959, indicated that plaintiffs' request came too late for consideration by the Board, although the deadline referred to in the Board's reply had never been previously publicly announced.

 12. Plaintiffs, and the members of the class which they represent, are injured by the operation of a biracial school system for the Negro and white children in School District No. 1, Clarendon County. The biracial school system is predicated upon the theory that Negroes are inherently inferior to white persons and, consequently, may not attend the same public schools attended by white children who are superior. The plaintiffs, and members of their class, are injured by the policy of assigning teachers, principals and other school personnel on the basis of the race and color of the children attending a particular school and the race and the color of the person to be assigned. Assignment of school personnel on the basis of race and color is also predicated on the theory that Negro teachers, Negro principals and other Negro school personnel are inferior to white teachers, white principals and other white school personnel and, therefore, may not teach white children.

13. The injury which plaintiffs and members of their class suffer as a result of the operation of the biracial school system in School District No. 1 of Clarendon County, and as a result of the policy of assigning school personnel on the basis of race is irreparable and will continue until enjoined by this

court. Any other relief to which the plaintiffs and those similarly situated could be remitted would be attended by such uncertainties and delays as to deny substantial relief, would involve a multiplicity of suits, cause further irreparable injury and occasion damage, vexation and inconvenience, not only to plaintiffs and those similarly situated, but to defendants as public officials.

14. The plaintiffs have not exhausted the administrative remedy provided by the South Carolina School laws for the placement of pupils by trustees for the reason that the remedy there provided is inadequate to provide the relief sought by plaintiffs in this case. Plaintiffs have not exhausted the remedy provided by the aforesaid pupil placement laws for the further reason that the criteria set forth in these laws for assigning children to school have been and are applied by defendants only to Negro children seeking admission, assignment or transfer. Furthermore, by the use of a previously unannounced cutoff date, defendants have prevented plaintiffs from employing the purported remedies under said law. Plaintiffs allege that acting under color of the authority conferred upon them by the South Carolina laws for the placement of pupils by trustees, defendants have continued to maintain and operate a biracial school system in School District No. 1 of Clarendon County, have used the provisions of this law to deny admission of Negro children to certain schools solely because of race and color, and have used this law to defeat rather than attain full compliance with the decisions of the United States Supreme Court in the School Segregation Cases. Defendants have not employed the pupil assignment law as a means of abolishing state imposed race distinctions, nor have they offered to plaintiffs by means of the pupil assignment law a genuine means of securing attendance at nonsegregated public schools.

WHEREFORE, plaintiffs respectfully pray that this Court advance this cause on the docket and order a speedy hearing of this action according to law and after such hearing:

1. Enter a decree enjoining defendants, their agents, employees and successors from operating a biracial school system in School District No. 1 of Clarendon County;

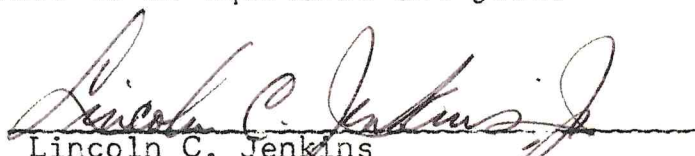
2. Enter a decree enjoining defendants, their agents, employees and successors from maintaining a dual scheme or pattern of school zone lines based upon race and color;

3. Enter a decree enjoining defendants, their agents, employees and successors from assigning students to schools in Clarendon County on the basis of the race and color of the students;

4. Enter a decree enjoining defendants, their agents, employees and successors from subjecting Negro children seeking assignment, transfer or admission to the schools of Clarendon County, to criteria, requirements and prerequisites not required of white children seeking assignment, transfer or admission to the schools of Clarendon County.

In the alternative, plaintiffs pray that this Court enter a decree directing defendants to present a complete plan, within a period of time to be determined by this Court, for the reorganization of the school system of Clarendon County, South Carolina, on a unitary, nonracial basis which shall include the assignment of children on a nonracial basis, the drawing of school zone lines on a nonracial basis, and the elimination of any other discriminations in the operation of the school system based solely upon race and color. Plaintiffs pray that if this Court directs defendants to produce a desegregation plan that this Court will retain jurisdiction of this case pending approval and full implementation of defendants' plan.

Plaintiffs pray that this Court will allow them their costs herein and grant such further, other, additional or alternative relief as may appear to the Court to be equitable and just.


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