Singleton v. Board of Commissioners
JI-FL-0001-0045

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

FILED

MAY 27 1964

OFFICE OF CLERK
U. S. DIST. COURT
NORTH. DIST. FLA.

WILLIE CARL SINGLETON, a minor by NEVA SINGLETON, his mother and next friend, et al.,

Plaintiff,

vs.

BOARD OF COMMISSIONERS OF STATE INSTITUTIONS, et al.,

Defendant.

CIVIL ACTION

NO. 963

REPLY TO DEFENDANTS' RESPONSE TO PLAINTIFFS' MEMORANDUM

Defendants filed on May 21, 1964 a response to the memorandum previously filed by plaintiffs on the issue of the standing of the nominal plaintiffs to maintain this action.

Defendants response seems to place principal reliance on the case of Augustus vs. Board of Public Instruction of Escambia County U.S.D.C. Fla. 185 F. S. 450 (1960). At page 7 of their memorandum they state:

> We have intentionally left our discussion of the case of Augustus vs. Board of Public Instruction of Escambia County, U.S.D.C. Fla., 185 F.S. 450 (1960) as our concluding argument in support of our petition inasmuch as the observations therein are pertinent to the disposition of the instant case.
>
> The Defendants respectfully submit that the relation of the Plaintiffs in the instant situation to the class which they purportedly represent is analogus to the standing of the Plaintiffs in the Augustus case.

Defendants have, as in their original petition for reconsideration, cited a lower court on the issue of Negro plaintiffs' standing to maintain a desegregation suit, where that Court was specifically reversed on appeal of that issue. In Augustus v. Board of Public Instruction of Escambia County, Florida, 306 F. 2d (5th Cir.) the Court of the Appeals reversed the lower Court cited by defendants when that Court held that Negro students

lacked standing to seek an injunction against racial assignments of teaching personnel.

In Augustus, the Court of Appeals merely determined that as a threshold matter, the lower Court should not have stricken the allegations in the complaint praying for the desegregation of teaching assignments thus precluding plaintiff-students from raising the issue at trial. However in a recent case, Daly N. Braxton et al., v. Board of Public Instruction of Duval, 326 F. 2d 616 (5th Cir. Jan. 10, 1964) the same Court has fully decided that Negro children have the right to seek injunction against racially segregated assignment of teaching personnel. Defendants in Braxton argued that the Negro students lacked standing as only the constitutional rights of Negro teachers was involved, and that, plaintiff students would have to adduce specific proof that they had been injured by the segregated employment pattern. All of defendants contentions were rejected by the Court. Upon Appeal by the defendants, the Supreme Court of the United States denied certiorari.

Defendants have, in the main, stated correctly the general principles of standing to sue. They have, however, mis-defined the factual situations which have been held to lay a proper foundation for standing to sue to desegregate public institutions, because of reliance on lower Courts which have been reversed on appeal of the standing issue.

Respectfully Submitted

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to attorneys for the defendant, James W. Kynes, Attorney General of the State of Florida, and Gerald Mager, Assistant Attorney General of the State of Florida at the Capitol Building in Tallahassee, Florida, this 26th day of May, 1964.

Earl M. Johnson
Attorney