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IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 19,475

JAMES H. MEREDITH,

Appellant

vs.

CHARLES DICKSON FAIR, et al.,

Appellees.

UNITED STATES OF AMERICA,
Amicus Curiae and Petitioner,

vs.

STATE OF MISSISSIPPI, et al.,

Defendants.

FURTHER STATEMENT AND MEMORANDUM ON BEHALF
OF THE UNITED STATES IN RESPONSE TO THE
MEMORANDUM FILED ON BEHALF OF GOVERNOR ROSS
R. BARNETT ON OCTOBER 18, 1962

In their response filed October 18, 1962 counsel for Governor Ross R. Barnett assert that the United States has made incorrect statements of fact to the Court (page 1), has been "wholly inaccurate" in describing an arrangement with the Government for the entrance of James Meredith upon the campus of the University of Mississippi on September 30

(page 3), and has done so "for purposes which are necessarily beyond this case and have nothing to do with proper judicial proceedings or proper pleadings" (page 3).

The United States has a responsibility as amicus curiae to inform the Court of material facts bearing upon the question what sanctions should be imposed now or in the future upon Governor Barnett because of his contempt of the order of this Court of September 25. This further memorandum and statement by the United States is filed pursuant to that responsibility.

1. The denial of any arrangement between the Governor and the United States for the entrance of Mr. Meredith on the campus of the University of Mississippi on Sunday, September 30, is without foundation. We reaffirm that the arrangement described in our previous memorandum was in fact made. To the extent that the counter-assertions of fact made in the response filed by the Governor are inconsistent with the existence of that arrangement, they are misleading.

In view of the importance of the issues in this case, and the gravity of the events that have occurred, the United States has under these circumstances a responsibility to advise the Court that if it deems the issue relevant to disposition of this matter, the United States stands ready to prove the details of the arrangement made and its context, and respectfully advises the Court that it should not, in the absence of such evidence, rely upon either the denial or counter-assertions of fact made on behalf of the Governor in the memorandum filed on October 18.

2. The response filed on October 13 on behalf of the Governor also to some degree raises an issue of fact as to the actions of the state police in the vicinity of the University of Mississippi on the night of September 30. The United States believes that resolution of this issue is not necessary to the determination which the Court is now required to make. The precise issue before the Court is not how the state police in fact acted that night, but what instructions the Governor had then and has since given the state police and other state officials, not only with respect to the maintenance of law and order, but also with reference to the various proclamations, law suits, and criminal proceedings and statutes which have constituted the pattern of attempted interference with the orders of this Court.

In our view Governor Barnett has still made no sufficient showing with respect to this important requirement.

In the event that the Court considers the question of the extent to which the state police did make an effort to enforce law and order at the University during the night of September 30 to be material to its present consideration, the United States is prepared to offer evidence on that point at any time.

Respectfully submitted,

Burke Marshall

BURKE MARSHALL
Assistant Attorney General

St. John Barrett

St. John Barrett
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I hereby certify that a copy of the foregoing
Further Statement and Memorandum on Behalf of the United
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prepaid, to each of the attorneys listed below, at the
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Dated this 24th day of October, 1962.



John Doar
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