

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE
DISTRICT OF ALABAMA, NORTHERN DIVISION

FILED

SEP 11 1961

UNITED STATES OF AMERICA,

Plaintiff,

vs.

STATE OF ALABAMA, GEORGE
PENTON, MRS. SAMUELLA P.
WILLIS, Registrars of Voters
of Montgomery, Alabama,

Defendants.

R. C. DOBSON
Clerk

By.....
Deputy Clerk

CIVIL ACTION NO. 1741-N

O R D E R

This cause is now submitted upon the motion of the plaintiff United States filed herein on September 13, 1961, wherein the United States seeks to have this Court modify the subpoenas heretofore served upon Spencer H. Robb and John C. McCluney, Special Agents of the Federal Bureau of Investigation, so as to eliminate the requirement that they produce at the taking of their depositions their complete investigative files and all memoranda of conversations they may have had during the course of their investigation in this case with persons having knowledge of relevant facts, and all reports relating to each such investigation.

This cause is also submitted upon the motion of the plaintiff United States made pursuant to Rule 30(b) of the Federal Rules of Civil Procedure, seeking to have this Court limit the scope of the examination by deposition of Spencer H. Robb and John C. McCluney, Special Agents of the Federal Bureau of Investigation, which examination is to be made pursuant to the subpoenas served by the defendants on said agents on September 1 and September 7, 1961. Specifically, the United States seeks to limit the examination of these witnesses so as to prevent inquiries which would reveal the identity of individuals who may have given statements, either oral or written, concerning the matter involved in this case on the ground that such inquiry would reveal the identity of informants and would constitute an intrusion into the "work product" of plaintiff's attorneys.

Upon consideration of said motions, this Court is of the opinion that each is well taken and due to be granted. See Hickman v. Taylor, 329 U.S. 495; Burger v. Chicago, Rock Island & Pacific Railroad Co., CCA 7, 1954, 216 F. 2d 501; Alltmont v. United States, CCA 3, 1950, 177 F. 2d 971; Mitchell v. Roma, CCA 3, 1959, 265 F. 2d 633; and Mitchell v. Hoxz (M.D. Ala., 1959). 2 F.R. Serv. 2d 33.333.

In consideration of the foregoing and for good cause, it is therefore the ORDER, JUDGMENT and DECREE of this Court that the motion of the United States seeking to have this Court modify the subpoenas heretofore served upon Spencer H. Robb and John C. McCluney, Special Agents of the Federal Bureau of Investigation, on September 1 and September 7, 1961, respectively, be and the same is hereby granted to the extent that neither of said agents shall be required to produce or carry with them to the taking of their depositions

. . . the complete file pertaining to each of (their) investigations of allegedly racially discriminatory acts and practices applied to Negro applicants for voter registration in Montgomery County by the Board of Registrars of Montgomery County, Alabama, since January 1, 1956, including, but not limited to, all statements of witnesses and other persons having knowledge of the relevant facts of each discriminatory act; all memoranda of conversations of any and all persons having knowledge of relevant facts of each discriminatory act; and all reports relating to each such investigation.

It is the further ORDER, JUDGMENT and DECREE of this Court that the motion of the United States made pursuant to Rule 30(b), Federal Rules of Civil Procedure, seeking to have this Court limit the scope of inquiry by deposition of Spencer H. Robb and John C. McCluney, Special Agents of the Federal Bureau of Investigation, be and the same is hereby granted to the extent that upon said inquiry said agents shall not be required to reveal the identity of the individuals who have given statements, either oral or written, concerning racially discriminatory acts and practices in voter registration in Montgomery County, Alabama, or to be required to respond to questions relating to the contents of any statement, report, or memorandum, that may have been obtained or made by either of said agents during the course of their investigations in this matter.

Done, this the 14th day of September, 1961.

ROBERT A. JOHNSON, JR.
UNITED STATES DISTRICT JUDGE