

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

FILED

NOV 5 - 1966

R. C. DOBSON, CLERK

By dps Clerk

JOHNNY LEE DAVIS

PLAINTIFF,

vs.

JURY COMMISSION OF MONTGOMERY
COUNTY: JOHN MATTHEWS AS CLERK
OF THE JURY COMMISSION; JUDGE
RICHARD EMMET, JUDGE EUGENE
CARTER, JUDGE PERRY O. HOPPER,
AND SHERIFF MAC SIM BUTLER AS
MEMBERS OF THE JURY COMMISSION
OF MONTGOMERY COUNTY; D. W.
CROSLAND, AS DISTRICT ATTORNEY
FOR THE FIFTEENTH JUDICIAL
DISTRICT

DEFENDANTS.

CIVIL ACTION NO. 2479-N

C O M P L A I N T

I

JURISDICTION

THE JURISDICTION OF THIS COURT IS INVOKED PURSUANT TO TITLE
28 U.S.C. SECTIONS 1331, 1343, 2201, 2202, 2281, 2283, 2284, AND TITLE
42 U.S.C. SECTION 1981 ET SEQ.

THIS CAUSE OF ACTION ARISES UNDER THE FOURTEENTH AMENDMENT TO
THE CONSTITUTION OF THE UNITED STATES.

II

PARTIES

PLAINTIFF JOHNNY LEE DAVIS IS OVER THE AGE OF TWENTY-ONE YEARS,
AND IS A CITIZEN OF THE UNITED STATES AND OF THE STATE OF ALABAMA.
PLAINTIFF BELONGS TO THAT CLASS OR RACE OF PERSONS COMMONLY DESIGNATED
AND REFERRED TO AS NEGROES. PLAINTIFF WAS ARRESTED AND IS INCARCERATED
IN THE MONTGOMERY COUNTY JAIL, WITHOUT BOND, ON A CHARGE OF RAPE,
AWAITING ACTION OF THE MONTGOMERY COUNTY GRAND JURY DURING THE WEEK OF
NOVEMBER 7, 1966.

DEFENDANTS CARTER, EMMET, BUTLER, HOOPER AND MATTHEWS ARE MEMBERS

AND CLERK RESPECTIVELY OF DEFENDANT JURY COMMISSION, WHOSE DUTIES INCLUDE SELECTING THE NAMES OF PERSONS TO GO ON THE JURY ROLL AND INTO THE JURY BOX IN AND FOR MONTGOMERY COUNTY, ALABAMA.

DEFENDANT CROSLAND IS THE DISTRICT ATTORNEY FOR MONTGOMERY COUNTY, ALABAMA, AND AS SUCH WILL PRESENT THE PEOPLE'S CASE IN THE MATTER OF STATE OF ALABAMA V. JOHNNY LEE DAVIS BEFORE THE MONTGOMERY COUNTY GRAND JURY DURING THE WEEK OF NOVEMBER 7, 1966.

III

NATURE OF PROCEEDING

THIS IS A CIVIL ACTION BROUGHT BY PLAINTIFF ON HIS OWN BEHALF FOR A DECLARATORY JUDGMENT THAT;

A. QUALIFIED NEGROES ARE SYSTEMATICALLY EXCLUDED FROM AND/OR SYSTEMATICALLY INCLUDED ON THE JURY BOX AND JURY ROLL OF MONTGOMERY COUNTY SOLELY BY REASON OF THEIR RACE OR COLOR.

B. THAT THE JURY BOX AND JURY ROLL OF MONTGOMERY COUNTY DO NOT CONTAIN A REPRESENTATIVE CROSS SECTION OF THE COMMUNITY.
AND FOR A PRELIMINARY AND PERMANENT INJUNCTION,

A. ENJOINING AND RESTRAINING DEFENDANT CROSLAND FROM PRESENTING THE ACTION PENDING AGAINST PLAINTIFF DAVIS IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA, BEFORE A GRAND JURY AND PETIT JURY UNTIL THE JURY ROLL AND JURY BOX ARE FILLED IN A MANNER SO AS TO CONTAIN A REPRESENTATIVE CROSS SECTION OF THE COMMUNITY.

B. ENJOINING AND RESTRAINING DEFENDANTS, JURY COMMISSION MEMBERS, FROM SYSTEMATICALLY EXCLUDING AND/OR SYSTEMATICALLY INCLUDING NEGROES FROM OR FOR JURY DUTY IN MONTGOMERY COUNTY, ALABAMA.

C. ENJOINING AND RESTRAINING DEFENDANTS, JURY COMMISSION MEMBERS, FROM PURSUING A POLICY, PRACTICE, CUSTOM AND USAGE OF LIMITING THE NAMES IN THE JURY BOX AND ON THE JURY ROLL TO MEMBERS OF THE SOCIALLY, POLITICALLY, OR ECONOMICALLY PROMINENT CLASSES.

IV

ALLEGATIONS OF FACT

THERE EXISTS A SYSTEM, PRACTICE, OR CUSTOM IN THE DRAWING AND ORGANIZATION OF GRAND AND PETIT JURIES TO SERVE IN MONTGOMERY COUNTY,

ALABAMA, DESIGNED TO EXCLUDE NEGROES FROM SERVICE ON SUCH JURIES OR TO KEEP THE NUMBER OF NEGROES IN THE JURY BOX SO LOW THAT IT IS UNLIKELY THAT THEY WILL EVER SERVE.

PLAINTIFF IS INFORMED AND BELIEVES, AND ON INFORMATION AND BELIEF ALLEGES THAT THERE ARE PRESENTLY ENROLLED ON THE JURY ROLL AND IN THE JURY BOX OF MONTGOMERY COUNTY THE NAMES OF APPROXIMATELY 4,000 WHITES AND 500 NEGROES. PLAINTIFF AVERS THAT ACCORDING TO THE LAST DECENNIAL CENSUS OF THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS, PUBLISHED BY THE UNITED STATES DEPARTMENT OF COMMERCE, BUREAU OF CENSUS, OF WHICH THE COURTS OF THE UNITED STATES TAKE JUDICIAL NOTICE, THE WHITE POPULATION OF MONTGOMERY COUNTY 21 YEARS OLD AND OVER, NUMBERS 62,911, AND THAT THE NON-WHITE POPULATION OF SAID COUNTY IN SAID AGE GROUP NUMBERS 33,056. PLAINTIFF FURTHER AVERS THAT THE GREAT MAJORITY OF THE AFORESAID NON-WHITE POPULATION OF MONTGOMERY COUNTY ARE CITIZENS OF SAID COUNTY, HOUSEHOLDERS AND FREEHOLDERS IN SAID COUNTY, GENERALLY REPUTED TO BE HONEST AND INTELLIGENT MEN, ESTEEMED IN THE COMMUNITY FOR THEIR INTEGRITY AND GOOD CHARACTER, AND THAT THEY ARE NOT HABITUAL DRUNKARDS NOR AFFLICTED WITH DISEASE OR PHYSICAL WEAKNESS AS WOULD DISQUALIFY THEM TO DISCHARGE THE DUTIES OF JURORS.

PLAINTIFF AVERS FURTHER THAT THE METHOD OF SELECTION OF THE NAMES TO BE PLACED ON THE JURY ROLL AND IN THE JURY BOX OF MONTGOMERY COUNTY IS IRREGULAR AND ARBITRARY AND HAS THE EFFECT OF PLACING IN THE JURY BOX AND ON THE JURY ROLL FOR MONTGOMERY COUNTY ONLY THOSE PERSONS WHO ARE ECONOMICALLY AND POLITICALLY SUCCESSFUL.

PLAINTIFF AVERS THAT THERE IS BETWEEN THE PARTIES AN ACTUAL CONTROVERSY AS HEREIN SET FORTH. PLAINTIFF DAVIS WILL BE IRREPARABLY INJURED IN THAT HIS CASE WILL BE PRESENTED TO A GRAND JURY NOT CONSTITUTIONALLY CONVENED, AND WILL BE TRIED BEFORE AN UNCONSTITUTIONAL PETIT JURY.

PLAINTIFF HAS NO PLAIN, ADEQUATE OR COMPLETE REMEDY TO REDRESS THE WRONGS AND UNLAWFUL ACTS HEREIN COMPLAINED OF OTHER THAN THIS ACTION FOR A DECLARATION OF RIGHTS AND AN INJUNCTION IMPLEMENTING THE RIGHTS DECLARED.

WHEREFORE PLAINTIFF PRAYS THAT THIS COURT:

A. ASSUME JURISDICTION IN THIS MATTER;

B. ENTER A JUDGMENT DECLARING THAT QUALIFIED NEGROES ARE

C. ENTER A JUDGMENT DECLARING THAT GRAND JURIES AND PETIT JURIES IN AND FOR MONTGOMERY COUNTY ARE NOT REPRESENTATIVE CROSS SECTIONS OF THE COMMUNITY.

D. ISSUE A PRELIMINARY INJUNCTION AND A PERMANENT INJUNCTION RESTRAINING AND ENJOINING DEFENDANT CROSLAND FROM PRESENTING THE ACTION PENDING AGAINST PLAINTIFF BEFORE THE GRAND JURY OR TRYING PLAINTIFF BEFORE A PETIT JURY UNTIL SUCH TIME AS THE GRAND JURIES OF MONTGOMERY COUNTY ARE SELECTED AND EMPANELED WITHOUT CONSIDERATIONS OF RACE.

E. ENTER A PRELIMINARY AND PERMANENT INJUNCTION ENJOINING AND RESTRAINING DEFENDANTS FROM SYSTEMATICALLY EXCLUDING NEGROES FROM SERVICE ON JURIES IN AND FOR MONTGOMERY COUNTY, ALABAMA.

F. ENTER A PRELIMINARY AND PERMANENT INJUNCTION RESTRAINING ENJOINING DEFENDANTS TO EMPTY AND REFILL THE JURY BOX IN SUCH A MANNER THAT THE NAMES THEREIN WILL REPRESENT A CROSS SECTION OF THE COMMUNITY.

G. GRANT SUCH OTHER FURTHER AND DIFFERENT RELIEF AS MAY BE PROPER AND NECESSARY.

Johnny Lee Davis
PLAINTIFF

I HEREBY CERTIFY THAT I HAVE READ THE ABOVE AND FOREGOING COMPLAINT AND KNOW THE CONTENTS THEREOF, THAT THE MATTERS AND THINGS SET FORTH THEREIN ARE TRUE, EXCEPT SUCH MATTERS AS ARE ALLEGED ON INFORMATION AND BELIEF, AND AS TO THEM I BELIEVE THE SAME TO BE TRUE.

Johnny Lee Davis
PLAINTIFF

SWORN TO AND SUBSCRIBED BEFORE ME THIS
4TH DAY OF NOVEMBER, 1966.

[Signature]
NOTARY PUBLIC