

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE EXECUTIVE COMMITTEE
OF THE DEMOCRATIC PARTY OF
DALLAS COUNTY, ALABAMA; and
MARSHALL ALSTON KEITH, Chairman
of the Executive Committee of
the Democratic Party of Dallas
County, Alabama,

Defendants.

CIVIL ACTION NO. 4072-66

C O M P L A I N T

The United States of America alleges:

1. This action is instituted by the Attorney General in the name of the United States under 42 U.S.C. 1973j(d) (Section 12(d) of the Voting Rights Act of 1965).
2. This Court has jurisdiction of this action under 42 U.S.C. 1973j(f) and 28 U.S.C. 1345.
3. The defendant Executive Committee of the Democratic Party of Dallas County, Alabama is the governing body for the Democratic Party in Dallas County, Alabama. It is organized

pursuant to the provisions of Alabama law authorizing the formation of county executive committees for political parties. The Committee's office is in Selma, Alabama. The duties of the Committee include, among other things, receiving, canvassing and tabulating primary election returns from the precincts in Dallas County, publicly declaring the results of primary elections, and hearing and determining all contests of nominations.

4. Defendant Marshall Alston Keith is Chairman of the Executive Committee of the Democratic Party of Dallas County. He resides in Dallas County. His duties as Chairman include receiving the ballot boxes and returns delivered to him by the returning officer, certifying and returning to the Chairman of the State Executive Committee a statement and tabulation, by precincts, of the results of the primary election, receiving notices of contests of primary elections, calling Executive Committee meetings to hear and determine said contests, and to act as custodian of all primary ballots and tabulations.

5. On August 9, 1965, the Attorney General of the United States designated Dallas County for appointment of federal voting examiners pursuant to Section 6 of the Voting Rights Act of 1965, 42 U.S.C. 1973d. Examiners appointed by the Civil Service Commission under Section 6(b) of the Act have been serving in Dallas County since August 10, 1965. Through April 13, 1966, the examiners had listed 8,670 Negro and 29 white persons as eligible to vote. Prior to the enactment of the Voting Rights Act of 1965, only 1516 of approximately 15,100 eligible Negroes were registered to vote in Dallas County.

6. On May 3, 1966, a primary election for Democratic Party candidates for federal, state and local offices was held in Dallas County. This was the first county-wide election following the increase in the number of Negroes eligible to vote. At the request of the Attorney General, the Civil Service Commission assigned federal observers pursuant to Section 8 of the Voting Rights Act, 42 U.S.C. 1973f, to observe the conduct of the election and tabulations at some polling places throughout Dallas County, and said observers did enter some polling places and observed the conduct of the election.

7. In Dallas County elections are conducted by three inspectors and two clerks and a returning officer. These officials are placed at the various ballot boxes within the several polling places so that not over 300 citizens cast their ballots at any one box. Prior to the increased registration in Dallas County described in Paragraph 5, there were less than 40 election boxes designated for the entire county. As a result of the increased registration, the defendant Executive Committee created new boxes so that a total of 80 boxes were designated for the May 3, 1966, primary.

8. A qualified voters list was published by the defendant Executive Committee shortly before the primary election of May 3, 1966 to notify all citizens of Dallas County where they were to vote. The lists were published with the code numbers 1, 2, 3, 4 appearing behind the name of each voter, making it possible to determine the number of persons by race qualified to vote at each of the ballot boxes in Dallas County.

9. On May 3, 1966 the largest number of citizens in Dallas County's history appeared at the polls to vote. There were long lines at the polling places, especially in predominantly Negro areas. The ballot contained the names of seventy-three candidates competing for twenty-four different nominations. After the close of the polls the counting of votes and the delivery of ballots by the returning officers moved slowly with only approximately half of the returning officers reporting by about one o'clock a.m. on May 4, 1966.

10. On the morning of May 4, 1966, Acting Sheriff Crocker at the direction of the defendant Democratic Party Executive Committee impounded six ballot boxes at which tabulations had not been completed and removed them from the presence of federal observers.

11. The six ballot boxes impounded by the defendants were designated as the voting receptacles for the ballots of a total of 162 white persons and 1672 Negroes, a substantial percentage of whom had been listed as eligible to vote by federal examiners.

12. The defendant Executive Committee held a meeting at 7:00 p.m. on May 4, 1966 at which James Clark, one of the candidates for nomination as Sheriff, formally challenged the inclusion in the tabulation of the election results the votes contained in the six impounded ballot boxes referred to in Paragraph 9. The defendant Keith directed that the ballots in the six boxes be counted and ordered the meeting of the defendant Committee adjourned until 12:00 noon, May 5, 1966.

13. The tabulation of the votes in the six impounded ballot boxes was conducted during the night of May 4-5, 1966 in the presence of teams of federal observers, two observers having been assigned to each ballot box. The vote for the office of Sheriff in each of the six boxes was as follows:

	<u>Baker</u>	<u>Bates</u>	<u>Clark</u>	<u>Suther</u>
Box 19	221	3	6	2
Box 34	259	-	11	1
Box 35	261	1	8	-
Box 42	191	10	31	4
Box 43	229	4	28	-
Box 45	251	-	8	2

14. The vote for the office of Sheriff, not including the votes in the six impounded ballot boxes, was as follows:

Baker	7582
Clark	7445
Suther	688
Bates	372

15. The vote for the office of Sheriff in all 80 ballot boxes in Dallas County, including the six impounded boxes, was as follows:

Baker	8994
Clark	7537
Suther	697
Bates	390

16. It is the duty of the defendants under state law to meet and publicly declare the winners of the primary election, including the nominee for the office of Sheriff of Dallas County. The defendants have not so publicly

declared. The defendants are not authorized by Alabama law to withhold declaration of the winner because of a challenge to votes. filed before a declaration is issued.

17. Based upon the challenge filed by candidate James Clark as described in Paragraph 10, there is reasonable cause to believe that if the defendant Executive Committee declares candidate Baker the nominee for the office of Sheriff, candidate Clark will formally contest the declaration.

18. The failure and refusal of the defendants to declare the winners of the primary election, including Wilson Baker as the winner of the primary election for nomination as Sheriff, deprives persons entitled to vote in Dallas County of their right under the Voting Rights Act of 1965 to vote, to have their votes counted, and to have the results of the election declared in accordance with the votes as cast.

19. Unless restrained by this Court, the defendants will continue to deprive persons of rights secured by the Voting Rights Act of 1965 to have the results of the elections declared in accordance with their votes as cast.

WHEREFORE, plaintiff prays that this Court enter an order preliminarily and permanently enjoining the defendants, their agents, officers, successors, and all those acting in concert or participation with them, from:

a. Destroying, defacing, mutilating or otherwise marking or altering any ballots cast in the Democratic primary election held in Dallas County on May 3, 1966 or any official records relating to that election;

b. Failing to permit federal observers, duly authorized under Section 8 of the Voting Rights Act of 1965, to enter and attend at any place in which the ballots and records referred to in the preceding paragraph are or may hereafter be kept and failing to permit such observers to observe at all times all such documents and to have access to inspect and make copies thereof;

c. Failing or refusing to tabulate, count and report the vote of all such persons whose ballots have been cast in the Democratic primary election held in Dallas County on May 3, 1966 and failing publicly to declare as the nominee of the Democratic Party for the office of sheriff of Dallas County Wilson Baker who has received the majority of the votes cast for sheriff of Dallas County;

d. ^{Giving} Give any effect to the challenge of James G. Clark, Jr. to the vote of persons whose ballots were cast in

Boxes 19, 34, 35, 42, 43, and 45 in the Democratic Primary election on May 3, 1966 in Dallas County, prior to tabulation, counting and reporting upon such vote and publicly declaring as nominee for sheriff of Dallas County Wilson Baker who has received a majority of all votes cast in said election for sheriff in said election;

e. Failing, in considering and acting upon any challenge to ballots cast in the aforesaid election or any contest of such election, to follow the procedures established by the laws of the State of Alabama which have heretofore been followed by the defendants and their predecessors in Dallas County and to consider any such challenges or contests without regard to the race or color of the persons whose ballots are challenged.

Plaintiff prays for such further relief as the interest of justice may require and for the costs and disbursements of this action.

JOHN DOAR
Assistant Attorney General

VERNOL R. JANSEN
United States Attorney

LOUIS M. KAUDER

GEORGE RAYBORN
Attorneys
U.S. Department of Justice
Washington, D.C.

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

UNITED STATES OF AMERICA,)
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Plaintiff,)
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v.)
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THE EXECUTIVE COMMITTEE OF)
THE DEMOCRATIC PARTY OF)
DALLAS COUNTY, ALABAMA, and)
MARSHALL ALSTON KEITH,)
Chairman of the Executive)
Committee of the Democratic)
Party of Dallas County,)
Alabama,)
)
Defendants.)

CIVIL ACTION NO. 4072-cc

APPLICATION FOR ORDER
TO SHOW CAUSE

The plaintiff applies to the Court for an Order to Show Cause as set forth in the proposed Order to Show Cause attached hereto and made a part hereof.

This application is based on the pleadings and affidavit on file in this case.

JOHN DOAR
Assistant Attorney General

LOUIS M. KAUDER
CHARLES QUAINANCE
Attorneys
Department of Justice

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
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UNITED STATES OF AMERICA,

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THE EXECUTIVE COMMITTEE
OF THE DEMOCRATIC PARTY OF
DALLAS COUNTY, ALABAMA; and
MARSHALL ALSTON KEITH, Chairman
of the Executive Committee of
the Democratic Party of Dallas
County, Alabama

Defendants.

CIVIL ACTION NO. 4072-66

ORDER TO SHOW CAUSE

The United States of America having appeared before
the Court and having applied to the Court for an Order to
Show Cause and it appearing to the Court from the pleadings
filed by the plaintiff and from the affidavit in support
thereof that said show cause order should issue, NOW
THEREFORE

It is hereby ORDERED that the defendants Executive
Committee of the Democratic Party of Dallas County, Alabama
and Marshall Alston Keith appear before this Court in the
courtroom of the United States District Court in the Federal
Building in _____, Alabama at _____ o'clock _____ m.
on May _____, 1966 to show cause, if any they have, why they
should not be enjoined from:

(a) Failing or refusing to tabulate, count and

report the vote of all such persons whose ballots had been cast in the Democratic primary election held in Dallas County on May 3, 1966 and failing publicly to declare as the nominee of the Democratic Party for the office of sheriff of Dallas County Wilson Baker who has received the majority of the votes cast for sheriff of Dallas County;

(b) Giving any effect to the challenge of James Clark Jr. to the vote of persons whose ballots were cast in Boxes 19, 34, 35, 42, 43, and 45 in the Democratic Primary election on May 3, 1966 in Dallas County, prior to tabulation, counting and reporting upon such vote and publicly declaring as nominee for sheriff of Dallas County Wilson Baker who has received a majority of all votes cast in said election for sheriff.

Done this day of May, 1966

UNITED STATES DISTRICT JUDGE

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE EXECUTIVE COMMITTEE OF
THE DEMOCRATIC PARTY OF
DALLAS COUNTY, ALABAMA, and
MARSHALL ALSTON KEITH,
Chairman of the Executive
Committee of the Democratic
Party of Dallas County,
Alabama,

Defendants.

CIVIL ACTION NO. 4072-66

APPLICATION FOR
TEMPORARY RESTRAIN-
ING ORDER

The plaintiff applies to the Court for a
Temporary Restraining Order as set forth in the
proposed Temporary Restraining Order attached
hereto and made a part hereof.

This application is based on the Complaint in
this case and on the affidavit of John Doar which
is attached hereto and made a part hereof.

JOHN DOAR
Assistant Attorney General

LOUIS H. KAUDER
CHARLES QUAINANCE
Attorneys
Department of Justice

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

UNITED STATES OF AMERICA,
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THE EXECUTIVE COMMITTEE OF
THE DEMOCRATIC PARTY OF
DALLAS COUNTY, ALABAMA, and
MARSHALL ALSTON KEITH,
Chairman of the Executive
Committee of the Democratic
Party of Dallas County,
Alabama,
Defendants.

CIVIL ACTION NO. 4072-66

TEMPORARY RESTRAINING
ORDER

The United States of America having appeared
before the Court and having filed with the Court an
Application for a Temporary Restraining Order; and

It appearing to the Court from the pleadings filed
by the plaintiff and from the affidavit in support thereof
that a primary election was held in Dallas County, Alabama,
on May 3, 1966, at which ballots were cast by
numerous persons declared eligible to vote by federal
examiners acting pursuant to the Voting Rights Act of
1965; that federal observers appointed pursuant to
Section 8 of the Voting Rights Act of 1965 were in
attendance at some polling places in Dallas County to
observe the casting of ballots and the tabulation of
votes; that prior to the completion of the tabulations in

otherwise marking or altering any paper
ballots cast in the Democratic primary
election held in Dallas County on
May 3, 1966 or of any official records
relating to that election; and

duly authorized, under section 8 of

six of the ballot boxes, the acting Sheriff upon the direction of the Democratic Executive Committee of Dallas County impounded the six boxes and removed them from the presence of the federal observers; that the result of the primary election for Sheriff of Dallas County depends on the votes cast in the said six boxes; that the votes cast in all boxes have now been counted and the count shows that Wilson Baker received a majority of the votes cast; and that the Chairman of the Dallas County Democratic Party Executive Committee has failed to publicly declare the results of the primary election for Sheriff of Dallas County; and

It appearing that this Court has jurisdiction under 42.U.S.C. 1973j (d) to enter a temporary restraining order to insure that the records relating to the six boxes are preserved and that no action is taken by the defendants regarding the six ballot boxes in the absence of federal observers; NOW THEREFORE

It is hereby ORDERED, ADJUDGED, and DECREED that the defendants Executive Committee of the Democratic Party of Dallas County and Marshall Alston Keith, together with their agents, officers, successors, and all those acting in concert or participation with them, are enjoined from:

- a. Destroying, defacing, mutilating or otherwise marking or altering any paper ballots cast in the Democratic primary election held in Dallas County on May 3, 1966 or of any official records relating to that election; and
- b. Failing to permit federal observers, duly authorized, under section 8 of

the Voting Rights Act of 1965, to enter and attend at any place in which the ballots and records referred to in the preceding paragraph are or may hereafter be cast and failing to permit such observers to observe at all times all such documents.

It is further ORDERED that this Temporary Restraining Order be forthwith served by the Marshal on the defendants named herein.

Done this 5th day of May, 1966, at 4:30 P.M.

/s/ FRANK M. JOHNSON JR.
UNITED STATES DISTRICT JUDGE
Southern Judicial District of
Alabama by General Designation
of the Chief Judge, United States
Court of Appeals for the Fifth
Circuit.

AFFIDAVIT

COUNTY OF DALLAS)
) SS
STATE OF ALABAMA)

JOHN BOAR, being first duly sworn, states:

1. I am an Assistant Attorney General in charge of the Civil Rights Division of the United States Department of Justice. Under the direction of the Attorney General, my duties include overall supervision of the enforcement of the Voting Rights Act of 1965.

2. On May 3, 1966, the Democratic primary for nomination to various offices in Dallas County, Alabama, including the office of Sheriff, was held. At the request of the Attorney General of the United States, the Civil Service Commission assigned observers to enter and attend at certain polling places in Dallas County, Alabama, to observe whether persons entitled to vote were being permitted to vote, and to enter and attend at places for tabulating the votes cast in Dallas County for the purpose of observing whether votes cast by persons entitled to vote were being properly tabulated. The observers have reported their observations to me as the Attorney General's representative to receive such reports. Attorneys of the Department of Justice, acting under my supervision, and agents of the Federal Bureau of Investigation, acting at my request, have investigated the manner in which the election for Sheriff was conducted in Dallas County, Alabama and have reported their findings to me.

3. Based on reports of Civil Service Commission observers, attorneys of the Department of Justice, and agents of the Federal Bureau of Investigation, I am informed, and believe, the following:

Box 43 L. C. Crocker, Chief Deputy Sheriff of Dallas County, was appointed by Dallas County Sheriff James Clark to act as chief law enforcement officer in Dallas County with respect to election laws during the May 3, 1966, primary election. On the morning of May 4, 1966, Deputy Crocker, at the direction of the members of the Dallas County Democratic Party Executive Committee, impounded six ballot boxes at which tabulations had not been completed and carried them to the Dallas County Courthouse. The six boxes had been designated as the voting receptacles for 162 white persons and 1672 Negroes, of whom a substantial percentage had been listed as eligible to vote by federal examiners under the Voting Rights Act of 1965.

During the night of May 4-5, 1966, the votes from the six impounded boxes were counted under the direction of the members of the Dallas County Democratic Party Executive Committee, in the presence of teams of federal observers, two observers having been assigned to each ballot box. The vote for the office of Sheriff in each of the six boxes was as follows:

	Baker	Bates	Clark	Suther
Box 19	221	3	6	2
Box 34	259	0	11	1

	Baker	Bates	Clark	Suther
Box 35	261	1	8	0
Box 42	191	10	31	4
Box 43	229	4	28	0
Box 45	251	0	8	2

The vote for the office of Sheriff, not including the votes in the six impounded ballot boxes, was as follows:

Baker	7582
Bates	372
Clark	7445
Suther	688

The vote for the office of Sheriff, including all 80 boxes in Dallas County, was as follows:

Baker	8794
Bates	390
Clark	7537
Suther	697

The Chairman of the Dallas County Democratic Party Executive Committee has not yet declared the results of the primary elections for Sheriff of Dallas County, Alabama, or the other offices on the ballot of the election on May 3, 1966, and I have reason to believe that the results once declared will be contested.

This application is presented to the United States District Court for the Middle District of Alabama for the reason that the Honorable Daniel Thomas

is unavailable and not within the jurisdiction of the
Southern District of Alabama.

JOHN DOAR

Sworn to and subscribed before me
this Fifth day of May, 1966.

NOTARY PUBLIC

My Commission expires