

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff

v.

HARRISON COUNTY, MISSISSIPPI;)
BOARD OF SUPERVISORS OF HARRISON)
COUNTY, MISSISSIPPI: DEWEY E.)
LAWRENCE, ROY E. DEDEAUX, NICK)
FRENCH, GATHA LADNIER, AND)
DENNIS BROADUS, MEMBERS OF THE)
BOARD OF SUPERVISORS OF HARRISON)
COUNTY, MISSISSIPPI: CURTIS O.)
DEDEAUX, SHERIFF OF HARRISON)
COUNTY, MISSISSIPPI: THE CITY OF)
BILOXI, MISSISSIPPI: LAZ QUAVE,)
MAYOR OF THE CITY OF BILOXI,)
MISSISSIPPI: HERBERT McDONNELL,)
CHIEF OF POLICE OF THE CITY OF)
BILOXI, MISSISSIPPI: AND MRS. LEE)
DICKS GUICE,)

CIVIL ACTION NO. 2262

Defendants.)

AMENDED COMPLAINT

The United States of America, plaintiff, brings this suit against Harrison County, Mississippi; the Board of Supervisors of Harrison County, Mississippi; Dewey E. Lawrence, Roy E. Dedeaux, Nick French, Gatha Ladnier, and Dennis Broadus, Members of the Board of Supervisors of Harrison County, Mississippi; Curtis O. Dedeaux, Sheriff of Harrison County, Mississippi; the City of Biloxi, Mississippi; Laz Quave, Mayor of the City of Biloxi, Mississippi; Herbert McDonnell, Chief of Police of the City of Biloxi, Mississippi; and Mrs. Lee Dicks Guice, and alleges for a

FIRST CLAIM AGAINST DEFENDANTS HARRISON COUNTY,
MISSISSIPPI: BOARD OF SUPERVISORS OF HARRISON COUNTY,
MISSISSIPPI: DEWEY E. LAWRENCE, ROY E. DEDEAUX, NICK FRENCH,
GATHA LADNIER, AND DENNIS BROADUS, MEMBERS OF THE BOARD OF
SUPERVISORS OF HARRISON COUNTY, MISSISSIPPI: CURTIS O.

DEDEAUX, SHERIFF OF HARRISON COUNTY, MISSISSIPPI; THE CITY OF BILOXI, MISSISSIPPI; LAZ QUAVE, MAYOR OF THE CITY OF BILOXI, MISSISSIPPI; HERBERT McDONNELL, CHIEF OF POLICE OF THE CITY OF BILOXI, MISSISSIPPI, that:

1. This Court has jurisdiction of this action under 28 U.S.C. 1345.

2. The defendant Harrison County is a political and geographical subdivision of the State of Mississippi situated in the southeast portion of the State and bordering upon the Gulf of Mexico. The total population of Harrison County is approximately 84,073, of which number approximately 13,421 are Negroes.

3. The defendant Board of Supervisors of Harrison County is the governing authority of Harrison County, Mississippi. The Board is composed of five District Supervisors and has its principal office in the county courthouse of Harrison County at Gulfport, Mississippi. The Board has authority under the Constitution and laws of the State of Mississippi to preserve the peace and conduct the affairs of Harrison County.

4. Each of the defendants Dewey E. Lawrence, Roy E. Dedeaux, Nick French, Gatha Ladnier, and Dennis Broadus, is a member of the Board of Supervisors of Harrison County, Mississippi, and is a resident of Harrison County, Mississippi.

5. The defendant Curtis O. Dedeaux is a resident of Harrison County, Mississippi, and at all times herein mentioned is and was Sheriff of Harrison County, Mississippi, and is and was acting under the authority of the laws of Mississippi and of Harrison County creating such office and prescribing its duties. Among other duties it is and was

the duty of the defendant Curtis O. Dedeaux as an officer and agent of Harrison County to enforce the laws of Mississippi and of Harrison County within the territorial limits of Harrison County, including the Harrison County Beach (which is more particularly described hereinafter).

6. The City of Biloxi is an incorporated municipality created and existing under the laws of the State of Mississippi. The City of Biloxi is situated in the southeast corner of Harrison County, Mississippi, and borders on the Gulf of Mexico.

7. The defendant Laz Quave is a resident of Harrison County, Mississippi, and at all times herein mentioned is and was Mayor of the City of Biloxi and, as such, is and was the chief administrative officer of the City.

8. The defendant Herbert McDonnell is a resident of Harrison County, Mississippi, and at all times herein mentioned is and was the Chief of Police of the City of Biloxi acting under authority of the laws, ordinances, and regulations of the State of Mississippi and of the City of Biloxi creating such office and prescribing its duties. Among other duties it is and was the duty of the defendant Herbert McDonnell, as chief law enforcement officer and as the agent of the City of Biloxi, to enforce the laws of Mississippi and the ordinances and regulations of the City of Biloxi within the incorporated limits of the City including such part of Harrison County Beach as lies within said limits.

9. During the period from 1925 through 1928 the defendant Harrison County constructed a sea wall (hereinafter sometimes referred to as the Harrison County Sea Wall) along its southern boundary and bordering on the Gulf of Mexico. The sea wall extends from Biloxi Light House located

in the City of Biloxi on the east, to Henderson Point approximately three miles west of Pass Christian, Mississippi. The sea wall is approximately 24 miles in length and furnishes protection to sea front property and to U.S. Highway 90 which parallels the sea coast and the wall and lies about 100 feet landward of the wall. After the wall was constructed natural forces, including hurricanes, eroded the original protective beach and severely damaged the structure.

10. On October 28, 1946, the defendant Board of Supervisors of Harrison County submitted to the Chief of Engineers of the Department of the Army a formal application for a study (a) to determine the best method of repairing and protecting the Harrison County Sea Wall; (b) to furnish plans for establishing and protecting the beach in front of the sea wall; and (c) to determine what share of the cost of any recommended work should be borne by the United States as provided in P.L. 727, 78th Cong., 2d Sess., 60 Stat. 1056, enacted August 13, 1946. The application was approved by the Chief of Engineers on December 16, 1946, and the requested study was thereupon undertaken by the Chief of Engineers and by the Beach Erosion Board, an organization established by Congress and responsible to the Chief of Engineers.

11. On March 8, 1948, the Chief of Engineers submitted to the Secretary of the Army for transmittal to Congress a report (H.R. Doc. No. 682, 80th Cong., 2d Sess.) setting forth the results of the study by the Chief of Engineers and the Beach Erosion Board and recommending that Federal aid in the amount of \$1,133,000 be authorized toward the repair of the Harrison County Sea Wall and its protection by the construction of a beach. The total amount of recommended Federal aid included a figure of \$856,000 for the

estimated total cost of beach construction. The report recommended that authorization of the project be conditioned upon state or local authorities assuring perpetual public ownership of the beach and its administration for public use only.

12. On May 24, 1948, the Secretary of the Army transmitted the report to the Speaker of the House of Representatives of the Congress of the United States.

13. On March 31 and April 9, 1948, the State of Mississippi enacted Chapter 334 and Chapter 335, respectively, of the General Laws of Mississippi, 1948, authorizing the Board of Supervisors of Harrison County to do any and all things necessary to obtain funds of the United States for the repair of the Harrison County Sea Wall and for the construction of a beach, and to give the United States assurances that Harrison County would assume perpetual ownership of the beach and administer it for public use only.

14. On June 30, 1948, the Congress of the United States, in P.L. 858, 80th Cong., 2d Sess., 62 Stat. 1172, adopted and authorized the Federal Aid Project recommended in the report of the Chief of Engineers referred to in paragraphs 11 and 12 above. The Congress specifically provided that the authorization was "in accordance with the plans and subject to the conditions recommended by the Chief of Engineers."

15. To meet the conditions required by P.L. 858, 80th Cong., 2d Sess., 62 Stat. 1172, and set forth in paragraphs 11 and 14 above, the Board of Supervisors of Harrison County, on December 22, 1950, passed a resolution (a copy of which is appended hereto as Appendix "B") dedicating perpetually to the public as a public beach the

facility to be constructed pursuant to the written agreement. The resolution provides that Harrison County "retain for itself and the Federal Government the rights of supervision over the use the public beach (sic) might have to said sand beach, the same as though it were any other public property necessary to the general protection of other public property necessary to the general protection of other public properties such as the sea wall and said U. S. Highway 90."

16. On January 23, 1951, a written agreement was entered into between the Board of Supervisors of Harrison County and the United States in which the United States undertook to assist the Board in executing a beach erosion control project by making a contribution of \$1,133,000 from funds to be appropriated by Congress. The project included the construction of an artificial beach along the Harrison County Sea Wall. The Board agreed to adopt the plan of improvement authorized by Congress and also agreed to assure perpetual public use of the beach and its administration for public use only. The full text of the agreement is set forth in Appendix "A" attached to this complaint.

17. Under the terms of the agreement of January 23, 1951, a beach (hereinafter referred to as the Harrison County Beach) was constructed adjacent to the Harrison County Sea Wall. Since completion of the Harrison County Beach in 1953 the defendant Harrison County and the defendant Board of Supervisors of Harrison County have maintained and operated the beach with public funds of Harrison County and of the State of Mississippi.

18. Plaintiff has fully performed its obligations under the written agreement of January 23, 1951, including payment to and on behalf of Harrison County of the sum of

\$1,133,000. Of this amount plaintiff paid \$359,774.36 in 1951, \$608,706.88 in 1952, and \$164,518.76 in 1953.

19. The defendants Harrison County, the Board of Supervisors of Harrison County and the Members of the Board of Supervisors of Harrison County have failed and refused, and are now failing and refusing to perform their assurance and promise to maintain the Harrison County Beach perpetually for public use.

20. The defendants Harrison County, the Board of Supervisors of Harrison County, and the members of the Board of Supervisors of Harrison County have themselves, and through their agents and officers, including Curtis O. Dedeaux as Sheriff of Harrison County, enforced and are enforcing a policy, practice, custom and usage of preventing and interfering with the free use of the Harrison County Beach by a certain part of the public, namely, persons of the Negro race.

21. The defendants City of Biloxi, Laz Quave, Mayor of the City of Biloxi, and Herbert McDonnell, Chief of Police of the City of Biloxi, have acted and are acting in concert with and as agents for the defendants Harrison County, the Board of Supervisors of Harrison County and its members, and Curtis O. Dedeaux, Sheriff of Harrison County in enforcing the aforesaid policy, practice, custom and usage described in paragraph 20, of preventing and interfering with the free use of the Harrison County Beach by members of the Negro race.

22. Plaintiff has no plain, adequate or complete remedy at law. The subject matter of the agreement is unique and only an injunction can fully protect the public interest and prevent irreparable injury to the plaintiff.

The United States of America further alleges for a

SECOND AND SEPARATE CLAIM AGAINST DEFENDANTS

CITY OF BILOXI, LAZ QUAVE, AND HERBERT McDONNELL, that:

23. Plaintiff repeats and realleges paragraphs 1 through 18 inclusive, and paragraph 22, as if the same were more fully set forth herein.

24. The defendants City of Biloxi, Laz Quave, Mayor of the City of Biloxi, and Herbert McDonnell, Chief of Police of the City of Biloxi, each knowing the terms of the written agreement of January 23, 1951, between the United States and the Board of Supervisors of Harrison County, Mississippi, intentionally and without legal justification or excuse interfered with the performance of the assurance and promise in said agreement to maintain the Harrison County Beach perpetually for public use. Said defendants accomplished such interference by preventing and interfering with the free use of the Harrison County Beach by members of the Negro race.

The United States of America further alleges for a

THIRD AND SEPARATE CLAIM AGAINST DEFENDANT MRS.

LEE DICKS GUICE, that:

25. Plaintiff repeats and realleges paragraphs 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 as if the same were more fully set forth herein.

26. The plaintiff is informed and believes that a strip of property 50 feet in width upon which the Harrison County Sea Wall is constructed was acquired by Harrison County through condemnation by order of the Harrison County Board of Supervisors on April 7, 1925.

27. Any of the 50-foot wide strip of property referred to in the preceding paragraph which was not acquired by Harrison County through condemnation proceedings

has been acquired by Harrison County through adverse possession pursuant to Mississippi statutes and the ruling of the Supreme Court of Mississippi in Henritz v. Harrison County, 180 Miss. 675.

28. By October 27, 1950, as a result of the erosion by natural forces described in paragraph 9, no beach or other land remained above the line of mean high tide at any point south of the Harrison County Sea Wall.

29. As a result of and after the natural erosion referred to in the preceding paragraph owners of land fronting upon the Gulf of Mexico between Biloxi Light House on the east and Henderson Point on the west had no right, title or interest in land lying south of the Harrison County Sea Wall.

30. As a further result of the natural erosion referred to in paragraph 28, all right, title and interest to the area lying south of the Harrison County Sea Wall between the Biloxi Light House and Henderson Point became vested in the State of Mississippi as property lying seaward of the line of mean high tide.

31. On February 17, 1948, Lt. Col. W. B. Steizenmuller, member of the Beach Erosion Board, wrote to the Board of Supervisors of Harrison County advising that the Beach Erosion Board had recommended federal participation in the proposed construction of the Harrison County Beach subject to certain conditions, including the condition that the State of Mississippi and Harrison County would assure perpetual public ownership of the beach and its administration for public use only. On March 1, 1948, Lt. Col. Richard L. Jewett, Deputy Chief of Civil Works for Rivers and Harbors, Army Corps of Engineers, sent a

telegram to the Board of Supervisors of Harrison County supplementing Lt. Col. Steizenmuller's letter of February 17 and requesting confirmation by wire "that the shores in question between Biloxi Lighthouse and Henderson Point are owned by the State or a political subdivision." By telegram dated March 2, 1948, the Harrison County Board of Supervisors replied to Lt. Col. Jewett's telegram of March 1 and advised "that the shores in question between Biloxi Lighthouse and Henderson Point are owned by the State of Mississippi."

32. The State of Mississippi, on March 31 and April 9, 1948, enacted Chapters 334 and 335, respectively, of the General Laws of Mississippi 1948, granting Harrison County and the Board of Supervisors of Harrison County certain rights and interests in the property lying south of the Harrison County Sea Wall, which rights and interests are referred to in paragraph 13 and are more fully set forth in the statutes themselves.

33. On December 22, 1950, the Harrison County Board of Supervisors adopted a resolution (a copy of which is appended hereto as Appendix "B") giving and preserving to the United States, concurrently with Harrison County, the perpetual right of control and supervision of the Harrison County Beach for the purpose of repair, extension and improvements to the beach and the right of ingress and egress for such purposes, and further giving and preserving to the United States, concurrently with Harrison County, the right to supervise the use of the beach as a public beach.

34. On January 23, 1951, the Board of Supervisors of Harrison County entered into the written agreement, referred to in paragraph 16, in which Harrison County and the

Board of Supervisors promised and assured perpetual public use of the Harrison County Beach and its administration for public use only.

35. Plaintiff is informed and believes that defendant Mrs. Lee Dicks Guice owns certain property in fractional section 36, township 7 south, range 10 west, Harrison County, Mississippi, denominated blocks 18 and 19 of block 4, Iberville Place Subdivision to the City of Biloxi, Harrison County, Mississippi, as appears in a map in Plat Book 12, page 12 of the Records of Plats on file in the Office of the Chancery Clerk of Harrison County, Mississippi.

36. The southern boundary of the property described in the preceding paragraph adjoins the 50-foot strip of property belonging to Harrison County and the State of Mississippi previously referred to and described in paragraphs 26 and 27.

37. Plaintiff is informed and believes that Mrs. Lee Dicks Guice asserts exclusive ownership, right, title and interest to such part of the fifty-foot-wide strip of property belonging to Harrison County and upon which the Harrison County Sea Wall is constructed, and to such part of the Harrison County Beach as lies south of Lots 18 and 19 referred to in paragraph 35.

38. On April 2, 1960, Mrs. Lee Dicks Guice, through her attorney and husband Lee Dicks Guice, sent a letter to the Board of Supervisors of Harrison County stating that she owned in fee that portion of the Harrison County Beach lying south of her property, objecting to any use of that portion of the beach by Harrison County

or by others, and stating her intent to prosecute trespassers on that part of the beach. In the letter she requested Harrison County to state its position as to whether or not the county regarded the beach as public property.

39. By letter dated May 5, 1960, the Board of Supervisors of Harrison County advised Mrs. Guice that it was the position of the Board that the Harrison County Beach is public property.

40. The claim of Mrs. Lee Dicks Guice to exclusive ownership, right, title and interest of portions of the Harrison County Beach, as is more fully described in paragraphs 35 through 38, is adverse to and is a cloud upon the plaintiff's right, title and interest in and to the Harrison County Beach as set forth in the resolution of the Board of Supervisors of Harrison County of December 22, 1950, dedicating the Harrison County Beach to the public as a public beach and granting the Federal Government the right of supervision over the use of the beach and the right of ingress and egress for that purpose.

41. The claim of Mrs. Lee Dicks Guice to the exclusive ownership, right, title and interest of portions of the Harrison County Beach, as is more fully described in paragraphs 35 through 38, is inconsistent with and derogates from the plaintiff's enjoyment of rights under the written agreement of January 23, 1951, and is inconsistent with and will impede performance of the promise and assurance of the Board of Supervisors and of Harrison County to administer and maintain the Harrison County Beach perpetually for public use.

WHEREFORE, plaintiff respectfully prays:

a. That this Court adjudge, declare and decree that the policy, practice, custom and usage of the defendants to exclude and interfere with Negroes in the free use of the Harrison County Beach is contrary to the Constitution and laws of the United States and contrary to the terms of the agreement entered into by the Harrison County Board of Supervisors and the United States on January 23, 1951;

b. That this Court permanently enjoin the defendants, their successors, officers, agents, employees, and all persons in active concert with them from preventing or seeking to prevent Negroes by reason of their race from using the Harrison County Beach, or from violating in any way or interfering with the performance of the contractual and constitutional obligation of the defendants to administer the Harrison County Beach without discriminating among members of the public on the basis of race or color;

c. That this Court adjudge, declare and decree:

(1) That Mrs. Lee Dicks Guice has no right, title or interest in or to any portion of the Harrison County Beach;

(2) That Mrs. Lee Dicks Guice has no right, title or interest in the Harrison County Beach inconsistent with the authority

of the State of Mississippi to enact chapters 334 and 335 of the General Laws of Mississippi 1948 or to otherwise authorize the Board of Supervisors of Harrison County to do any and all things necessary to perform its obligations under the written agreement of January 23, 1950;

(3) That Mrs. Lee Dicks Guice has no right, title, or interest in or to any part of the Harrison County Beach inconsistent with the right of the Board of Supervisors of Harrison County to adopt its resolution of December 22, 1950, dedicating the Harrison County Beach to public use, or inconsistent with the performance by Harrison County and the Board of Supervisors of its obligations under the written agreement of January 23, 1951; and

(4) That Mrs. Lee Dicks Guice has no right, title, or interest in or to any part of the Harrison County Beach inconsistent with or derogating from the rights of the plaintiff under the resolution of the Board of Supervisors dated December 22, 1950 and under the written agreement of January 23, 1951;

d. That this Court grant such further relief as justice may require.

By direction of the Attorney General.

ST. JOHN BARRETT

IRVING N. TRANEN

Attorneys, Department of Justice