

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

UNITED STATES OF AMERICA and
THE INTERSTATE COMMERCE COMMISSION,

Plaintiffs,

v.

JOHN J. FRAISER, JR., as County
Attorney of Leflore County and
as Representative of a class
consisting of all County Attorneys
in Mississippi; PARHAM H. WILLIAMS,
JR., as District Attorney of the
Fourth Judicial District of Missis-
sippi and as representative of a
class consisting of all District
Attorneys in Mississippi; ARTHUR B.
CLARK, JR., Circuit Judge of the
Fourth Judicial District of Missis-
sippi; JOE T. PATTERSON, Attorney
General of Mississippi; the STATE
OF MISSISSIPPI; the GREYHOUND
CORPORATION, and S. M. COURTNEY,

Defendants.

CIVIL ACTION NO. _____

C O M P L A I N T

The United States and the Interstate Commerce Commission allege
as a claim against the defendants:

1. This is an action for an injunction to prevent an unlawful
and unconstitutional burden upon and interference with interstate
commerce by motor carrier in violation of Section 8, Article 1 of the
Constitution of the United States and the laws of Congress and the
regulations of the Interstate Commerce Commission passed and adopted
pursuant thereto.

2. This Court has jurisdiction of this action under Sections 1331 and 1345 of Title 28 U.S.C. and under Sections 42, 43 and 322(b) of Title 49 U.S.C.

3. The Interstate Commerce Commission has authorized the Attorney General as its agent to apply to this court for the enforcement, within the state of Mississippi, of the provisions of Chapter 8, Title 49 of the United States Code and of the regulation and order of the Interstate Commerce Commission entered on September 22, 1961, in ICC Docket No. MC-C-3358 (49 Code of Federal Regulations 180a).

4. John J. Fraiser, Jr. resides in and is County Attorney of Leflore County, Mississippi. He is sued herein both individually and as a representative of a class consisting of the county attorneys of all counties in Mississippi. The members of the class are so numerous as to make it impracticable to bring them all before the court, and there are common questions of law and fact affecting the rights sought to be enforced by the plaintiffs against the members of the class, and a common relief is sought as to all. The presence of John J. Fraiser, Jr. as a party defendant will fairly insure the adequate representation of all members of the class.

5. Parham H. Williams, Jr. is District Attorney for the Fourth Judicial District of the State of Mississippi and he resides in Lexington, Mississippi. He is sued herein both individually and as a representative of a class consisting of the district attorneys of all judicial districts of Mississippi. The members of the class are so numerous as to make it impracticable to bring them all before the court, and there are common questions of law and fact affecting the rights sought to be enforced by the plaintiffs against the members of the class, and a common relief is sought as to all. The presence of Parham H. Williams, Jr. as a party defendant will fairly insure the adequate representation of all members of the class.

6. Arthur B. Clark, Jr. is Judge of the Fourth Circuit Court District of the State of Mississippi. He resides in Mississippi.

7. Joe T. Patterson is Attorney General of the State of Mississippi and, as such, is responsible for enforcing the laws of the State. He resides in Mississippi.

8. The State of Mississippi is a State of the United States. Its principal legislative and executive offices are located in the City of Jackson.

9. Section 7787.5 of the Mississippi Code provides that in all passenger terminals owned, operated, or leased in the State of Mississippi by a bus company or other carrier of passengers, the owner or operator shall maintain a separate waiting or reception room for white intrastate passengers and a separate waiting room for colored intrastate passengers. The section further requires that the entrance to the white waiting room bear a sign reading "White Waiting Room, Intrastate Passengers," and the entrance to the colored waiting room bear a sign reading "Colored Waiting Room, Intrastate Passengers." Any bus company which fails or refuses to comply with these provisions is liable in the penal sum of \$1,000 per day for each day of such failure or refusal, to be recovered by suit filed in the county in which the terminal is situated by either the Attorney General of Mississippi, the District Attorney of the district or the County Attorney of the county. Section 7787.5 further provides that the Attorney General of Mississippi, the District Attorney of the district or the County Attorney of the county in which the bus terminal is situated may file suit in the Chancery Court of such county for a mandatory injunction to compel compliance and that the Chancery Court shall have jurisdiction to issue an injunction and to hold the bus company in contempt for failing to comply.

10. The Greyhound Corporation (hereinafter referred to as Greyhound) is a common carrier by motor vehicle within the meaning of 49 U.S.C. (a)(14) engaged in the transportation of passengers in both interstate and intrastate commerce to, from and through Greenwood, Mississippi. Greyhound holds a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing and requiring it to provide such transportation in interstate commerce.

11. S. M. Courtney is an employee and agent of Greyhound responsible for the supervision and management of the bus terminal. He resides in Mississippi.

12. Greyhound has a duty under 49 U.S.C. 316(a) to provide adequate service, equipment and facilities in connection with the transportation it provides passengers in interstate commerce to, from and through Greenwood, Mississippi. In discharge of this duty Greyhound maintains in Greenwood a bus terminal (hereinafter referred to as the terminal) located at the intersection of Church Street and Main Street in Greenwood. Facilities in the terminal include waiting room and reception room facilities, rest rooms, eating and drinking facilities and ticket sales and baggage handling facilities.

13. Prior to September 22, 1961, Greyhound maintained in the terminal separate facilities for the use of the white and Negro races and maintained signs in the terminal designating which facilities were for the use of each race.

14. On September 22, 1961, the Interstate Commerce Commission entered its order in a proceeding titled "Discrimination in Operations of Interstate Motor Carriers of Passengers," Docket No. MC-C-3358, adding Section 180a to Title 49 of the Code of Federal Regulations. The regulations set forth in Section 180a become effective on November 1, 1961, and are binding upon Greyhound.

15. Pursuant to paragraphs 4 and 10 of Section 180a of Title 49 of the Code of Federal Regulations, Greyhound is prohibited from and after November 1, 1961, from maintaining in the terminal, and in other terminals throughout Mississippi, any separate facilities for the white and Negro races or from displaying in the terminal any sign indicating that any portion of the facilities are separated, allocated, restricted, provided, available, used or otherwise distinguished on the basis of race or color. A violation of these provisions would constitute a criminal offense under 49 U.S.C. 322.

16. On October 27, 1961, John J. Fraiser, Jr., acting on behalf of the State of Mississippi, filed Action No. 13283 in the Chancery Court of Leflore County for a mandatory injunction to compel compliance by Greyhound with the provisions of Section 7787.5 of the Mississippi Code. On the same day, Arthur B. Clark, Jr., acting as Judge of the Fourth Circuit Court District, ordered the issuance of a writ of injunction in Civil Action No. 13283 requiring Greyhound and S. M. Courtney, its agent, to maintain on the entrance to one of its waiting rooms in the terminal a sign reading "White Waiting Room Intrastate Passengers" and another sign on the entrance of the other waiting room reading "Colored Waiting Room Intrastate Passengers" for as long as the waiting room are used by intrastate passengers. The writ of injunction further required Greyhound and S. M. Courtney to appear before the Chancery Court of Leflore County on November 13, 1961, to answer the bill of complaint filed by John J. Fraiser, Jr. A copy of the writ of injunction is attached hereto as an appendix.

17. The purpose and effect of the writ of injunction referred to in the preceding paragraph is to compel Greyhound and S. M. Courtney to maintain racially segregated facilities in the terminal and to display racial signs in violation of federal law and of the regulations of the Interstate Commerce Commission, or in the alternative to abandon the use of the terminal for its passengers traveling in interstate commerce.

18. Enforcement of the writ of injunction and any further prosecution of Action No. 13283 in the Chancery Court of Leflore County will impose an undue and unreasonable burden upon interstate commerce by motor carrier in and through Greenwood, Mississippi.

19. In compliance with the order of the Interstate Commerce Commission, Greyhound is in the process of removing racial signs from its terminal facilities throughout the State of Mississippi. Compliance by Greyhound with the order of the Interstate Commerce Commission will be prevented and impeded if the defendants and the classes which they represent are permitted to enforce Section 7787.5 of the Mississippi Code.

20. Maintenance of a bus terminal in Greenwood and bus terminals elsewhere in Mississippi for the exclusive use of passengers traveling in interstate commerce and the maintenance of separate terminals for those traveling in intrastate commerce would cause unreasonable expense and inconvenience to Greyhound and to its interstate passengers and would unduly burden the free flow of interstate commerce.

21. Section 7787.5 of the Mississippi Code and the writ of injunction issued in Action No. 13283 in the Chancery Court of Leflore County on October 27, 1961, are null, void and unconstitutional under the commerce clause of Article 1, Section 8, and the Fourteenth Amendment to the Constitution and are in conflict with the provisions of 49 U.S.C. 316(d) and 49 C.F.R. 180a.

22. Unless restrained by order of the Court, John J. Fraiser, Jr. and Arthur B. Clark, Jr. will prosecute and enforce Action No. 13283 in the Chancery Court of Leflore County, and Greyhound and S. M. Courtney will be compelled to comply with the writ of injunction issued in that action on October 27, 1961.

23. The defendants John J. Fraiser, Jr. and the class which he represents, Parham H. Williams, Jr. and the class which he represents, Arthur B. Clark, Jr., Joe T. Patterson and the State of Mississippi will,

unless restrained by order of this court, enforce Section 7787.5 of the Mississippi Code and will thereby cause immediate and irreparable injury to the plaintiffs, consisting of obstruction to and interference with the free flow of interstate commerce and obstruction to and interference with common carriers in complying with the valid regulations of the Interstate Commerce Commission and the statutes of the United States respecting interstate commerce.

WHEREFORE, plaintiffs respectfully pray that a District Court of three judges be convened pursuant to Sections 2281 and 2284 of Title 28 of the United States Code, that the Court adjudge and declare Section 7787.5 of the Mississippi Code to be unconstitutional, null and void as contrary to the provisions of Article I, Sec. 8, and Article VI of the Constitution of the United States and the Fourteenth Amendment to the Constitution, and that the Court enter an order -

- (a) Enjoining John J. Fraiser, Jr. and Arthur B. Clark, Jr. from proceeding further in Action No. 13283 in the Chancery Court of Leflore County, or from enforcing the writ of injunction issued in that action on October 27, 1961;
- (b) Enjoining Greyhound and S. M. Courtney from complying with or giving any force or effect to the writ of injunction entered in Action No. 13283 in the Chancery Court of Leflore County on October 27, 1961;
- (c) Enjoining John J. Fraiser, Jr. and the members of the class he represents, Parham H. Williams, Jr. and the members of the class he represents, Arthur B. Clark, Jr., Joe T. Patterson, and the State of Mississippi, their agents, officers, employees, successors in office, and all those in active concert or participation with them from:

- (i) Interfering with, obstructing, or attempting to interfere with or obstruct Greyhound or any other motor common carrier of passengers in interstate commerce from complying with the regulations of the Interstate Commerce Commission made and adopted on September 22, 1961, in ICC Docket No. MC-C-3358;
- (ii) Displaying or erecting signs or compelling or seeking to compel Greyhound or any other motor common carrier of passengers in interstate commerce to display or erect signs indicating or suggesting that any of the facilities of the bus terminal maintained by Greyhound in Greenwood, Mississippi or any other bus terminal in Mississippi are for the use of persons of any particular race or color;
- (iii) Enforcing or attempting to enforce by any means the provisions of Section 7787.5 of the Mississippi Code, and
- (iv) Otherwise seeking to impose any racial distinction or discrimination upon passengers using the vehicles or facilities of motor common carriers of passengers in interstate commerce in Mississippi.

Plaintiff further prays for such additional relief as the interest of justice may require.

UNITED STATES OF AMERICA, and
INTERSTATE COMMERCE COMMISSION,

Plaintiffs

By:

BURKE MARSHALL
Assistant Attorney General

HOSEA M. RAY
United States Attorney

BERNARD A. GOULD
Attorney, Interstate Commerce
Commission

ST. JOHN BARRETT
Attorney, Department of Justice

APPENDIX

STATE OF MISSISSIPPI, EX REL
COUNTY PROSECUTING ATTORNEY
LEFLORE COUNTY, MISSISSIPPI
COMPLAINANT
VS. NO. 13,283
GREYHOUND CORPORATION AND
S. M. COURTNEY
DEFENDANTS

WRIT OF INJUNCTION

THE STATE OF MISSISSIPPI

TO GREYHOUND CORPORATION, A CORPORATION,
AND S. M. COURTNEY, AN ADULT RESIDENT
OF LEFLORE COUNTY, MISSISSIPPI, AND
THE SERVANTS, AGENTS, AND EMPLOYEES
OF EACH OF THEM;

WHEREAS, a bill of complaint for an injunction as hereinafter set forth was filed in the above styled and numbered cause in the Chancery Court of Leflore County, Mississippi, and Honorable Arthur B. Clark, Jr., Judge of the Fourth Circuit Court District of the State of Mississippi, by fiat attached to said bill of complaint filed in said cause having directed and ordered the issuance of an injunction as hereinafter set forth; NOW THEREFORE

You and each of you and the agents, servants, and employees of each of you are hereby commanded and enjoined to maintain on each entrance to the two waiting or reception rooms in that certain bus station being operated and maintained by Greyhound Corporation under the name of Southern Greyhound Lines on the northeast corner of the intersection of Church Street and Main Street in the City of Greenwood,

in Leflore County, Mississippi, so long as said waiting rooms are maintained and used by intrastate passengers traveling on buses from one point in Mississippi to another point in said State, the signs now located at said entrances which on the entrance to one of said waiting rooms reads: "White Waiting Room Intrastate Passengers" and which on the entrance of the other said waiting room reads: "Colored Waiting Room Intrastate Passengers"; and so long as the defendant Greyhound Corporation maintains waiting or reception rooms in said bus station, you and each of you are commanded and enjoined to refrain from maintaining and using them for use by intrastate passengers traveling from one point in the State of Mississippi to another point in said State without having on the entrance to one of said waiting rooms painted or shown in bold letters the following: "White Waiting Room Intrastate Passengers" and without having on the entrance to the other of said two reception or waiting rooms painted or shown in bold letters the following: "Colored Waiting Room Intrastate Passengers".

You are further summoned to appear before the Chancery Court of the County of Leflore, State of Mississippi, at Rules Day to be held before the Clerk of said Court at Greenwood, Mississippi, on the 2nd Monday in November, 1961, then and there to answer the bill of complaint of John J. Fraiser, Jr., County Prosecuting Attorney of Leflore County, Mississippi, acting on behalf of the State of Mississippi, to which you are defendants, the same being cause numbered 13,283 on the General Docket of said Court.

Given under my hand and official seal at Greenwood,
in Leflore County, Mississippi, on this the 27 day of
October, 1961.

/s/ Betty Hammett
Clerk of the Chancery Court
of Leflore County, Mississippi

To the Sheriff of Leflore County, Mississippi, to serve
and return.

STATE OF MISSISSIPPI

COUNTY OF LAFAYETTE

VERIFICATION

ST. JOHN BARRETT, being first duly sworn, says that he is an attorney with the Department of Justice and is one of the attorneys for the plaintiffs in the foregoing complaint; that the foregoing complaint was filed upon the authorization of the Attorney General of the United States and of the Interstate Commerce Commission, and that all of the allegations contained therein are true and correct to the best of his knowledge, information and belief; that immediate and irreparable injury, loss and damage will result to the plaintiffs unless a temporary restraining order be issued immediately before notice can be served and a hearing had; that unless a preliminary injunction is issued herein before the expiration of the usual delay in answering, restraining and enjoining the defendants, the classes they represent, their successors in office, agents, employees, and all others in active concert or participation with them, from enforcing the provisions of Section 7787.5 of Title 6 of the Mississippi Code or from otherwise interfering with the implementation of the regulations of the Interstate Commerce Commission promulgated on September 22, 1961, in Docket No. MC-C-3358, the plaintiffs will suffer irreparable injury, loss and damage.

Subscribed and sworn to
before me this 31st day of
November, 1961

Notary Public