

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) CIVIL ACTION NO. _____
)
 CITY OF McCOMB, a Municipal)
 Corporation; C. H. DOUGLAS,)
 Mayor of the City of McComb;)
 GEORGE GUY, Chief of Police)
 of McComb, and the ILLINOIS)
 CENTRAL RAILROAD, a Corporation,)
)
 Defendants)
 _____)

C O M P L A I N T

The United States alleges as a first and second claim against the defendants:

FIRST CLAIM

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 City of McComb is a municipality incorporated under the laws of Mississippi, located in Pike County.

4. C. H. Douglas is mayor of the City of McComb and as such is the chief administrative officer of the city. He resides in Pike County.

5. George Guy is Chief of Police of McComb and as such is authorized to enforce the laws of Mississippi within the city. He resides in Pike County.

6. Sections 2351.5, 2351.7 and 7787.5 of the Mississippi Code require the maintenance of separate facilities for white and Negro passengers in bus terminals in the State of Mississippi and prohibit the members of each race from using facilities designated for the other race. Section 2409.7 of the Mississippi Code provides as follows:

If any person or persons shall without authority of law go into or upon or remain in or upon any building, premises or land of another whether an individual, a corporation, partnership, or association, or any part, portion or area thereof, after having been forbidden to do so, either orally or in writing including any sign hereinafter mentioned, by any owner, or lessee, or custodian or other unauthorized person, or after having been forbidden to do so by such sign or signs posted on or in such building, premises or land or part or portion, or area thereof at a place or places where such sign or signs may be reasonably seen, such person or persons shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$500 or by confinement in the county jail not exceeding six months or by both such fine and imprisonment.

7. The Greyhound Corporation (hereinafter referred to as Greyhound) is a common carrier by motor

vehicle within the meaning of 49 U.S.C. 303(a)(14) engaged in the transportation of passengers in both interstate and intrastate commerce to, from and through McComb, 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 within Mississippi.

8. 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 McComb, Mississippi. In discharge of this duty Greyhound maintains in McComb a bus terminal. The facilities of the bus terminal include waiting and reception room facilities, eating and drinking facilities, rest rooms, and baggage handling facilities.

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

10. 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 number MC-C-3358, adding Section 180a to Title 49 of the Code of Federal Regulations. The regulations set forth in Section 180a became effective on November 1, 1961, and are binding upon Greyhound.

11. Pursuant to paragraphs 4 and 10 of Section 180a of Title 49 of the Code of Federal Regulations Greyhound is prohibited from maintaining in its bus terminals any separate facilities for the white and

Negro races or from displaying any sign indicating that any portion of its bus terminal facilities are separated, allocated, restricted, provided, available, used or otherwise distinguished on the basis of race or color. A violation of these provisions by Greyhound would constitute a criminal offense under 49 U.S.C. 322(a).

12. On October 24, 1961, Greyhound, in compliance with the regulations of the Interstate Commerce Commission referred to in the preceding paragraphs, obliterated the signs in its McComb bus terminal designating and discontinuing the maintenance of separate facilities for the separate use of the white and Negro races.

13. On October 25, 1961, George Guy, for the purpose of enforcing the laws of Mississippi requiring segregation of the white and Negro races in bus terminals, and in implementation of Section 2409.7 of the Mississippi Code, directed certain officers of the McComb Police Department to place signs at the entrances of the bus terminal designating certain facilities for the use of the Negro races and certain other facilities for the use of the white race.

14. On October 25, 1961, in compliance with the instructions referred to in the preceding paragraph, officers of the McComb Police Department, and other employees and agents of the City of McComb, installed a sign in the sidewalk approximately eighteen inches from one entrance of the bus terminal reading "WHITE ONLY BY ORDER OF POLICE DEPT." and installed another sign in the sidewalk approximately eighteen inches from another entrance to the bus terminal reading "COLORED ONLY BY ORDER OF POLICE DEPT."

15. The purpose and effect of the placing and maintenance of the signs by the defendants named and as described in the preceding paragraph is to enforce and encourage the segregation of the white and Negro races in the use of the bus terminal facilities.

16. Maintenance by the defendants named in paragraph 14, of the signs described in paragraph 15, will, from and after November 1, 1961, result in a violation by Greyhound of federal law and, more specific, of paragraph 4 of Section 180a, Title 49 Code of Federal Regulations, for as long as and during such period as Greyhound uses the bus terminal and its facilities for interstate passengers.

17. Discontinuance of the use of the terminal by Greyhound for its interstate passengers will cause expense and inconvenience to Greyhound and its passengers and will burden and interfere with the efficient transportation of passengers by motor carrier in interstate commerce to, from and through McComb.

18. The action of the defendants described in this complaint violates the Fourteenth Amendment to the Constitution, Section 316(d) of Title 49 U.S.C., and Section 180a, Title 49, Code of Federal Regulations, and constitutes an undue and unreasonable burden upon interstate commerce in violation of Article 1, Section 8 of the Constitution.

19. The defendants will, unless restrained by order of this court, continue to maintain signs in the vicinity of the bus terminal requiring and encouraging racial segregation of bus passengers, and will thereby cause immediate and irreparable injury to the plaintiff consisting of obstruction to and interference with the free flow of interstate commerce and obstruction to an

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.

SECOND CLAIM

20. Plaintiff realleges all of the allegations set forth in paragraphs 1, 2, 3, 4, 5, and 6 of the first claim.

21. The Illinois Central Railroad (hereinafter referred to as the Illinois Central) is a common carrier by rail within the meaning of 49 U.S.C. 1(3) engaged in the transportation of passengers in interstate commerce to, from and through McComb, Mississippi. Illinois Central 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.

22. In connection with the transportation service it provides to, from and through McComb, Mississippi, Illinois Central maintains as a regular and integral part of such service a railroad terminal in McComb. The facilities in the terminal include waiting room and reception room facilities, rest rooms, eating and drinking facilities, and ticket sales and baggage handling facilities.

23. Prior to on or about October 1, 1961, Illinois Central had formerly maintained in its railroad terminal in McComb signs designating certain of the terminal facilities for use by members of the white race, and other facilities for use by members of the Negro race.

Subsequently, Illinois Central, in compliance with the Interstate Commerce Act and upon notification

that maintenance of the signs referred to in the preceding paragraph was a violation of federal law relating to discrimination in interstate transportation, removed the signs.

24. Subsequent to the removal of the segregation signs mentioned in paragraph 23, George Guy directed certain officers of the McComb Police Department to post in the vicinity of the railroad terminal signs designating certain of the terminal facilities for the use of the white race, and other such facilities for the use of the Negro race.

25. In compliance with the direction of George Guy, as described in the preceding paragraph, officers of the McComb Police Department and other agents of the City of McComb, erected upon the property of the Illinois Central near one of its entrances a sign reading "WHITE WAITING ROOM, WHITE ONLY BY ORDER OF POLICE DEPT." and a sign near another of its entrances reading "COLORED WAITING ROOM, COLORED ONLY BY ORDER OF POLICE DEPT." These signs are now posted as described.

26. The purpose and effect of the defendants erecting and maintaining the signs described in the preceding paragraph is to encourage and require the racial segregation of passengers in the railroad terminal in violation of the law of the United States.

27. Compliance with, enforcement or attempted enforcement of Sections 2351.5, 2351.7, 2409.7, and 7787.5 of the Mississippi Code, 1942, annotated, as amended, by the defendants would cause immediate irreparable injury, loss and damage to the plaintiff and it would impose an unlawful, undue and unreasonable burden on and interference with the free flow of interstate commerce by motor carriers in McComb, Mississippi

and elsewhere within the State of Mississippi.

28. The plaintiff has no adequate remedy at law.

WHEREFORE plaintiff prays that a District Court of three judges be convened pursuant to Sections 2281 and 2284 of Title 28 of the United States Code and that such court adjudge and declare Sections 2351.5, 2351.7, 2409.7, and 7787.5 of the Mississippi Code, 1942, annotated, as amended, to be unconstitutional, null and void.

Plaintiff further prays that this court permanently enjoin the defendants, their agents, officers, employees, successors in office, and all those in active concert or participation with them from:

- (a) Placing, maintaining or displaying in or near the Greyhound bus terminal or the Illinois Central Railroad terminal in McComb, Mississippi, signs indicating or suggesting that any of the terminal facilities are for the use of persons of any particular race or color;
- (b) Failing to remove such signs which have heretofore been placed by the defendants in, on, or near such terminals;
- (c) Interfering in any way or by any means with compliance by Greyhound and Illinois Central with the laws of the United States and the regulations of the Interstate Commerce Commission prohibiting racial discrimination in the vehicles and facilities of interstate commerce, and

(d) Otherwise seeking to enforce or encouraging the segregation of the white and Negro races in their use of terminal facilities used in interstate commerce.

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

UNITED STATES OF AMERICA,
Plaintiff,

ROBERT E. HAUBERG
United States Attorney

JEROME K. HEILBRON
Attorney, Department of
Justice

VERIFICATION

The statements contained in the above Complaint are true.

Attorney for Plaintiff

Sworn to and subscribed
before me this _____ day
of _____, 1961.

Notary Public

My commission expires _____