

IN THE UNITED STATES DISTRICT COURT  
 FOR THE MIDDLE DISTRICT OF ALABAMA,  
 EASTERN DIVISION

**FILED**  
*in accordance with order entered this date*  
 SEP 20 1967

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 ANTHONY T. LEE, ET AL., )  
 )  
 PLAINTIFFS, )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 PLAINTIFF-INTERVENOR )  
 AND AMICUS-CURIAE, )  
 )  
 vs. )  
 )  
 MACON COUNTY BOARD OF EDUCATION, ET AL, )  
 )  
 DEFENDANTS, )  
 )  
 ALABAMA STATE TEACHERS ASSOCIATION, INC., )  
 )  
 APPLICANT FOR INTERVENTION. )  
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R. C. DOBSON, CLERK  
*RS*  
 Deputy Clerk

CIVIL ACTION NO. 604-E

COMPLAINT IN INTERVENTION

I

THIS IS A COMPLAINT IN INTERVENTION FILED BY THE ALABAMA STATE TEACHERS ASSOCIATION, INC., PURSUANT TO AND IN ACCORDANCE WITH THE PROVISIONS OF RULE 24 (A) (2) AND 24 (B) (2) OF THE FEDERAL RULES OF CIVIL PROCEDURE.

II

THE ORIGINAL COMPLAINT IN THIS CASE WAS FILED ON TO-WIT: JANUARY 28, 1963, BY OR ON BEHALF OF NEGRO STUDENTS IN THE PUBLIC SCHOOL SYSTEM OF MACON COUNTY, ALABAMA, SEEKING TO ENJOIN NAMED DEFENDANTS FROM CONTINUING THEIR POLICY, PRACTICE, CUSTOM AND USAGE OF MAINTAINING AND OPERATING A COMPULSORY BIRACIAL SCHOOL SYSTEM IN MACON COUNTY AND OF ASSIGNING STUDENTS, TEACHERS AND OTHER SCHOOL PERSONNEL TO THE SCHOOLS OPERATED AND CONTROLLED BY THEM ON THE BASIS OF RACE OR COLOR.

III

IN FEBRUARY 1964, PLAINTIFFS FILED A SUPPLEMENTAL COMPLAINT ADDING AS DEFENDANTS GEORGE C. WALLACE AS PRESIDENT OF THE ALABAMA STATE BOARD

OF EDUCATION, AUSTIN R. MEADOWS, EXECUTIVE OFFICER AND SECRETARY OF THE ALABAMA STATE BOARD OF EDUCATION, AND OTHER INDIVIDUAL MEMBERS OF THE STATE BOARD OF EDUCATION.

IV

ON TO-WIT; MARCH 22, 1967, THIS COURT ENTERED A DECREE REQUIRING THE STATE SUPERINTENDENT OF EDUCATION TO "DEVELOP A DETAILED PROGRAM FOR ASSISTING AND ENCOURAGING FACULTY DESEGREGATION IN THE LOCAL SCHOOL SYSTEMS THROUGHOUT THE STATE, WHICH SAID PROGRAM IS REQUIRED, AT A MINIMUM, TO

"ESTABLISH WAYS IN WHICH THE STATE DEPARTMENT OF EDUCATION WILL ASSIST LOCAL SYSTEMS IN RECRUITING AND IN PLANNING FOR THE PLACING OF NEW TEACHERS AND REASSIGNING OF OLD TEACHERS ON A DESEGREGATED BASIS,".... AND

"PROVIDE FOR ASSISTANCE IN PROVIDING TRAINING WHICH MAY BE NECESSARY TO UP GRADE THE QUALIFICATIONS OF SOME TEACHERS IN ORDER TO FACILITATE DESEGREGATION OF FACULTY."

V

THIS COURT'S DECREE OF MARCH 22, 1967, ALSO REQUIRED THE LOCAL SCHOOL BOARDS AFFECTED THEREBY AND INNUMERATED THEREIN TO ADOPT A DESEGREGATION PLAN THAT MEETS THE STANDARDS EMBODIED IN THE PLAN ATTACHED TO THE DECREE AS EXHIBIT "A".

EXHIBIT "A" PROVIDES, INTER ALIA, THAT:

(IV SCHOOL EQUALIZATION---A-INFERIOR SCHOOLS)

"IF FOR ANY REASON IT IS NOT FEASIBLE TO IMPROVE SUFFICIENTLY ANY SCHOOL FORMERLY MAINTAINED FOR NEGRO STUDENTS, WHERE SUCH IMPROVEMENT WOULD OTHERWISE BE REQUIRED BY THIS SUBPARAGRAPH, SUCH SCHOOL WILL BE CLOSED AS SOON AS POSSIBLE, AND STUDENTS ENROLLED IN THE SCHOOL WILL BE REASSIGNED ON THE BASIS OF FREEDOM OF CHOICE."

(VI FACULTY AND STAFF---B--DISMISSALS)

"TEACHERS AND OTHER PROFESSIONAL STAFF MEMBERS WILL NOT BE DISCRIMINATORILY ASSIGNED, DISMISSED, DEMOTED OR PASSED OVER FOR RETENTION, PROMOTION OR HIRING, ON THE GROUND OF RACE OR COLOR. IN ANY INSTANCE WHERE ONE OR MORE TEACHERS OR OTHER PROFESSIONAL STAFF MEMBERS ARE TO BE DISPLACED AS A RESULT OF DESEGREGATION, NO STAFF VACANCY IN THE SCHOOL SYSTEM WILL BE FILLED THROUGH RECRUITMENT FROM OUTSIDE THE SYSTEM UNLESS NO SUCH DISPLACED STAFF MEMBER IS QUALIFIED TO FILL THE VACANCY. IF, AS A RESULT OF DESEGREGATION, THERE IS TO BE A REDUCTION IN THE TOTAL PROFESSIONAL STAFF OF THE SCHOOL SYSTEM, THE QUALIFICATIONS OF ALL STAFF MEMBERS IN THE SYSTEM WILL BE EVALUATED IN SELECTING THE STAFF MEMBER TO BE RELEASED WITHOUT CONSIDERATION OF RACE OR COLOR."

## VI

THE ALABAMA STATE TEACHERS ASSOCIATION, APPLICANT FOR INTERVENTION HEREIN, IS A NON-PROFIT CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF ALABAMA, AND ITS MEMBERSHIP CONSISTS OF APPROXIMATELY 10,000 NEGRO TEACHERS, SOME OF WHOM ARE EMPLOYED IN EACH OF THE LOCAL SCHOOL SYSTEMS AFFECTED BY THE DECREE IN THIS CAUSE.

THE PURPOSES AND OBJECTIVES OF THE ALABAMA STATE TEACHERS ASSOCIATION, APPLICANT FOR INTERVENTION HEREIN, ARE:

(A) THE STIMULATION OF A PROGRAM OF MORE ADEQUATE EDUCATIONAL OPPORTUNITY FOR THE CHILDREN AND ADULTS OF ALABAMA.

(B) THE ENCOURAGEMENT OF LAY PARTICIPATION IN THE DEVELOPMENT OF THE EDUCATIONAL PROGRAM OF THE ASSOCIATION AND THE STATE OF ALABAMA.

(C) THE ADVANCEMENT OF A MORE ENRICHED AND MORE EFFECTIVELY ADMINISTERED PROGRAM OF INSTRUCTION; AND,

(D) THE PROMOTION OF THE PROFESSIONAL WELFARE OF THE TEACHERS.

## VII

APPLICANT FOR INTERVENTION ALLEGES AND AVERS ON INFORMATION AND BELIEF THAT HUNDREDS OF ITS MEMBERS ARE OR WILL BE AFFECTED BY THE DECREE OF THIS COURT IN THAT SEVERAL LOCAL SCHOOL BOARDS, PURSUANT TO THE DECREE OF THIS COURT, HAVE CLOSED AND WILL CONTINUE TO CLOSE SUB-STANDARD NEGRO SCHOOLS; HAVE FAILED AND REFUSED TO REASSIGN AND WILL CONTINUE TO FAIL AND REFUSE TO REASSIGN NEGRO PROFESSIONAL STAFF MEMBERS WITHIN SAID SYSTEM SOLELY BY REASON OF THEIR RACE OR COLOR; AND HAVE FAILED AND REFUSED AND WILL CONTINUE TO FAIL AND REFUSE TO EVALUATE THE QUALIFICATIONS OF ALL THE MEMBERS IN THE SYSTEM IN SELECTING THE MEMBERS TO BE RELEASED AS A RESULT OF CLOSING INADEQUATE SCHOOLS.

## VIII

DISMISSAL, AND THE THREAT OF IMMINENT DISMISSAL OF SAID TEACHERS, UNDER COLOR OF LAW, POLICY, PRACTICE, CUSTOM AND USAGE ENFORCED AND PURSUED BY DEFENDANTS AND LOCAL BOARDS SUBJECT TO THE PROVISIONS OF THIS COURT'S DECREE, DENIES TO SAID TEACHERS RIGHTS GUARANTEED BY TITLE 42, UNITED STATES CODE, SECTIONS 1981, 1983, THE FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES; AND CONTRAVENES THE MANDATE

OF THIS COURT IN THE CASE OF LEE, ET AL V. MACON COUNTY BOARD OF EDUCATION,  
ET AL, No. 604-E.

IX

THE MEMBERS OF APPLICANT FOR INTERVENTION HEREIN, WHO ARE OR WILL BE AFFECTED BY THE ACTIONS OF DEFENDANTS HEREIN, CONSTITUTE A CLASS SO NUMEROUS AS TO MAKE IT IMPRACTICAL TO BRING THEM ALL BEFORE THE COURT. APPLICANT'S CLAIM AS HEREIN SET FORTH, AND THE ORIGINAL COMPLAINT, CONTAIN COMMON QUESTIONS OF LAW AND FACT. HOWEVER, THE REPRESENTATION OF THE APPLICANT'S RIGHTS BY THE EXISTING PARTIES IS INADEQUATE, AND APPLICANT'S MEMBERS ARE OR MAY BE BOUND BY JUDGMENTS IN THIS CAUSE. APPLICANT FOR INTERVENTION SHOULD THEREFORE BE GRANTED LEAVE TO INTERVENE FOR THE PURPOSE OF PROTECTING THEIR FUNDAMENTAL RIGHTS AND OBTAINING THE NECESSITY FOR A MULTIPLICITY OF CLAIMS.

X

APPLICANT FURTHER AVERS THAT IT HAS PROPER STANDING AS A REAL PARTY IN INTEREST PURSUANT TO RULE 17 (A) OF THE FEDERAL RULES OF CIVIL PROCEDURE:

(A) TO PROTECT THE RIGHTS AND INTEREST OF MEMBERS WHO ARE DETERRED THROUGH FEAR OF REPRISAL, TO ATTEMPT INDIVIDUALLY TO PROTECT THEIR CONSTITUTIONAL RIGHTS;

(B) TO PROTECT THE RIGHTS AND INTEREST OF MEMBERS WHO HAVE OR WILL LOSE INTEREST IN THE LITIGATION BY REASON OF OBTAINING OTHER EMPLOYMENT;

(C) TO PROTECT THE RIGHTS AND INTEREST OF INTEGRATED PUPILS WHO POSSESS APPROPRIATE CONCERN ABOUT THE RACIAL ALLOCATION OF FACULTY.

(D) TO PROTECT ITS OWN RIGHTS AND INTERESTS AMIDST THE DISTINCT PROBABILITY THAT DISMISSALS AND REFUSALS TO REASSIGN TEACHERS, SOLELY BY REASON OF RACE OR COLOR, WILL ADVERSELY AFFECT IT AS AN ENTITY THROUGH DIMINUTION IN MEMBERSHIP AND FINANCIAL SUPPORT.

XI

APPLICANT FOR INTERVENTION ADOPTS EACH OF THE MATERIAL ALLEGATIONS OF THE ORIGINAL COMPLAINT WHICH ARE PERTINENT TO THE CLAIM HEREIN ASSERTED.

WHEREFORE APPLICANT FOR INTERVENTION PRAYS:

(A) THAT THIS COURT GRANT ALABAMA STATE TEACHERS ASSOCIATION LEAVE TO INTERVENE IN SAID CAUSE, ON ITS OWN BEHALF AND ON BEHALF OF ITS SEVERAL MEMBERS WHO CONSTITUTE A CLASS OF PERSONS WHO ARE OR WILL BE AFFECTED BY THE DECREES OF THIS COURT AND THE ACTION OR INACTION OF THE DEFENDANTS IN THIS CAUSE.

(B) APPLICANT FOR INTERVENTION FURTHER ADOPTS THE PRAYER FOR RELIEF IN THE ORIGINAL COMPLAINT IN SO FAR AS THE SEVERAL ASPECTS ARE PERTINENT TO THE CLAIM HEREIN ASSERTED.

RESPECTFULLY SUBMITTED,

GRAY & SEAY

BY   
ATTORNEYS FOR APPLICANT FOR INTERVENTION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT ON SEPTEMBER 1, 1967, I SERVED A COPY OF THE FOREGOING COMPLAINT FOR INTERVENTION UPON EACH OF THE ATTORNEYS OF RECORD LISTED BELOW BY UNITED STATES MAIL, POSTAGE PREPAID:

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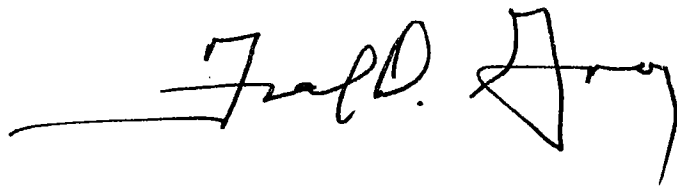
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A handwritten signature in black ink, appearing to read "Fred D. Gray". The signature is written in a cursive style with a long horizontal line extending to the left of the first name.