

CIVIL DOCKET

UNITED STATES DISTRICT COURT

Jury demand date:

D. C. Form No. 106A Rev.

| TITLE OF CASE | ATTORNEYS |
|--|---|
| <p>Civil Action No. 846-E</p> <p>✓ ANTHONY T. LEE, ET AL., Plaintiffs, UNITED STATES OF AMERICA, Plaintiff-Intervenor and Amicus Curiae, NATIONAL EDUCATION ASSOCIATION, INC., Plaintiff-Intervenor, BRANDIE MCKEE, a minor, by Thomas McKee, her father and next friend; ISHBAH COX, a minor, by Reben Cox, his father and next friend, Robert B. Anderson; AL REDDING and the SAVE OUR SCHOOL COMMITTEE *** Plaintiff-intervenors vs MACON COUNTY BOARD OF EDUCATION, ET AL., [the individual members thereof and the Superintendent of Education] Defendants.</p> | <p>Fred D. Gray P.O. Box 239 Tuskegee, AL 36083 (205) 727-4830 & Solomon Seay, Jr. 524 S. Union Street Montgomery, AL 36104 (205) 834-2000 For: Plaintiff & Pltf-intervenor NEA</p> <p>Nathaniel Douglas U.S. Department of Justice Opportunity Section of Civil Rights Division P.O. Box 65958 Washington, DC 20035-5958 & Ken Vines Assistant U.S. Attorney P.O. Box 197 Montgomery, AL 36101 For: Pltf-intervenor & Amicus Curiae USA</p> <p>Dennis Pierson & George Beck, Jr. P.O. Box 5019 Montgomery, AL 36104 (205) 832-4878 For: Pltf-intervenors McKee, et al.</p> <p>Deborah Hill Biggers 113 East Northside Tuskegee, AL 36083 (205) 727-0092 For: Macon County Board of Education</p> |

| STATISTICAL RECORD | COSTS | |
|---|----------------------------|--|
| J.S. 5 mailed 6/24/70 5/5/91 11/5/76 | Clerk | |
| J.S. 6 mailed 4/5/75 9/5/91 7/5/76 | Marshal | |
| Basis of Action: Public school desegregation | Docket fee Witness fees | |
| Action arose at: | Depositions | |

SCANNED
42305 10/2

| DATE | PROCEEDINGS | Date Order or Judgment Noted |
|---|---|------------------------------|
| <u>1970</u> | For entries prior to June 24, 1970, see docket sheet of 604-E. | |
| June 24 | 1 ORDER transferring the case against the Macon County school system, among others, from the jurisdiction of the three-judge court in Civil Action No. 604-E to the jurisdiction of a single judge or judges in the Middle District of Alabama. | |
| July 30 | 2 Defendants' filing of projected student enrollment and faculty and staff assignments as required by order of March 19, 1970. | |
| Sept. 25 | 3 Defendants' report on racial composition of student bodies and membership of faculty and staff. | |
| <u>1971</u> | | |
| July 15 | 4 Petition of Board of Education to make certain changes in boundaries of school district lines for the Tuskegee Public School. | |
| Aug. 9 | 5 ORDER allowing the Macon County Board of Education to alter and change the boundaries of school district lines as outlined in its motion of 7/15/71, so as to permit the Tuskegee Public School to remain a high school. As per the exhibits attached to the motion, the alteration is in no way to affect the racial composition of either the Tuskegee Public School or the Tuskegee Institute High School. (Copies mailed to counsel.) | |
| <u>1972</u> <u>Sept. 26</u> <u>1973</u> | 6 Defts.' report on racial composition of student bodies and membership of faculty and staff. | |
| June 6 | 7 Petition of Macon County Board of Education to alter the plans previously on file and in accordance with the resolution of the Board and the statistical data. | |
| 25 | 8 Response to U. S. to defendants' request for permission to alter plans previously on file. | |
| 28 | 9 ORDER granting Macon County Board of Education's request to alter school plans. In the school year 1973-74 and every year thereafter, all students in the Tuskegee High School (9-12) attendance zone will attend the Tuskegee Institute High School and all students in the Tuskegee Institute High's eighth grade class will attend the Tuskegee Public School. (Copies mailed to counsel.) | |
| <u>1974</u> | | |
| Sept. 18 | 10 Petition of Macon County Board of Education to alter school plans. Referred to Judge Varner. | |
| 19 | 11 ORDER directing plaintiff and plaintiff-intervenor to show cause within 20 days from date of Order why request of defendants to alter school plans should not be granted. (Copies mailed to Gray, Seay & Langford [certified mail, return receipt requested], Civil Rights Division, Dept. of Justice, Ira DeMent and Radney & Radney.) | |
| Oct. 2 | 12 Plaintiffs' response to request for modification. Referred to Judge Varner. | |
| 9 | 13 Response of U. S. to Court's order of 9/19/74. Referred to Judge Varner. | |

| DATE 1974 | PROCEEDINGS | Date Order or Judgment Note |
|--------------|--|--------------------------------|
| Nov. 1 | ORDER granting defendant School Board's request for permission to alter the school plans on file with this Court in the manner requested; enjoining defendant School Board from selling, leasing or subleasing the Chambliss Children's Home property to any person or group of persons who the School Board knows, or through inquiry should know, intend to use the property to operate a private segregated school. (Copies mailed to counsel.) | |
| 1 | Writ of injunction issued. (Copies of writ and order mailed by certified mail to Ulysses Byas, Supt., Macon County Board of Education, Dr. P. K. Biswas, Dr. J. H. M. Henderson, Dr. Ellis Hall, Mrs. Consuello Harper, and Mr. Allen Adams, Members, Macon County Board of Education.) | |
| <u>1975</u> | | |
| Mar. 27 | ORDER (also applies to CA Nos. 845-E, 847-E, 848-E, 851-E, 854-E, and 855-E) closing cases and removing same from the pending docket for record-keeping purposes only. | |
| Dec. 18 | Plaintiff-intervenor's interrogatories to defendant Ulysses Byas. | |
| 18 | Plaintiff-intervenor, National Education Association's motion for further relief. (Referred to Judge Varner) (Set on Judge Varner's 1/16/76 motion docket; notices mailed 1/7/76) | |
| <u>1976</u> | | |
| Jan. 14 | Defendant Ulysses Byas' answer to interrogatories. | |
| 16 | Defendant Macon County Board of Education's answer to motion for further relief. | |
| 31 | Defendant Macon County Board of Education's motion for summary judgment. (Referred to Judge Varner) | |
| Apr. 1 | ORDER setting motion for summary judgment upon the motion, pleadings, and any documents or other evidence the parties may wish to file on or before 10 days from the date of this order. (Copies mailed to counsel) | |
| 12 | Intervenor's Plaintiff/ motion for extension of time to respond to motion for summary judgment. (Referred to Judge Varner) | |
| 13 | Plaintiffs' motion for extension of time to respond to motion for summary judgment. (Referred to Judge Varner) | |
| 14 | ORDER denying defendant Macon County Board of Education's motion for summary judgment, and further dismissing motions filed 4/12 and 13/76 for extension of time. (Copies mailed to counsel) | |
| 15 | Plaintiff-intervenor's response to motion for summary judgment. (Referred to Judge Varner) | |
| 20 | Pretrial hearing. | |

| DATE 1976 | PROCEEDINGS | Date Order or Judgment Noted |
|--------------|--|---------------------------------|
| Apr. 20 | 21 ORDER on pretrial hearing. Complaint and answer the pleadings allowed; issues in controversy set out. Further ORDERED that (a) all discovery in this case be completed; (b) each party furnish counsel for opposing party the names and addresses of the witnesses to be called on the trial of this case; (c) each party furnish counsel for opposing party for copying and inspection all tangible evidence to be used in the trial of this case; and (d) all tangible evidence to be used at trial be marked for identification. | |
| | 26 Plaintiff-intervenor and amicus curiae's interrogatories to defendant Russell County Board of Education. | |
| 26 | 28 ORDER amending pretrial hearing entered 4/20/76, as set out/ ^{in order.} (Copies mailed to counsel) | |
| 30 | 29 Defendants' list of names and addresses of witnesses as ordered by pre-trial order of 4/20/76, and an additional attached thereto. | |
| May 12 | 30 Plaintiff-intervenor's list of witnesses. | |
| 14 | 31 ORDER rescheduling trial of this cause from 6/3/76 to 6/2/76 at 9:00 a.m., in Opelika, Al. (Copies mailed to counsel) | |
| 20 | 32 ORDER rescheduling trial presently set for 6/2/76 to 6/3/76, at 9:00 a.m., in Montgomery, Al. (Copies mailed to counsel) | |
| June 2 | Non-jury trial. | |
| 3 | 33 Courtroom Deputy's list of witnesses. | |
| 3 | 34 Courtroom Deputy's list of proceedings. | |
| 17 | 35 MEMORANDUM OPINION and JUDGMENT entered in favor of defendants; costs taxed against NEA, Inc. (Copies mailed to counsel) | |
| Apr. 24 | 36 ¹¹⁹⁹¹ <i>Required</i> Petition of Macon County Board of Education for approval of consolidation and closure of schools with exhibits attached. Referred to Judge Varner. | |
| 26 | 37 ORDER that on or before 60 days from this date, plaintiffs and plaintiff-intervenor SHOW CAUSE why the Petition for Approval should not be granted. (Copies mailed counsel; furnished USA) EOD 4-26-91 | |
| May 23 | 38 Motion of movants Brandie McKee, Ishbah Cox, Robert B. Anderson, Al Redding and the Save Our School Committee to intervene w/copies of complaint and exhibits attached. Referred to Judge Varner. | |
| 31 | 39 Brief of intervenors in support of m/intervene. Referred to Judge Varner. | |
| 1999 | Nov. 24 - Unclaimed exhibits destroyed this date | |

CIVIL DOCKET CONTINUATION SHEET

| PLAINTIFF | | DEFENDANT | DOCKET NO. <u>846-E</u> |
|-----------------------|-----|----------------------------------|--|
| ANTHONY T. LEE; et al | | MACON COUNTY BOARD OF EDUCATION; | PAGE ___ OF ___ PAGES |
| 1991 DATE | NR. | PROCEEDINGS | |
| June | 3 | 40 | COMPLAINT of INTERVENOR PLAINTIFFS with Exhibits attached. |
| | 11 | 41 | Intervenors' motion for preliminary injunction. Referred to Judge Varner. |
| | 21 | 42 | ORDER setting all pending matters for a hearing on 7/10 at 9:00 a.m. in Montgomery, AL. (Copies mailed counsel; furnished USA) EOD 6-21-91 |
| | 28 | 43 | Notice of Solomon S. Seay, Jr. as co-counsel for plaintiff & plaintiff/intervenor. |
| July | 1 | 44 | Plaintiff & plaintiff/intervenors response to Order of 4/26. |
| | 1 | 45 | Defendant Macon County's motion for Judge Varner to disqualify himself w/attachments. Referred to Judge Varner. MOTION DENIED 7/3/91. (Copies mailed counsel) EOD 7-3-91 |
| | 3 | 46 | Defendant Macon County's motion for certification of interlocutory appeal. Referred to Judge Varner. DENIED 7/8/91 |
| | 8 | 47 | ORDER DENYING defendant Macon County's motion for certification to allow interlocutory appeal. (Copy faxed to Ms. Biggers; mailed remaining counsel; furnished USA) EOD 7-8-91 |
| | 9 | 48 | Defendant Macon County's answer to intervenors complaint. |
| | 9 | 49 | Defendant Macon County's brief in support of petition for approval of schools. Referred to Judge Varner. |
| | 10 | | Hearing on all pending matters. (NON JURY TRIAL) |
| | 10 | 50 | Intervenors trial brief (filed in open court) |
| | 18 | | Court reporter's transcript (1 vol) of hearing held 7/10-12/91. |
| | 18 | 51 | Courtroom deputy's minutes of non jury trial held 7/10/91 to 7/12/91. Defendants' 7/12 motion for directed verdict (Court reserves ruling) Witness & exhibit list attached. [EXHIBITS IN BASEMENT] |
| Aug. | 1 | | OPINION. |
| | 1 | 53 | ORDER denying defendants Macon County Board of Education's petition for approval of consolidation and closure of schools filed on 4-24-91 as to the proposed consolidation of the Notasulga High School with other Macon County Schools; granting said petition in all other respects. (Copies mailed to counsel; furnished to Ken Vines.) [EOD: 8-1-91] |
| | 12 | 55 | Defendant Macon County Board of Education's Notice of Appeal to the U. S. Court of Appeals, Eleventh Circuit from the order entered 8/1/91. (Copies mailed to Deborah Hill Biggers with appeal information sheet; Fred D. Gray; Solomon S. Seay, Jr.; Nathaniel Couglas; Dennis R. Pierson & George L. Beck, Jr.; furnished Ken Vines, AUSA; furnished Lewis Wimberly, Court Reporter; and certified copies to USCA, Eleventh Circuit.) |

Close

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| PLAINTIFF | | DEFENDANT | DOCKET NO. <u>846-E</u> |
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| ANTHONY T. LEE; et al | | MACON COUNTY BOARD OF EDUCATION: et al | PAGE ___ OF ___ PAGES |
| 1991 DATE | NR. | PROCEEDINGS | |
| Aug. 9 | 54 | Intervenors/plaintiffs motion for award of attorneys' fees and costs. Referred to Judge Varner. STAYED 8/14/91 | |
| | 9 | Received bill of costs from plaintiffs/intervenors in the amount of \$2,596.81 to be taxed against defendant w/attachments. STAYED 8/14/91 | |
| | 14 | 56 | ORDER that Intervenors 8/9 motion for award of attorneys' fees is hereby stayed pending completion of appeal in this cause. (Copies mailed counsel; furnished USA) EOD 8-14-91 |
| | 14 | | Received check in the amount of \$105.00 (Receipt #41356) from Deborah Biggers for payment of notice of appeal. |
| | 21 | 57 | Attorney Denis Pierson's designation of record on appeal. |
| | 22 | 58 | Attorney Deborah Biggers' designation of record on appeal. |
| Nov. 6 | | | Court Reporter Lewis Wimberly's official transcript (3 volumes) of hearing held July 10-12, 1991 before Judge Robert E. Varner, Opelika, AL. |
| | 19 | 59 | Defendant Macon Co. BOE's motion that record be temporarily retained. Referred to Judge Varner. MOTION GRANTED 11/19/91 (Copies mailed counsel.) |
| <u>1992</u> | | | |
| Mar. 11 | | 60 | ORDER (entered 3/9/92) of the U. S. Court of Appeals, Eleventh Circuit DENYING appellee's motion to dismiss. |
| | 25 | | Entire Record on Appeal (1 volume pleadings, 4 volumes transcripts and 1 envelope exhibits) picked up by UPS for delivery to USCA, Eleventh Circuit as requested in correspondence received this date from Cyndie Williamson. |
| Aug. 7 | | | Received copy of ORDER (entered 8/5/92) of the U. S. Court of Appeals, Eleventh Circuit AFFIRMING the district court order dated 8/1/91 with an opinion to follow within three weeks. |
| | 20 | | Received copy of OPINION (entered 8/18/92) of the U. S. Court of Appeals, 11th Circuit AFFIRMING the district court. |
| Sept 10 | | 61 | Plaintiff-Intervenors' brief in support of motion for award of attorney's fees. Referred to Judge Varner. |
| | 10 | 62 | Plaintiff-Intervenors' submission in support of motion for award of attorneys' fees. Referred to Judge Varner. |
| | 10 | 63 | Plaintiff-Intervenors' brief in support of bill of costs. Referred to Judge Varner. |
| <u>1993</u> | | | |
| Mar. 5 | | | Received copy of ORDER (entered 3/5/93) by USCA VACATING the previous panel's opinion and that this cause shall be reheard en banc. |

CIVIL DOCKET CONTINUATION SHEET

| PLAINTIFF | | DEFENDANT | DOCKET NO. <u>846-E</u> |
|------------------------|------|--|-------------------------|
| ANTHONY T. LEE, et al. | | MACON COUNTY BOARD OF EDUCATION, et al | PAGE ___ OF ___ PAGES |
| DATE | NR. | PROCEEDINGS | |
| June 21 | | Received copy of PER CURIAM OPINION (entered 6/18/93) by USCA, Eleventh Circuit AFFIRMING the judgment of the district, sitting <u>en banc</u> by an equally divided vote. | |
| Dec. 2 | | PER CURIAM OPINION (entered 6/18/93) by USCA, Eleventh Circuit AFFIRMING the Judgment of the District Court by an equally divided vote. | |
| | 2 64 | JUDGMENT OF REHEARING AND SUGGESTION OF REHEARING EN BANC (entered 6/18/93, issued as the mandate: 11/30/93) by USCA, Eleventh Circuit AFFIRMING the judgment of the District Court in accordance with the opinion of this court; that it is further ordered that defendants-appellants pay plaintiffs-appellees the costs on appeal to be taxed by the Clerk of this Court. | |
| | 2 65 | ORDER OF THE USCA (entered 11/30/93) GRANTING Intervenors-Appellees' revised motion for attorney's fees; GRANTING Intervenors-Appellees' revised motion for expenses; that this matter is REMANDED to the district court for a hearing on the specific amount of attorney's fees and expenses to be awarded to movants. | |
| <u>1994</u> | | | |
| Jan. 6 | | Entire Record on Appeal (1 volume pleadings, 4 volumes transcripts & 1 envelope exhibits) returned by USCA, Eleventh Circuit. | |
| | 7 66 | ORDER that by 2/7/94 the intervenors may file with this court any further materials, briefs, etc., in support of their request for attorney's fees and expenses; that by 3/9/94 any materials, briefs, etc. may be filed in opposition to said request; setting said request for a HEARING on 4/18/94 at 9:00 a.m. in Montgomery, AL. (Copies mailed to counsel; furnished to USA, MT, and SL) | |
| Feb 7 | 67 | Plaintiff-intervenor McKee, Cox, Redding, School Committee, Andersons' supplemental submission in support of motion for attorney fees and costs (Exhibits A-C, copy of affidavit of Frank Wilson and affidavit of Susan Russ Walker attached). Referred to Judge Varner. | |
| | 9 68 | Plaintiff-intervenor McKee, Cox, Redding, School Committee, and Andersons' motion to substitute affidavit of Frank Wilson (original affidavit of Wilson attached). Referred to Judge Varner. MOTION GRANTED 2/10/94. (Copies mailed to counsel; furnished to USA) | |
| | 9 69 | Defendant Macon County Board of Education's response in opposition to intervenors' request for award of attorney fees and costs (affidavit of Alonzetta Landrum-Sims attached), Referred to Judge Varner. | |

CIVIL DOCKET CONTINUATION SHEET

| PLAINTIFF | | DEFENDANT | DOCKET NO. <u>846-2</u> |
|---------------------|-----|---|------------------------------------|
| ANTHONY LEE; et al. | | MACON COUNTY BD OF EDUCATION; et al. | PAGE ___ OF ___ PAGES |
| <u>1994</u> | NR. | PROCEEDINGS | |
| Mar 29 | 70 | Intervenors' letter reply to defendants' response to petition for attorneys' fees. Referred to Judge Varner. | |
| Apr 26 | | ORDER overruling Macon County Board of Education's objection to intervenors' motions for award of attorneys' fees and costs; that the intervenors have and recover from defendant Macon County Board of Education the sum of \$87,742.50 in attorneys' fees and the sum of \$3,344.66 in costs. (Copies mailed to counsel; furnished to USA) EOD 4/26/94 | |
| Jun 16 | | File returned to Records Center. | |
| <u>1995</u> | | | |
| Mar 27 | | Plaintiff Lee's request for investigation of the audit findings for the Macon County Board of Education. Referred to Judge Varner. Referred to Judge Albritton. | |
| | 31 | Case reassigned to Judge Albritton. | |
| <u>1997</u> | | | |
| Oct. 17 | 73 | ORDER denying request for investigation of the audit findings for the Macon County BOE. (Copies mailed to counsel; furnished to USA EOD 10/17/97) | |
| <u>2005</u> | | | |
| June 20 | 74 | Petition for Expedited Approval to Close Two Schools and for the Opening of a New Elementary School; referred to Judge Albritton | |