

**FILED**

JUL 11 1983

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
JAMES E. VANDEGRIFT, CLERK

*off*

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.

**CV 83 C 1676S**

THE STATE OF ALABAMA; GEORGE C. WALLACE,  
Governor of the State of Alabama; THE ALABAMA  
STATE BOARD OF EDUCATION; WAYNE TEAGUE, State  
Superintendent of Education; THE BOARD OF  
TRUSTEES FOR ALABAMA A&M UNIVERSITY, a public  
corporation; THE BOARD OF TRUSTEES FOR  
ALABAMA STATE UNIVERSITY, a public corpora-  
tion; AUBURN UNIVERSITY, a public corporation;  
JACKSONVILLE STATE UNIVERSITY, a public  
corporation; LIVINGSTON UNIVERSITY, a public  
corporation; TROY STATE UNIVERSITY, a public  
corporation; THE UNIVERSITY OF MONTEVALLO, a  
public corporation; THE BOARD OF TRUSTEES FOR  
THE UNIVERSITY OF ALABAMA, a public corpor-  
ation; THE UNIVERSITY OF NORTH ALABAMA, a  
public corporation; THE UNIVERSITY OF SOUTH  
ALABAMA, a public corporation; THE ALABAMA  
COMMISSION ON HIGHER EDUCATION; and THE  
ALABAMA PUBLIC SCHOOL AND COLLEGE AUTHORITY,  
  
Defendants.

CIVIL ACTION  
NO.

COMPLAINT

The United States of America, plaintiff, alleges as follows:

1. This action is brought by the Attorney General on behalf of the United States, pursuant to Sections 601 and 602 of the Civil Rights Act of 1964, 42 U.S.C. §§2000d and 2000d-1, and the Fourteenth Amendment to the Constitution of the United States.

2. This court has jurisdiction over this action pursuant to 42 U.S.C. §2000d-1 and 28 U.S.C. §1345.

I. DEFENDANTS

3. The defendant State of Alabama is a State of the United States of America.

4. The defendant Honorable George C. Wallace is Governor and chief executive officer of the State of Alabama. The Governor is ex officio a member of the Alabama State Board of Education, of the Alabama Public School and College Authority, and of the Board of Trustees of each Alabama public institution of higher education. Governor Wallace resides and has his offices in Montgomery, Alabama.

5. The defendant Alabama State Board of Education is an agency of the State of Alabama. Its members are elected by the people. This defendant is responsible for the operation of all public educational institutions in Alabama, except for those institutions which are governed by their own Boards of Trustees. The State Board of Education is now responsible for the operation of Athens State College, an upper-division, two-year institution located in Athens, Alabama. Before 1975, it was responsible for the operation of Alabama A&M University and Alabama State University, and before 1967, it was responsible for the operation of Jacksonville State University, Livingston University, Troy State University, and the University of North Alabama. The State Board of Education meets and has its offices in Montgomery, Alabama.

6. The defendant Wayne Teague is Superintendent of Education for the State of Alabama, and chief executive officer of the State Board of Education. He serves ex officio on the Board of Trustees of each of the institutions set out in paragraphs 9-16, below. This defendant resides and has his offices in Montgomery, Alabama.

7. Defendant Board of Trustees for Alabama A&M University, a public corporation, is an educational institution of the State of Alabama, located in Normal, Alabama.

8. Defendant Board of Trustees for Alabama State University, a public corporation, is an educational institution of the State of Alabama, located in Montgomery, Alabama.

9. Defendant Auburn University, a public corporation, is an educational institution of the State of Alabama. Its main campus is located in Auburn, Alabama, and it maintains a branch campus in Montgomery, Alabama.

10. Defendant Jacksonville State University, a public corporation, is an educational institution of the State of Alabama, located in Jacksonville, Alabama.

11. Defendant Livingston University, a public corporation, is an educational institution of the State of Alabama, located in Livingston, Alabama.

12. Defendant Troy State University, a public corporation, is an educational institution of the State of Alabama. Its main campus is located in Troy, Alabama, and it maintains branch campuses in Montgomery and Dothan, Alabama.

13. Defendant Board of Trustees for the University of Alabama, a public corporation, is an educational institution of the State of Alabama. Its main campus is located in Tuscaloosa, Alabama, and it maintains branch campuses in Birmingham and Huntsville, Alabama.

14. Defendant University of Montevallo, a public corporation, is an educational institution of the State of Alabama, located in Montevallo, Alabama.

15. Defendant University of North Alabama, a public corporation, is an educational institution of the State of Alabama, located in Florence, Alabama.

16. Defendant University of South Alabama, a public corporation, is an educational institution of the State of Alabama, located in Mobile, Alabama.

17. Defendant Alabama Commission on Higher Education (hereinafter ACHE) is an agency of the State of Alabama. Its members are appointed by the Governor, the Lieutenant Governor, and the Speaker of the House of Representatives. It advises the Governor and the Legislature concerning the allocation of funds to the Alabama institutions of public higher education. All such institutions are prohibited by statute from establishing any new unit or program of instruction before submitting plans for such unit or program to ACHE for review and approval. No funds may be expended to establish any new unit or program which has not received the approval of ACHE. ACHE has its offices in Montgomery, Alabama.

18. Defendant Alabama Public School and College Authority (hereinafter APSCA) is a public corporation of the state of Alabama, consisting of the Governor, the State Superintendent of Education, and the Director of Finance of Alabama. APSCA has statutory authority to provide for the construction, reconstruction, alteration and improvement of public buildings and other facilities for public educational purposes in Alabama, including the procurement of sites and equipment therefor, and to anticipate by the issuance of its

bonds the receipt of revenues appropriated and pledged by the Legislature of Alabama. APSCA has its offices in Montgomery, Alabama.

19. Each of the institutions of higher education named in paragraphs 7-16 of this Complaint, and the Alabama State Board of Education, in consideration for Federal financial assistance, have, by their agents and predecessors, agreed to comply with Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§2000d et seq., and with all requirements imposed by or pursuant to the regulations of the Department of Education issued pursuant to that Title, 34 C.F.R. Part 100.

20. Title VI of the Civil Rights Act of 1964, and the regulations issued pursuant thereto, provide that no person in the United States shall, on account of race or color, be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Education. The regulations provide that all funded programs and activities must be conducted or operated in compliance with all requirements imposed by or pursuant to Title VI. The regulations further provide that upon determination by the Department of Education that a recipient of Federal funds is not in compliance with Title VI or the regulations issued pursuant to Title VI, the United States has the right to seek judicial enforcement of Title VI.

21. On January 7, 1981, an authorized representative of the Department of Education wrote a letter to the Governor of

Alabama, informing him that the Department had found that the State of Alabama had violated Title VI by failing to eliminate the vestiges of its dual system of higher education. This letter requested that the State submit a plan for removal of those vestiges, and offered the assistance of the Department of Education in the framing of such a plan.

22. On November 30, 1981, the Governor submitted to the Department of Education a proposed Plan, which, however, was not signed by any party. In compliance with 34 C.F.R. §100.8(d), the responsible officials of that Department reviewed this Plan and determined that it was not adequate. On December 22, 1981, the Assistant Secretary for Civil Rights, Department of Education, advised the Governor that unless an acceptable desegregation plan was submitted within ten days, the matter would be referred to the Department of Justice for enforcement through appropriate judicial proceedings. Subsequently, on January 4, 1982, the Assistant Secretary, having determined that compliance could not be secured by voluntary means, sent a letter to the Assistant Attorney General for Civil Rights pursuant to 34 C.F.R. §§100.8(a) and (d), requesting that appropriate judicial proceedings be brought to enforce the requirements of federal law.

## II. FIRST CLAIM

23. Prior to 1953, the defendants and their predecessors, by statute, custom and usage, and pursuant to the authority granted to them by the laws of the State of Alabama, established and

33. Various Federal statutes appropriating funds for the support of agricultural education and research programs, including, among others, the Second Morrill Act, 26 Stat. 417 (Aug. 30, 1880), 7 U.S.C. §321 et seq.; and the Hatch Act of 1887, 24 Stat. 440 (Mar. 2, 1887), vested in the Legislature and Governor of Alabama the power to allocate these appropriations as between Auburn and Alabama A&M. These defendants have historically exercised that power to the advantage of Auburn and the disadvantage of Alabama A&M, because of the racial character of those institutions.

34. The actions of defendants set out in the foregoing paragraphs have been taken on account of the racial character of the institutions concerned, and have deprived past and present students at Alabama A&M of equal educational opportunity on account of race.

#### IV. RELIEF

35. Defendants have failed and refused to submit a constitutionally acceptable plan to disestablish the racially dual system of public higher education in Alabama, described in the foregoing claims, and have failed to provide specific measures to eliminate the vestiges of the dual system, including the continuing effects of their past and present discriminatory actions, as set out above.

36. The acts and practices of the defendants and their agents maintain and perpetuate an unlawful dual system of higher education based on race, and thereby deprive black students who now attend, and prospective black students who may attend, public

before 1963, with one exception; Autherine Lucy was admitted to the University of Alabama, pursuant to an order of this Court, in 1955, but was expelled shortly thereafter by the Board of Trustees, and not permitted to reenroll. Those institutions which accepted black students in 1963 did so pursuant to Court order.

B. Defendants have discriminatorily denied black persons positions on the governing boards of traditionally white institutions, and have continued to employ chiefly white persons as faculty and staff members at those institutions formerly restricted to whites, and chiefly black persons at those institutions formerly restricted to blacks. These practices have had the effect of maintaining the racial identification of the institutions, and impeding their desegregation.

C. Defendants have provided black students with fewer opportunities than white students for public higher education, and denied them access to opportunities available to whites.

D. Defendants have failed to take affirmative steps to remove the vestiges of the dual educational system resulting from their policy of racial segregation in education.

26. As one result of defendants' racially discriminatory practices and policies of admission, faculty hiring and assignment, and provision of facilities, resources, and curricular and extra-curricular programs and activities, the institutions of the Alabama system of public higher education remain largely segregated by race, as shown by the statistics set out in Attachments A-D to this Complaint.



III. SECOND CLAIM

27. The United States repeats and realleges each of the allegations contained in paragraphs 1-25 of this Complaint.

28. Because enrollment in Alabama A&M University was restricted to blacks under the State's policy of racial segregation in higher education, a perceived need for educational opportunities for whites in the Huntsville area could not be met by that institution. The University of Alabama undertook to meet that need by offering an extension program in Huntsville, which program eventually, in 1969, became the University of Alabama at Huntsville (UAH). UAH was then, and remains, an identifiably white institution.

29. By creating a racially dual system of public higher education in the Huntsville area, defendants have impeded the desegregation of Alabama A&M.

30. By choosing to maintain racial segregation by establishing a competing institution, defendants have deprived past and present students at Alabama A&M of equal educational opportunity, on the basis of race.

31. Both Auburn University and Alabama A&M University operate programs in agricultural education and research.

32. The defendants have historically appropriated, and continue to appropriate, far greater resources to Auburn than to Alabama A&M for the support of the above-mentioned programs, because of the racial character of these institutions.

and as Alabama State College for Negroes, Code of Alabama, Title 52, §438 (1950).

F. Alabama A&M University was created in 1873 as the Colored Normal School of Huntsville. In or about 1891, this institution was moved to its present location, and its name changed to the State Agricultural and Mechanical College for Negroes.

24. Pursuant to the statutes, customs and usages of the State of Alabama requiring segregation of the black and white races, the defendants employed only white persons as administrators, faculty and staff for those of the above institutions which enrolled only white students, and employed chiefly black persons as administrators, faculty and staff for those of the above institutions which enrolled only black students. In addition, the defendants, on the basis of race, discriminated against the institutions established for black students, inter alia, in the financial and other resources allocated to them and in the number and quality of educational programs provided. Defendants thereby denied black citizens educational opportunities equal to those provided by them to white citizens.

25. Since 1953, the defendants, by their policies and practices, have maintained and perpetuated the dual system of public higher education based on race, among other ways, as follows:

A. Defendants have denied qualified black applicants admission to traditionally white institutions because of their race. None of the institutions established or operated for white students as described in paragraph 23, above, ever admitted black students

maintained a racially dual system of public higher education. Certain institutions in the system were limited to attendance by white students only, and others were limited to attendance by black students only, as follows:

A. The University of Alabama, in Tuscaloosa, Alabama, was established in 1831. Pursuant to the policies and practices of defendants, this institution enrolled only white students. It also enrolled only white students at its extension centers in Birmingham, which opened in 1936, and in Huntsville, which opened in 1950, both of which centers became branch campuses of the University in 1969.

B. Auburn University came under the control of the State of Alabama in 1872. Pursuant to the policies and practices of the defendants, this institution enrolled only white students.

C. The University of Montevallo was established by defendants in 1896, as The Alabama Girls' Industrial School. Enrollment in this institution was limited by statute to "any white girl or woman ...." Ala. School Code of 1927, §510.

D. Jacksonville State University, Livingston University, Troy State University, and the University of North Alabama were established by defendants as the State Normal Schools at Jacksonville, Livingston, Troy, and Florence, respectively. These four institutions were designated by statute as being "for white teachers." Code of Alabama, Title 52, §438 (1950).

E. Alabama State University was established in 1866, as the Lincoln Normal School, and came under the control of the State of Alabama in 1874. It was subsequently known as the Normal School for Colored Teachers, Alabama School Code, §480 (1927),

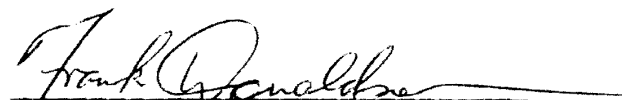
institutions of higher education of equal protection of the laws and equal educational opportunities, in violation of the Fourteenth Amendment to the Constitution of the United States, and of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto. Unless enjoined by this Court, defendants will continue to deprive such black students and prospective students of the rights guaranteed them by these provisions.

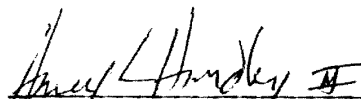
WHEREFORE, the United States prays that this Court enter an order enjoining the defendants, their agents, officers, employees, successors and all persons in active concert or participation with them, from maintaining and perpetuating racial dualism in the State-supported system of higher education in Alabama. The United States prays that defendants be required to develop, submit and implement detailed plans which promise realistically and promptly to eliminate all vestiges of a dual system of higher education within the State, pursuant to the requirements of Title VI of the Civil Rights Act of 1964 and in compliance with the Fourteenth Amendment to the United States Constitution.

The United States further prays that this Court grant such additional relief as the needs of justice may require, including the costs and disbursements of this action.

WILLIAM FRENCH SMITH  
Attorney General

  
WM. BRADFORD REYNOLDS  
Assistant Attorney General

  
FRANK W. DONALDSON  
United States Attorney

  
THOMAS M. KEEPING  
HARVEY L. HANDLEY, III  
JAY P. HEUBERT  
General Litigation Section  
Civil Rights Division  
Department of Justice  
Washington, D.C. 20530

## ATTACHMENT A

FULL-TIME UNDERGRADUATE ENROLLMENT  
Fall, 1980

Institution	Black		White		Total
	#	%	#	%	#
Athens State	45	9.2	436	88.8	491
Auburn - Main Campus	318	2.1	14717	96.9	15195
Auburn - Montgomery	541	15.7	2881	83.4	3453
Jacksonville State	694	15.0	3864	83.3	4636
Livingston	223	27.9	545	68.3	798
Troy State - Main Campus	578	14.5	3348	84.0	3988
Troy State - Dothan	27	10.2	232	87.2	266
Troy State - Montgomery	212	40.8	293	56.3	520
U. of Alabama - Main Campus	1630	12.2	11450	85.8	13342
U. of Alabama - Birmingham	1542	24.9	4493	72.5	6193
U. of Alabama - Huntsville	119	4.7	2354	92.0	2559
U. of Montevallo	138	6.7	1878	91.6	2051
U. of North Alabama	326	8.0	3720	91.5	4065
U. of South Alabama	514	9.8	4433	84.9	5219
TOTALS, TWI'S	6907	11.0	54644	87.0	62776
Alabama A&M	2620	76.3	131	3.8	3433
Alabama State	3355	99.5	2	0.1	3372
TOTALS, TBI'S	5975	87.8	133	2.0	6805
GRAND TOTALS	12882	18.5	54777	78.7	69581

Source: National Center for Education Statistics ("NCES"),  
Higher Education General Information Survey ("HEGIS")

## ATTACHMENT B

FULL-TIME GRADUATE ENROLLMENT  
Fall, 1980

Institution	Black		White		Total
	#	%	#	%	#
Auburn - Main Campus	38	5.5	569	80.0	711
Auburn - Montgomery	58	13.6	361	84.5	427
Jacksonville State	12	12.0	77	77.0	100
Livingston	12	32.4	20	54.1	37
Troy State - Main Campus	54	15.1	291	81.5	357
Troy State - Dothan	10	5.0	188	94.5	199
Troy State - Montgomery	72	25.9	197	70.9	278
U. of Alabama - Main Campus	82	7.3	939	83.2	1129
U. of Alabama - Birmingham	143	11.8	987	81.2	1216
U. of Alabama - Huntsville	6	2.5	203	84.9	239
U. of Montevallo	3	12.5	21	87.5	24
U. of North Alabama	2	10.5	16	84.2	19
U. of South Alabama	17	5.0	299	88.5	338
TOTALS, TWI'S	510	10.1	4168	82.1	5074
Alabama A&M	93	28.2	76	23.0	330
Alabama State	192	96.5	4	2.0	199
TOTALS, TBI'S	285	53.9	80	15.1	529
GRAND TOTALS	795	14.2	4248	75.8	5603

Source: Same as Attachment A

## ATTACHMENT C

FULL-TIME PROFESSIONAL ENROLLMENT  
Fall, 1980

Institution	Black		White		Total
	#	%	#	%	#
Auburn - Main Campus	0	0.0	456	99.3	459
U. of Alabama - Main Campus	14	2.5	546	97.5	560
U. of Alabama - Birmingham	62	5.8	991	92.8	1068
U. of Alabama - Huntsville	3	3.5	82	95.3	86
U. of South Alabama	0	0.0	272	100	272
TOTALS	79	3.2	2347	96.0	2445

SOURCE: HEGIS data.



## ATTACHMENT D

FULL-TIME FACULTY  
Fall, 1979

Institution	Black		Non-Black		Total
	#	%	#	%	#
Athens State	3	7.5	37	92.5	40
Auburn - Main Campus	7	0.7	991	99.3	998
Auburn - Montgomery	7	5.1	129	94.9	136
Jacksonville State	5	1.9	257	98.1	262
Livingston	1	1.6	61	98.4	62
Troy State - Main Campus	6	2.9	204	97.1	210
Troy State - Dothan	*	*	(44)	*	*
Troy State - Montgomery	1	2.9	34	97.1	35
U. of Alabama - Main Campus	20	2.4	796	97.6	816
U. of Alabama - Birmingham	35	2.9	1164	97.1	1199
U. of Alabama - Huntsville	2	1.2	162	98.8	164
U. of Montevallo	0	0	146	100	146
U. of North Alabama	3	1.5	193	98.5	196
U. of South Alabama	18	4.1	426	95.9	444
TOTALS, TWI'S	108	2.3	4600	97.7	4708
Alabama A&M	166	66.4	84	33.6	250
Alabama State	120	69.0	54	31.0	174
TOTALS, TBI'S	286	67.4	138	32.6	424
GRAND TOTALS	394	7.7	4738	92.3	5132

Source: EEO-6 Reports for academic year 1979-80

\*Not available

\*\*Not included in totals

The JS-44 Civil Cover Sheet and the Form 110 (continued) must be filed with the complaint and service of pleadings or other papers as required by law, except as provided by local rules of court. The form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (For more detailed instructions, see separate instruction sheet.)

PLAINTIFFS

United States of America

DEFENDANTS

The State of Alabama, et al

COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

01/01 001

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) See Comments

ATTORNEYS (IF KNOWN) CV83 C 1676S

(PLACE AN X IN ONE BOX ONLY) BASIS OF JURISDICTION 1 U.S. PLAINTIFF 2 U.S. DEFENDANT 3 FEDERAL QUESTION 4 DIVERSITY IF DIVERSITY, INDICATE CITIZENSHIP ON REVERSE. (28 USC 1332, 1441)

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE) 42 U.S.C. §2000d-1 and 28 U.S.C. §1345, School desegregation

(PLACE AN X IN ONE BOX ONLY) NATURE OF SUIT

Table with columns: CONTRACT, REAL PROPERTY, TORTS, PERSONAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, ACTIONS UNDER STATUTES (BANKRUPTCY, SOCIAL SECURITY, TAX SUITS, OTHER STATUTES), OTHER STATUTES Cont.

(PLACE AN X IN ONE BOX ONLY) ORIGIN 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment