

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION
)	NO. _____
)	
MOBILE COUNTY BOARD OF SCHOOL COMMIS-)	
SIONERS; CHARLES E. McNEIL, President,)	
and ARTHUR F. SMITH, JR., WILLIAM B. CRANE,)	
JACK C. GALLALEE and KENNETH W. REED,)	
Members of the Mobile County Board of)	
School Commissioners; and CRANFORD H. BURNS,)	COMPLAINT
Superintendent of Education of Mobile County,)	
)	
Defendants.)	
)	

The United States, as a claim against the Mobile County Board of School Commissioners, Charles E. McNeil, Arthur F. Smith, Jr., William B. Crane, Jack C. Gallalee, Kenneth W. Reed and Cranford H. Burns, alleges:

1. This is an action to protect the interest of the United States that members and civilian employees of its Armed Forces and its governmental units and their dependents be not unconstitutionally discriminated against on account of race or color in the use and enjoyment of educational facilities which have been built or are being maintained and operated with the use of funds of the United States under the provisions of P.L. 815 and P.L. 874, 81st Congress

(Chapters 13 and 19 of Title 20, U.S.C.), with the resultant detriment to their service and morale.

2. This Court has jurisdiction of this action under Sections 1343 and 1345 of Title 28, United States Code.

3. The State of Alabama maintains a statewide system of free public schools.

4. The Mobile County Board of School Commissioners (hereafter referred to as the Board) is vested under Alabama law with the general administration and supervision of the public schools of Mobile County. The Board is composed of five members. Its principal office is in the City of Mobile.

5. Charles E. McNeil is President of the Board and Arthur F. Smith, Jr., William B. Crane, Jack C. Gallalee and Kenneth W. Reed are members of the Board. Each resides in Mobile County, Alabama.

6. Cranford H. Burns is the Superintendent of Education of Mobile County and as such is the chief executive officer of the Board. He resides in Mobile County.

7. The plaintiff maintains Brookley Air Force Base in Mobile County, Alabama, as a part of its national defense establishment, and also maintains a United States Coast Guard station, the Dauphin Island Air Force Station, Bates Field, a Court and Customs House and an office of the Corps of Engineers in Mobile County, Alabama.

8. Brookley Air Force Base is the headquarters of the Mobile Air Materiel Area, an Air Materiel Command. The mission of the Mobile Air Materiel Area is to perform assigned supply, transportation, maintenance, procurement and material management functions in support of the United States Air Force. Also based at Brookley Air Force

Base are Detachment 1 of the 15th Weather Squadron, the 1919th Communications Squadron, Detachment 58 of the Eastern Air Rescue Center, the headquarters of the Eastern Ground Electronics Engineering - Installation Agency, the 2863rd Ground Electronics Engineering - Installation Agency Squadron, Detachment 802 of the Office of Special Investigations, the 4440th Aircraft Delivery Group, an Auditor General Resident Office, and the 357th Troop Carrier Squadron.

9. Brookley Air Force Base is located on property owned by the plaintiff within the city limits of Mobile. Mobile, located in Mobile County, has a population of approximately 218,000 persons. Mobile County has a population of approximately 330,000 persons.

10. There are approximately 987 military personnel stationed at Brookley Air Force Base and approximately 15,441 civilians employed by the plaintiff at Brookley Air Force Base.

11. The plaintiff has constructed and assisted in the construction of 200 family housing units located on Brookley Air Force Base. These units, which are owned and maintained by the plaintiff, have been constructed so that servicemen who are stationed at these bases may live together with their families. Of these housing units, 149 have been constructed under the provisions of Title VIII of the National Housing Act, as in effect prior to August 11, 1955, (Wherry Act, 12 U.S.C. 1702 et. seq. and 1748 et. seq.), and 51 have been constructed from funds appropriated by Congress for the Department of Defense.

12. The plaintiff does not operate any educational facilities in Mobile County for the education of school-age dependents of members and civilian employees of its Armed Services stationed or employed at Brookley Air Force Base or at the governmental units referred to in Paragraph 7.

13. The Board maintains and operates approximately 89 public schools for the education of children residing within Mobile County, including dependents of members and civilian employees of the plaintiff's Armed Services and other governmental units. Approximately 46 of these schools are within the city limits of Mobile and approximately 43 of these schools are outside of the city limits of Mobile but within Mobile County. These schools include those hereinafter described in paragraphs 16 through 30.

14. Under the provisions of Chapter 13 of Title 20 of the United States Code, the Commissioner of Education has approved and the plaintiff has paid to the Board during the period from 1951 to the present time a total of \$6,821,122 for the maintenance and operation of its schools. These grants were approved and the payments made on account of the Board providing public education for the dependents of the military personnel and civilian employees of the plaintiff, and the proceeds have been used by the Board to defray the general cost of maintaining and operating its public schools. A tabulation of the grants paid and the number of dependents on whose account they were paid, for each year since 1951, is set forth in Appendix A to this complaint.

15. Under the provisions of Chapter 19 of Title 20, United States Code, the United States Commissioner of Education has approved and the plaintiff has paid or

agreed to pay grants in the total amount of \$5,041,618.56 during the period from 1950 to the present time for the construction and improvement of the schools under the operating jurisdiction of the Board. A tabulation of the funds paid by the plaintiff to the Board on individual construction projects appears as Appendix B to this complaint.

16. Sidney Phillips Junior High School is located at 3255 Old Shell Road in Mobile. Its construction, consisting of twenty eight classrooms, two science rooms with storage rooms, home arts and craft shop, office suite and lobby, library with work and conference room, toilets and first-aid room, covered passages, all purpose room, band room, band practice room and office, kitchen and storage rooms, boiler room, auditorium-gymnasium with stage, boys' and girls' dressing rooms, toilets and showers, offices, storage rooms, foyer and entrance area, covered walkways, paved walk and drives, was completed on November 23, 1954, at a total cost of \$654,845.09. Of this total cost of construction, the plaintiff has paid \$378,745.00 to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

17. The construction of an elementary school on Azalea Road in Mobile, consisting of twelve classrooms, library, offices, clinic, storage rooms, multi-purpose room with kitchen, toilets, boiler room and septic tank, was completed on May 24, 1954, at a total cost of \$216,198.48.

Of this total cost of construction, the plaintiff has paid \$168,147.00 to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

18. Mattie T. Blount elementary-junior-senior high school is located on Engine Street in Prichard, Alabama. Its construction, consisting of twenty two classrooms, library, lobby and office suite, multi-purpose room with kitchen, storage rooms, toilets and boiler room, was completed on May 18, 1954, at a total cost of \$338,755.04. Of this total cost of construction, the plaintiff has paid \$93,984.00 to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code. An addition to Mattie T. Blount elementary-junior-senior high school, consisting of twelve classrooms, auditorium, gymnasium with stage, locker and shower rooms, offices, covered walks and auxiliary facilities, was completed on May 22, 1956, at a total cost of \$364,423.24. Of this total cost of construction, the plaintiff has paid \$317,650.00 to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code. A further addition to Mattie T. Blount elementary-junior-senior high school, consisting of sixteen classrooms, two special education rooms, two biology rooms, chemistry room, physics room, food laboratory and clothes laboratory, library with related areas, teachers' lounge, corridors, storage rooms, janitor's room, boiler room, boys' dressing room and shower and drying rooms with locker area, an administration

building, a shop building, a music building, and the renovation of two existing buildings, is currently under construction. The total cost of this addition is estimated at \$1,150,000.00 of which the plaintiff has agreed to pay \$794,580.00 and has paid to date \$715,122.00 to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

19. Mamie Patrick elementary school is located on Stanton Road in Mobile. Its construction, consisting of eleven classrooms, library, clinic, lobby and office suite, multi-purpose room with stage and kitchen, storage rooms, toilets and boiler room, was completed on May 4, 1954, at a total cost of \$197,173.16. Of this total cost of construction, the plaintiff has paid \$168,147.00 to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

20. Gorgas elementary school is located on 2261 St. Stephens Road in Mobile. Its construction, consisting of twenty four classrooms, library with work room, clinic, administrative offices, audio-visual room, home economics room, two science classrooms, music and band rooms, two shop rooms and plan room, lunchroom with kitchen and storage, auditorium-gymnasium with stage, dressing rooms, offices and shower rooms, locker rooms and toilets, boiler room and walks, drives and parking area, was completed on July 15, 1954, at a total cost of \$603,804.37. Of this total cost of construction, the plaintiff has paid \$554,299.00 to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

21. Satsuma elementary-junior-senior high school is located in Satsuma, Alabama. An addition to Satsuma elementary-junior-senior high school, consisting of eight classrooms, multi-purpose room with stage and kitchen and connecting corridors, was completed on November 3, 1953, at a total cost of \$99,982.51. Of this total cost of construction, the plaintiff has paid \$99,152.00 to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code. A further addition to Satsuma elementary-junior-senior high school, consisting of three classrooms, science room, library with conference room and workroom, home arts room, shop, auditorium-gymnasium, stage, locker and shower rooms, office suite, clinic, boiler room, covered walks, auxiliary facilities, septic tank and field, and drainage, was completed on January 16, 1956, at a total cost of \$300,188.47. Of this total cost of construction, the plaintiff has paid \$290,000.00 to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

22. Semmes elementary-junior-senior high school is located in Semmes, Alabama. An addition to Semmes elementary-junior-senior high school, consisting of four classrooms, multi-purpose room, storage room, kitchen, toilets, corridor and coal bunker addition to existing boiler room, was completed on June 15, 1954, at a total cost of \$119,439.92. Of this total cost of construction, the plaintiff has paid \$80,030.00 to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

23. Mae Banes junior high school is located on Hurtel Street in Mobile, approximately 1 1/2 miles from Brookley Air Force Base. Its construction, consisting of fifteen classrooms, multi-purpose room with kitchen, stage and storage, library room, offices, teachers' lounge, clinic, toilets, boiler room and storage room, covered walkways and porches, was completed on July 23, 1953, at a total cost of \$214,880.01. Of this total cost of construction, the plaintiff has paid \$200,922.00 to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

24. Kenley J. Clark junior high school is located in Chickasaw, Alabama. Its construction, consisting of thirty-seven classrooms, three science rooms, two home economics rooms, audio-visual classroom, band and music rooms, general shop area, auditorium-gymnasium with stage, dressing rooms, showers, offices, cafeteria and kitchen, library, stack room, lounge, covered walks, auxiliary rooms and boiler room, was completed on October 22, 1954, at a total cost of \$755,345.63. The plaintiff has paid the entire cost of this construction to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

25. Theodore elementary-junior-senior high school is located in Theodore, Alabama. An addition to Theodore elementary-junior-senior high school, consisting of twelve classrooms, library, two storage rooms, office, clinic, conference room, central corridors, foyer, entrance porch and service rooms, and a covered walkway, was completed on March 22, 1954, at a total cost of \$215,146.80. Of this total cost of construction, the plaintiff has paid \$73,203.00

to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

26. Rosa A. Lott elementary-junior-senior high school is located in Citronelle, Alabama. An addition to Rosa A. Lott elementary-junior-senior high school, consisting of one regular classroom, library with work space, office suite, science and home arts room with storage, multipurpose room with stage, girls' and boys' locker rooms, general shop, boiler room with coal bunker and janitor's room, girls' and boys' toilets, corridor, covered passage and septic tank and disposal field, was completed on June 11, 1954, at a total cost of \$239,802.43. Of this total cost of construction, the plaintiff has paid \$105,774.00 to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

27. St. Elmo junior-senior high school is located in St. Elmo, Alabama. An addition to St. Elmo junior-senior high school, consisting of library with conference room and workrooms, one standard classroom, science room, combination hand shop and agriculture classroom, home economics department, auditorium-gymnasium with stage and service rooms, principal's office and reception room, toilet and lavatory, foyer and covered entry, boiler room with coal storage, covered walkway and heating system for existing building, was completed on July 1, 1954, at a total cost of \$188,220.27. Of this total cost of construction, the plaintiff has paid \$175,812.00 to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

28. Toulminville junior high school is located at 2261 St. Stephens Road in Mobile. Its construction, consisting of eight classrooms, one physical education classroom, one home arts room, one shop, two science laboratories, one music room, multi-purpose room with folding stage and kitchen, auditorium-gymnasium with stage, locker rooms, clinic, office suite, boiler room and auxiliary rooms, was completed on January 16, 1956, at a total cost of \$419,231.62. The plaintiff has paid the entire cost of this construction to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

29. Dunbar junior high school is located on 500 St. Anthony Street in Mobile. An addition to Dunbar junior high school, consisting of twelve classrooms, connecting walks, auxiliary facilities, additional electrical services and a new boiler, was completed on November 2, 1955, at a total cost of \$120,673.26. The plaintiff has paid the entire cost of this construction to the defendant Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

30. Adalia Williams elementary school is located on Military Road in Mobile. Its construction, consisting of twelve classrooms, office suite, clinic, library, multi-purpose room with kitchen, teachers' room, boiler room, covered entrance and walkway, septic tank with pump and disposal field, and auxiliary facilities, was completed on April 24, 1956, at a total cost of \$274,706.69. Of this total cost of construction, the plaintiff has paid \$245,923.05 to the defendant Board under a grant applied for by the

Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

31. In connection with each of its applications for a grant under Chapter 19 of Title 20, United States Code, as referred to in paragraphs 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30, the Board gave written assurance, as required by 20 U.S.C. 636, that the school facilities of the Board "will be available to the children for whose education contributions are provided ... on the same terms, in accordance with the laws of the state in which applicant is situated, as they are available to other children in applicant's school district."

32. The military personnel and civilian employees of the plaintiff stationed or employed at Brookley Air Force Base and other installations of the plaintiff, in Mobile County, include persons of both the white and Negro races. The school-age dependents of such personnel and employees include children of both the white and Negro races.

33. It is the policy and practice of the defendants, in operating the public schools under their jurisdiction, to segregate Negro students in separate schools maintained and operated solely for students who are of the Negro race.

34. The defendants have operated and are presently operating approximately 60 public schools in the City of Mobile and in Mobile County for the education of white children exclusively. The defendants have operated and are presently operating approximately 29 public schools in the City of Mobile and in Mobile County for the education of Negro children exclusively.

35. By reason of the policy and practice of the defendants to assign students to schools according to their race, all Negro school-age dependents of military personnel and civilian employees of the plaintiff stationed or employed at Brookley Air Force Base and other installations of the plaintiff and residing within Mobile County, are compelled to attend schools operated exclusively for members of the Negro race and are not permitted to attend schools available to white children similarly situated.

36. Approximately 14,251 children of military personnel and civilians stationed or employed at Brookley Air Force Base and at other installations operated by the plaintiff, attend the public schools operated by the Board. These children include members of the white and Negro races.

37. The defendants have failed and are now failing to make the public school facilities under their jurisdiction available to Negro dependents of military personnel and civilian employees of the plaintiff upon the same terms as such facilities are available to white children.

38. The Board has failed and is now failing and refusing to perform each of its assurances referred to and described in paragraph 31.

39. The acts and conduct of the defendants herein alleged violate the Fourteenth Amendment to the Constitution.

40. The defendants will, unless restrained by order of this Court, continue unconstitutionally to segregate dependents of military personnel and civilian employees of the plaintiff according to race in the public schools operated by the defendants, thereby violating the written assurances described in paragraph 31 and causing irreparable injury to the plaintiff, consisting of impairment of the service and morale of its military and civilian personnel and the separation of servicemen from their

families when the servicemen send their children to schools outside the area of the military installation at which they are stationed in order to avoid subjecting the children to racial discrimination in the children's education.

41. The plaintiff has no adequate remedy at law.

WHEREFORE, plaintiff prays that this Court enter an order enjoining the defendants, their successors in office, agents, employees, and all persons in active concert or participation with them, from segregating or discriminating against, among or between, upon the basis of their race or color, any dependents of military personnel or civilian employees of the plaintiff in the operation of the public schools of Mobile County, together with such additional relief as may be appropriate.

UNITED STATES OF AMERICA,
Plaintiff

By:

BURKE MARSHALL
Assistant Attorney General

VERNOL R. JANSEN, Jr.
United States Attorney

ST. JOHN BARRETT, Attorney
Department of Justice

DAVID H. MARLIN, Attorney
Department of Justice

Appendix A

FEDERAL PAYMENTS MADE TO MOBILE COUNTY BOARD OF SCHOOL COMMISSIONERS, ALABAMA,
FOR CURRENT OPERATING EXPENSES OF SCHOOLS UNDER PUBLIC LAW 874 AND THE
NUMBER OF FEDERALLY CONNECTED CHILDREN BY CATEGORY COUNTED FOR
PAYMENT FOR EACH FISCAL YEAR 1951 THROUGH 1962

Fiscal Year	Number of Children Counted for Payment			Federal Payment
	"A" Category 1/ (1)	"B" Category 2/ (2)	"E" Category 3/ (3)	
1951	--	5,354	--	\$ 82,759
1952	--	6,241	982	203,831
1953	--	8,398	1,051	303,702
1954	--	9,380	887	360,024
1955	--	9,427	--	285,603
1956	--	8,282	--	268,540
1957	--	9,293	--	620,510
1958	--	9,139	--	689,363
1959	199	10,891	--	838,748
1960	100	11,560	--	958,227
1961	82	12,344	--	1,060,301
1962	138	12,515	--	1,149,514
Total	519	112,824	2,920	\$6,821,122

- 1/ These are children who live on Federal property with a parent employed on Federal property.
2/ These are children who either live on Federal property with a parent employed on private property or live on private property with a parent employed on Federal property, but not both.
3/ These are children for whom entitlement was increased by the amount of State aid for which the school district was not yet eligible (State aid lag). This provision was eliminated by Public Law 248, effective July 1, 1954.

Appendix B

SCHOOL CONSTRUCTION PROJECTS APPROVED UNDER PUBLIC LAW 815 FOR BOARD OF SCHOOL COMMISSIONERS OF MOBILE COUNTY, MOBILE, ALABAMA, INCLUDING APPLICATION PERIODS, PROJECT NUMBERS, DATES OF PROJECT APPROVAL, FEDERAL AND LOCAL FUNDS APPROPRIATED AND TOTAL PROJECT COSTS FOR THE PERIOD FISCAL 1951 THROUGH 1962

Application Period	Project Number	Date Project Approved	Federal Funds	Local Funds	Total Cost
(1)	(2)	(3)	(4)	(5)	(6)
1950-52	51-C-16A	March 10, 1953	\$ 378,745.00	\$ 276,100.09	\$ 654,845.09
1950-52	51-C-16B	December 2, 1952	168,147.00	48,051.48	216,198.48
1950-52	51-C-16C	December 2, 1952	93,984.00	244,771.04	338,755.04
1950-52	51-C-16D	December 2, 1952	168,147.00	29,026.16	197,173.16
1950-52	51-C-16E	December 2, 1952	554,299.00	49,505.37	603,804.37
1950-52	51-C-16F	December 2, 1952	99,152.00	830.51	99,982.51
1950-52	51-C-16G	April 14, 1953	80,030.00	39,409.92	119,439.92
1950-52	51-C-16H	April 24, 1952	200,922.00	13,958.01	214,880.01
1950-52	51-C-16I	December 2, 1952	755,345.63	--	755,345.63
1950-52	51-C-16J	April 14, 1953	73,203.00	141,943.80	215,146.80
1950-52	51-C-16K	April 14, 1953	105,774.00	134,028.43	239,802.43
1950-52	51-C-16L	April 16, 1953	175,812.00	12,408.27	188,220.27
1952-54	54-C-16AA	October 19, 1954	419,231.62	--	419,231.62
1952-54	54-C-16BB	August 25, 1954	290,000.00	10,188.47	300,188.47
1952-54	54-C-16CC	August 25, 1954	120,673.26	--	120,673.26
1952-54	54-C-16DD	November 1, 1954	317,650.00	46,773.24	364,423.24
1952-54	54-C-16EE	May 4, 1955	245,923.05	28,783.64	274,706.69
1958-60	*60-C-16A10	May 5, 1961	794,580.00	355,420.00	1,150,000.00
Total			\$5,041,618.56	\$1,431,198.43	\$6,472,816.99

* Under construction.