

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 THE BOARD OF PUBLIC INSTRUCTION)
 OF BAY COUNTY, FLORIDA; CHARLES) CIVIL ACTION NO. 569
 COLLINS, President, and BUDDY)
 McLEMORE, T. P. HANEY, JAMES M.)
 MOWAT, CRAWFORD MOSLEY, Members)
 of the Board of Public Instruction of Bay)
 County, Florida; and EARL COCHRAN,)
 Superintendent of Public Instruction of)
 Bay County, Florida,)
)
 Defendants.)

MOTION TO DISMISS

Defendants, The Board of Public Instruction of Bay County, Florida; Charles Collins, President, and Buddy McLemore, T. P. Haney, James M. Mowat, Crawford Mosely, members of the Board of Public Instruction of Bay County, Florida; and Earl Cochran, Superintendent of Public Instruction of Bay County, Florida, move the Court to dismiss this action for the following reasons:

I.

The Complaint fails to state a case against these Defendants upon which relief can be granted.

II.

The Attorney General, the United States Attorney for the Northern District of Florida and the attorneys for the Department of Justice who presume to execute the Complaint on behalf of United States of America have not shown their authority by Congressional Action or otherwise to bring this suit, and, absent such authority, it cannot be maintained, as a matter of law.

III.

The Complaint and relief sought therein are founded upon the alleged violation by these Defendants of the equal protection of the laws clause of the Fourteenth Amendment of the Constitution of the United States and such rights

as may exist thereunder are assertable only by those individuals adversely affected by such violation and not by the United States of America.

IV.

Lack of jurisdiction.

LOGUE & BENNETT
317 Magnolia Avenue
Panama City, Florida
Attorneys for all Defendants

By: _____
Julian Bennett

CERTIFICATE

I certify that the foregoing Motion to Dismiss was served upon the Plaintiff by depositing in the United States Mail, postage prepaid, a copy thereof addressed to each of its counsel of record as shown on the Complaint, this 6th day of November, 1963.

Julian Bennett