

439 F.2d 261

United States Court of Appeals, Fifth Circuit.

Robert E. QUARLES et al., Plaintiffs-Appellants,  
v.

OXFORD MUNICIPAL SEPARATE SCHOOL  
DISTRICT et al., Defendants-Appellees.

No. 30376 Summary Calendar.\*

|  
Feb. 24, 1971.

Proceeding on motion for preliminary injunction to prohibit school district from failing to consider movant's application for bus driver. The United States District Court for the Northern District of Mississippi, William C. Keady, Chief Judge, denied the motion, and appeal was taken. The Court of Appeals held that trial court did not abuse its discretion in denying the motion where review of record indicated that movant's application was considered and another chosen, and there was no proof requiring trial court to hold that school board discriminated against movant because of his wife's civil rights activity.

Affirmed.

#### Attorneys and Law Firms

\*261 Kent Spriggs, Oxford, Miss., John C. Brittain, Jr., Oxford, Miss., on brief, for plaintiffs-appellants.

T. H. Freeland, III, F. Edwin Perry, Oxford, Miss., for defendants-appellees.

Before JOHN R. BROWN, Chief Judge, INGRAHAM and RONEY, Circuit Judges.

#### Footnotes

\* [1] Rule 18, 5th Cir.; See Isbell Enterprises, Inc. v. Citizens Casualty Co. of New York et al., 431 F.2d 409, Part I (5th Cir. 1970).

#### Opinion

PER CURIAM:

The District Court denied a motion for a preliminary injunction brought to \*262 prohibit defendants from failing to consider Linder Burt's application for bus driver.

Although brought under Section 1291, jurisdiction properly lies under Section 1292(a)(1) and as such we will consider this appeal.

Linder Burt was disappointed in not being hired as a bus driver, but he was continued under his employment of some 15 years as an assistant. Although the primary suit here is a school desegregation case, this peripheral case is not racial, both the hired and the unhired being black citizens. The sole question is whether the school board discriminated against him because of his wife's civil rights activity.

[2] A review of the record indicates that his application was considered. Another was chosen. There was no proof requiring the trial court to hold that any civil right of Linder Burt's was violated and the court did not abuse its discretion in denying interim injunctive relief.

Affirmed.

#### All Citations

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