

March 20, 1968

To: Mr. Owen

Re: Appeal in U.S. v. Hinds County
School Board, et al.

I think the brief is basically O.K. The issues are rather simple and the discussion rather long; but I don't think that would justify any significant revision at this stage.

Here are some specific comments:

- (1) The brief needs a table of cases and appendix.
- (2) Footnote 5 is unnecessary in the extreme.
- (3) The opening sentence of the argument could be modified to emphasize that the model decree in Jefferson County is to set the minimum standards that should apply uniform throughout the Circuit, absent a showing of exceptional circumstances.
- (4) I think the whole problem or not giving duplicate forms to third persons unless authorized in writing by a parent becomes frivolous once we get to the paragraph in the decree requiring the school board to honor choices on unofficial forms.
- (5) The sentence beginning on page 15 with the word "Moreover" only becomes clear if it is remembered that report forms indicating race are required after the opening of school. Maybe a short sentence making that point could be inserted there.

(6) To be on the safe side, it may be appropriate to have a footnote giving some of the cases in schools, voting and juries, stressing the importance of racial reporting.

(7) In the next to the last sentence on page 17 I would omit the words "and the United States".

(8) The conclusion should be sharpened somewhat. First, we should remind the court what we are seeking is a summary reversal. Secondly, we should not ask the court of appeals to remand to the district court with directions to enter the Jefferson County decree, instead we are asking that only three specific paragraphs, II(g), II(j), and IX(1), be modified so as to bring them into conformity with the privilege provision in the model decree.

(9) Am I correct in assuming that the injunction pending appeal takes care of the unofficial choice form problem and duplicate choice form problem for the present choice period which will have expired by the time this brief is filed? If so, that might be mentioned in the brief at some point.

Owen Fiss