

CIVIL DOCKET

No. 606-CIVIL
WASHINGTON DIVISION

UNITED STATES DISTRICT COURT

Copy to Judge Linder 1-17-72

Jury demand date:

D. C. Form No. 106 Rev.

TITLE OF CASE	ATTORNEYS
ALTON BOOMER, et al.,	For plaintiff:
vs.	Conrad O Pearson
THE BEAUFORT COUNTY BOARD OF	203 1/2 E. Chapel Hill St.
EDUCATION, a public body corporate,	Durham, North Carolina
V.	J. LeVonne Chambers
THE NORTH CAROLINA TEACHERS	XXXXXXXXXXXX 216 West Tenth St.
ASSOCIATION, a coproporation,	Charlotte, N. C. 28202
Intervenor,	Jack Greenberg
	Derrick A. Bell, Jr.
	10 Columbus Circle
	New York, New York
	For defendant:
	L. H. Ross
	Washington, North Carolina
	Mr. Irvin B. Tucker, Jr.
	Wachovia Bank Bldg., P. O. Box 1565
	Raleigh, N. C. 27602
	Mr. William P. Mayo
	Washington, N. C. 27889
	Lee Knott, Jr.
	P. O. Box 548 714
	Washington, N. C. 27889

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed	Clerk	2/28/66	59450	15 00	
J.S. 6 mailed	Marshal	2-25-66	C.D. # 18		15.00
		8-12-68	78255	5.00	Notice of appeal
Basis of Action:	Docket fee	8-29-68	C.D. # 4		5.00
Civil Rights	Witness fees				
Action arose at:	Depositions				
Beaufort County					

DATE	PROCEEDINGS	Date Order or Judgment Noted
	2	
2/24/66	Fil. & Ent. COMPLAINT; /copy; 2 cc for service. 1cc to Atty, Pearson.	
2/24/66	Fil. & Ent. COSTS BOND; 2 copies.	
2/24/66	Issued SUMMONS; Orig. & copy to U. S. Marshal for service.	
2/24/66	Fil. & Ent. PETITION FOR APPOINTMENT AS NEXT FRIEND; 2 copies.	
2/24/66	Fil. & Ent. MOTION FOR PRELIMINARY INJUNCTION and BRIEF in support thereof; 2 copies. 1 c to Atty, Pearson; 1 c to Judge Larkins; 2cc for service.	
3/2/66	Fil. & Ent. JUDGMENT appointing guardians and parents of the said minors as next Friends in this action; J. Larkins, Civil O B # 3 P 854	
3/4/66	Fil. & Ent. MARSHAL'S return on Summons: On 2/28/66 I executed the within writ by personally service L. H. Ross, Attorney for the Beaufort County Board of Education at Washington, N. C.	
3/16/66	Fil. & Ent. MOTION FOR EXTENSION OF TIME TO FILE ANSWER OR OTHER PLEADINGS TO MOTION FOR PRELIMINARY INJUNCTION: copy.	
3/16/66	Fil. & Ent. MOTION FOR EXTENSION OF TIME TO FILE ANSWER OR OTHER PLEADINGS: copy.	
3/16/66	Fil. & Ent. ORDER extending time to file answer to Preliminary Injunction until April 20, 1966: J. LARKINS, O B # 3 P 870.	
3/16/66	Fil. & Ent. ORDER extending time to file answer to complaint until April 20, 1966: J. LARKINS, O B # 3 P 869.	
3/28/66	Fil. & Ent. INTERROGATORIES prounded by Pliffs., with Certificate.; copy.	
4/8/66	Fil. & Ent. ANSWER TO INTERROGATORIES: copy.	
4/19/66	Fil. & Ent. ANSWER; with Certificate; copy.	
4/19/66	Fil. & Ent. REPLY TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION: copy. with certificate.	
4/19/66	Fil. & Ent. BRIEF IN SUPPORT OF DEFENDANT'S REPLY TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION; with copy; with certificate attached.	
7/20/66	Fil. & Ent. DEPOSITION OF W.F. VEASEY.	
9/16/66	Fil. & Ent. MOTION FOR LEAVE TO AMEND TO ADD ADDITIONAL PARTIES-DEFENDANT; Clerk's copy mailed to J. Larkins.	
10/10/66	Fil. & Ent. AMENDMENT TO MOTION FOR LEAVE TO AMEND COMPLAINT TO ADD ADDITIONAL PARTIES-DEFENDANT: copy.	
11/8/66	Fil. & Ent. MOTION FOR ORDER allowing their Motion for Leave to Amend Complaint: (Clerk's copy mailed to J. Larkins, with proposed order).	
1/3/66	Fil. & Ent. ORDER, Granting motion of plaintiffs for leave to amend Complaint to add additional parties-defendant: J. LARKINS. 1cc to Mr. Mayo, Atty, Washington N. C. Civil O B # 3 P 926	
2/27/67	Fil. & Ent. MOTION TO INTERVENE OR IN THE ALTERNATIVE FOR LEAVE TO BE ADDED AS A PARTY-PLAINTIFF: Copy.	
2/27/67	Fil. & Ent. BRIEF IN SUPPORT OF MOTION TO INTERVENE; copy.	
2/27/67	Fil. & Ent. COMPLAINT IN INTERVENTION; copy.	
3/14/67	Fil. & Ent. REPLY TO THE MOTION OF THE NORTH CAROLINA TEACHERS ASSOCIATION, A CORPORATION, TO INTERVENE OR IN THE ALTERNATIVE FOR LEAVE TO BE ADDED AS A PARTY-PLAINTIFF; copy, with Certificate of service attached.	
3/14/67	Fil. & Ent. BRIEF in support of Defendant's Reply to the Motion of the North Carolina Teachers Association, a coproration, to intervene or in the alternative for leave to be added as a party-plaintiff; copy., with certificate of service attached.	
5/31/67	Fil. & Ent. NOTICE, that on June 19th and 20th, 1967, at 9:30 a. m. in the U. S. Post Office Bldg., Washington, N. C., Pliffs. will take depositions of D. C. Edmiston, Aurora, N. C., et al.; copy. w/certificate.	
6/12/67	Issued DEPOSITION SUBPOENAS TO TESTIFY, on behalf of Plaintiffs, on June 19 & 20, 1967, at Washington, N. C., to Tollie Smallwood, Andrew J. Blount, Alton Mills, Aurora, N. C.; Joe Cordon, Ida Harrington, Walter Davis, Jr., William Mansell Thomas, Curtis Windley, Bath, N. C.; Hazel M. Bishop, Rupert Norfleet, Jr., Edward Windley, Otley Leary, Myron Elliott, Delmar L. Keech, Joe M. Hudson, Dave Stterthwarte, Belhaven, N. C.; Benjamin Hollowell, Issac Johnson, Blounts	

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ALTON BOOMER, et al., v. The Beaufort County Board of EDUCATION. No. 606-Civil - Washington Div.

D. C. 110 Rev. Civil Docket Continuation

FPI ATLANTA-12-16-55-5M-3774

DATE	PROCEEDINGS	Date Order or Judgment Noted
	Creek, N. C.; Max Jones, Otha Smith, Marvin Mills, H. M. Harwell, Chocowinity, N. C.; Lindwood Cayton, Edward, N. C.; Leroy Martin, Leechville, N. C.; John T. Slade, Kirt Harris, T. C. Harris, Jr., Leamon Allen, David C. Lee, Jr., Pantego, N. C.; Gordon Boyd, Gladius Peel, Allen Bateman, Joe Bland, Octavius Wallace, Louis Pittman, Phillips Waters, Pinetown, N. C.; Bruce Allcox, Vanceboro, N. C.; C. F. Wallace, Jr., Washington, N. C.; Orig. & copy of each subpoena, with check attached, mailed to U. S. Marshal for service.	
6/20/67	<p>Fil. & ent. MARSHAL'S RETURN ON DEPOSITION SUBPOENAS - exec. on 6/13/67 as follows:</p> <p>Personal service on JOE CORDON at RFD 1, Bath, N. C.</p> <p>Personal service on IDA HARRINGTON at RFD, Bath, N. C.</p> <p>Personal service on WILLIAM M. THOMAS at RFD 1, Bath, N. C.</p> <p>Personal service on WALTER DAVIS, JR. at RFD 1, Bath, N. C.</p> <p>Served JOHN T. SLADE at RFD 1, Pantego, N. C. by leaving copy with wife.</p> <p>Personal service on LEROY MARTIN at RFD, Leechville, N. C.</p> <p>Served Rev. Kirk Harris at RFD 1, Pantego, N. C. by leaving copy with wife.</p> <p>Served Curtis Windley at RFD 1, Bath, N. C. by leaving copy with wife.</p> <p>Served Edward Windley at RFD, Belhaven, N. C. by leaving copy with wife.</p> <p>Personal service on Delmar Keech at RFD 1, Pinetown, N. C.</p> <p>Personal service on Leamon Allen at RFD 1, Pantego, N. C.</p> <p>Personal service on T. C. Harris, Jr. at RFD 1, Pantego, N. C.</p> <p>Served Myron Elliott at RFD, Belhaven, N. C. by leaving copy with wife.</p> <p>Served Otley Leary at Belhaven, N. C. by XXXXXXXXXXXX leaving copy with wife.</p> <p>Personal service on Rupert Norfleet, Jr. at RFD, Belhaven, N. C.</p> <p>Personal service on Hazel M. Bishop at Belhaven, N. C.</p> <p>Personal service on David C. Lee, Jr. at Pantego, N. C.</p> <p>Personal service on Joe M. Hudson at RFD 1, Pantego, N. C.</p> <p>Personal service on Dave Satterthwarte at RFD, Belhaven, N. C.</p> <p>Personal service on Joe Bland at RFD 1, Pinetown, N. C.</p> <p>Exec. on 6/14/67 as follows:</p> <p>Served Gordon Boyd at RFD 1, Pinetown, N. C. by leaving copy with wife.</p> <p>Personal service on Linwood Cayton at Edwards, N. C.</p> <p>Personal service on Gladius Peel at Wonderland Section, Beaufort Co., N. C.</p> <p>Personal service on Otha Smith at RFD 1, Chocowinity, N. C.</p> <p>Served Marvin Mills at RFD 1, Grimesland, N. C. by leaving copy with wife.</p> <p>Served Bruce Allcox at RFD 1, Vanceboro, N. C. by leaving copy with wife.</p> <p>Served H. M. Harwell at Chocowinity, N. C. by leaving copy with wife.</p> <p>Personal service on Alton Mills at Aurora, N. C.</p> <p>Personal service on Benjamin Hollowell at RFD 1, Blounts Creek, N. C.</p> <p>Personal service on Issac Johnson at RFD, Blounts Creek, N. C.</p> <p>Served Andrew J. Blount at RFD 1, Aurora, N. C. by leaving copy with wife.</p> <p>Personal service on Tolly Smallwood at Aurora, N. C.</p> <p>Personal service on Louis Pittman at RFD 1, Pinetown, N. C.</p> <p>Personal service on Phillip Waters at RFD 1, Pinetown, N. C.</p> <p>Personal service on Octavious Wallace at RFD 1, Pinetown, N. C.</p> <p>Served C. W. Wallace, Jr. at RFD 4, Washington, N. C. by leaving copy with wife.</p> <p>Served Max Jones at RFD, Chocowinity, N. C. by leaving copy with wife.</p> <p>Served Allen Bateman at RFD 1, Pinetown, N. C. by leaving copy with sister.</p>	
6/26/67	Fil. & Ent. COMPLAINT IN INTERVENTION; copy, w/certificate of service.	
6/27/67	Fil. & Ent. ORDER: (1) That the North Carolina Teachers Association; applicant for intervention allowed. (2). That the complaint in intervention heretofore filed in this cause be stricken from the record and the intervenor is allowed to and including June 30, 1967 to file complaint in intervention. (3) That no response to the complaint in intervention need be filed by defts. unless they desire to do so and the allegation in the complaint shall be deemed denied. Should the defts. desire to file answer, they shall be allowed 20 days from	

DATE	PROCEEDINGS	Date Order or Judgment Noted
	the service of the complaint: JUDGE LARKINS, Civil O B # 3 P 965 2 copies to Mr. Mayo, Atty., and 1 copy to Mr. Chambers, Atty.	
7-13-67	Fil. NOTICE of taking depositions of Rev. Booker T. Boomer, Henry Booth, Sr., Mrs. Julia Moore, Mrs. Mandy Corbett, Leon Spencer, and G. T. Swinson, at 10:00 A.M. in the U. S. Post Office Bldg., Washington, N. C. Copy. (Ent. 7-26-67)	
7-17-67	Fil. Depositions in two loose-leaf note books of the following: Benjamin Hollowell Octavius Wallace Alton Mills Louis Pittman Linwood Clayton Phillip Waters Isaac Johnson W. B. Voliva Andrew Blount Jasper Warren Tollie Smallwood W. L. Guilford Mrs. Portia Moore C. H. Wallace, Sr. J. C. Cordon Thad E. Tankard, Jr. Mrs. Ida Harrington J. Stancill Lilley Walter Davis, Jr. William Mansell Thomas all contained in Book #1 John T. Slade Gladius Peel Curtis Windley Joe Bland Rev. Kirk Harris Max Jones H. M. Harwell Bruce Allcox Marvin Mills Otha Smith LeRoy Martin David Satterthwaite Edward Windley Rupert Norfleet, Jr. Otley Leary Myron Elliott T. C. Harris, Jr. Leamon Allen Delmar L. Keech David C. Lee Jr. Joe M. Hudson Allen Bateman C. F. Wallace *****	
	BOOK #2 Wesley F. Veasey, Supt. of Beaufort Co. Schools. WITH EXHIBITS.	
8/7/67	Ent. NOTICE TO TAKE DEPOSITIONS on August 14, 1967, in the United States Post Office Building, Washington, N. C. beginning at 9:30 a. m., by Pliffs, of Tollie Smallwood, et al. (FILED: 8/3/67).; copy. w/cert.	
8/14/67	Fil. & Ent. DEPOSITIONS; in one loose-leaf note book of the following persons; Rev. Booker T. Boomer; Mandy Corbett; Carrie Booth Bell; Julia Moore; Leon Spencer; Taft Allen and G. T. Swinson; with EXHIBITS.	
8/22/67	Fil. & ent. DEPOSITIONS of TOLLIE SMALLWOOD; PORTIA MOORE; HENRY GRAHAM; DOROTHY HEMBY; JO ANN MURRAY and JAMES B. PARKER (in one bound volume).	
	(docket entries continued next page)	

DATE	PROCEEDINGS	Date Order or Judgment Noted
8/24/67	<p> Fil. & ent. ORDER (1) Commencing with the 1967-68 school year, all grades shall be desegregated and pupils assigned to schools without regard to race or color, (2) choice of schools may be made by a parent or other adult person serving as the student's parent, or by the student for the 9th or higher grade or if he has reached the age of 15 at the time of choice, (3) All students shall be required to exercise a free choice of schools annually, (4) failure to exercise a choice within the choice period shall not preclude any student from exercising a choice at any time before he commences school for the year with respect to which the choice applies, but such choice may be subordinated to the choices of students who exercised choice before the expiration of the choice period, with any student not exercising a choice within a week after school opens shall be assigned to the school nearest his home where space is available, (5) Choice forms may be returned by mail, in person, or by messenger to any school in the system or the office of the Supt., (6) choice forms need not be on official form, but may be submitted in writing which contains information sufficient to identify the student and indicates that he has made a choice, (7) In assigning students, no preference shall be given to any student for prior attendance at a school and except in extraordinary circumstances or with court approval, no choice shall be denied for any reason other than overcrowding. In the case of overcrowding, preference shall be given on the basis of proximity of the school to the homes of students choosing it, without regard to race or color. Standards for determining overcrowding shall be applied uniformly throughout the system, (8) defts. shall assign, in addition to the negro students selecting previously all-white or predominantly white schools, 100 negro students to schools in which their race is in a minority, (9) school buses shall be routed to the maximum extent feasible in light of the geographic distribution of students, so as to serve each student choosing any school in the XX system, (10) within their authority, school officials are responsible for the protection of persons exercising rights under or otherwise affected by this decree. (11) each prospective new student shall be required to exercise a choice of schools before or at the time of enrollment, (12) any students shall have the right at the beginning of the new term to transfer to any school from which he was excluded or would otherwise be excluded on account of his race or color, (13) Any student may upon written application be transferred to a school which has a course of study for special needs (14) defts. may transfer children to schools for special classes or schools that is other than freedom of choice. (14) No student shall be segregated or discriminated against on account of race or color in any service, facility, activity or program (including transportation, athletics, or other extracurricular activity) that may be conducted or sponsored by the school in which he is enrolled; all school sponsored facilities shall be open to all persons without regard to race or color. Defts. shall promote discontinuance of participation by predominantly white and predominantly negro schools in separate athletic associations and ^{encourage} discourage extracurricular activities including athletics between such schools, (15) Race or color shall not be a factor in the hiring, assignment, reassignment, promotion, demotion or dismissal of teachers and other professional staff members, except that race may be taken into account for the purpose of counteracting or correcting the effect of the segregated assignment of faculty and staff in the dual system. (16) Teachers and other professional staff members may not be discriminatorily dismissed, demoted, or passed over for retention, promotion, or rehiring on the ground of race or color. (17) On or before January 15, 1967, defts. shall present (con't. next page) </p>	

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	to the Court and counsel for plaintiffs, a plan for desegregation of the school system to govern the 1968-69 and subsequent school years. If pliffs. have objections, they should file such objections to the plan within 20 days after service of the plan upon them. Defts. shall also serve upon opposing counsel and file with the court within 30 days after opening of schools, a report showing (1) the number of students by race enrolled in each school, (2) the name, address, grade, school of choice and school of present attendance of each student who has withdrawn or requested withdrawal of his choice of school or who has transferred after the start of the school year, together with a description of any action taken by the defendant on his request and the reasons therefor, (3) the number of faculty members by race teaching at each school and (4) the number of faculty vacancies, by school, that have occurred or been filled by the deft. since the entrance of this order or the latest report. (18) THIS CAUSE SHALL BE RETAINED BY THE COURT. (LARKINS, J.) CIVIL OB #3, P.978.	
	1 cc to Atty. Mayo for the School Board.	
10/11/67	Fil. & Ent. REPORT in compliance with the order of Judge John D. Larkins, Jr., dated August 23, 1967; copy. 1c filed to Mr. Tucker.	
10/13/67	Fil. & Ent. AMENDMENT TO REPORT by the defts.; copy. w/cert. of service.	
1/15/68	Fil. and Ent. PLAN FOR DESEGREGATION OF THE SCHOOL SYSTEM FOR THE 1968-69 and SUBSEQUENT SCHOOL YEARS, copy. CERTIFICATE OF SERVICE attached.	
1/29/68	Fil. & ent. PLAINTIFFS' OBJECTIONS TO DEFENDANTS' PLAN FOR DESEGREGATION OF THE SCHOOL SYSTEM and CERTIFICATE OF SERVICE, copy. (included in the Objections is a motion for an order requiring the deft. to submit a new plan providing for geographical assignments, grade or school consolidation or both). Copy to Judge Larkins.	
5/27/68	Fil. & ent. DEPOSITIONS of GRAY HODGES and DR. JACK L. LARSEN, together in one binder.	
7/22/68	Fil. & ent. AFFIDAVIT of WESLEY F. VEASEY; copy. w/cert. of service.	
8/5/68	Fil. OPINION AND ORDER on the desegregation plan for the 1968-69 school year, defendants shall establish geographic attendance zones, as Ordered, and on or before January 1, 1969, the Board shall file a report with the Court setting forth the results of the steps taken pursuant to the Order. The Clerk serve a copy of this Opinion and Order upon all counsel of record. (J. LARKINS), ENTERED: 8/8/68. CIVIL OB # 3, P-1097: On 8/8/68, lcc mailed to Mr. Ross and Mr. Mayo, Attorneys, Washington, N. C., lcc to Mr. Tucker, Attorney, Raleigh, N. C.; lcc to Mr. Chambers, Attorney, Charlotte, N. C., and lcc to Mr. Pearson, Attorney, Durham, N. C.	
8/12/68	Filed: NOTICE OF APPEAL by defendants from the Opinion and Order filed 8/5/68; copy. 1c to J. Larkins. lcc to Mr. Chambers, Atty, w/Rule 10A&B stamped on it, (Done at Raleigh). ENTERED: 8/13/68.	
8/12/68	Filed: BOND FOR COSTS ON APPEAL; copy. (at Raleigh) Entered: 8/13/68.	
8/14/68	Fil. & ent. APPLICATION of the defendants.; copy.	
8/14/68	Fil. & ent. ORDER, the application of the defendants to stay the execution of the Opinion and Order entered August 5, 1968, pending the outcome of the appeal of defendants to the U. S. Court of Appeals for the Fourth Circuit is denied. (J. LARKINS) CIVIL OB # 3, P-1101; 5cc to Mr. Lee Knott, Jr., Attorney at Law, P. O. Box 543, Washington, N. C.	
8/19/68	Fil. & Ent. RESPONSE IN OPPOSITION TO DEFENDANTS' APPLICATION FOR STAY PENDING APPEAL; copy. w/cert. of service.	
8/21/68	Entered: FINDING OF FACT AND CONCLUSIONS OF LAW (FILED: 8/13/68 by JUDGE LARKINS in Trenton, N.C.) in support of the Order signed August 13, 1968 denying the application of the defendants for a stay of order entered on August 5, 1968: (J. LARKINS), CIVIL OB# 3, P 1104, lcc to Mr. Chambers, Attorney, Charlotte, N. C.; lcc to Mr. Tucker, Attorney, Raleigh, N. C.; lcc to Mr. Knott, Attorney, Washington, N.C.	

