

78 S.Ct. 1189
Supreme Court of the United States

John AARON et al., Petitioners,
v.
William G. COOPER et al., Members of the Board
of Directors of The Little Rock, Arkansas,
Independent School District, and Virgil T.
Blossom, Superintendent of Schools.

No. 1095.

|
Decided June 30, 1958.

Synopsis

Proceedings on application for stay of execution of order authorizing school board to suspend for specified period a plan of integration theretofore judicially approved. The District Court for the Eastern District of Arkansas, 163 F.Supp. 13, denied the application, and an appeal was taken to the Court of Appeals for the Eighth Circuit. In that court a petition for stay of the District Court's order was filed. While the case was still pending in the Court of Appeals, a petition for writ of certiorari was filed. The Supreme Court, Per Curiam, held that appeal and petition for stay of District Court's order were matters properly to be adjudicated by Court of Appeals in first instance; and held that issues and circumstances relevant to petition for certiorari did not warrant Supreme Court's exercise of its seldom-used power to bring case to Supreme Court before Court of Appeals had had opportunity to act upon petition for stay or to hear appeal.

Petition denied.

West Headnotes (1)

[1] **Federal Courts**

🔑 In general; decisions directly appealable

Appeal from District Court order, denying application for stay of execution of order authorizing school board to suspend for specified period a plan of integration theretofore judicially approved, and petition for stay of District Court's order were matters properly to be adjudicated by Court of Appeals in first

instance; and issues and circumstances relevant to petition for certiorari did not warrant Supreme Court's exercise of its seldom-used power to bring case to Supreme Court before Court of Appeals had had opportunity to act upon petition for stay or to hear appeal.

2 Cases that cite this headnote

Attorneys and Law Firms

**1190 *566 Thurgood Marshall, Wiley A. Branton, Constance Baker Motley and Jack Greenberg, for petitioners.

Opinion

PER CURIAM.

On June 21, 1958, the District Court for the Eastern District of Arkansas entered an order authorizing the members of the School Board of Little Rock, Arkansas, and the Superintendent of Schools, to suspend until January 1961 a plan of integration theretofore approved by that court in August 1956, Aaron v. Cooper, 143 F.Supp. 855, and affirmed by the Court of Appeals for the Eighth Circuit in April 1957. 243 F.2d 361. On June 23, 1958, the District Court denied an application for a stay of execution of its order. An appeal was docketed in the *567 Court of Appeals for the Eighth Circuit on June 24, 1958, and there is pending in that court an application for a stay of the District Court's order.

By the present petition this Court is asked to bring the case here before the Court of Appeals has had an opportunity to act upon the petition for a stay or to hear the appeal. The power of the Court to do so has been exercised but rarely, and the issues and circumstances relevant to the present petition do not warrant its exercise now. The order that the District Court suspended has, in different postures, been before the Court of Appeals for the Eighth Circuit three times already. Aaron v. Cooper, 243 F.2d 361; Thomason v. Cooper, 254 F.2d 808 (April 28, 1958); Faubus v. United States, 254 F.2d 797 (April 28, 1958). That court is the regular court for reviewing orders of the District Court here concerned, and

Aaron v. Cooper, 357 U.S. 566 (1958)

78 S.Ct. 1189, 2 L.Ed.2d 1544

the appeal and the petition for a stay are matters properly to be adjudicated by it in the first instance.

We have no doubt that the Court of Appeals will recognize the vital importance of the time element in this litigation, and that it will act upon the application for a stay or the appeal in ample time to permit arrangements to be made for the next school year.

Accordingly, the petition for certiorari is denied.

Petition denied. CS SUP CT 78-121

All Citations

357 U.S. 566, 78 S.Ct. 1189, 2 L.Ed.2d 1544

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