

415 F.2d 874  
United States Court of Appeals Fifth Circuit.

Linda WILLIAMS et al.,  
Plaintiffs-Appellants-Cross Appellees,  
v.  
George KIMBROUGH et al.,  
Defendants-Appellees-Cross Appellants.

No. 27550 Summary Calendar.

|  
Sept. 5, 1969.

### Synopsis

Proceeding on appeal from a determination of the United States District Court for the Western District of Louisiana, Benjamin C. Dawkins, Jr., J., refusing to award attorneys' fees in school desegregation case. The Court of Appeals held that where district court found that dismissal of four teachers was in violation of Supreme Court decision, but further found that such dismissals were not unreasonable and obdurately obstinate and did not tax attorneys' fees against school board, trial court's discretion in disallowance of attorney's fees would not be overturned on appeal.

Affirmed.

See also, D.C., 295 F.Supp. 578.

### Attorneys and Law Firms

\*874 William Bennett Turner, Jack Greenberg, Norman C. Amaker, New York City, A. P. Tureaud, New Orleans, La., Murphy W. Bell, Baton Rouge, La., for appellant.

Thompson L. Clarke, Dist. Atty., St. Joseph, La., Jack P. F. Gremillion, Atty. Gen., State of Louisiana, Baton Rouge, La., for appellee.

Before WISDOM, COLEMAN and SIMPSON, Circuit Judges.

### Opinion

### \*875 PER CURIAM:

Pursuant to new Rule 18 of the Rules of this Court, we have concluded on the merits that this case is of such character as not to justify oral argument and have directed the Clerk to place the case on the Summary Calendar and to notify the parties in writing. See *Murphy v. Houma Well Service*, 5 Cir. 1969, 409 F.2d 804, Part I.

The district court held that four Negro teachers employed by the Madison Parish school system had been dismissed in violation of the holding in *United States v. Jefferson County Board of Education*, 372 F.2d 836, aff'd with modifications on rehearing en banc, 380 F.2d 385, cert. denied sub nom. *Caddo Parish School Bd. v. United States*, 389 U.S. 840, 88 S.Ct. 67, 19 L.Ed.2d 103 (1967). In so holding, the district court denied the school teachers' motion for attorneys' fees. That denial is the sole question raised on appeal.

Attorneys' fees are historically beyond the scope of taxable costs. *Globemaster, Inc. v. Magic Am. Corp.*, 6 Cir. 1967, 386 F.2d 420. Their award necessarily requires a permitting statute,<sup>1</sup> a contractual obligation, or an equitable discretion in the trial court. *Brisacher v. Tracy Collins Trust Company*, 10 Cir. 1960, 277 F.2d 519.

The trial court found that the teachers' dismissals were no 'unreasonable and obdurately obstinate' and accordingly did not tax attorneys' fees against the school board. See *Bradley v. School Board of City of Richmond, Virginia*, 4 Cir. 1965, 345 F.2d 310. We find no compelling circumstances to justify overturning the trial court's discretion in refusing to award attorneys' fees. We affirm. See *Kemp v. Beasley*, 8 Cir. 1965, 352 F.2d 14; *Harrington v. Texaco*, 5 Cir. 1964, 339 F.2d 814.

Affirmed.

### All Citations

415 F.2d 874, 2 Empl. Prac. Dec. P 10,079, 61 Lab.Cas. P 9315

### Footnotes

<sup>1</sup> The Civil Rights Act of 1964, Title II, specifically allows attorneys' fees in cases filed to redress discrimination in Public

Accommodation Actions. The Act provides no legal basis for attorneys' fees in school desegregation cases. *Kemp v. Beasley*, *supra*.