

Delivered to Dm 11/3

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IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF ALABAMA

NORTHERN DIVISION

THE UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

BLANCHARD McLEOD, ET AL.,)

Defendants,)

CIVIL ACTION NO. 3186-63

MOTION TO DISMISS

Comes the defendants, Dallas County Citizens Council; Leon Jones, Chairman, Dallas County Citizens Council; Robert Rents, Vice Chairman, West Dallas, Dallas County Citizens Council; G. R. Beers, Vice Chairman, South Dallas, Dallas County Citizens Council; Archie G. Waugh, Vice Chairman, North Dallas, Dallas County Citizens Council; Comer Sims, Vice Chairman, Selma, Dallas County Citizens Council; Bill Arrington, Secretary, Dallas County Citizens Council; William K. Hicks, Treasurer, Dallas County Citizens Council; and Leon Jones, Robert Rents, G. R. Beers, Archie G. Waugh, Comer Sims, Bill Arrington, and William K. Hicks, Individually, separately and severally, by their attorneys Pitts and Pitts; Wilkinson, Wilkinson, and Russell; and Keith and Keith, and move to dismiss the complaint, and each paragraph thereof, separately and severally, filed by the plaintiff, and in support thereof, assigns the following separate and several grounds, viz:

1. For that said claim does not state a claim upon which relief can be granted.
- ② For that the Dallas County Citizens Council is not an incorporated association and is not sui juris.
- ③ For that the Dallas County Citizens Council is not a legal entity.
- ④ For that said complaint seeks to enjoin the defendants from exercising their constitutional privilege of freedom of speech.

5. For that said complaint fails to allege the defendants attempted to prevent any persons from voting who were otherwise qualified to vote.

6. For that said complaint fails to allege that the defendants prevented or attempted to prevent any persons from voting at any election by the people of Alabama, Dallas County, City of Selma, or any precinct or beat thereof.

7. The allegation of the complaint does not show a violation of Section 1971 of Title 42, U.S.C.

8. For that said complaint fails to aver that the defendants prevented or attempted to prevent or interfered with any citizen of the United States who was otherwise qualified by law to vote at any election by the people of Alabama, County, city, township, school district, municipality, or other territorial subdivision.

9. For it is not alleged in the complaint which one of these defendants attempted or prevented or interfered with a citizen of the United States qualified by law to vote at any election by the people of Alabama, Dallas County, City of Selma, school districts, or other territorial subdivision.

10. For that said complaint fails to allege that anyone of the defendants prevented, attempted to prevent, or interfered with any citizen qualified by law to vote in any federal election.

11. For that Section 1971 of Title 42, U.S.C. applies solely to federal elections.

12. For no facts are alleged therein showing a violation by anyone of these defendants of Section 1971 of Title 42, U.S.C. wherefore the plaintiff is not entitled to injunctive relief.

13. For it is not alleged that any of the defendants intimidated, threatened, coerced or attempted to intimidate, threaten, or coerce any person for the purpose of interfering with the right of such person to vote, or to vote as he may choose or causing such other person to vote for or not to vote for any candidate for the office of President or Vice President in presidential elections, member of the Senate, or member of the House of Representatives at any general, special, or primary election held solely

or in part for the purpose of selecting or electing any such candidate.

14. For that said complaint fails to allege that any of said persons engaged in any act set forth in Paragraph B of Section 1971, Title 42, U.S.C. or that there was any reasonable ground to believe that any such persons were about to engage in any of said acts or practices.

15. For that there is no averment that any person intimidated or has attempted to intimidate another person in the exercise of the right to vote.

16. For that it is not averred that the defendants intimidated or attempted to intimidate any Negro citizen, otherwise qualified by law to vote at any election, not to vote at any election.

17. For that said complaint shows upon its face that the activities of the defendants were directed solely toward persons that were not then registered to vote.

18. And that the facts alleged do not constitute a violation of Section 1971, Paragraphs A, B, and C of Title 42, U.S.C.

19. For that it is not averred that any of the acts, conduct, or deeds of any of the defendants resulted in preventing any person entitled to vote from voting.

20. For that the complaint shows upon its face that the defendants merely discouraged persons not qualified to vote from voting.

21. For that there is no allegation of the violation of any federal statute that would give this court jurisdiction to exercise injunctive relief.

22. For that it is not alleged that any of these defendants interfered with or obstructed any of the agents or attorneys of the United States Department of Justice in performing their duties in Dallas County, Alabama.

23. For that there is a misjoinder of party defendants in that there is no casual connection alleged between these defendants and other defendants in this case.

24. Said complaint as to these defendants is so vague, indefinite, and uncertain that these defendants cannot plan responsive pleading thereto.

25. That as to these defendants there are no allegations that connect these defendants with any intimidation of any person to prevent said person from voting.

26. That said complaint fails to aver how these defendants frustrated any federal court orders designed to eliminate discrimination on account of race in registration to vote.

27. That said complaint fails to aver any facts that would constitute frustration of federal court orders designed to eliminate discrimination on account of race in registration for voting.

28. That said plaintiff should be required to set forth all facts, deeds, or acts done on the part of these defendants that frustrated a federal court order designed to eliminate discrimination on account of race in registration for voting.

29. That said complaint fails to set forth any act, claim, or deed done by these defendants deterring Negro citizens of Dallas County, Alabama, from attending voter registration meetings.

30. For that the plaintiff should be required to set forth any and all acts, things, or deeds done or alleged to have been done on the part of these defendants that would deter Negro citizens of Dallas County, Alabama, from attending voter registration meetings.

31. For said complaint fails to aver how and in what manner or any facts alleging by what means these defendants prevented or attempted to prevent wholesale Negro voter registration efforts in Selma.

32. For that the prevention of wholesale Negro voter registration efforts is not an act prohibited by any act of Congress or by any previous decrees of this court.

33. For that said complaint fails to aver the program that is alleged to constitute intimidation on the part of these defendants for the purpose of preventing voter registration in Dallas County, Alabama.

34. For that said complaint fails to aver how and in what manner the defendants, Dallas County Citizens Council, adopted or attempted to carry out a program by which the white citizens of Dallas County will resist the

efforts of the United States Government in enforcing the Civil Rights Acts of 1957 and 1960.

35. For that said complaint fails to aver any acts, things, or deeds done by these defendants, Dallas County Citizens Council, that would constitute resisting the efforts of the United States Government in enforcing the Civil Rights Acts of 1957 and 1960.

36. For there is no allegation that it is unlawful for any organization to resist the efforts of the United States Government to enforce the Civil Rights Acts of 1957 and 1960.

37. That there is no allegation that it is unlawful for a person, or persons, by lawful means through a program of education and persuasion to resist the efforts of the United States Government to enforce a statute of the United States.

38. For that the plaintiff should be required to set forth any and all facts that it has in its possession or under its control that would connect these defendants in any way with the allegation set forth in Paragraph 3 of Section E of the Bill of Complaint.

39. For that said plaintiff should be required to set forth the name and address of each and every person who has obstructed or attempted to obstruct the carrying out of any court decree in Dallas County, Alabama.

40. That the plaintiff should be required to name every person with that person's correct street and post office address, and all facts that would connect said persons with any of the acts, things, or deeds set forth in Paragraph 2 of Section E of the Bill of Complaint.

41. That the plaintiff should be required to name every person with that person's correct street and post office address, and all facts that would connect said persons with any of the acts, things, or deeds set forth in Paragraph 4 of Section E of the Bill of Complaint.

42. That the plaintiff should be required to name every person with that person's correct street and post office address, and all facts that would connect said persons with any of the acts, things, or deeds set forth in Paragraph 54 of the Bill of Complaint.

43. That the plaintiff should be required to name every person with that person's correct street and post office address, and all facts that would connect said persons with any of the acts, things, or deeds set forth in Paragraph 55 of the Bill of Complaint.

Pitts and Pitts
P. O. Box 722
Selma, Alabama

Pitts and Pitts

By: McLean Pitts

Wilkinson, Wilkinson, & Russell
Peoples Bank & Trust Co. Bldg.
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Wilkinson, Wilkinson, and Russell

By: J. E. Wilkinson

Keith and Keith
P. O. Box C
Selma, Alabama

Keith and Keith

By: M. Alston Keith

Attorneys for named Defendants

The named defendants desire to present the foregoing motion to dismiss by oral argument to the Honorable Daniel H. Thomas, judge of the United States District Court for the Southern District of Alabama, Northern Division.

McLean Pitts
Of Counsel for named Defendants

TO Honorable Vernel R. Jansen
United States Attorney
311 Federal Building
Mobile, Alabama

You will please take notice that the foregoing motion having this date been mailed to the Clerk of the United States District Court for the Southern District of Alabama Northern Division, Mobile, Alabama, for the filing of same and will be presented to the Honorable Daniel H. Thomas, judge of said court, at such time and place as the judge may designate.

Done this the 29th day of November, 1963.

McLean Pitts
Of Counsel for named Defendants

CERTIFICATE

I hereby certify that a copy of the foregoing motion was this day sent by United States Mail to the Honorable Vernel R. Jansen, United States Attorney, 311 Federal Building, Mobile, Alabama, one of the attorneys of record for the United States of America.

Done this the 29th day of November, 1963.

W. C. J. J. J.
Of Counsel for the named defendants