

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE  
DISTRICT OF ALABAMA, NORTHERN DIVISION

FILED

APR 27 1965

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

STATE OF ALABAMA, and DONALD  
A. CAYLOR, KEITTE SANDERS YON,  
and CHARLES T. THOMAS, Members  
of the Board of Registrars of  
Bullock County, Alabama,

Defendants.

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R. C. DOBSON, CLERK  
By \_\_\_\_\_  
Deputy Clerk

CIVIL ACTION NO. 1677-N

FINDINGS OF FACT

1. On November 13, 1964, this Court granted an application of the plaintiff for an order requiring the members of the Board of Registrars of Bullock County, Alabama, to show cause, if any they had, why they should not be held in contempt of the orders of this Court issued on September 13, 1961 and July 26, 1962. A hearing was held on January 5, 1965.

2. The original complaint in this case, brought under 42 U.S.C. § 1971, was filed on January 19, 1961, and hearings on the merits were held on March 29th and 30th and on September 8, 1961. On September 13, 1961, the Court enjoined the members of the Board of Registrars from certain practices, among which were:

- (a) Engaging in any act or practice which involves or results in distinctions based on race or color between Negro citizens and other citizens in the registration for voting and voting processing in Bullock County, Alabama.
- (b) Applying or enforcing different qualification tests or standards to Negro applicants in Bullock County from those applied and enforced since 1954 to other applicants in Bullock County.
- (c) Rejecting Negro applicants for formal, technical or inconsequential errors in the application and registration process.
- (d) Using a form of application or questionnaire different from or more stringent than that used for registering persons in Bullock County prior to March 30, 1961.

The defendants were also ordered to notify rejected applicants within ten days after the application was processed of the specific reason for the rejection.

3. A supplemental order was issued on July 26, 1962, which listed

the qualifications for registration to vote that had been applied to white applicants from January 1, 1952 through 1960 and ordered the following qualifications be applied to white and Negro applicants alike:

- (a) he is a citizen of not less than 21 years of age;
- (b) he has resided in the State two years, in the county one year, and in the precinct three months;
- (c) he embraces the duties and obligations of citizenship as demonstrated by his willingness to take and sign the Oath;
- (d) he is not disqualified by reason of bad character, conviction of a disqualifying crime, insanity or idiocy; and
- (e) he is able to demonstrate his ability to read and write by answering questions on the application form and questionnaire.

4. The defendants were also ordered to comply with certain specified standards in determining whether applicants were qualified. These standards were based on the Board's conduct of registration from 1952 through 1960 as applied to white applicants. The Court's instruction on determining literacy was as follows:

If the applicant is literate he possesses the qualifications that he be able to read and write. If the applicant's answers on the application form demonstrate that he read the questions, then he has satisfied the requirement that he be able to read and write. This determination must be one of reasonableness and fairness. The application form cannot be used as a test for the purpose of or to form the basis for rejecting applicants. Instead it must be used as a means to obtain essential information to facilitate the registration of applicants. Rejection notices sent to applicants who are rejected for their inability to read and write shall specifically state that fact.

5. Donald A. Caylor has served continuously as a member of the Board of Registrars since about October, 1963. He is now the chairman of the Board. He was substituted as a party defendant and served with the orders of this Court in November, 1963. Keitte S. Yon has been a member of the Board since March, 1960, and was an original defendant in this action. Charles T. Thomas has been a member of the Board since about October 18, 1963, and was substituted as a party defendant and served with the orders of this Court in November, 1964.

6. Based upon the evidence submitted at the contempt hearing on January 5, 1965, the monthly reports of the Board to the Court and the evidence and findings previously entered in this case, the Court makes the following findings:

- (a) In 1960 there were five Negroes and 2,266 white persons registered to vote in Bullock County.
- (b) From April, 1961, through July, 1962, 237 applications were filed by white persons seeking to register to vote. Of this number, 35 (14.8%) were rejected. During this period, 1,915 applications of Negroes were processed and 1,119 (58.4%) rejected.
- (c) From August, 1962, through December, 1964, 393 applications were filed by white persons, of which nine (2.3%) were rejected. During the same period, 782 applications were filed by Negroes. Of this number, 206 (26.3%) were rejected.

7. From 1952 to February, 1964, the Board of Registrars required applicants to supply information requested on a four-page application form in use throughout the State of Alabama by the boards of registration. On February 17, 1964, the Board began using a new form and questionnaire which had been prescribed by the Supreme Court of Alabama on January 14, 1964. The new application form and questionnaire included a page labeled "Insert Part III" which consisted of a test to be used as part of the questionnaire. This test contained four questions testing the applicant's knowledge of government; four excerpts from the United States Constitution, one or more of which were to be read aloud by the applicant to the registrar; and a space for the applicant to write from dictation by the registrar several words from the Constitution. Twelve of these insert tests were provided, a different one to be used each month. After July 6, 1964, the Board ceased requiring applicants to read aloud. The Board used these insert tests in determining whether an applicant was literate.

8. On September 7, 1964, pursuant to an order of the Supreme Court of Alabama dated August 26, 1964, the defendant registrars began using a revised Insert Part III test. The revised test consists of eight questions, four testing the applicant's knowledge of government and four testing the applicant's comprehension and reasoning ability based on written excerpts from the United States Constitution; and a dictation test administered by the registrars from one or more of the excerpts of the Constitution. There are 100 different forms

of this test which are used by the Board in determining whether an applicant is literate.

9. The Insert Part III tests, both original and revised, are different from and more stringent than any tests previously applied to persons who became registered voters in Bullock County. The use of these tests has resulted in the application and enforcement of different qualification tests and standards to Negro applicants than those applied and enforced to other applicants since 1954.

10. The defendant registrars have continued to discriminate against Negro applicants. Qualified Negroes have been rejected on account of formal, technical and inconsequential errors and omissions in their applications. Negro applicants have been required to fill out their applications and take tests without any assistance or explanations by the registrars although the defendants have both provided assistance to white applicants and permitted them to aid each other. Qualified Negroes have been rejected on grounds of illiteracy even though their literacy was plainly apparent from the application form. For example, Negro applicants have been rejected for illiteracy on the stated reason that the Board could not read their first names, or last names, or middle names, although their names appeared legibly on several places on the application form. Rejected Negro applicants frequently were not notified they were rejected and, if notified, of the specific reason for the rejection.

11. Each of the Negro voter registration applicants listed in the appendix attached hereto and incorporated herein was rejected by the Board of Registrars of Bullock County after July 26, 1962, and each one was, at the time of application, qualified to register under Alabama law and the practices and procedures the Board was enjoined to follow by this Court, and each one was denied registration by the defendants.

#### CONCLUSIONS OF LAW

1. This Court has jurisdiction of this proceeding under 42 U.S.C. § 1971(d).

2. The use of the Insert Part III tests perpetuates the effects of the prior racial discrimination of the Bullock County Board of Registrars and violates 42 U.S.C. § 1971(a) and the Fourteenth and Fifteenth Amendments to the

Constitution of the United States.

3. The Insert Part III tests constitute testing procedures and standards different from any testing procedures and standards previously used in registering voters in Bullock County. The use of these tests violates Section 101(a)(2)(A) of the Civil Rights Act of 1964.

4. The defendants through the use of the Part III tests have required applicants to read aloud and write from dictation. Such practices are in violation of Section 101(a)(2)(C) of the Civil Rights Act of 1964.

5. By the acts and practices found in finding of fact No. 10, the defendants have continued to discriminate against Negro registration applicants in violation of 42 U.S.C. § 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

6. This Court is empowered as a corrective measure to require the defendants to register the Negro applicants listed in Appendix "A" who were unlawfully denied registration by the defendants.

7. In view of the affirmative relief herein granted, including the direction that the defendants place upon the current permanent registration rolls the names of the Negro citizens listed in Appendix "A", and because significant progress in registering voters has been made in Bullock County, the Court defers judgment on the issue of contempt.

ORDER

Pursuant to the foregoing findings of fact and conclusions of law entered this date, it is ORDERED, ADJUDGED and DECREED that the defendants Donald A. Caylor, Keitte S. Yon and Charles T. Thomas, individually and as members of the Board of Registrars of Bullock County, Alabama, and their agents, officers, employees, successors in office, and all persons in active concert with them, are hereby ordered:

- (1) To cease requiring applicants for registration to fill out or complete the Insert Part III tests in the voter registration process in Bullock County.
- (2) To judge the literacy of voter registration applicants by their answers to the questions contained in Part II of the application form now in use. The handwriting or spelling of an applicant or errors and omissions in answers to questions on Part II of the form shall not be

the basis of rejection where the applicant's answers are legible and responsive and the applicant is otherwise qualified.

- (3) To make no changes or modifications in the registration standards, requirements or procedures as now ordered in Bullock County without first obtaining the approval of the Court.
- (4) To file for the approval of the Court within ten days of the date of this order a standard notice to be sent to all rejected applicants which will state the specific reason or reasons for rejection.
- (5) To file with the Court on or before the second Friday of each month a report that accurately reflects the registration activity of the previous month. The report will show the name, race, address and date of application of each applicant and will state whether the applicant was accepted or rejected. The report will state for rejected applications the specific qualification which the applicant lacks and the facts before the Board from which this determination was made.
- (6) To place upon the current permanent registration rolls of Bullock County, and any official copies thereof, the names of the Negro citizens listed in Appendix "A", which is attached hereto and incorporated herein, unless any have become subsequently registered, deceased or possessed with some disqualification to register to vote. Within ten days of the date of this order, the defendants shall mail to each person listed a certificate of registration showing entitlement to vote and shall file with the Clerk of this Court a written report reflecting compliance with this paragraph. If any of the Negro citizens listed in Appendix "A" are not mailed certificates of registration, the report shall fully explain the reasons therefor.

This Court specifically retains jurisdiction of this cause for the purpose of issuing any and all additional orders and decrees that may in its judgment become necessary or appropriate for the purpose of modifying, implementing or enforcing its orders. All previous orders issued in this case, not otherwise modified, remain in full force and effect.

It is ORDERED that the costs incurred in this proceeding be and are hereby taxed against the defendants, for which execution may issue.

Done, this the 27<sup>th</sup> day of April, 1965.

/s/ Frank M. Johnson, Jr.

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UNITED STATES DISTRICT JUDGE

A P P E N D I X "A"

NAME OF APPLICANT	ADDRESS
+ Allen, Benzora	Rt. 2, Box 118A, Midway
o + Baldwin, Sherman	642 Johnson Street, Union Springs
- Carter, Flora	600 South Rooney Street, Union Springs
- Childs, Griffin	Route 1, Box 20, Hurtsboro
- Colvin, Ada	Box 6, Fitzpatrick
- Davis, Irene	Route 1, Box 156, Union Springs
+ Ellis, Alonza	Route 2, Box 43, Union Springs
o + Feagin, Nathaniel	Route 2, Box 112, Union Springs
+ Foster, Maudie	512 Waugh Street, Union Springs
- Gary, Lucinda	Route 1, Box 37, Hurtsboro
+ Grier, Mary E.	428 Rennie Street, Union Springs
- Henry, Leo R.	717 Parker Street, Union Springs
o + Holmes, Franchie L.	Route 3, Box 12, Union Springs
- Howard, J. B., Jr.	Route 1, Box 58, Fitzpatrick
o + Jackson, Willie Joe	Route 2, Box 122, Union Springs
- Johnson, Nettie J.	101 Orange Street, Union Springs
- Jones, Esau	Route 1, Box 70, Fitzpatrick
+ Jordan, Benjamin, Jr.	Route 2, Box 90A, Midway
- King, Sorlida	Box 89-A, Midway
+ Lee, Annie Bell	Route 1, Box 81, Midway
- Lee, Joseph	Box 69 S. Prairie Street, Union Springs
+ Lewis, Lonzie	Route 1, Box 25, Hurtsboro
- Maybell, Kate	Route 1, Box 48, Fitzpatrick
+ McCoy, Fred, Jr.	P. O. Box 144, Union Springs
- Monroe, Susan L.	Route 2, Box 125, Union Springs
- Nelson, Willie D.	209 Underwood Avenue, Union Springs
+ Penick, Curley	Route 3, Box 62, Union Springs
+ Pugh, Ed	Route 2, Box 193, Midway
+ Pugh, Hezekiah	Route 2, Box 80B, Midway
+ Pugh, Lonza	Hurtsboro
- Rodgers, Manford	Route 1, Box 64, Midway
o + Rodgers, Thomas J.	Route 1, Box 182, Perote
- Rogers, Ada	Route 1, Box 63, Hurtsboro
+ Sanders, Levi	Route 3, Box 9F, Union Springs
- Scott, Butler	Box 101, Union Springs
- Sullins, Booker	Route 2, Box 110, Midway
- Tarver, G. W.	Route 1, Box 57, Midway
- Taylor, Nettie Mae	620 Thomas Street, Union Springs
+ Walker, James	Route 2, Box 87, Midway
o + Woods, Nathaniel	Route 3, Union Springs
+ Wright, Johnnie M.	Box 134, Union Springs
+ Youngblood, Willis	Route 3, Box 198E, Union Springs