

PART ONE

IN THE
United States Court of Appeals
FOR THE FIFTH CIRCUIT

NO. 23982

UNITED STATES OF AMERICA, ET AL,
Appellants,

versus

WILCOX COUNTY BOARD OF EDUCATION, ET AL,
Appellees.

Appeals from the United States District Court for the
Southern District of Alabama.

RECORD ON APPEAL

U.S. COURT OF APPEALS
RECEIVED AND FILED
DEC 14 1966
EDWARD W. WADSWORTH
CLERK

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IN THE

United States Court of Appeals

FOR THE FIFTH CIRCUIT

NO.

UNITED STATES OF AMERICA, by NICHOLAS deB.
KATZENBACH, Attorney General, WILLIAM P.
THOMPSON, ET AL; ALBERT JAMES GORDON,
ET AL; PATSIE PRIMM, ET AL
Appellants,

versus

WILCOX COUNTY BOARD OF EDUCATION, ET AL,
Appellee.

Appeal from the United States District Court for the
Southern District of Alabama

RECORD ON APPEAL

Name of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA

Style of Cause

UNITED STATES OF AMERICA, by NICHOLAS deB.
KATZENBACH, Attorney General,

Plaintiff,

versus

WILCOX COUNTY BOARD OF EDUCATION; J. O. DEVAN,
R. E. LAMBERT, JR., EDWARD B. HALE, L. Y. SADLER,
JR., HARRY A. MASON, ET AL

Defendants,

WILLIAM P. THOMPSON, ET AL; ALBERT JAMES
GORDON, ET AL; PATSIE PRIMM, ET AL

Intervenor-Plaintiffs,

ACTION FILE NO. 3934-65

Suit to desegregate public schools of Wilcox County, Alabama,
filed under Civil Rights Act of 1964.

THE APPELLANT IS REPRESENTED BY:

Honorable John Doar, Assistant Attorney General, U.S. Dept.
of Justice, Washington, D. C.

Honorable Vernol R. Jansen, Jr., U.S. Attorney, Federal Build-
ing, Mobile, Alabama

Honorable Charles Quaintance, Attorney, Department of Jus-
tice, Selma, Ala.

THE APPELLEE IS REPRESENTED BY:

Honorable Gordon Madison, Ass't Attorney General of the
State of Alabama, Montgomery, Alabama

Honorable McLean Pitts, P. O. Box 722, Selma, Alabama

Honorable L. Y. Sadler, Jr., Camden, Alabama

FOR INTERVENOR-PLAINTIFFS: *APPELLANTS*

Honorable Peter A Hall & Honorable Orzell Billingsley, Jr.,
1630 Fourth Avenue North, Birmingham, Alabama

Honorable Norman C. Amaker, 10 Columbus Circle, New
York, N.Y.

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA, by
NICHOLAS deB. KATZENBACH,
Attorney General,

Plaintiff,

v.

WILCOX COUNTY BOARD OF EDUCATION; J. O. DEVAN, R. E. LAMBERT, JR.,
EDWARD B. HALE, L. Y. SADLER, JR.,
HARRY A. MASON, Members of the Wilcox
County Board of Education; GUY S. KELLY,
Superintendent of Education for Wilcox County;
A. R. MEADOWS, State Superintendent
of Education; and THE STATE BOARD OF
EDUCATION OF ALABAMA,

Defendants.

CIVIL
ACTION
NO. 3934-65

U. S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
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WILLIAM J. O'CONNOR
CLERK

COMPLAINT

The United States of America alleges that:

1. This action is brought by the Attorney General on behalf of the United States pursuant to Section 407(a) and (b) of the Civil Rights Act of 1964.

2. This Court has jurisdiction of this action under Section 407(a) of the Civil Rights Act of 1964, and under 28 U. S. C. 1345.

3. The defendant Wilcox County Board of Education is a school board organized and existing under the laws of Alabama.

4. The defendants J. O. Devan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., and Harry A. Mason are members of the Wilcox County Board of Education. They reside in Wilcox County, Alabama.

5. Defendant Guy S. Kelly is the Superintendent of Education of Wilcox County. He resides in Camden, Alabama.

6. Defendant A. R. Meadows is the State Superintendent of Education. He resides in Montgomery, Alabama.

7. The State Board of Education exercises general control and supervision over the public schools in Alabama; its office is located in Montgomery, Alabama.

8. The defendants described in paragraphs 3 through 7 of this Complaint are responsible for operating the public school system in Wilcox County, Alabama.

9. The defendants operate fifteen schools in Wilcox County which are attended exclusively by Negroes and are staffed exclusively by Negro teachers. All Negro students in Wilcox County are registered by the defendants at one of these schools.

10. The defendants operate three schools in Wilcox County which are attended exclusively by white students and are staffed

exclusively by white teachers. All white students in Wilcox County are registered by the defendant at one of these schools.

11. The defendants, in operating the public school system in Wilcox County, provide to Negro students educational opportunities and facilities which are inferior to the educational opportunities and facilities which they provide to white students.

12. The Attorney General of the United States has certified that he has received complaints in writing signed by parents of minor Negro children in Wilcox County, Alabama, alleging in effect that said children are being deprived by the defendants of the equal protection of the laws; that he believes the complaints to be meritorious; that the signers of the complaints are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief; that the Wilcox County Board of Education has been notified of the complaints; that he is satisfied that the Board of Education has had a reasonable time to adjust the conditions alleged in the complaints; and that in his judgment, the initiation of this action will materially further the orderly achievement of desegregation in public education.

13. Unless restrained by this Court, the defendants will continue to operate the public schools of Wilcox County on a racially segregated basis, and will continue to deny to Negro children in Wilcox County educational opportunities and facilities equal to those provided to white children, in violation of the Fourteenth Amendment to the Constitution of the United States.

WHEREFORE, plaintiff prays that this Court enter an order enjoining the defendants, their agents, officers, em-

ployees, successors, and all those in active concert or participation with them from maintaining a dual school system based upon race or color; from failing to provide equal educational opportunities to all students in all public schools without regard to the students' race or color; and from otherwise maintaining in the operation of the public schools of Wilcox County any distinctions based upon race or color.

Plaintiff further prays that this Court grant such additional relief as the needs of justice may require, including the costs and disbursements of this action.

/s/ Nicholas deB. Katzenbach
NICHOLAS deB. KATZENBACH
Attorney General

/s/ John Doar
JOHN DOAR
Assistant Attorney General

/s/ Vernol R. Jansen
VERNOL R. JANSEN
United States Attorney

/s/ Frank M. Dunbaugh
FRANK DUNBAUGH
Attorney
Department of Justice
Washington, D. C.

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
NOV 22 1965
WILLIAM J. O'CONNOR
CLERK

CERTIFICATE OF THE ATTORNEY GENERAL
OF THE UNITED STATES

I, NICHOLAS deB. KATZENBACH, Attorney General of the United States, hereby certify that I have received complaints in writing signed by parents of minor children in Wilcox County, Alabama, alleging in effect that said children are being deprived by the Wilcox County Board of Education of the equal protection of the laws; that I believe the complaints to be meritorious; that the signers of the complaints are unable, in my judgment, to initiate and maintain appropriate legal proceedings for relief; that the Board of Education was notified of the complaints; that I am satisfied that said Board of Education has had a reasonable time to adjust the conditions alleged in the complaints; and that in my judgment, the institution of this action will materially further the orderly achievement of desegregation in public education.

This certificate is made pursuant to the provisions of Section 407(a) of the Civil Rights Act of 1964, in support of the complaint to which it is attached.

Signed this 19th day of November, 1965.

/s/ Nicholas deB. Katzenbach
NICHOLAS deB. KATZENBACH
Attorney General

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
NOV 22 1965
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

MOTION TO DISMISS

Now comes the defendant A. R. Meadows, State Superintendent of Education, and moves to dismiss the complaint exhibited against him in this cause on the following separate and several grounds, to wit:

1. The complaint fails to state a claim upon which relief can be granted.
2. This Court judicially knows that this defendant is already under an injunction issued by the Three-Judge Federal Court sitting in Montgomery, Alabama, and no useful purpose is served by a multiplicity of injunctions.

/s/ Richmond M. Flowers
RICHMOND M. FLOWERS, As
Attorney General of the
State of Alabama

/s/ Gordon Madison
GORDON MADISON, As Assistant
Attorney General of the
State of Alabama
Attorneys for the defendant
A. R. Meadows

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
DEC 6 1965
WILLIAM J. O'CONNOR
CLERK

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
DEC 8 1965
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

MOTION TO DISMISS

Comes Wilcox County Board of Education; J. O. DeVan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., Harry A. Mason, Members of the Wilcox County Board of Education; Guy S. Kelly, Superintendent of Education for Wilcox County, separately and severally and move to dismiss the Complaint in the above styled cause and assign the following separate and several grounds:

1. Said complaint fails to state a cause of action against these Defendants.

2. For that the mere averment that the Attorney General of the United States has received complaints in writing, signed by parents of Negro children in Wilcox County is not sufficient.

3. For that said complaint should set forth the names and addresses of each of the persons that have complained to the Department of Justice.

4. For that there is no averment that the Wilcox County Board of Education has not taken appropriate action to provide for the desegregation of public schools.

5. For that the persons making said complaints should be party plaintiffs to said complaint.

6. For that said complaint fails to aver the nature of the laws which the Plaintiff alleges that children of the persons making the complaints are deprived of.

7. For that the conclusion that the Defendants are denying Negro children equal protection of the laws is a conclusion of the pleader.

/s/ McLean Pitts

Of Counsel for the Defendants, Wilcox County Board of Education; J. O. DeVan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., Harry A. Mason, Members of the Wilcox County Board of Education; Guy S. Kelly, Superintendent of Education for Wilcox County.

W. McLEAN PITTS

Pitts & Pitts

Attorneys at Law

Selma, Alabama

ATTORNEY FOR SAID

DEFENDANTS

DEMAND FOR ORAL ARGUMENT

The Defendants, separately and severally, demand that they be allowed to present this Motion orally and granted oral argument in support of the Motion.

/s/ McLean Pitts

Of Counsel for said Defendants

VENUE

These Defendants do not waive the venue of this case as being in the Northern Division of the United States District Court for the Southern District of Alabama, and insists that all hearings on motions and all other subsequent hearings in this case be held at the United States Courthouse at Selma, Alabama, in the Northern Division of the Southern District of Alabama.

/s/ McLean Pitts
Of Counsel for said Defendants

U. S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
DEC 8 1965
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

MOTION TO DISMISS

Now come the defendant State Board of Education and moves to dismiss the complaint exhibited against it in this cause on the following separate and several grounds, to wit:

1. The complaint fails to state a claim upon which relief can be granted.

2. This Court judicially knows that this defendant is already under an injunction issued by the Three-Judge Federal Court sitting in Montgomery, Alabama, and no useful purpose is served by a multiplicity of injunctions.

/s/ Richmond M. Flowers
RICHMOND M. FLOWERS, As
Attorney General of the
State of Alabama

/s/ Gordon Madison
GORDON MADISON, As Assistant
Attorney General of the
State of Alabama
Attorneys for the defendant
State Board of Education

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
DEC 10 1965
WILLIAM J. O'CONNOR
CLERK

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
MAR 7 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

PLAINTIFF'S MEMORANDUM OF LAW IN
OPPOSITION TO DEFENDANTS'
MOTIONS TO DISMISS

This action was brought on November 22, 1965, by the United States pursuant to Title IV of the Civil Rights Act of 1964, seeking injunctive relief against the Wilcox County Board of Education, the individual members of the board, the county superintendent of education, the Alabama State Board of Education, and the state superintendent of education.¹

On December 13 and 14, 1965, defendants filed motions to dismiss.

1—The relevant portion of Sec. 407(a) (42 U.S.C. §2000c-6) reads as follows: "Whenever the Attorney General receives a complaint in writing (1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws . . . and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after filing notice of such complaint to the appropriate school board . . . and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section . . ."

We submit in this memorandum that the motions to dismiss should be overruled.

1. THE COMPLAINT STATES A CLAIM UPON WHICH RELIEF CAN BE GRANTED.

On motions to dismiss and for judgment on the pleadings, the allegations of the Complaint must be taken as true and the pleadings viewed most favorably to the plaintiff. *Clark v. Uebersee Finanz Korporation*, 332 U.S. 480, 482 (1947); *N.L.R.B. v. Weirton Steel Co.*, 146 F.2d 144 (C.A. 3, 1944); *Reddix v. Lucky*, 252 F.2d 930, 931 (C.A. 5, 1951). Dismissal of a complaint is not warranted unless it is shown that plaintiff is not entitled to any relief on any theory of the facts. *Radovich v. National Football League*, 352 U.S. 445, 448, 453 (1957); *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957); *Due v. Tallahassee Theatres, Inc.*, 333 F.2d 630, 631 (C.A. 5, 1964).

The complaint alleges clearly that the defendants are continuing to maintain a segregated school system. Paragraphs 9-13 allege that the defendants are currently administering the public school system of Wilcox County on a racially segregated basis.²

Defendants' assertion in the motion to dismiss filed on behalf of the county board and superintendent that "there is no averment that the Wilcox County Board of Education has not taken appropriate action to provide for the desegregation of public schools," is without substance. Paragraph 9-11 of the Complaint clearly allege that the Wilcox County public schools are currently being maintained on a segregated basis.

2—Paragraph 12 specifically alleges that the Attorney General has certified that the institution of this action will materially further the orderly achievement of desegregation in public education.

II. THE NAMES AND ADDRESSES OF THE COMPLAINING PARENTS NEED NOT BE SET FORTH IN THE COMPLAINT.

The Civil Rights Act of 1964 does not require the Attorney General to set forth the names and addresses of the complainants under section 407 (42 U.S.C. §2000c).

The Act does require that as a prerequisite to the action being maintained by the Attorney General, he must certify that the signers of the complaint are "unable, in his judgment to initiate and maintain appropriate legal proceedings for relief . . ." In section 407(b) it is stated: "The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings . . . whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their family or property."³ This provision recognizes the need to insure the personal security of complainants by not making their names public.⁴

3—Section 407(b) reads in full as follows:

The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

4—Senator (now Vice-President) Humphrey, floor manager of the Civil Rights Act of 1964, explained the meaning of 407(b) to the Senate in these terms:

The bill requires the Attorney General to state in his complaint and that in his judgment the persons who complained are unable to initiate or maintain appropriate legal proceedings. These statements by the Attorney General will not be subject to challenge either by the defendants or by the court. Under no circumstances will the Attorney General be required to reveal the names of the particular complainants. Cong. Rec. March 30, 1964, p. 6322 (Daily Edition). (Emphasis added.)

In support of the proposition that it was the intent of Congress that the Attorney General's certification should be final and not subject to examination of its underlying considerations, including the identity of the complaining parent, is an explanation of section 407 offered by the House Committee on the Judiciary:

(S)ection 407(a) would confer authority upon the Attorney General to institute civil suits in the Federal district courts in order to achieve desegregation in public schools and colleges. He could bring suit when he received a written complaint from parents that the school board in their district had failed to achieve desegregation, or from an individual that he had been denied admission to or continued attendance to a public college by reason of race, color, religion, or national origin. As a prerequisite to suit, the Attorney General would be required to certify that the signers of the complaint were "unable to initiate and maintain appropriate legal proceedings" for relief, and that the institution of an action would materially further the public policy favoring the orderly achievement of desegregation in public education. *It is not intended that determinations on which the certification was based should be reviewable.* H.R. Rep. No. 914, 88th Cong. 1st Sess. 23, 24 (1963). (Emphasis added.)

III. THE COMPLAINING PARENTS NEED NOT BE PARTY PLAINTIFFS TO THE SUIT FILED BY THE ATTORNEY GENERAL.

What has already been asserted with respect to the absence of a requirement to disclose the names and addresses of the complaining parents applies with equal force here. Moreover,

the Act provided explicitly that "the Attorney General is authorized . . . to institute *for or in the name of the United States* a civil action in any appropriate district court of the United States . . ."⁵

IV. THE STATE BOARD OF EDUCATION AND THE STATE SUPERINTENDENT ARE NOT ENTITLED TO DISMISSAL AS PARTIES BECAUSE OF AN EXISTING INJUNCTION.

The defendants State Board of Education and Austin R. Meadows assert, as an additional ground for dismissing the complaint as to them, that they are already subject to an injunction issued by a three-judge Federal Court sitting in Montgomery, Alabama. They do not assert (as indeed they could not in the light of the language of the same opinion giving rise to the injunction to which they refer⁶) that they are not appropriate parties in this action.

We readily agree that the Court's decree in *Lee v. Macon County Board of Education*⁷ charges these defendants with an already-existing duty to promote and encourage the elimination of racial discrimination in the public schools. However, these

5—42 U.S.C.A. §2000c-6. (Emphasis added.)

6—231 F. Supp. 743, 755-57.

7—In its decree of July 13, 1964, the Court ordered that the Alabama State Board of Education, Austin R. Meadows, and their agents be enjoined from, among other things:

"Interfering with, preventing or obstructing by any means, the elimination of racial discrimination by local school officials in any school district in the State of Alabama; (and) Failing, in the exercise of its control and supervision over the public schools of the State, to use such control and supervision in such a manner as to promote and encourage the elimination of racial discrimination in the public schools, rather than to prevent and discourage the elimination of such discrimination." See also, *Lee v. Macon County Board of Education*, 231 F. Supp. 743 (1964).

defendants urge that being once made defendants in a case relative to Macon County, Alabama and having been enjoined, they are hereafter immune from further legal action for their Constitutional violations elsewhere in the state. Clearly this could not be the case. The pleadings in *Lee* did not comprehend such a result, nor was there evidence offered with respect to the operation of the schools in Wilcox County in that case. Indeed, if the parties in the Macon County case had been obliged to raise and dispose of all issues relating to Wilcox County, officials of the Wilcox County school system would also have had to be defendants in that case.

The Defendants' claim has no merit. If the duties of the state with respect to the operation of the Wilcox County schools cannot be raised in this case, then plaintiffs are left with no recourse but to raise these issues in the Macon County case, either by filing amended pleadings therein or by motion to show cause why the State Board and superintendent should not be held in contempt. It seems clear that the more economical use of the legal process is to retain the state defendants in this case, rather than to present facts relating to the Wilcox County school system in two cases in separate federal forums.

It should also be noted that the motion to dismiss is an improper vehicle for consideration of defendants' contention that this suit would give rise to a "multiplicity of injunctions." The defense of pendency of another action and multiplicity of suits should be raised by answer, and not by motion to dismiss.⁸

8—2 Moore, Federal Practice 12.07(2) (1964). See also *Sprout v. Gam-bone*, 34 F. Supp. 441 (W.D. Pa. 1940) (Previous injunction)

WHEREFORE, plaintiff respectfully requests that the defendants' motions to dismiss be denied.

/s/ Frank M. Dunbaugh,
FRANK M. DUNBAUGH, Attorney
Department of Justice
Washington, D. C.

/s/ Grady J. Norris
GRADY J. NORRIS, Attorney

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
MAR 7 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

*NOTICE OF MOTION AND MOTION FOR AN ORDER
TO PRODUCE RECORDS FOR INSPECTION AND
COPYING PURSUANT TO RULE 34, F.R.C.P.*

TO: EACH PARTY AND TO THE ATTORNEY OF RECORD FOR EACH PARTY HEREIN:

PLEASE TAKE NOTICE that on March 17, 1966 at 9:30 A.M., or as soon thereafter as counsel may be heard, at the courtroom of the United States District Court for the Southern District of Alabama, Northern Division, in the United States Court and Customs House, Mobile, Alabama, the United States, plaintiff, will move the court, pursuant to the provision

of Rule 34, F.R.C.P., for an order requiring defendants to produce and permit plaintiff's attorneys and agents to inspect, copy, and photograph, at their present locations, or at any other place or places convenient to the defendants, the following records, documents, papers, books, accounts and objects relating to public education in Wilcox County, Alabama, which are within the possession, custody or control of the defendants:

(1) All facilities and sites used for public education in Wilcox County, including but not limited to school buildings, school grounds, sanitary facilities, school books and other school materials, and school transportation vehicles;

(2) All annual reports published since 1945 pursuant to or under authority of Title 52, Section 174 of the Alabama Code, and all other public reports issued by the Wilcox County Board of Education or by the Wilcox County Superintendent of Education since 1945;

(3) All applications for accreditation submitted to the Southern Association of Colleges and Secondary Schools since January, 1964;

(4) All applications for accreditation submitted to the Alabama State Board of Education since January 1964, including all documents attached to such applications;

(5) All minutes of the Wilcox County Board of Education since 1945;

(6) All data submitted for use in the annual report of the Alabama Department of Education since 1945;

(7) All books of account showing items of expenditure for each school in Wilcox County and all documents showing receipt and use of federal funds since 1945;

(8) All inventories of materials, equipment and books in each Wilcox County public school during the current school year and for each school year since 1945;

(9) Documents showing all school construction, improvements, and site acquisitions and dispositions since 1945, and all such construction, improvements and acquisitions planned or proposed for the future, including any planned or proposed changes in school attendance zones;

(10) Documents and maps showing planned or proposed future school bus routes;

(11) Records showing the insured valuation, costs and date of construction, number of classrooms, number of square feet and acreage of each school and school site;

(12) Records showing the number of school sites in Wilcox County which are owned by the County and the number of school sites which are otherwise owned;

(13) Records showing the courses offered in each school for each grade and the enrollment in each course for the school years 1964-65 and 1965-66;

(14) Records showing the enrollment and capacity in each school, by classroom, for the school year 1964-65, and by grade and classroom for the school year 1965-66;

(15) Records showing the number of teachers at each school during the school year 1965-66, the number of teacher positions for the 1966-67 school year, and the rate of teacher turnover since 1960;

(16) All objective tests, test results, and records of such tests and test results, showing the abilities, maturity, or degree of achievement and advancement of the individual children currently attending public schools in Wilcox County, Alabama;

(17) Documents showing the textbooks used in each class, in each school, for the school year 1965-66;

(18) All documents relating to the transfer of students from one school to another, including all forms of application for transfer filed by or on behalf of students during the school year 1965-66 and for the school year 1966-67, and documents indicating the action taken on the applications.

(19) All documents, including blank forms, showing the procedure for assigning or enrolling students entering a school for the first time, including students entering the first grade, students entering a higher school from a feeder school, and students newly resident in Wilcox County;

(20) All letters or petitions presented to the Wilcox County Board of Education requesting the desegregation of the Wilcox County school system, together with any replies or other documents reflecting the action taken on such petitions.

This motion will be based on this notice of motion, on the attached affidavit of Grady J. Norris and upon all of the papers and records on file in this case.

/s/ Frank M. Dunbaugh
FRANK M. DUNBAUGH

/s/ Grady J. Norris
GRADY J. NORRIS
Attorneys
Department of Justice

AFFIDAVIT

CITY OF WASHINGTON
DISTRICT OF COLUMBIA

I, Grady J. Norris, being first duly sworn, state: I am an attorney for the United States of America, and I am one of the attorneys for the plaintiff in the instant case of *United States of America v. Wilcox County Board of Education, et al.*, Civil Action No. 3934-65 (S.D. Ala.) I am informed and believe and on such information and belief state as follows:

1. In the course of presenting all the evidence pertinent to the issues in this case, it may be necessary to offer in evidence at the trial, the records, documents and objects relating to public education in Wilcox County, Alabama specifically described in the Notice of Motion and Motion to which this affidavit is attached. In order properly to prepare, organize and select the materials appropriate to be offered in evidence, it is necessary for the plaintiff, the United States, to inspect and reproduce them. This necessity arises from the following consideration:

(a) I believe that these records, documents and objects relating to public education in Wilcox County, Alabama, will demonstrate that distinctions of race have been made in administering the public school system of Wilcox County, Alabama.

(b) The photographed copies of the records, documents and objects, when properly authenticated, can be offered in evidence in lieu of the originals, thereby avoiding the necessity of bringing the originals into court under subpoena, and avoiding the necessity for keeping original records and documents away from the offices where they are appropriately kept.

(c) By using photographed copies in lieu of original records and documents can be numbered, organized and bound

in an orderly manner to facilitate their inspection by the court and by the parties, to facilitate their storage in the files of the court, and to make it easier for the court and for the parties to refer to them and to cite them.

(d) The analyses of records by the plaintiff should be done in advance of the trial in order to avoid delay during the trial, in order to form the basis for a final selection and presentation of witnesses, and in order to aid the court by the presentation at the trial of special exhibits.

2. The plaintiff has not previously inspected the designated records and documents and objects relating to public education in Wilcox County, Alabama, except that Agents of the plaintiff have previously inspected and copied two transfer applications for the 1965-66 school year, which need not be photographed under this order.

3. This affidavit is made in support of plaintiff's motion under Rule 34, F.R.C.P., to which this affidavit is attached for the purpose of obtaining an order requiring the several defendants to produce for the plaintiff's inspection and copying the records, documents and objects described therein. These records, documents and objects sought contain or comprise evidence material and relevant to the issues in this case.

/s/ Grady J. Norris
GRADY J. NORRIS, Attorney
Department of Justice

WASH. }
D.C. } S.S.

Subscribed and sworn to before me
on this 5 day of March, 1966.

/s/ Michael Eisenbey
14 Sept. 70

U.S. DISTRICT COURT
 SOU. DIST. ALA.
 FILED IN CLERK'S OFFICE
 MAR 15 1966
 WILLIAM J. O'CONNOR
 CLERK

(Caption Omitted)

*NOTICE OF MOTION AND MOTION FOR LEAVE
 TO INTERVENE AS PLAINTIFFS*

TO EACH PARTY AND THE ATTORNEY OF RECORD
 FOR EACH PARTY:

PLEASE TAKE NOTICE that on March 28, at 9:30 o'clock A.M. or as soon thereafter as counsel may be heard, in the courtroom of the United States District Court for the Southern District of Alabama, Northern Division, Birmingham, Alabama, William P. Thompson, as Moderator of the General Assembly of The United Presbyterian Church in the United States of America; Dr. Eugene Carson Blake, as Stated Clerk of the General Assembly of The United Presbyterian Church in the United States of America; The United Presbyterian Church in the United States of America; Marshall L. Scott, Chairman, and Dr. Gayraud S. Wilmore, Executive Director of the Commission on Religion and Race of The United Presbyterian Church in the United States of America, will move for leave to intervene as plaintiffs in this action and for leave to file the Complaint in Intervention which is attached hereto,

This Motion will be made pursuant to Rule 24 of the Federal Rules of Civil Procedure.

/s/ Peter A. Hall
 Peter A. Hall

/s/ Orzell Billingsly, Jr.
 Orzell Billingsly, Jr.
 Attorneys for Applicants Intervenor
 Suite 510
 1630 Fourth Avenue North
 Birmingham, Ala. 35203

Of Counsel:

Henry W. Sawyer, III
 1100 Philadelphia National Bank Building
 Broad and Chestnut Streets
 Philadelphia, Pennsylvania

(Caption Omitted)

*MEMORANDUM OF AUTHORITIES IN SUPPORT
OF MOTION TO INTERVENE*

Rule 24(a) (2) and (3) of the Federal Rules of Civil Procedure authorizes petitioners to intervene upon timely application.

Fox Publishing Co. v. United States, 366 U.S. 683, 6 L.Ed. 2d 604, 81 S. Ct. 1309 (1961)

Under Rule 24(b) of the Federal Rules of Civil Procedure, petitioners may be permitted to intervene upon timely application.

Stell v. Savannah, Chatham County Bd. of Ed., 333 F.2d 55 (5th Cir. 1964).

Respectfully submitted,

/s/ Peter A. Hall
Peter A. Hall

/s/ Orzell Billingsley, Jr.
Orzell Billingsley, Jr.

Of Counsel:

Henry W. Sawyer, III

(Caption Omitted)

COMPLAINT IN INTERVENTION

This is a Complaint in Intervention filed by William P. Thompson, Moderator of the General Assembly of The United Presbyterian Church in the United States of America; Dr. Eugene Carson Blake, as Stated Clerk of The United Presbyterian Church in the United States of America; The United Presbyterian Church in the United States of America; Marshall L. Scott, Chairman, and Dr. Gayraud S. Wilmore, Executive Director of the Commission on Religion and Race of The United Presbyterian Church in the United States of America, under and pursuant to Rule 24, Federal Rules of Civil Procedure.

2. On November 22, 1965, plaintiff United States of America, by Nicholas deB. Katzenbach, Attorney General, filed its Complaint in this case under Section 407(a) of the Civil Rights Act of 1964, and under 28 U.S.C. 1345, seeking to enjoin defendants from failing to provide equal educational opportunities to all students in public schools without regard to race or color, and from otherwise maintaining in the operation of the public schools of Wilcox County any distinctions based upon race or color.

3. The defendant Wilcox County Board of Education is a school board organized and existing under the laws of Alabama.

4. Defendants J. O. Devan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., and Harry A. Mason are members of the Board of Education of Wilcox County, Alabama. Each of them reside in Wilcox County, Alabama.

5. Defendant Guy S. Kelly is the Superintendent of Education of Wilcox County. He resides in Camden, Alabama.

6. Defendant A. R. Meadows is the State Superintendent of Education. He resides in Montgomery, Alabama.

7. The State Board of Education exercises general control and supervision over the public schools in Alabama. Its office is located in Montgomery, Alabama.

8. The defendants described in paragraphs 3 through 7 of this Complaint are responsible for operating the public school system in Wilcox County, Alabama.

9. The United Presbyterian Church in the United States of America is an unincorporated religious association.

10. William P. Thompson is Moderator of the General Assembly of The United Presbyterian Church in the United States of America.

11. Dr. Eugene Carson Blake is Stated Clerk of the General Assembly of The United Presbyterian Church in the United States of America and as such, is its chief fiscal and administrative officer.

12. Marshall L. Scott is Chairman, and Dr. Gayraud S. Wilmore is Executive Director of the Commission on Religion and Race of The United Presbyterian Church in the United States of America, which Commission is an organization established within the Church for the purpose of articulating and carrying out the mandates of the Church relative to its witness in the field of race relations.

13. The United Presbyterian Church in the United States of America, by and through one of its agencies, owns the land in Wilcox County, Alabama, on which several of the schools operated by the Wilcox County Board of Education are situated. In addition, the aforesaid Church, by and through its several agencies have made and are making monetary contributions to the said schools and assisting them and subsidizing some programs and teachers in said school system.

14. Historically, The United Presbyterian Church in the United States of America, by and through one of its agencies, owned and operated the only schools for Negro children in Wilcox County. When Wilcox County, acting through the defendants, undertook to establish a public school system for Negroes, the land, buildings and facilities of the schools maintained by The United Presbyterian Church in the United States of America were and have been utilized as public facilities, and The United Presbyterian Church in the United States of America continued and still continues to own the land upon which the schools are situated and continues to make monetary contributions to the operation of the schools and to assist and subsidize some programs and teachers in said school system in order to alleviate the inadequacies of the education and educational facilities offered Negro children.

15. The defendants, in operating the public school system in Wilcox County, provide to Negro students educational opportunities and facilities which are inferior to the educational opportunities and facilities which they provide to white students.

16. The defendants operate the school system in Wilcox County, including the schools owned by The United Presby-

terian Church in the United States of America, on a racially segregated basis, in violation of the Fourteenth Amendment of the Constitution of the United States.

17. Because of its ownership of the land and because of its involvement in the school system for the purpose of improving the quality of education offered to Negroes in Wilcox County, it appears or may appear that The United Presbyterian Church in the United States of America sanctioned or condoned the rigid pattern of segregation practiced in these schools although said Church is opposed to segregated education in the public schools.

18. From time to time since the establishment of a public school system for Negroes in Wilcox County, The United Presbyterian Church in the United States of America, in keeping with its witness against segregated education, has protested to the defendants the continuation of a racially segregated educational system, but defendants have continued to perpetuate such segregation.

19. Unless restrained by this Court, the defendants will continue to operate the public schools of Wilcox County on a racially segregated basis and will continue to deny to Negro children in Wilcox County educational opportunities equal to those provided to white children, in violation of the Fourteenth Amendment to the Constitution of the United States.

WHEREFORE, William P. Thompson, Moderator of the General Assembly of The United Presbyterian Church in the United States of America; Dr. Eugene Carson Blake, as State Clerk of the General Assembly of The United Presbyterian Church in the United States of America; The United Presby

terian Church in the United States of America; Marshall L. Scott, Chairman, and Dr. Gayraud S. Wilmore, Executive Director of the Commission on Religion and Race of The United Presbyterian Church in the United States of America, pray that this Court enter an Order enjoining the defendants, their agents, officers, employees, successors, and all those in active concert or participation with them, from maintaining a dual school system based upon race or color; from failing to provide equal educational opportunities to all students in all public schools with regard to the students' race or color; and from otherwise maintaining, in the operation of the public schools of Wilcox County, any distinction based upon race or color.

The petitioners further pray that this Court grant such additional relief as the needs of justice may require, including the costs and disbursements of this action.

/s/ Peter A. Hall

Peter A. Hall

Orzell Billingsley, Jr.

Attorneys for Intervenor Plaintiffs
Suite 510

1630 Fourth Avenue North
Birmingham, Ala. 35203

Of Counsel:

Henry W. Sawyer, III
1100 Philadelphia National Bank Bldg.
Broad and Chestnut Streets
Philadelphia, Penna. 19107

STATE OF
COUNTY OF

} ss.

WILLIAM P. THOMPSON, being duly sworn according to law, deposes and says that he is Moderator of the General Assembly of The United Presbyterian Church in the United States of America, that he has read the foregoing Complaint in Intervention, and that the facts therein are true and correct to the best of his knowledge, information and belief.

/s/ William P. Thompson

Sworn to and subscribed
before me this 9th day
of March, 1966.
/s/ Edith T. Arnold
Notary Public

EDITH T. ARNOLD
Notary Public, State of New York
No. 41-5104710 Qual. in Queens Co.
Cert. Filed in New York Co.
Commission Expires March 30, 1966

STATE OF
COUNTY OF

} ss.

DR. EUGENE CARSON BLAKE, being duly sworn according to law, deposes and says that he is the Stated Clerk of the General Assembly of The United Presbyterian Church in the United States of America, that he has read the foregoing

Complaint in Intervention, and that the facts therein are true and correct to the best of his knowledge, information and belief.

/s/ Eugene Carson Blake

Sworn to and subscribed
before me this 9th day
of March, 1966.

/s/ Edith T. Arnold
Notary Public

EDITH T. ARNOLD
Notary Public, State of New York
No. 41-5104710 Qual. in Queens Co.
Cert. Filed in New York Co.
Commission Expires March 30, 1966

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
MAR 28 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

*APPLICATION TO THE COURT FOR
INSTRUCTIONS*

The Defendants hereby apply to the Court for instructions with reference to the matter of permitting the Plaintiff to examine the following documents in the Defendants' possession:

1. Personnel files of individual teachers.

2. Pupil records pertaining to transfer from one school to another.

3. Pupil achievement and intelligence tests.

4. All objective tests, test results, and records of such tests and test results showing the abilities, maturity, or degree of achievement and advancement of the individual children currently attending public schools in Wilcox County, Alabama or any that may have previously attended said schools.

5. Minutes of the Wilcox County Board of Education which would disclose any information relative to teachers, their ability and personnel records that would reflect upon the integrity or ability of any teacher.

6. Minutes of the Wilcox County Board of Education that would disclose any information pertaining to any pupil now attending the schools in Wilcox County or that has previously attended schools in Wilcox County.

The information contained in the personnel files for individual teachers consists of letters of recommendation solicited by the Wilcox County Board of Education on the representation that the information requested would be confidential; matters relating to medical and personal history of the teacher; appraisal record of the teacher's performance; integrity or ability of the teacher, moral habits of the teacher and the general ability of the teacher. In the administration of the school system these records are and have been kept confidential by the Defendant, the Wilcox County Board of Education, and the information contained therein has not been made available to the public or even to the employees of the

Wilcox County Board of Education except to the limited extent necessary to permit certain authorized personnel to use the records in evaluating performance. None of the information contained in such records is pertinent to any claim made in the Plaintiff's complaint.

The information contained in the files relating to pupil transfer records includes confidential medical statements, materials from Juvenile Court, Juvenile Diagnostic information, reports from voluntary social agencies, reports from Welfare Boards, records relating to parents of children including instances where parents may have criminal records and where domestic problems exist. None of these records contain any information pertinent to any claim made in the Plaintiff's complaint.

The records pertaining to objective tests, test results, and records of such tests and test results showing the abilities, maturity, or degree of achievement and advancement of the individual pupil currently attending public schools in Wilcox County, Alabama, are kept by the schools and have as a matter of longstanding policy of the Wilcox County Board of Education, been kept confidential from the public and even confidential to a limited extent to the principals of the various schools and other personnel of the Wilcox County Board of Education. Each principal of each school receives this information for his own school and the information from other schools is furnished to him. Each principal is requested not to show his scores to other principals. The purpose of this policy is to permit the principal to have the pertinent information with reference to his own school and to know how it compares with other schools in the Wilcox County District. The Wilcox County Board of Education has consistently attempted

to avoid comparison of schools by pupil achievement and intelligence tests for the reason that such information would tend to encourage false comparison and which would be detrimental to schools. The information contained in these records does not relate to any claim set forth in the Plaintiff's complaint.

If the Court is of the opinion that there is some possible relationship between any claim made in the Plaintiff's complaint and the records of achievement and intelligence tests and objective tests, we urge the Court to consider at most, an order in this respect which would give the Plaintiff the substance of these records without specific identification as to schools or as to pupils.

It is apparent that this information would be of no aid in resolving the basic issues presented by the Plaintiff in the complaint. The adverse effects on children and their parents resulting from public disclosure of such sensitive material are obvious. The adverse effect on teachers resulting from public disclosure of such sensitive material is obvious. The Plaintiff's request to examine the pupil objective tests, achievement and intelligence tests presents an area of even greater sensitivity regarding the individual student. The present posture of this case reveals no showing of necessity which would justify this Court ordering a deviation from the sound policy of keeping the material confidential.

The teachers and pupils are not parties to this lawsuit and have little or nothing to do with either the formalization or alteration of the policies of the Wilcox County Board of Education which are challenged in this lawsuit. To permit dissection and public exposure of the intellects, emotions, achievements, abilities and deficiencies of one hundred in-

dividual children and many, many teachers would, in our judgment, be intolerable.

In the event the Court concludes that there is any reason to permit the disclosure of any of the foregoing records, it is respectfully suggested that the Court consider the appointment of a referee who would act under the authority of this Court in inspecting such records and obtaining therefrom any information, which, in the opinion of the Court, relates to any claim of the complaint and with such limitations as will insure the maximum protection for persons having no interest in this action.

/s/ McLean Pitts
OF COUNSEL FOR
DEFENDANTS

PITTS & PITTS
Attorneys at Law
Selma, Alabama

COUNSEL FOR DEFENDANTS

STATE OF ALABAMA
COUNTY OF DALLAS

Before me, the undersigned authority in and for said State and County personally appeared GUY S. KELLY, who, being by me first duly sworn, on oath, deposes and says:

He is the Superintendent of the Wilcox County Board of Education and that the statements in the foregoing Application to the Court for Instructions are true as he verily believes.

/s/ Guy S. Kelly
Guy S. Kelly

SWORN TO AND SUBSCRIBED before me on this
the 25 day of March, A.D., 1966.

/s/ McLean Pitts
Notary Public, Dallas County, Ala.
My Commission Expires: 3/12/70

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
MAR 28 1966
WILLIAM J. O'CONNOR
CLERK

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
MAR 28 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

*ANSWER AND OBJECTIONS TO MOTION
TO PRODUCE*

Comes the Defendants by their Attorneys, Pitts and Pitts,
and in Answer to the Motion to Produce that was on file in
this cause and in answer to each paragraph thereof says:

1. The Plaintiff or their agents will be allowed to take pictures of school buildings and sites including the inside of classrooms and toilet facilities provided in the taking of pictures they will not be taken while any school is in session or while any pupil is present at any school. The Plaintiff may make pictures of any school books used provided it is done at the office of the Wilcox County Board of Education. The Plaintiff may make pictures of school transportation vehicles provided the Defendants or its agents are not required to accumulate said vehicles at any central point and provided that the taking of the picture of said vehicles is not done in such a way as to interfere with the operation of the school transportation system or while any buses are being used in the transportation of pupils.

2. Section 174 of Title 52 of the 1940 Code of Alabama (Recompiled 1958) has no application in the case at bar be-

cause the Wilcox County Board of Education is not a City Board of Education and said Section applies only to City Boards of Education.

3. If the applications for accreditation are available, the Plaintiff may make copies thereof.

4. Yes, if this material is available.

5. The Defendants object to disclosing any of the minutes of the Wilcox County Board of Education because said minutes contain confidential information which may or may not pertain to teachers or pupils and Defendant is requesting separate instructions pertaining to the furnishing of materials or allowing the copying of the minutes of the Wilcox County Board of Education.

6. It is unreasonable and unrealistic for the Plaintiff to request this information as far back as the year 1945 and the Defendant objects to being required to produce records for such a long period of time. At the time of making this answer, this Defendant does not know whether said records are available or not nor does this Defendant know the years for which said records are available. This information could be obtained from the Alabama Department of Education.

7. It is unreasonable and unrealistic for the Plaintiff to expect this Defendant to keep books as far back as the year 1945. The Plaintiff may examine the books of this Defendant for such years as the Court may specify provided the examination of the books of account or the taking of pictures of books of account does not interfere with the normal operation of the school system.

8. This Defendant has no such inventory.

9. This Defendant is not positive that it has this information and avers that if it had said information it would be unreasonable and unrealistic to require this Defendant to furnish same as far back as the year 1945; the Defendant avers that this information should not be required to be furnished further back than the year 1964.

10. The Defendant has a map showing the present bus routes but does not have any maps showing planned or proposed future school bus routes. The present bus map has been in existence since 1964 or 1965 and the Plaintiff may make pictures of this map at the office of the Wilcox County Board of Education.

11. The Defendant will furnish records showing the insured valuation of the facilities of the Wilcox County Board of Education and, if available, such records that would show the number of acres in each school site and the cost of construction back to the year 1964; the Defendant does not have any record of the number of square feet in each school or each school site.

12. If these records are available, the Defendant will furnish the same.

13. These records are not in the office of the Wilcox County Board of Education.

14. The records of enrollment are kept by grades and not by classrooms.

15. The Defendant objects to disclosing this information and has made a separate motion to the Court for instructions pertaining thereto.

16. The Defendant objects to disclosing this information and has made a separate motion to the Court for instructions pertaining thereto.

17. All this Defendant can produce is the standard textbooks furnished by the State of Alabama but this Defendant does not know which textbooks are used in each class as teachers have discretion as to which textbooks will be used. The textbooks that are used are approved textbooks.

18. The Defendant objects to disclosing this information and has made a separate motion to the Court for instructions pertaining thereto.

19. The Defendant objects to disclosing this information and has made a separate motion to the Court for instructions pertaining thereto.

20. The only letters that this Defendant has received have been from the Lower Peachtree School District and these will be made available.

The Defendant requests that this Court carefully consider this Answer to the Plaintiff's Motion to Produce.

/s/ McLean Pitts
Of Counsel for Defendants,

PITTS & PITTS
Attorneys at Law
Selma, Alabama
COUNSEL FOR DEFENDANTS

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED CLERK'S OFFICE
MAR 28 1966
WILLIAM J. O'CONNOR
CLERK

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
MAR 28 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

*OPPOSITION TO MOTION FOR LEAVE
TO INTERVENE*

Comes now the Defendants, Wilcox County Board of Education, J. O. Devan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., Harry A. Mason, members of the Wilcox County Board of Education, Guy S. Kelly, Superintendent of Education for Wilcox County, A. R. Meadows, State Superintendent of Education and The State Board of Education of Alabama, separately and severally, by their Attorneys, Pitts and Pitts, and file objections to William P. Thompson, Moderator of the General Assembly of The United Presbyterian Church in the United States of America, Dr. Eugene Carson Blake, as Stated Clerk of the General Assembly of The United Presbyterian Church in the United States of America, The United Presbyterian Church in the United States of America, Marshall L. Scott, Chairman, and Dr. Gayraud S. Wilmore, Executive Director of The Commission on Religion and Race of The United Presbyterian Church in the United States of America,

being allowed to intervene as party complainants in the above styled cause which objections are as follows:

1. Motion to Intervene was not timely made.

2. The Applicants, under their Complaint and Intervention, failed to aver any facts that would warrant intervention.

3. Applicants' Complaint of Intervention fails to allege any facts upon which any relief could be granted to the Applicants.

4. For that the only relief that could be granted would be the relief prayed for in the original Bill of Complaint.

5. For that the Complaint shows upon its face that the Applicants have been a party to and condoned the operation of a dual public school system in Wilcox County, Alabama.

6. For that the Complaint shows upon its face that the Applicants was interested only in Negro children and was not interested in white children.

7. For that the Complaint shows upon its face that the Applicants were the owners of real estate which it turned over to the Wilcox County Board of Education for the purpose of operating schools for Negro pupils.

8. For that the Complaint shows upon its face that the Applicants participated in the operation of schools in Wilcox County exclusively for Negroes.

9. For that the Complaint shows upon its face that the Applicants are not coming into Court with clean hands in that historically, the Applicants have condoned the operation of separate schools for Negroes from that of schools for white.

10. For that the Complaint shows upon its face that the Applicants not only own the land upon which Negro schools were operated but contributed annually to the operation of the Negro school system in Wilcox County, Alabama.

11. For that the Complaint shows upon its face that the Applicants condoned the operation of schools in Wilcox County, Alabama, on a racially segregated basis in violation of the Fourteenth Amendment to the Constitution of the United States.

12. For that the Complaint shows upon its face that the Applicants own land and make contributions annually for the operation of Negro schools in Wilcox County, Alabama.

13. For that no independent relief could be granted to the Applicants other than the relief prayed for in the original Bill of Complaint.

14. For that the Applicants' Bill of Complaint shows upon its face that the Applicants have no interest in the outcome of this litigation.

15. For that all questions involved in this litigation can be resolved under the original Bill of Complaint.

16. For that the relief granted, if any, under the original Bill of Complaint would be for the general public including the interest of the Applicants.

PITTS & PITTS
Attorneys at Law
Selma, Alabama

/s/ McLean Pitts
OF COUNSEL FOR
DEFENDANTS

COUNSEL FOR DEFENDANTS

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
MAR 28 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

THE above styled cause comes on to be heard on this date on pending motions. Arguments are heard, and after consideration by the Court, it is ORDERED and ADJUDGED as follows:

(1) Motion to dismiss, filed on December 6, 1965 by defendant, A. R. Meadows, State Superintendent of Education is taken under SUBMISSION;

(2) Motion to dismiss, filed on December 8, 1965 by defendant Wilcox County Board of Education, is DENIED and said defendant is allowed TEN (10) DAYS, to and including April 7, 1966, within which to answer the complaint;

(3) Motion to dismiss, filed on December 10, 1965 by defendant, State Board of Education, is taken under SUBMISSION.

(4) Motion for leave to intervene as plaintiffs, filed by William P. Thompson, et al. on March 15, 1966, and

(5) Opposition to Motion for leave to Intervene filed by defendants on March 28, 1966 is taken under SUBMISSION;

(6) Motion for Production of Records, etc. filed by plaintiff on March 7, 1966, and

(7) Objections to Motion to Produce filed by defendant on March 28, 1966, is taken under SUBMISSION;

(8) Motion for Instructions, filed by defendants on March 28, 1966 is taken under SUBMISSION.

DONE at Mobile, Alabama this 28th day of March, 1966.

DANIEL H. THOMAS
District Judge

U.S. DISTRICT COURT
SOU. DIST. ALA.

FILED AND ENTERED THIS THE
28 DAY OF MARCH, 1966,
MINUTE ENTRY NO. 19917.
WILLIAM J. O'CONNOR, CLERK,
BY /s/ John V. O'Brien
Deputy Clerk

(Caption Omitted)

After due consideration by the Court,

It is ORDERED and ADJUDGED that the Motion for leave to intervene as plaintiffs filed by William P. Thompson, Moderator of the General Assembly of The United Presbyterian Church in the United States of America; Dr. Eugene Carson Blake, as Stated Clerk of the General Assembly of The United Presbyterian Church in the United States of America; The United Presbyterian Church in the United States of America; Marshall L. Scott, Chairman, and Dr. Gayraud S. Wilmore, Executive Director of The Commission on Religion and Race of The United Presbyterian Church in the United States of

America, on March 15, 1966 and submitted after argument on March 28, 1966, is GRANTED.

DONE at Mobile, Alabama this 31st day of March, 1966

DANIEL H. THOMAS
District Judge

U.S. DISTRICT COURT
SOU. DIST. ALA.

FILED AND ENTERED THIS THE
31ST DAY OF MARCH, 1966,
MINUTE ENTRY NO. 19937.
WILLIAM J. O'CONNOR, CLERK
BY /s/ John V. O'Brien
Deputy Clerk

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
APR 7 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

Comes Wilcox County Board of Education, J. O. DeVan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., and Harry A. Mason, members of the Wilcox County Board of Education, Guy S. Kelly, Superintendent of Education, for Wilcox County, Alabama, Defendants in the above entitled

cause, and in answer to the Complaint and each paragraph thereof, separately and severally say:

I.

The Defendants admit that the action is brought by the Attorney General on behalf of the United States but deny that the Attorney General has any right to institute said action because the said Attorney General of the United States has not followed the provisions of Section 407(a) of Title 4 of the 1964 Civil Rights Act, in that the Attorney General has failed to give any notice to said Defendants of any complaint having been filed with the Attorney General, nor has said Attorney General advised the said Defendants of the nature of any complaint that has been filed with him; that said Defendants were unable to comply or correct any complaint when they did not know the nature of the alleged complaint that was made with the said Attorney General; that these Defendants do not know, nor have they had any notice, of any complaint being filed with the Attorney General of the United States and if any such complaint has been filed with the Attorney General of the United States these Defendants say that they have not had a reasonable time to adjust the conditions alleged in said complaint, if said complaint is well founded.

II.

These Defendants deny that this Court has jurisdiction of this action under Section 407(a) of Title 4 of the 1964 Civil Rights Act and allege that this Court does not have jurisdiction of this cause by reason of the Attorney General's failure to comply with said section of said Act and that this action was prematurely filed by the Attorney General of the United

States; these Defendants further state that neither this Court nor any agency of the United States, or any official of the United States has any authority to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the Court to insure compliance with the constitutional standard. These Defendants further say that this Court lacks jurisdiction of this cause at the present time, by failure of the Attorney General to comply with the provisions of Section 407(a) of Title 4 of the 1964 Civil Rights Act before instituting said suit, in that the Attorney General of the United States failed to give any notice of any complaint to these Defendants and that these Defendants have not had reasonable time to adjust conditions that may be complained of in any complaint that was received by the Attorney General because these Defendants do not know the nature of any complaint and in fact these Defendants have no notice or knowledge of any complaint having been filed with the Attorney General of the United States; that under Section 407(a) these Defendants are entitled to have notice given to them by the Attorney General of the United States, stating the nature of the complaint that has been made against them and are entitled to have reasonable time to adjust the conditions alleged in the complaint and before this is done no suit could be instituted against these Defendants to require them to comply with the provisions of the 1964 Civil Rights Act, therefore, this Court lacks jurisdiction of this cause. The Defendants admit that under Section 1345 of Title 28 U.S.C.A. where the United States is a Plaintiff, a District Court has jurisdiction, but specifically deny that the Court has jurisdiction in this case because the Court does not have jurisdiction

of the subject matter by reason of the premature institution of said suit.

III.

The Defendants admit the allegations of paragraph 3 of the Complaint.

IV.

The Defendants admit the allegations of paragraph 4 of the Complaint.

V.

The Defendants admit the allegations of paragraph 5 of the Complaint.

VI.

The Defendants admit the allegations of paragraph 6 of the Complaint.

VII.

The Defendants deny the allegations of paragraph 7 of the Complaint and demand strict proof thereof. The Defendants further allege that the only duties of the State Board of Education are through its personnel, to assist in executing the policies and procedures authorized by law and by regulation of the State Board of Education, but that said State Board of Education does not exercise any general supervisory powers over the schools of Wilcox County, Alabama; the Defendants

say that they do receive from the State of Alabama certain funds to operate the schools in Wilcox County under the Minimum School Program Fund and in order to participate in this fund it is necessary for them from time to time to submit to the State Board of Education certain data from which it is determined the amount which said school is entitled to receive; that said County Board of Education also receives from the State of Alabama funds under the Public School Fund and submit data to the State Board of Education by which it is determined the amount that the Wilcox County Board of Education will receive for schools in Wilcox County, Alabama.

VIII.

In answer to paragraph 8 of the Complaint the Defendants say that the Defendants named in paragraphs 3 through 5 are responsible for operating the public school system in Wilcox County, Alabama, but that the Defendants named in paragraphs 6 and 7 are not responsible for operating the public school system of Wilcox County, Alabama.

IX.

In answer to paragraph 9 of the Complaint, the Defendants state that they operate in Wilcox County, Alabama, eleven schools which are attended by Negroes, of the Negroes own choice, and the Defendants assist in the operation of one private school which is attended by Negroes, of their own free choice, and the Defendants operate three schools in conjunction with the United Presbyterian Church in the United States of America, which are attended by Negroes, of their own free choice; in further answer to said paragraph of the Complaint the Defendants say that at no time prior to the institution of said suit have they assigned pupils to the private school, nor have

they assigned pupils to any school owned by the United States Presbyterian Church in the United States of America, but that said pupils attending said schools attended said schools under the doctrine of "Freedom of Choice"; in further answer to said paragraph of said Complaint, these Defendants say that at no time prior to the institution of this suit did they assign pupils to any of the public schools operated by these Defendants in Wilcox County, Alabama, but on the contrary, a great many of the schools are what is known as "neighborhood schools" and these schools were established in strategic points of Wilcox County, Alabama, to make it convenient for the parents and pupils to attend the schools, thereby eliminating unnecessary long transportation of pupils and that the pupils attending these schools are attending the schools under the doctrine of "Freedom of Choice".

X.

The Defendants admit that there is operated in Wilcox County, Alabama, three schools that are attended by students who are members of a race other than the Negro race, but these Defendants deny that all White students in Wilcox County, Alabama, are registered by the Defendants at one of these three schools. These Defendants say that Wilcox County, Alabama, is a rather large county, divided geographically by the Alabama River, over which there is only one connecting bridge from the west side of the River to the east side of the River and there are no ferries operating across said River within Wilcox County, Alabama, and that this geographical condition causes vast and large areas of Wilcox County, Alabama, to be populated exclusively by Negroes and in large areas of Wilcox County there are no children other than children of Negroes residing in said areas and that the Wilcox County Board of Education in an effort to possibly save these families without

undue hardship to the children and parents, have established schools in this area and are operating the same solely for the convenience of the Negroes; there are other areas of Wilcox County, Alabama, which are predominately White populated. In further answer to said paragraph, these Defendants say that although the Fourteenth Amendment to the Constitution of the United States prohibits segregation of the races in schools, as promulgated in the case of *Brown v. Board of Education* by the Supreme Court of the United States, which changed the old and long established interpretation set forth in *Plessy v. Ferguson*, it does not command integration of the races in public schools and Negro children have no constitutional right to have White children attend school with them; further, Section 407(a) of Title 4 of the 1964 Civil Rights Act specifically provides that the transportation of pupils or students from one school to another or one school district to another school district in order to achieve racial balance is prohibited. In further answer to said paragraph these Defendants say that a few years after the war between the states the United Presbyterian Church in the United States of America entered Wilcox County, Alabama, and established through the county Negro schools and for many years operated said Negro schools and finally after the adoption of the Minimum School Program Fund in Alabama, in about the year of 1935, while retaining title to all of the buildings, requested aid from the Wilcox County Board of Education in operating their segregated schools, which were operated exclusively for Negroes and the Wilcox County Board of Education came to the aid of the Church and provided teachers and books for said schools which were operated by said Church exclusively for Negroes that historically said Presbyterian Church has operated schools in Wilcox County, Alabama, exclusively for Negroes and provided funds for the maintenance and upkeep of the real

estate owned by said Church for said purposes and at no time did said Church contribute one dime to the operation or maintenance of schools for White pupils; that in the schools of said Church the teachers were exclusively Negroes and up until the time that the Wilcox County Board of Education provided funds for said teachers, said Negro teachers were paid at a level greatly less than teachers in other educational facilities, including teachers of the Wilcox County Board of Education; that since the said Presbyterian Church has been operating schools in Wilcox County, Alabama, at no time have they ever invited or suggested or granted "Freedom of Choice" to White children residing in the area of said schools to attend their said schools. The said Presbyterian Church, knowing the geographical condition that existed in Wilcox County, Alabama, and knowing the isolated areas of Wilcox County, has historically advocated, fostered, condoned, encouraged and approved without the slightest objection to the school officials of Wilcox County the operation of schools to be attended exclusively by Negroes. These Defendants further say that at the present time said Presbyterian Church, although regular teachers are furnished by the Wilcox County Board of Education, are supplying said schools with Negro religious teachers and preachers who receive salaries greatly less than the minimum standards of Wilcox County teachers, and said program is carried on in said schools with the specific intent and purpose of indoctrinating Negro children to Presbyterianism which is specifically prohibited by the decisions of the Supreme Court of the United States. That in the event this Court should determine that the schools that are owned by the said Presbyterian Church are actually operated by the Wilcox County Board of Education, then this Court should require the said Presbyterian Church to remove from said schools all vestage of its religious teachings and embodiments.

XI.

These Defendants deny each and every allegation of paragraph 11 and demands strict proof thereof.

XII.

In answer to paragraph 12 the Defendants deny each and every allegation contained therein and demands strict proof thereof. In further answer to said paragraph these Defendants say that they have no knowledge, nor have they had any notice of any complaint being received by the Attorney General of the United States from parents of minor Negro children in Wilcox County, Alabama, and that if any such complaints were filed with the Attorney General of the United States the said Attorney General failed to place these Defendants on notice of any such complaints as required by Section 407(a) of Title 4 of the 1964 Civil Rights Act, nor did said Attorney General advise these Defendants of the nature of said complaints, nor did he give these Defendants a reasonable time within which to correct any such complaints, if the same existed; these Defendants specifically deny that they have had a reasonable time to adjust the conditions alleged in the Complaint and states that they do not know the nature of said complaints, nor have they had any time or opportunity to correct any such alleged conditions; that on one occasion these Defendants were confronted by a representative of the Department of Justice seeking public records or information and these Defendants inquired of said representative as to whether or not any complaints had been made and requested said representative to furnish these Defendants with said complaints or the nature of said complaints and that these Defendants would attempt to correct, if possible, any complaint that had been made to the Department of Justice and to this very date these Defendants have received no reply, but on the contrary said representative advised these Defendants

that the Department of Justice was not interested in them correcting any complaint.

XIII.

In answer to paragraph 13 of the Complaint, the Defendants deny each and every allegation contained therein and demands strict proof thereof. In further answer to said paragraph of said complaint these Defendants say that they have never at any time operated a school system wherein Negro children in Wilcox County were denied educational opportunities and facilities equal to those provided to White children; these Defendants further deny that they have operated in Wilcox County, Alabama, a segregated school system, but on the contrary, the parents of each child, whether White or Negro, selected the school to which said child would attend by "Freedom of Choice"; in further answer to said paragraph of said Complaint the Defendants say in the history of the Wilcox County Board of Education there has been no policy or practice of formally assigning a child to any particular designated school, the practice being that parents of the child selected the school to which said child should attend. In further answer to said paragraph these Defendants say that within the meaning of the definition of "desegregation" as set forth in Section 401(b) of Title 4 of the 1964 Civil Rights Act the word means the assignment of students to public schools and within such schools without regard to their race, color, religion or national origin, but "desegregation" does not mean the assignment of students to public schools in order to overcome racial imbalance; and that Defendants say that the Wilcox County Board of Education has never operated any system on the basis of an assignment but at the opening of each school year parents carried their children to the school to which they desired to attend and as a general rule said children were entered in the

neighborhood school, which is a school selected by the parents by "Freedom of Choice". In further answer to said paragraph of said Complaint these Defendants say that although the Wilcox County Board of Education has operated on the basis of "Freedom of Choice" for many years that if they were in any way violating the Civil Rights Act of 1964 they have not been notified by any public agency of any such violation or the nature of the violation and that under said Act they would have at least two years from the date of the enactment of said Act within which to comply or correct any thing, act or deed which was causing a non-compliance with said Act. In further answer to said paragraph of said Complaint, these Defendants say that they have not executed and returned to the office of Health, Education and Welfare any papers that were forwarded to them or forms that were forwarded to them by said department and that this suit is instituted solely for the reason that the Wilcox County Board of Education has failed, neglected or refused to return said forms to said department of the Government. These Defendants in further answer to said paragraph of said Complaint say that it is a body created under the laws of the State of Alabama and that it receives its funds solely from the State of Alabama and that said schools could be operated without the interference of the office of Health, Education and Welfare and that under no law are they required to file any report or fill out any forms for the office of Health, Education and Welfare.

/s/ McLean Pitts

Of Counsel for the Defendants

PITTS & PITTS

Attorneys at Law

Selma, Alabama

COUNSEL FOR DEFENDANTS

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
APR 7 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

After due consideration thereof, the Court makes the following rulings with respect to motion to produce filed by the plaintiff on March 7, 1966 and submitted after argument on March 28, 1966:

- (1) GRANTED as to Item (1), provided that such facilities are not to be photographed while school is in session.
- (2) GRANTED, as far back as the year 1955.
- (3) GRANTED;
- (4) GRANTED;
- (5) DENIED;
- (6) DENIED;
- (7) GRANTED, as far back as the year 1955.
- (8) DENIED;
- (9) GRANTED, as far back as the year 1955.
- (10) GRANTED, insofar as such exists.
- (11) GRANTED;
- (12) GRANTED;
- (13) GRANTED, if available.

(14) GRANTED;

(15) GRANTED;

(16) DENIED;

(17) GRANTED;

(18) GRANTED, provided that the information produced by the defendant need only reflect the race of the applicant, the name of the school enrolled in at the time of the attempted transfer and the name of the school to which the pupil sought to be transferred, and the action taken upon the application,

(19) GRANTED;

(20) GRANTED.

It is FURTHER ORDERED and ADJUDGED by the Court that the records shall be made available by the 1st day of May, 1966.

DONE at Mobile, Alabama this the 7th day of April, 1966.

DANIEL H. THOMAS
District Judge

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED AND ENTERED THIS THE
7TH DAY OF APRIL, 1966,
MINUTE ENTRY NO. 19978.
WILLIAM J. O'CONNOR, CLERK,
By—/s/ Robert D. Phillips
Deputy Clerk

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
APR 8 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

*MOTION TO AMEND MOTION FOR AN ORDER TO
PRODUCE RECORDS FOR INSPECTION AND
COPYING PURSUANT TO RULE 34, F.R.C.P.*

The United States hereby moves to amend its Motion for an Order to Produce Records for Inspection and Copying Pursuant to Rule 34, F.R.C.P. filed herein on March 7, 1966 by deleting from line 3 of paragraph (2) of page 2 thereof the number, 174, and inserting in its place the number, 92.

The ground for this motion is that Title 52, Section 174 of the Code of Alabama, inadvertently designated in plaintiff's Motion of March 7, deals with records of city school systems. The corresponding section of Title 52 of the Code of Alabama that deals with county school systems is Section 92. The defendant Wilcox County Board of Education is a county board, rather than a city board.

This motion is based on the pleadings on file herein and the direction of this Court, given on March 28, 1966, in open court to plaintiff to amend its motion of March 7.

/s/ Charles Quaintance
CHARLES QUAINANCE,
Attorney, Department of Justice

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
APR 8 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

MOTION FOR CONTINUANCE

Comes Wilcox County Board of Education, J. O. DeVan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., and Harry A. Mason, members of the Wilcox County Board of Education, Guy S. Kelly, Superintendent of Education for Wilcox County, Alabama, Defendants in the above entitled cause, by one of their attorneys of record, McLean Pitts, and respectfully represent and show unto the Court as follows:

1. At a hearing on the pleadings in the above styled case, before Hon. Daniel H. Thomas, on, to-wit: March 28, 1966, the Judge entered an Order denying the Motion to Dismiss filed by these Defendants in said cause on, to-wit: December 8, 1965, and granted to these Defendants until April 7, 1966, within which to file an answer to the complaint. These Defendants and their attorneys devoted several days in preparing the answer of these Defendants to the original complaint; that on, to-wit: March 31, 1966, this Honorable Court did enter an Order, over the objections of these Defendants, granting to the Presbyterian Church in the United States of America et al, the right to intervene and these Defendants must now prepare an answer to the Complaint in Intervention; that there are various facts involved and these Defendants do not have knowledge of these facts and it is going to be necessary for these Defendants to resort to discovery practices under the

Federal Rules of Civil Procedure, to-wit: the taking of depositions and the filing of interrogatories to the Intervenor Complainants.

2. This case is presently set for trial on, to-wit: April 20, 1966, and in addition thereto, this Court has cases set for trial in Dallas County, Alabama, commencing on April 11, 13, 15, 18, 1966, and a voluminous Motion Docket set for hearing on Tuesday, April 19, 1966. The attorney for these Defendants has also been notified that it is necessary for him to be before a hearing conducted by the National Labor Relations Board in Selma, Alabama, on, to-wit: April 20, 1966. That in addition thereto the attorney for these Defendants has cases set in the Circuit Court of Perry County, Alabama, on April 12, 1966, and in the Circuit Court of Wilcox County, Alabama, on April 28, 1966. That in addition thereto, the United States District Court has set its cases in Selma, Alabama, during the same week, to-wit: April 11, 1966, that was originally scheduled for jury trial cases by the Circuit Court of Dallas County, Alabama; that the Circuit Court of Dallas County, Alabama, has entered an order postponing its jury court until sometime in May of 1966, but it is going to be necessary for the attorneys representing these Defendants to prepare cases for trial in said Court.

3. That it would be unreasonable, unfair and unjust to require these Defendants to be placed on trial on April 20, 1966, in this case without giving these Defendants the opportunity of exhausting all discovery practices allowed to them under the Federal Rules of Civil Procedure.

WHEREFORE, the Defendants, Wilcox County Board of Education, J. O. DeVan, R. E. Lambert, Jr., Edward B. Hale,

L. Y. Sadler, Jr., and Harry A. Mason, members of the Wilcox County Board of Education, Guy S. Kelly, Superintendent of Education for Wilcox County, Alabama, move that said case be continued to a future day to be set by the Court.

/s/ McLean Pitts
Of Counsel for said Defendants

NOTICE TO OPPOSING ATTORNEYS

TO: Nicholas deB. Katzenbach, John Doar, Vernol R. Jansen, Jr., Peter A. Hall, Orzell Billingsly, Jr., and Frank M. Dunbaugh.

You, and each of you, will please take notice that the foregoing Motion has this day been forwarded to the Clerk of the United States District Court for the Southern District of Alabama, Northern Division, at Mobile, Alabama, for filing and the same will be presented to Hon. Daniel H. Thomas, Judge of said Court, at such time and place as the Judge may designate.

DONE this the 7th day of April, A.D., 1966.

/s/ McLean Pitts
Of Counsel for said Defendants

PITTS & PITTS
Attorneys at Law
Selma, Alabama

COUNSEL FOR SAID DEFENDANTS

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
APR 11 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

*ANSWER AND OBJECTIONS TO AMENDED
MOTION TO PRODUCE*

Comes Wilcox County Board of Education, J. O. DeVan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., and Harry A. Mason, members of the Wilcox County Board of Education, Guy S. Kelly, Superintendent of Education for Wilcox County, Alabama, Defendants in the above entitled cause, by one of their attorneys of record, McLean Pitts, and in answer to the Amendment to the Motion to Produce that was filed by the Plaintiff in this cause, which amendment amended paragraph 2 of the Plaintiff's Motion to Produce, and in answer to same say:

1. The information requested in this paragraph of the Amended Motion to Produce is not pertinent to any issues involved in this case and would be incompetent, irrelevant and immaterial.

2. That it is unreasonable and unrealistic for these Plaintiffs to attempt to require these Defendants to furnish this type of information since the year of 1945. That the Plaintiff is asking for information that was for many years prior to the time of the enactment of the 1964 Civil Rights Act. That the

information requested by the Plaintiff in this amended motion is just as available to the Plaintiff as it is to these Defendants. The financial condition of the Wilcox County Board of Education since 1945 is incompetent, irrelevant and immaterial to any issues involved in this case. That Section 92 of Title 52 of the 1940 Code of Alabama (Recompiled 1958), calls for only financial information to be furnished to the public and would be incompetent, irrelevant and immaterial to any of the issues involved in this case.

/s/ McLean Pitts
Of Counsel for said Defendants

PITTS & PITTS
Attorneys at Law
Selma, Alabama

COUNSEL FOR SAID DEFENDANTS

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
APR 12 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

*DEFENDANTS ANSWER TO COMPLAINT
IN INTERVENTION*

Comes Wilcox County Board of Education, J. O. DeVan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., and Harry A. Mason, members of the Wilcox County Board of

Education, Guy S. Kelly, Superintendent of Education for Wilcox County, Alabama, Defendants in the above entitled cause, by their Attorney, McLean Pitts, and in answer to the Complaint in Intervention" and to each paragraph thereof, separately and severally say:

I.

The Defendants deny that William P. Thompson, Moderator of the General Assembly of The United Presbyterian Church in the United States of America, Dr. Eugene Carson Blake, Stated Clerk of said Church, Marshall L. Scott, Chairman of The Commission on Religion and Race of the United Presbyterian Church in the United States of America, and Dr. Gayraud S. Wilmore, Executive Director of said Commission, have any right or authority to institute the Complaint in Intervention for and on behalf of The United Presbyterian Church in the United States of America; the Defendants say that the General Assembly or other governing body of the United Presbyterian Church in the United States of America, has not heretofore authorized said persons to institute this Complaint in Intervention; further, these Defendants deny that the Commission on Religion and Race of The United Presbyterian Church in the United States of America has authorized the filing of this Complaint in Intervention. In further answer to said paragraph of said complaint in intervention, the Defendants say that as a matter of fact the General Assembly of said Church has not authorized any court action and as a matter of fact the Commission on Religion and Race of The United Presbyterian Church in the United States of America has not authorized any legal action; further, these Defendants say that in the creation of the Commission on Religion and Race of The United Presbyterian Church in the United States of America the General Assembly or other governing body of the Church did

not grant authority to said Commission to institute suits and particularly the Complaint in Intervention in this case.

II.

In answer to paragraph 2 the Defendants admit that a so-called suit was filed in this cause, but deny that this Court has jurisdiction of said suit and deny that the Attorney General of the United States had followed the provisions of Section 407(a) of Title 4 of the 1964 Civil Rights Act, all as more particularly set forth in the answer of these Defendants to the original Complaint.

III.

The Defendants admit the allegations of paragraph 3.

IV.

The Defendants admit the allegations of paragraph 4.

V.

The Defendants admit the allegations of paragraph 5.

VI.

The Defendants admit the allegations of paragraph 6.

VII.

The Defendants deny the allegations of paragraph 7 of the Complaint in Intervention and demand strict proof thereof. The Defendants further allege that the only duties of the

State Board of Education are through its personnel, to assist in executing the policies and procedures authorized by law and by regulation of the State Board of Education, but that said State Board of Education does not exercise any general supervisory powers over the schools of Wilcox County, Alabama; the Defendants say that they do receive from the State of Alabama certain funds to operate the schools in Wilcox County under the Minimum School Program Fund and in order to participate in this fund it is necessary for them from time to time to submit to the State Board of Education certain data from which it is determined the amount which said school is entitled to receive; that said County Board of Education also receives from the State of Alabama funds under the Public School Fund and submits data to the State Board of Education by which it is determined the amount that the Wilcox County Board of Education will receive for schools in Wilcox County, Alabama.

XIII.

In answer to paragraph 8 of the Complaint in Intervention the Defendants say that the Defendants named in paragraphs 3 through 5 are responsible for operating the public school system of Wilcox County, Alabama, but that the Defendants named in paragraph 6 and 7 are not responsible for operating the public school system of Wilcox County, Alabama.

IX.

In answer to paragraph 9 the Defendants demand strict proof thereof.

X.

In answer to paragraph 10 the Defendants demand strict proof thereof.

XI.

In answer to paragraph 11 the Defendants demand strict proof thereof.

XII.

In answer to paragraph 12 of the Complaint In Intervention the Defendants demand strict proof that Marshall L. Scott is Chairman and Dr. Gayraud S. Wilmore is Executive Director of The Commission on Religion and Race of The United Presbyterian Church in the United States of America. In further answer to said paragraph of said Complaint in Intervention, the Defendants deny the establishment of the Commission on Religion and Race of The United Presbyterian Church in the United States of America and deny that it is an organization established within the Church for the purpose of articulating and carrying out the mandates of the Church relative to its witnessing in the field of race relations and the Defendants demand strict proof of each and every allegation contained in said paragraph pertaining to said Commission. In further answer to said paragraph the Defendants say that said Commission has no authority to institute any suit in behalf of said Church, nor does said Commission have the authority to institute this Complaint in Intervention for and on behalf of said Church.

XIII.

In answer to paragraph 13 of the Complaint in Intervention, the Defendants deny that the United Presbyterian Church in the United States of America owns the land in Wilcox County, Alabama, on which schools are situated. In further answer to said paragraph of said Complaint in Intervention

these Defendants say that many years ago and shortly after the war between the states, certain White land-owners in Wilcox County, Alabama, deeded some of the properties there are now being used for schools to the Women's General Missionary Society of the United Presbyterian Church of North America, a corporation, which deeds provided that said lands when ceased to be used for school purposes were to revert to the White land-owners or their decendants or heirs, assignees, or distributees, and in the event any of said premises are not used for school purposes then the heirs or assigns of the original grantee would become the owner of said property; further, these Defendants say that it knows of no connection between the Women's General Missionary Society of the United Presbyterian Church of North America, a corporation and the United Presbyterian Church in the United States of America which is averred by the Complainants in the Complaint in Intervention to be an incorporated religious institution. These Defendants deny that the General Assembly or other governing body of the United Presbyterian Church in the United States of America has any ownership in, control over or interest in the property that is being used for school purposes in Wilcox County, Alabama. According to the public records of Wilcox County, Alabama, the Board of National Missions of The Presbyterian Church in the United States of America, a corporation, is in possession of the lands where said schools are being operated under the aforesaid old mentioned deed of gift with right of reversion and these Defendants say that at its request in about the year of 1937 when the General School Program Fund was adopted in Alabama the Wilcox County Board of Education subsidized said Church schools by providing books and teachers and said Church continued to operate said schools, placing therein Negro religious teachers and Negro preachers with the specific intent and purpose of indoctrinating Negro children to

Presbyterianism which could not be allowed to be done in a public school because the same is specifically prohibited by the decisions of the Supreme Court of the United States; that up to this date said Church is placing in said schools Negro religious teachers attempting to indoctrinate Negro children to Presbyterianism which is specifically prohibited by the decisions of the Supreme Court of the United States and if this Court should determine that these Defendants are operating said schools then this Court should order the removal from said schools of all vestage and embodiments of religious teachings. These Defendants, in further answer to said paragraph of said Complaint in Intervention say that at no time has the Complainant in Intervention furnished anything of monetary value to the operation of the schools in Wilcox County, Alabama, and that instead of the Complainants in Intervention subsidizing the programs and teachers in the Wilcox County system, the Wilcox County Board of Education has been subsidizing schools that have been operated by the Plaintiff in the Complaint in Intervention.

XIV.

In answer to paragraph 14 of the Complaint in Intervention these Defendants admit that historically the Plaintiff in Intervention has operated segregated schools for Negroes in Wilcox County, Alabama, and say that in fact the Plaintiff in the Complaint in Intervention has operated schools only for Negro children in Wilcox County, Alabama, to the exclusion of White children. Further answering said paragraph of said Complaint in Intervention, these Defendants say that a public school system for Negroes was established in Wilcox County, Alabama, a long time before the Wilcox County Board of Education commenced subsidizing the segregated schools of the

Plaintiff in Intervention. Further, the Plaintiff in Intervention has historically demanded, and it has been the policy of the Plaintiff, to operate schools only for Negroes and in carrying on this work called themselves performing missionary work among Negroes in the South and the main purpose of said missionary work among Negroes in the South was to indoctrinate said Negroes with said Presbyterianism to the exclusion of all other religion. In further answer to said paragraph these Defendants deny that The United Presbyterian Church in the United States of America owns any of the land upon which their said missionary schools are situated and demands strict proof thereof; in further answer to said paragraph these Defendants deny that said Church makes any monetary contribution to the operation of any schools in Wilcox County, Alabama, but has allowed their said properties to become dilapidated in a run-down condition to such a bad extent that the Wilcox County Board of Education has planned and has in fact carried on an extensive building program for the purpose of trying to remove said children from the dilapidated, run-down and insanitary buildings maintained by the United Presbyterian Church in the United States of America; that these Defendants at all times have recognized that The United Presbyterian Church in the United States of America has failed to provide proper school facilities and said Defendants have been working to the end that all Negro children could be removed from the insanitary, run-down buildings of said Church and removed from having forced upon them Presbyterianism. These Defendants deny that said Church has subsidized any program operated by these Defendants, but on the contrary these Defendants have subsidized a program operated by the said Church at said Church's request.

XV.

In answer to paragraph 15 of the Complaint in Intervention, the Defendants deny each and every allegation contained therein and demand strict proof thereof. In further answer to said paragraph of said Complaint in Intervention these Defendants say that they have never at any time operated a school system which provided to Negro students educational opportunities and facilities which were inferior to the educational opportunities and facilities provided by said Board to White students and deny that they have operated in Wilcox County, Alabama, a segregated school system, but on the contrary, the parents of each child, either White or Negro, select the school to which said child would attend by "Freedom of Choice". These Defendants say that Wilcox County, Alabama, is a rather large county divided geographically by the Alabama River, over which there is only one connecting bridge from the west side to the east side of the River and there are no ferries operating across the River within Wilcox County, Alabama; that this geographically condition causes vast and large areas of Wilcox County, Alabama, to be populated exclusively by Negroes and in large areas of Wilcox County, Alabama, there are no children other than children of Negroes residing in said areas and the Wilcox County Board of Education in an effort to possibly save these families undue hardship by long transportation of their children, have established schools in these areas and are operating the same solely for the convenience of Negroes; that there are other areas in Wilcox County which are predominately White populated. In further answer to said paragraph these Defendants say that although the Fourteenth Amendment to the Constitution of the United States prohibits segregation of the races in schools as promulgated in the case of *Brown v. Board of Education* by the Supreme Court of United States, which overruled the old and long

published interpretation of the Fourteenth Amendment as set forth in *Plessy v. Ferguson*, it does not command integration of the races in public schools and Negro children have no constitutional right to have White children attend school with them; further, Section 407(a) of Title 4 of the 1964 Civil Rights Act specifically provides that the transportation of pupils or students from one school to another or one school district to another school district in order to achieve racial balance is prohibited. These Defendants say that there would be no way to establish in Wilcox County, Alabama, schools that in some areas would not be entirely attended by Negroes as there are no White families residing in said areas. These Defendants further say that the best high school in the Wilcox County Educational System is the W. J. Jones High School in the Meeple area which by choice has been attended exclusively by Negroes, which is the best buildings, best equipped, most modern and most expensive high school in the Wilcox County system and is the only school in the County that has a Principle with a doctors degree. Therefore, the Negroes in Wilcox County, Alabama, are enjoying facilities clearly superior to that of any facilities enjoyed by White students in Wilcox County, Alabama.

XVI.

In answer to paragraph 16 of the Complaint in Intervention the Defendants deny each and every allegation contained herein and demand strict proof thereof; in further answer to said paragraph the Defendants adopt paragraph XV hereinabove set forth. In further answer to said paragraph these Defendants say that at no time have these Defendants assigned pupils to any school, but it has been the long practice of allowing children to attend such schools as may be selected by their

parents or guardian under the doctrine of "Freedom of Choice" and that this system is operated by the parent or guardian of the child simply carrying the child to the school of his or her choice at the opening of each school year and enrolling said child in said school.

*XVII.

In answer to paragraph 17 of the Complaint in Intervention the Defendants deny that the Plaintiff in the Complaint in Intervention, the said United Presbyterian Church in the United States of America, is the owner of any of said lands upon which any of said church schools are situated and demands strict proof thereof. In further answer to said paragraph these Defendants deny that said church is really interested in improving the quality of education offered to Negroes in Wilcox County, Alabama, but in fact has been mainly interested in indoctrinating said Negroes to Presbyterianism and said Church instead of being mainly interested in the education of Negro children. It has recently become interested in the integration of the races regardless of the consequential damage to the educational system in Wilcox County, Alabama, and the welfare of Negro children. That said Church has become so interested in the integration of the races that it has taken out of school school children en masse for the purpose of demonstrating in the streets of Camden and other places and through acts of the Church they are designing and attempting to carry on in the future the practice of encouraging Negro children to leave their schools for the purpose of demonstrating for the integration of races; that said Church in its Complaint in Intervention aver that it may appear that it sanctions or condones a rigid pattern of segregation, but these Defendants aver that in fact said Church historically has actively sanctioned, condoned and promoted a

rigid pattern of segregation of the races. These Defendants further say that they deny that there is in the book of Church Order or any other books or matters of said Church, statements or writings that would establish that segregation of the races is in conflict with any of the historical teachings of said Church, but on the contrary the historical doctrine of said Church and the religious basis upon which said Church is founded advocates segregation of the races.

XVIII.

In answer to paragraph 18 of the Complaint in Intervention the Defendants deny each and every allegation contained therein and demand strict proof thereof. These Defendants say that at no time in the past has said Church protested to the Defendants alleged operation of racially segregated educational system, but to the contrary, said Church itself historically has operated a segregated school system in Wilcox County, Alabama. These Defendants deny that they operate a racially segregated educational system but operate solely on a "Freedom of Choice" basis.

XIX.

In answer to paragraph 19 of said Complaint in Intervention these Defendants deny each and every allegation contained therein and demand strict proof thereof.

These Defendants adopt as their answer to the Complaint in Intervention each and every paragraph of the answer to the

original Complaint and make the same a part hereof.

/s/ McLean Pitts
Of Counsel for the Defendants

PITTS & PITTS

Attorneys at Law

Selma, Alabama

COUNSEL FOR SAID DEFENDANTS

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE

APR 12 1966

WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

On the Court's own motion, the above styled cause set for trial in Selma, Alabama, on WEDNESDAY, APRIL 20, 1966, is hereby continued until further notice.

DONE at Mobile, Alabama, this the 11 day of April, 1966.

DANIEL H. THOMAS
United States District Judge

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED AND ENTERED THIS THE
11 DAY OF APRIL, 1966, MINUTE
ENTRY NO. 19988.

WILLIAM J. O'CONNOR, CLERK,
BY—/s/ William E. Taylor
Deputy Clerk

(Caption Omitted)

*NOTICE OF MOTION AND MOTION FOR
PRELIMINARY INJUNCTION*

TO: ALL PARTIES AND ALL ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on April 19th at 9:00 A.M. or as soon thereafter as counsel may be heard, in the courtroom of the United States District Court for the Southern District of Alabama, U.S. Federal Building, Selma, Alabama, the United States will move this Court for an Order enjoining during the pendency of this action, the defendants, their agents, employees, officers, successors, and all those in active concert or participation with them from:

1. Engaging in racially discriminatory acts and practices in the operation of the Wilcox County school system.

2. Failing or refusing to submit to this Court a plan calling for the desegregation of all grades in the public school system of Wilcox County by September, 1967. The plan shall provide for:

a. A reasonable opportunity for each student who will be in a desegregated grade in the school year 1966-67 to exercise, prior to the end of the school year, 1965-66, his choice of school for the following school year;

b. A reasonable opportunity for each student who will be in a segregated grade in the school year 1966-67 to transfer to a school from which he was originally excluded or would have been excluded because of his race; and

c. Affirmative steps to eliminate the effects of past discrimination in the assignment of faculty and other staff members.

3. Using race or color in the hiring, assignment, reassignment, promotion, demotion, or dismissal of teachers and other professional staff, with the exception that assignments may be made to further the process of desegregation.

This motion will be based on the pleadings on file in this action and on the evidence to be presented at the hearing on this motion.

FRANK M. DUNBAUGH
Attorney, Department of Justice

/s/ Charles W. Quaintance
CHARLES W. QUAINANCE
Attorney, Department of Justice

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
APR 14 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

*NOTICE OF MOTION AND MOTION FOR LEAVE
TO INTERVENE AS PLAINTIFFS*

TO EACH PARTY AND THE ATTORNEY OF RECORD
FOR EACH PARTY:

PLEASE TAKE NOTICE that on _____ at
_____, or as soon thereafter as counsel may be heard, in

the courtroom of the United States District Court for the Southern District of Alabama, Northern Division, Mobile, Alabama; Albert James Gordon, Valerie Watts, Vashti Jones Hayes and Jessie J. Lymons will move for leave to intervene as plaintiffs in this action and for leave to file the Complaint in Intervention which is attached hereto.

This Motion will be made pursuant to Rule 24 of the Federal Rules of Civil Procedure.

/s Orzell Billingsley, Jr.
ORZELL BILLINGSLEY, JR.

PETER A. HALL
1630 Fourth Avenue, North
Birmingham, Alabama

JACK GREENBERG
NORMAN C. AMAKER
10 Columbus Circle
New York, New York 10019
Attorneys for Applicants Intervenor

4/26/66
MOTION GRANTED
DANIEL H. THOMAS

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED AND ENTERED THIS THE
26 DAY OF MAY, 1966, MINUTE
ENTRY NO. 20282.
WILLIAM J. O'CONNOR, CLERK
BY /s/ John V. O'Brien
Deputy Clerk

(Caption Omitted)

**MEMORANDUM OF AUTHORITIES IN SUPPORT
OF MOTION TO INTERVENE**

Rule 24(a)(2) of the Federal Rules of Civil Procedure authorizes petitioners to intervene upon timely application.

Fox Publishing Co. v. United States, 366 U.S. 683, 6 L. Ed. 2d 604, 81 S. Ct. 1309 (1961)

Under Rule 24(b) of the Federal Rules of Civil Procedure, petitioners may be permitted to intervene upon timely application.

Stell v. Savannah, Chatham County Bd. of Ed., 33 F. 2d 55 (5th Cir. 1964)

Respectfully submitted,

/s/ Orzell Billingsley, Jr.
ORZELL BILLINGSLEY, JR.

PETER A. HALL
1630 Fourth Avenue, North
Birmingham, Alabama 35203

JACK GREENBERG
NORMAN C. AMAKER
10 Columbus Circle
New York, New York 10019
Attorneys for Applicants Intervening

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
MAY 26 1966
WILLIAM J. O'CONNOR
CLERK

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
MAY 26 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

COMPLAINT IN INTERVENTION

1. This is a Complaint in Intervention filed by Albert James Gordon, Valerie Watts, Vashti Jones Hayes and Jessie J. Lymons, under and pursuant to Rule 24, Federal Rules of Civil Procedure.

2. On November 22, 1965, plaintiff United States of America, by Nicholas deB. Katzenbach, Attorney General, filed its Complaint in this case under Section 407(a) of the Civil Rights Act of 1964, and under 28 U.S.C. 1345, seeking to enjoin defendants from failing to provide equal educational opportunities to all students in public schools without regard to race or color, and from otherwise maintaining in the operation of the public schools of Wilcox County any distinctions based upon race or color.

3. This is a proceeding for a preliminary and permanent injunction enjoining the Wilcox County Board of Education, its superiors, its members and the Superintendent of the Wilcox County Board of Education from generally refusing to hire and assign teachers without regard to race or color and from specifically failing to offer plaintiffs contracts for the 1965-66 school year to plaintiffs Albert James Gordon, Valerie Watts,

Vashti Jones Hayes and Jessie J. Lymons, solely because plaintiffs are Negro teachers who heretofore have taught in the Wilcox County, Alabama school system and have engaged in civil rights activities.

4. The jurisdiction of this Court is invoked pursuant to the provisions of Title 28, United States Code, Section 1343(3), this being a suit in equity authorized by law, Title 42, United States Code, Section 1983, to be commenced by any citizen of the United States or other persons within the jurisdiction thereof, to redress the deprivation, under color of statute or ordinance, regulation, custom or usage of a state, of rights, privileges and immunities secured by the Constitution and laws of the United States. The rights, privileges and immunities sought to be secured by this action are rights, privilege and immunities secured by the due process and equal protection clauses of the Fourteenth Amendment to the Constitution of the United States, as hereinafter more fully appears.

5. The plaintiffs in this case are:

a) Albert James Gordon, a Negro citizen of the United States and Wilcox County, Alabama. He received his elementary and high school education in Camden, Alabama; received the Bachelor of Arts degree from Knoxville College; and has done further study at Alabama State College. He had been employed by the Wilcox County Board of Education for fourteen (14) years, said employment being terminated by said Board in September, 1965.

b) Valerie Watts, a Negro citizen of the United States and Camden, Wilcox County, Alabama. She received the Bachelor of Arts degree from Alabama State College and had worked

in the Wilcox County school system for nineteen (19) years.

c) Vashti Jones Hayes, a Negro citizen of the United States and Wilcox County, Alabama. She received a Bachelor of Science degree from Tuskegee Institute, Alabama; has completed eighteen (18) hours toward a Master's degree in education at Atlanta University. She had taught in the Wilcox County school system for fifteen (15) years—thirteen (13) of these years were spent in the United Presbyterian Church schools at Prairie and Millers Ferry, Alabama.

d) Jessie J. Lymons, a Negro citizen of the United States and Wilcox County, Alabama. She received a Bachelor of Science degree from Alabama State College. She was employed as a first grade teacher in the Wilcox County school system for five (5) years. On September 3, 1965, she was notified that her employment had been terminated.

6. The defendant, Wilcox County Board of Education, is a school board organized and existing under the laws of Alabama. The defendants, J. O. Devan; R. E. Lambert, Jr.; Edward B. Hale; L. Y. Sadler, Jr. and Harry A. Mason are members of the Wilcox County Board of Education. They reside in Wilcox County, Alabama. Defendant Guy S. Kelly is the Superintendent of Education of Wilcox County, Alabama. He resides in Camden, Alabama. Defendant A. R. Meadows is the State Superintendent of Education. He resides in Montgomery, Alabama. The State Board of Education exercises general control and supervision over the public schools in Alabama. Its office is located in Montgomery, Alabama.

7. Defendant Wilcox County Board of Education, acting under color of the authority vested in it by the laws of the

State of Alabama, failed and refused to offer plaintiffs contracts to teach in the Wilcox County school system for the 1965-66 school year because the defendants are opposed to assigning plaintiffs to a school where white pupils are assigned because of plaintiffs' race and color.

8. Approximately ten (10) Negro school teachers in the Wilcox County school system were given discharge notice pending hearing, and were notified the first day of school last fall, because of alleged reduced attendance units during demonstrations in the spring of 1965, when students protested lack of provisions for voter-registration facilities for Negroes. (See plaintiffs' Exhibit A)

9. Plaintiffs allege on information and belief that defendants hired, for the 1965-66 school year, white and Negro teachers with qualifications and experience inferior to that possessed by plaintiffs.

10. Plaintiffs' teaching record in the defendant Board's school has been excellent, and the Board's decision not to renew their contracts was based solely on the Board's unwillingness to assign Negro teachers to schools attended by white pupils, and this fear is based solely on the Board's concern about adverse community reaction in civil rights demonstrations in Wilcox County, Alabama. Dismissal for such reasons and under color of the laws, policy, custom, practice and usage of defendant Board, violated rights secured to the plaintiffs and other Negro teachers similarly situated by the Constitution and laws of the United States of America.

11. Teachers, principals and other professional personnel are assigned to schools by the defendants on the basis of race

with Negro personnel assigned only to Negro schools, and white personnel assigned only to white schools.

12. As a result of defendant Board's actions, plaintiffs and other Negro teachers similarly situated, lost their employment as school teachers, which has caused irreparable loss, injury and harm. Plaintiffs have no plain, adequate or complete relief to redress these wrongs other than this suit for injunctive relief. Any other relief would be attended by such uncertainties and delays as to deny substantial relief, and would cause plaintiffs further irreparable injury and occasion damage, vexation and inconvenience.

WHEREFORE, plaintiffs respectfully pray that:

1. The Court advance this cause on the docket and order a speedy hearing thereof, and upon such hearing, to

a) enter a preliminary and permanent injunction requiring the defendants, their agents, employees, successors and those acting in concert with them to reinstate plaintiffs' contracts for the 1965-66 school year, with the payment of all back wages and benefits, in accordance with their qualifications and experience and without regard to race or color, and to continue such contractual basis without regard to plaintiffs' constitutionally protected activities in behalf of civil rights generally, and the desegregation of the public schools in particular.

b) enter a preliminary and permanent injunction directing the defendants, their agents, employees, successors and those acting in concert with them to assign Negro teachers, principals and other professional personnel to white schools;

and white teachers, principals and other professional personnel to Negro schools.

c) allow plaintiffs their costs herein and such further/other/or additional relief as may appear to this Court to be equitable and just.

/s/ Orzell Billingsley, Jr.
ORZELL BILLINGSLEY, JR.

PETER A. HALL
1630 Fourth Avenue, North
Birmingham, Alabama 35203

JACK GREENBERG
NORMAN C. AMAKER
10 Columbus Circle
New York, New York 10019
Attorneys for Applicants Intervenor

PLAINTIFFS' EXHIBIT 1

BOARD OF EDUCATION

J. O. DEVAN, President, Pine Hill
R. E. LAMBERT, JR., Vice-President, Darlington
EDWARD B. HALE, Pine Apple
L. Y. SADLER, JR., Camden
HARRY A. MASON, Pine Hill

OFFICE OF
SUPERINTENDENT OF EDUCATION
GUY S. KELLY, Superintendent
Wilcox County — Camden, Alabama
August 31, 1965

Valerie Watts
Route 1, Box 84
Coy, Alabama

Dear Valerie:

The Board of Education of Wilcox County, Camden, Alabama has directed me to write you and let you know that they will have a meeting on September 29, 1965, at 9:00 a.m. in the office of the Superintendent of Education of Wilcox County, Camden, Alabama, for the purpose of considering the rescission of your contract, as a teacher in the County because of a necessary reduction in teacher units as a result of loss in average daily attendance.

Should you decide to contest this action you must file a notice of your intention to do so in this office through the Superintendent at least five (5) days prior to date set for the hearing.

The Board has further directed that you be suspended without pay during the period between now and the hearing on September 29, 1965.

Yours truly,

/s/ Guy S. Kelly
Guy S. Kelly, Superintendent
Wilcox County Schools
GSK:ir

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
MAY 26 1966
WILLIAM J. O'CONNOR
CLERK

U.S. DISTRICT COURT
 SOU. DIST. ALA.
 FILED IN CLERK'S OFFICE
 MAY 26 1966
 WILLIAM J. O'CONNOR
 CLERK

(Caption Omitted)

*NOTICE OF MOTION AND MOTION FOR
 LEAVE TO INTERVENE AS PLAINTIFFS*

TO EACH PARTY AND THE ATTORNEY OF RECORD
 FOR EACH PARTY:

PLEASE TAKE NOTICE that on _____, at
 _____, or as soon thereafter as counsel may be
 heard, in the courtroom of the United States District Court for
 the Southern District of Alabama, Northern Division, Mobile,
 Alabama; Patsie Prim, as next friend of Bobbie Lewis Knight
 and Mack Arthur Knight; Selina Smiley, as next friend of
 Addie Smiley; Samuel Chester Charley, Sr., as next friend
 of Samuel Chester Charley, Jr., and Alberta Charley; Marie
 Charley, as next friend of Luvern Charley and Sterling Char-
 ley; and all other Negroes similarly situated, will move for
 leave to intervene as plaintiffs in this action and for leave to
 file the Complaint in Intervention which is attached hereto.

This Motion will be made pursuant to Rule 24 of the
 Federal Rules of Civil Procedure.

/s/ Orzell Billingsley, Jr.
 ORZELL BILLINGSLEY, JR.

PETER A. HALL
 1630 Fourth Avenue, North
 Birmingham, Alabama 35203

JACK GREENBERG
 NORMAN C. AMAKER
 10 Columbus Circle
 New York, New York 10019
 Attorneys for Applicants Intervenor

5/26/66

MOTION GRANTED

DANIEL H. THOMAS

U.S. DISTRICT COURT
 SOU. DIST. ALA.

FILED AND ENTERED THIS THE
 26 DAY OF MAY, 1966, MINUTE
 ENTRY NO. 20281.

WILLIAM J. O'CONNOR, CLERK
 BY /s/ John V. O'Brien
 Deputy Clerk

(Caption Omitted)

**MEMORANDUM OF AUTHORITIES IN SUPPORT
OF MOTION TO INTERVENE**

Rule 24(a)(2) of the Federal Rules of Civil Procedure authorizes petitioners to intervene upon timely application.

Fox Publishing Co. v United States, 366 U.S. 683, 6 L. Ed. 2d 604, 81 S. Ct. 1309 (1961)

Under Rule 24(b) of the Federal Rules of Civil Procedure, petitioners may be permitted to intervene upon timely application.

Stell v Savannah, Chatham County Bd. of Ed., 33 F. 2d 55 (5th Cir. 1964)

Respectfully submitted,

/s/ Orzell Billingsley, Jr.
ORZELL BILLINGSLEY, JR.

PETER A. HALL
1630 Fourth Avenue, North
Birmingham, Alabama 35203

JACK GREENBERG
NORMAN C. AMAKER
10 Columbus Circle
New York, New York 10019
Attorneys for Applicants Intervenor

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
MAY 26 1966
WILLIAM J. O'CONNOR
CLERK

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
MAY 26 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

COMPLAINT IN INTERVENTION

1. This is a Complaint in Intervention filed by Patsie Primm, as next friend of Bobbie Lewis Knight and Mack Arthur Knight; Selina Smiley, as next friend of Addie Smiley; Samuel Chester Charley, Sr., as next friend of Samuel Chester Charley, Jr., and Alberta Charley; Marie Charley, as next friend of Luvern Charley and Sterling Charley; and all other Negroes similarly situated, under and pursuant to Rule 24, Federal Rules of Civil Procedure.

2. On November 22, 1965, plaintiff United States of America, by Nicholas deB. Katzenbach, Attorney General, filed its Complaint in this case under Section 407(a) of the Civil Rights Act of 1964, and under 28 U.S.C. 1345, seeking to enjoin defendants from failing to provide equal educational opportunities to all students in public schools without regard to race or color, and from otherwise maintaining in the operation of the public schools of Wilcox County any distinctions based upon race or color.

3. This is a proceeding for a preliminary and permanent injunction enjoining the Wilcox County Board of Education, its superiors, its members and the Superintendent of the Wilcox County Board of Education from continuing their policy, prac-

tice, custom and usage of discriminating against intervenor plaintiffs by operating a compulsory biracial school system in Wilcox County, Alabama, in violation of rights secured to the minor plaintiffs by the Constitution and laws of the United States of America, as hereinafter more fully appears.

4. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1343(3), this being a suit in equity authorized by law, 42 U.S.C., Section 1983, to be commenced by any citizen of the United States or other persons within the jurisdiction thereof, to redress deprivation, under color of State law, statute, ordinance, regulation, custom or usage of rights, privileges and immunities secured by the Constitution of the United States of America, specifically the Fourteenth Amendment and by 42 U.S.C., Section 1981 providing for the equal rights of citizens and all persons within the jurisdiction of the United States. Jurisdiction is further invoked under Title VI of the Civil Rights Act of 1964, 42 U.S.C., 2000d.

5. The Intervenor plaintiffs are Patsie Primm, as next friend of Bobbie Lewis Knight and Mack Arthur Knight; Selina Smiley, as next friend of Addie Smiley; Samuel Chester Charley, Sr., as next friend of Samuel Chester Charley, Jr., and Alberta Charley, and Marie Charley, as next friend of Luvern Charley and Sterling Charley. The intervenor plaintiffs are members of the Negro race and are citizens of the United States residing in Wilcox County, Alabama. The minor intervenor plaintiffs are attending the public schools of Wilcox County, Alabama, which are under the jurisdiction, management and control of the defendants.

6. The defendant Wilcox County Board of Education is a school board organized and existing under the laws of Alabama.

The defendants, J. O. Devan; R. E. Lambert, Jr.; Edward B. Hale; L. Y. Sadler, Jr.; and Harry A. Mason are members of the Wilcox County Board of Education. They reside in Wilcox County, Alabama. Defendant Guy S. Kelly is the Superintendent of Education for Wilcox County. He resides in Camden, Alabama. Defendant A. R. Meadows is the State Superintendent of Education. He resides in Montgomery, Alabama. The State Board of Education exercises general control and supervision over the public schools in Alabama; its office is located in Montgomery, Alabama.

7. The defendants, acting under color of the authority vested in it by the laws of the State of Alabama, has pursued and is presently pursuing a policy, custom, practice and usage of operating a dual public school system in Wilcox County, Alabama, on a basis that discriminates against intervenor plaintiffs in that:

a) All Negro students under the jurisdiction of the Wilcox County Board of Education are initially assigned to schools limited exclusively to Negro students. All white students under the jurisdiction of the Wilcox County Board of Education are assigned to schools limited exclusively to white students.

b) Teachers, principals and other professional personnel are assigned to schools by the defendant Board on the basis of race, with Negro personnel assigned only to Negro schools, and white personnel assigned only to white schools.

c) A dual scheme or pattern of school zone lines or school attendance area lines based upon race and color is maintained by defendant Board.

d) Extracurricular school activities are limited to participation by Negro students only or by white students only,

e) Defendant Wilcox County Board of Education has in the past and is presently planning and undertaking construction of new school facilities, formulating a new school budget and disbursement of school funds on a racially segregated basis with the purpose and effort of maintaining a biracial school system in Wilcox County, Alabama.

f) White Supremacy is taught and practiced in the entire public school system of Wilcox County, Alabama, with the approval of the defendants.

8. Acting under color of the Alabama School Placement Law, Alabama Code, Title 52, Section 61(1)-(12), defendant Wilcox County Board of Education has continued to maintain and operate a system of assigning school children in Wilcox County, Alabama, on the basis of race and has used the provisions of the statute to deny admission of Negro children to schools which they would attend if they were white. Defendant Wilcox County Board of Education has not employed the Alabama School Placement Law as a means of abolishing State imposed racial distinctions, nor has it offered to the intervenor plaintiffs and other Negro children, by means of the School Placement Law, a genuine method for securing attendance at non-segregated public schools.

9. The actions of the defendants herein alleged are in violation of the intervenor plaintiffs' rights and of the rights of other Negroes similarly situated, which rights are secured by the due process and equal protection clauses of the Fourteenth Amendment to the United States Constitution, 42 U.S.C.

Section 1981 and the Civil Rights Act of 1964, 42 U.S.C., Section 2000d.

10. The intervenor plaintiffs suffer and are continuing to suffer irreparable injury and occasion damage, vexation and inconvenience to the said plaintiffs.

WHEREFORE, plaintiffs respectfully pray that the Court advance this cause on the docket and order a speedy hearing of this action according to law; and, after such hearing, enter a preliminary and permanent decree enjoining the defendants, their agents, employees, successors and all persons in active concert and participation with them

a) From refusing to permit intervenor plaintiffs and members of the class to transfer immediately to schools which they would attend if they were white.

b) From operating a biracial school system in Wilcox County, Alabama.

c) From assigning students to schools in Wilcox County, Alabama, on a basis of race and color.

d) From subjecting Negro children seeking assignment, transfer or admission to criteria requirements and prerequisites not required of white pupils seeking assignment, transfer or admission to the schools of Wilcox County, Alabama.

e) From assigning teachers, principals and other professional school personnel to the schools of Wilcox County, Alabama, on the basis of race and color.

f) From programming and supporting extracurricular school activities which are limited solely to members of one race or the other.

g) From undertaking any new construction planning and approving school budgets and disbursing funds on a racial basis.

h) From teaching and practicing white supremacy in the public school system of Wilcox County, Alabama. (See plaintiffs' Exhibit 1)

In the alternative, plaintiffs pray that this Court enter a decree directing the defendant board to present a complete plan for the reorganization of the school system in Wilcox County, Alabama, into a unitary, non-racial system by the creation of non-racial geographic zone or attendance areas for all grades in the system pursuant to which children, both Negro and white, would be assigned to the school nearest their residence as a matter of right, including a plan for the assignment of pupils on a non-racial basis, the assignment of teachers, principals and other school personnel on a non-racial basis, and the elimination of any other discrimination in the operation of the school system based solely on race and color.

Plaintiffs pray that this Court will order and decree complete desegregation of all grades in all public schools in Wilcox County, Alabama, school system immediately and forthwith, including pupils, teachers, professional personnel and all other areas of activity in the public school system of Wilcox County, Alabama.

Plaintiffs pray that should this Court direct the defendants to produce a plan for desegregation of the Wilcox County,

Alabama, school system, that this Court will retain jurisdiction of this case pending approval and full implementation of defendants' plan.

The plaintiffs pray that this Court will allow them their costs herein, reasonable counsel fees, and grant such other, further, additional or alternative relief as may appear to the Court to be equitable and just.

/s/ Orzell Billingsley, Jr.
ORZELL BILLINGSLEY, JR.

PETER A. HALL
1630 Fourth Avenue, North
Birmingham, Alabama 35203

JACK GREENBERG
NORMAN C. AMAKER
10 Columbus Circle
New York, New York 10019
Attorneys for Applicants Intervenor

PLAINTIFFS' EXHIBIT 1

OFFICE OF
SUPERINTENDENT OF EDUCATION
WILCOX COUNTY

Camden, Alabama

March 24, 1966

TO: Parents and Guardians

FROM: Wilcox County Board of Education

The Justice Department has filed suit against the Wilcox County Board of Education in Federal Court, the purpose of

which is to prohibit the Board from operating a dual school system in the County as it has done in the past.

In an effort to prevent the destruction of the school system of Wilcox County as we know it and realizing what is best, we are asking that you promote and encourage your children to continue in the schools in which they are now attending. In our honest opinion, integration or desegregation is not good for education; it is against sound educational principles and work to the disadvantage and to the detriment of both races. It is our further opinion that in all this controversy the person who has invariably suffered is the child.

The Wilcox County Board of Education intends to do all in its power to continue to work towards complete equality of educational opportunity for every child in the County regardless of race, color or creed.

The people of this County will, in all probability, have to continue to live here in this County together after the influences from without have ceased. It is best for all if they can do so in a mutual spirit of good will. We all need the good will and support of our fellow citizens.

Thank you for your understanding and assistance in all our mutual school problems.

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
MAY 26 1966
WILLIAM J. O'CONNOR
CLERK

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
JUNE 7, 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

*DEFENDANTS' ANSWER TO COMPLAINT
IN INTERVENTION*

Now comes the Defendants, Wilcox County Board of Education, J. O. Devan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., Harry A. Mason, members of the Wilcox County Board of Education, Guy S. Kelly, Superintendent of Education for Wilcox County, separately and severally, by their attorneys of record, and in answer to the Complaint in Intervention, say:

I

The Defendants deny each and every paragraph contained in the Complaint in Intervention and demand strict proof thereof.

II

The Defendants adopt as their Answer to the Complaint in Intervention each and every paragraph of the Answer to the original Complaint and make the same a part hereof.

PITTS & PITTS /s/ McLean Pitts
Attorneys at Law OF COUNSEL FOR
Selma, Alabama DEFENDANTS
COUNSEL FOR DEFENDANTS

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
JUN 7 1966
WILLIAM J. O'CONNOR
CLERK

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
JUN 7 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

MOTION TO DISMISS

Comes the Defendants, Wilcox County Board of Education, J. O. Devan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., and Harry A. Mason, members of the Wilcox County Board of Education, Guy S. Kelly, Superintendent of Education for Wilcox County, Alabama, Defendants in the above entitled cause, by their Attorney, McLean Pitts, and moves the Court to dismiss the Plaintiff's Complaint in Intervention and each and every paragraph thereof, separately and severally, and in support of said Motion files the following separate and several defenses, to-wit:

FIRST DEFENSE

This Court lacks jurisdiction in this cause for that:

1. There is now pending in the Circuit Court of Wilcox County, Alabama, the following cases: Case No. 219, Vashti Juanita Hayes vs. J. O. Devan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., and Harry A. Mason, as Members of the Wilcox County, Alabama, Board of Education, and Guy S. Kelly, as Superintendent of Education of Wilcox County, Alabama; a copy of the Petition in said case being attached

hereto and marked Defendants' Exhibit "A"; Case No. 220, Jessie Johnson Lymons vs. J. O. Devan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., and Harry A. Mason, as Members of the Wilcox County, Alabama, Board of Education, and Guy S. Kelly, as Superintendent of Education of Wilcox County, Alabama; a copy of the Petition in said case being attached hereto and marked Defendants' Exhibit "B"; and Case No. 221, Valerie Watts vs. J. O. Devan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., and Harry A. Mason, as Members of the Wilcox County, Alabama, Board of Education and Guy S. Kelly, as Superintendent of Education of Wilcox County, Alabama; a copy of the Petition in said case being attached hereto and marked Defendants' Exhibit "C".

2. That the Plaintiffs in the above cases prayed to the Court to issue an Alternative Writ of Mandamus commanding the said Defendants to reinstate the said Plaintiffs to "an active full-time teaching status in Wilcox County, Alabama, retroactive as of August 31, 1965" and to pay to the said Plaintiffs all back wages and benefits.

3. For that the said Plaintiffs themselves elected to file said Petition in the Circuit Court of Wilcox County, Alabama, and should now be bound to that election; and the said Plaintiffs have elected the jurisdiction of that said suit.

4. For that the Plaintiffs cannot maintain a suit involving the same subject matter in the State Court and also the Federal Court at the same time.

SECOND DEFENSE

That said Complaint fails to state a cause of action upon which relief can be granted, for that:

(1) Said Petition is vague, indefinite and uncertain.

(2) The averments thereof are mere conclusions of the pleader.

(3) The averments thereof are unlawful conclusions of the pleader.

(4) That no facts are alleged to show a clear, specific legal right on behalf of said Plaintiffs for enforcement by an injunction.

(5) For ought that appears the Plaintiff has other adequate remedy.

(6) For ought that appear the Petition prays for the performance of a series of continuous acts.

(7) That it is not alleged with sufficient certainty that the applicants for intervention have a specific legal right to have the acts prayed for performed.

(8) That it is not alleged that the Defendants have a duty to perform the acts prayed for.

(9) That it is not alleged that the Defendants have the authority to perform the acts prayed for in said Petition.

(10) That the right of the Plaintiffs to be reinstated as teachers is barred by laches.

(11) That it is not alleged with sufficient certainty that the reinstatement of the Plaintiffs as teachers by the Defendants involves the execution of a ministerial act.

(12) For ought that appears the reinstatement of the Plaintiffs as teachers involves a judicial act and not a ministerial act.

(13) For ought that appears the reinstatement of the Plaintiffs as teachers involves the exercise of discretionary powers by the Defendants.

(14) Said Petition fails to aver sufficient facts showing in what way the Defendants' conduct was delinquent from which arises as a conclusion of law Defendants' legal authority and duty to reinstate the Plaintiff as a teacher.

(15) For ought that appears cancellation of Plaintiff's contract as a teacher was justified.

(16) That said Petition shows upon its face that Plaintiffs' contracts were cancelled for justifiable cause.

(17) Said Petition fails to aver that the action taken by the Defendants in cancelling the Plaintiff's contract was arbitrary.

(18) That said Complaint shows upon its face that the issuance of an injunction in this case would be attendant with manifest difficulties and great hardships involving in a collateral manner the rights of other parties who have no opportunity of defending their interest.

(19) Said Petition fails to aver that the Defendants have a duty to reinstate the Plaintiff as a teacher.

(20) Said Petition fails to aver that the Defendants have the authority to reinstate the Plaintiffs as teachers.

ANSWER OF DEFENDANTS

Now comes the Defendants in the above entitled cause of action and without waiving the foregoing Motion, in answer to the Complaint in Intervention say:

1. The Defendants deny each and every paragraph contained therein and demand strict proof thereof.

2. In further answer to the Complaint in Intervention these Defendants adopt as their answer each and every paragraph of these Defendants' Answer to the original Complaint and make the same a part hereof.

3. In further answer to the Complaint in Intervention these Defendants say that the Applicant Intervenor, Valerie Watts, has no standing in this Court to the relief sought in the Complaint in Intervention, for that the said Valerie Watts has retired under the Teachers' Retirement System of Alabama and has applied for the return of the amount of accumulated contributions paid by her into the Annuity Savings Fund of the Teachers' Retirement System of Alabama. That the said Valerie Watts stated in said application that she did not expect to teach again in the public schools or state educational institutions of Alabama, a copy of said application being attached hereto and marked Defendants' Exhibit "D".

/s/ McLean Pitts
OF COUNSEL FOR
DEFENDANTS

PITTS & PITTS
Attorneys at Law
Selma, Alabama
COUNSEL FOR DEFENDANTS

DEMAND FOR ORAL ARGUMENT

Defendants request oral argument in support of their Motion to Dismiss.

/s/ McLean Pitts

OF COUNSEL FOR
DEFENDANTS

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
JUN 7 1966
WILLIAM J. O'CONNOR
CLERK

EXHIBIT "A"

IN THE CIRCUIT COURT OF
WILCOX COUNTY, ALABAMA

VASHTI JUANITA HAYES,

Plaintiff,

vs.

J. O. DEVAN, R. E. LAMBERT, JR., ED-
WARD B. HALE, L. Y. SADLER, JR., and
HARRY A. MASON, as members of the Wil-
cox County, Alabama Board of Education,
and Guy S. Kelly, as Superintendent of Edu-
cation of Wilcox County, Alabama,

Defendants,

CASE NO.

PETITION FOR ALTERNATIVE WRIT OF MANDAMUS
TO THE HONORABLE JUDGES OF THE ABOVE-STYLE
COURT AT LAW SITTING:

Comes now VASHTI JUANITA HAYES, the Petitioner
herein and respectfully shows to this Honorable Court the
following:

1. Your Petitioner is a Negro teacher in the Wilcox County
School System and has been employed by the Wilcox County
Board of Education for some Fifteen (15) years. The Teacher's
Tenure Law of the State of Alabama (Code of Alabama [Re-
compiled 1959]), Title 52, Section 351 et seq, Chapter 13).
was at all times pertinent herein, in effect in Wilcox County

and Petitioner has long since acquired continuing service status
as defined in said Teacher's Tenure Law.

2. The Defendants are members of the Wilcox County
Board of Education, hereinafter called Board, and the Super-
intendent of Education of Wilcox County, hereinafter called
Superintendent. On September 29, 1965, the Defendant Board
members held a hearing for the purpose of considering the
cancellation of Petitioner's contract as a teacher in the employ
of the Board on the grounds of justifiable decrease in the num-
ber of teaching positions available.

3. As a result of said hearing, the Petitioner's contract
was cancelled effective August 31, 1965. A copy of the action
taken by the Defendant Board members is attached hereto,
incorporated herein, made a part hereof and marked as Plain-
tiff's Exhibit 1.

4. The Petitioner appealed the action of the Defendant
Board members to the Alabama State Tenure Commission,
hereinafter called Commission. The Commission, after con-
sideration of the matter, reversed the action of the Board and
held that it, the Commission, was unable to uphold the can-
cellation of Petitioner's contract by the Board. This decision
was dated November 8, 1965 and a copy of the same is attached
hereto, incorporated herein, made a part hereof and marked
as Plaintiff's Exhibit 2.

5. Said decision by the Board notwithstanding, the De-
fendants have failed and refused and continue to fail and
refuse to reinstate and return Petitioner to an active full-time
teaching status. And the Petitioner alleges that such failure
and refusal by the Defendants constitutes failure on their part

to perform a ministerial duty imposed upon them as Board members and Superintendent by the Statutes of this State.

6. The Petitioner further alleges that subsequent to the decision by the Commission, her attorney, Fred D. Gray, wrote a letter to the Defendant Superintendent, wherein inquiry was made as to when Petitioner should report for work, and further that said letter has been neither acknowledged nor answered; a copy of said letter is attached hereto, made a part hereof incorporated herein and marked as Plaintiff's Exhibit 3.

7. The Petitioner alleges that, in view of the foregoing she has a specific legal right to be reinstated as a teacher and that there is no other adequate legal remedy for the enforcement of such right save that of a Writ of Mandamus. And the Petitioner further alleges that she has a lawful right to recover wages according to the terms of her contract for the period that she has been illegally prevented from performing her duties.

8. The Petitioner further alleges that the Defendant's action in refusing to reinstate Petitioner, despite a clear mandate from the Commission to reinstate her, constitutes a taking of Petitioner's property without due process of Law; and further, that if such action is allowed to stand, Petitioner will have been deprived of her property without due process of Law, contrary to the Constitution of the State of Alabama and the Fourteenth Amendment to the Constitution of the United States.

9. The Petitioner further alleges that the Defendants have retained and are now retaining teachers who are qualified to teach in the same position as Petitioner, but who have not obtained continuing service status, all of which is contrary to the said Teacher's Tenure Law.

10. The Petitioner further alleges that the Defendants' action in refusing to reinstate Petitioner, despite a clear mandate from the Commission to reinstate her, is a violation of the said Teacher's Tenure Law.

WHEREFORE, THE PREMISES CONSIDERED, Petitioner respectfully prays that this Honorable Court will issue its alternative Writ of Mandamus, commanding the Defendants to show cause why they should not be required to reinstate the Petitioner to an active full-time teaching status retroactive as of August 31, 1965, and that upon a hearing hereof, this Court will issue its Writ of Mandamus, ordering and requiring Defendants to reinstate the Petitioner to an active, full-time teaching status in Wilcox County, Alabama, retroactive as of August 31, 1965 and to pay to Petitioner wages according to the terms of her contract for the period that she has been illegally restrained from performing her duties.

And Petitioner prays for such other and further relief to which she may be entitled under the facts above alleged.

And Petitioner will ever pray.

GRAY & SEAY

BY: /s/ Solomon S. Seay, Jr.

ATTORNEYS FOR PETITIONER
34 North Perry Street
Montgomery, Alabama

STATE OF ALABAMA
MONTGOMERY COUNTY

Before me, the undersigned authority, person [redacted] appeared FRED D. GRAY, known to me, who being first duly sworn, deposes and says upon oath that he is Attorney for VASHTI JUANITA HAYES, who is the Petitioner in the foregoing Petition; that he is authorized to make this affidavit and to sign said Petition; that as such Attorney, he has knowledge of the facts, allegations and statements set out in the foregoing Petition; and that the facts, allegations and statements therein set out, are true and correct.

/s/ Fred D. Gray
FRED D. GRAY

Filed:

March 8, 1966

/s/ Earl McNeill
Clerk, Circuit Court
Wilcox County, Alabama

Sworn to and subscribed before
me this 4 day of March, 1966.

/s/ Coburn C. Pryor
NOTARY PUBLIC

EXHIBIT 1

BOARD OF EDUCATION

J. O. DEVAN, President, Pine Hill
R. E. LAMBERT, JR., Vice-President, Darlington
EDWARD S. HALE, Pine Apple
L. Y. [redacted]DLER, JR., Camden
HARRY A. MASON, Pine Hill

OFFICE OF

[redacted]ERINTENDENT OF EDUCATION

GUY S. KELLY, Superintendent

WILCOX COUNTY — CAMDEN, ALABAMA

October 2, 1965

Vashti J. Hayes
[redacted]lberta,
[redacted]Alabama

Dear Vashti:

The following action was taken by the Wilcox County Board of Education, all members voting, in reference to the proposed cancellation of your contract, after having heard the evidence presented to the Board on September 29, 1965:

"WHEREAS the Board of Education having duly considered the evidence produced at the hearing on the proposed cancellation of the contract of Vashti J. Hayes; and

WHEREAS a motion was duly made and seconded and upon vote, the Board unanimously canceled the contract of Vashti J. Hayes effective the 31st day of August, 1965.

The Board further directed the Superintendent of Education to notify Vashti J. Hayes within five (5) days of September 29, 1965, of the Board's action as to the cancellation of her contract by sending said notice by certified mail addressed to Vashti J. Hayes, Only, postage prepaid with a return receipt requested."

Yours truly,

/s/ Guy S. Kelly

Guy S. Kelly, Secretary to
Wilcox County Board of Education

GSK:ir

Filed:

March 8, 1966

/s/ Earl McNeill, Clerk

EXHIBIT 2

IN THE MATTER OF THE APPEAL OF VASHTI JUANITA HAYES

At a meeting of the Alabama State Tenure Commission held in Montgomery, Alabama, on November 9, 1965, the cancellation of the teacher contract of Vashti Juanita Hayes by the Wilcox County Board of Education was considered.

The Commission after considering the transcript in the matter of Mrs. Hayes is unable to determine whether or not the appellant is qualified to teach in the position in which non-tenure teachers are presently employed; therefore, on the basis of the evidence presented, the Commission is unable to uphold the cancellation of the contract of this teacher.

Done this 8th day of November, 1965.

J. T. Greene, Chairman
Alabama State Tenure Commission

EXHIBIT 3

November 30, 1965

Mr. Guy S. Kelly, Superintendent
Board of Education
Wilcox County
Camden, Alabama

Dear Mr. Kelly:

We represent Mms. Jessie Johnson Lymons, Valerie Watts, and Vashti J. Hayes, in connection with the proposed cancellation of their contracts as teachers in Wilcox County, Alabama.

We have received notice from the Alabama State Tenure Commission which notice in effect, states that the action taken by the Wilcox County Board of Education was null and void. The Tenure Commission refused to affirm the decision of said Board.

Please advise me, as counsel for these teachers, when and where are they suppose to report to work.

Please let me hear from you at your earliest convenience, with reference to this matter.

Yours truly,

FRED D. GRAY

FDG/mm

Filed:

March 8, 1966

/s/ Earl McNeill, Clerk

EXHIBIT "B"

IN THE CIRCUIT COURT OF
WILCOX COUNTY, ALABAMA

JESSIE JOHNSON LYMONS,

vs.

Plaintiff,

J. O. DEVAN, R. E. LAMBERT, JR., ED-
WARD B. HALE, L. Y. SADLER, JR., and
HARRY A. MASON, as members of the Wil-
cox County, Alabama Board of Education,
and Guy S. Kelly, as Superintendent of Edu-
cation of Wilcox County, Alabama,

Defendants,

CASE NO.

PETITION FOR ALTERNATIVE WRIT OF MANDAMUS

TO THE HONORABLE JUDGES OF THE ABOVE-STYLED
COURT AT LAW SITTING:

Comes now JESSIE JOHNSON LYMONS, the Petitioner
herein and respectfully shows to this Honorable Court the
following:

1. Your Petitioner is a Negro teacher in the Wilcox County
School System and has been employed by the Wilcox County
Board of Education for some Five (5) years. The Teacher's
Tenure Law of the State of Alabama (Code of Alabama [Re-
compiled 1959]), Title 52, Section 351 et seq, Chapter 13),
was at all times pertinent herein, in effect in Wilcox County

and Petitioner has thereby acquired continuing service status
as defined in said Teacher's Tenure Law.

2. The Defendants are members of the Wilcox County
Board of Education, hereinafter called Board, and the Super-
intendent of Education of Wilcox County, hereinafter called
Superintendent. On September 29, 1965, the Defendant Board
members held a hearing for the purpose of considering the
cancellation of Petitioner's contract as a teacher in the employ
of the Board on the grounds of justifiable decrease in the num-
ber of teaching positions available.

3. As a result of said hearing, the Petitioner's contract
was cancelled effective August 31, 1965. A copy of the action
taken by the Defendant Board members is attached hereto,
incorporated herein, made a part hereof and marked as Plain-
tiff's Exhibit 1.

4. The Petitioner appealed the action of the Defendant
Board members to the Alabama State Tenure Commission,
hereinafter called Commission. The Commission, after con-
sideration of the matter, reversed the action of the Board and
held that it, the Commission, was unable to uphold the can-
cancellation of Petitioner's contract by the Board. This decision
was dated November 8, 1965 and a copy of the same is attached
hereto, incorporated herein, made a part hereof and marked
as Plaintiff's Exhibit 2.

5. Said decision by the Board notwithstanding, the De-
fendants have failed and refused and continue to fail and
refuse to reinstate and return Petitioner to an active full-time
teaching status. And the Petitioner alleges that such failure
and refusal by the Defendants constitutes failure on their part

to perform a ministerial duty imposed upon them as Board members and Superintendent by the Statutes of this State.

6. The Petitioner further alleges that subsequent to the decision by the Commission, her attorney, Fred D. Gray, wrote a letter to the Defendant Superintendent, wherein inquiry was made as to when Petitioner should report for work, and further that said letter has been neither acknowledged nor answered. A copy of said letter is attached hereto, made a part hereof incorporated herein and marked as Plaintiff's Exhibit 3.

7. The Petitioner alleges that, in view of the foregoing, she has a specific legal right to be reinstated as a teacher and that there is no other adequate legal remedy for the enforcement of such right save that of a Writ of Mandamus. And the Petitioner further alleges that she has a lawful right to recover wages according to the terms of her contract for the period that she has been illegally prevented from performing her duties.

8. The Petitioner further alleges that the Defendant's action in refusing to reinstate Petitioner, despite a clear mandate from the Commission to reinstate her, constitutes a taking of Petitioner's property without due process of Law; and further, that if such action is allowed to stand, Petitioner will have been deprived of her property without due process of Law, contrary to the Constitution of the State of Alabama and the Fourteenth Amendment to the Constitution of the United States.

9. The Petitioner further alleges that the Defendants have retained and are now retaining teachers who are qualified to teach in the same position as Petitioner, but who have not obtained continuing service status, all of which is contrary to the said Teacher's Tenure Law.

10. The Petitioner further alleges that the Defendants' action in refusing to reinstate Petitioner, despite a clear mandate from the Commission to reinstate her, is a violation of the said Teacher's Tenure Law.

WHEREFORE, THE PREMISES CONSIDERED, Petitioner respectfully prays that this Honorable Court will issue its Alternative Writ of Mandamus, commanding the Defendants to show cause why they should not be required to reinstate the Petitioner to an active full-time teaching status retroactive as of August 31, 1965, and that upon a hearing hereof, this Court will issue its Writ of Mandamus, ordering and requiring Defendants to reinstate the Petitioner to an active, full-time teaching status in Wilcox County, Alabama, retroactive as of August 31, 1965 and to pay to Petitioner wages according to the terms of her contract for the period that she has been illegally restrained from performing her duties.

And Petitioner prays for such other and further relief to which she may be entitled under the facts above alleged.

And Petitioner will ever pray.

GRAY & SEAY

BY: /s/ Solomon S. Seay, Jr.

ATTORNEYS FOR PETITIONER

34 North Perry Street

Montgomery, Alabama

STATE OF ALABAMA
MONTGOMERY COUNTY

Before me, the undersigned authority, personally appeared FRED D. GRAY, known to me, who being first duly sworn, deposes and says upon oath that he is Attorney for JESSIE JOHNSON LYMONS, who is the Petitioner in the foregoing Petition; that he is authorized to make this affidavit and to sign said Petition; that as such Attorney, he has knowledge of the facts, allegations and statements set out in the foregoing Petition; and that the facts, allegations and statements therein set out, are true and correct.

/s/ Fred D. Gray
FRED D. GRAY

Filed:

March 8, 1966

/s/ Earl McNeill
Clerk, Circuit Court
Wilcox County, Alabama

Sworn to and subscribed before
me this 4 day of March, 1966.

/s/ Coburn C. Pryor
NOTARY PUBLIC

EXHIBIT 1

BOARD OF EDUCATION

J. O. DEVAN, President, Pine Hill
R. E. LAMBERT, JR., Vice-President, Darlington
EDWARD S. HALE, Pine Apple
L. Y. ADLER, JR., Camden
HARRY A. MASON, Pine Hill

OFFICE OF
SUPERINTENDENT OF EDUCATION

GUY S. KELLY, Superintendent
WILCOX COUNTY — CAMDEN, ALABAMA
October 2, 1965

Jessie J. Lymons
714 Baker Street
Tallahassee, Florida

Dear Jessie:

The following action was taken by the Wilcox County Board of Education, all members voting, in reference to the proposed cancellation of your contract, after having heard the evidence presented to the Board on September 29, 1965:

"WHEREAS the Board of Education having duly considered the evidence produced at the hearing on the proposed cancellation of the contract of Jessie J. Lymons; and

WHEREAS a motion was duly made and seconded and upon vote, the Board unanimously canceled the contract of Jessie J. Lymons effective the 31st day of August, 1965.

The Board further directed the Superintendent of Education to notify Jessie J. Lymons within five (5) days of September 29, 1965, of the Board's action as to the canceling of her

contract by sending said notice by certified mail addressed to Jessie J. Lymons, Only, postage prepaid with a returned receipt requested."

Yours truly,

/s/ Guy S. Kelly
Guy S. Kelly, Secretary to
Wilcox County Board of Education
GSK:ir

Filed:
March 8, 1966
/s/ Earl McNeill, Clerk

EXHIBIT 2

IN THE MATTER OF THE APPEAL OF JESSIE JOHNSON LYMONS

At a meeting of the Alabama State Tenure Commission held in Montgomery, Alabama, on November 9, 1965, the cancellation of the teacher contract of Jessie Johnson Lymons by the Wilcox County Board of Education was considered.

The Commission after considering the transcript in the matter of Mrs. Lymons is unable to determine whether or not the appellant is qualified to teach in the position in which non-tenure teachers are presently employed; therefore, on the basis of the evidence presented, the Commission is unable to uphold the cancellation of the contract of this teacher.

Done this 8th day of November, 1965.

.....
J. T. Greene, Chairman
Alabama State Tenure Commission

EXHIBIT 3

November 30, 1965

Mr. Guy S. Kelly, Superintendent
Board of Education
Wilcox County
Camden, Alabama

Dear Mr. Kelly:

We represent Mms. Jessie Johnson Lymons, Valerie Watts, and Vashti J. Hayes, in connection with the proposed cancellation of their contracts as teachers in Wilcox County, Alabama.

We have received notice from the Alabama State Tenure Commission which notice in effect, states that the action taken by the Wilcox County Board of Education was null and void. The Tenure Commission refused to affirm the decision of said Board.

Please advise me, as counsel for these teachers, when and where are they suppose to report to work.

Please let me hear from you at your earliest convenience, with reference to this matter.

Yours truly,

FRED D. GRAY

FDG/mm

Filed:
March 8, 1966
/s/ Earl McNeill, Clerk

EXHIBIT "C"

IN THE CIRCUIT COURT OF
WILCOX COUNTY, ALABAMA

VALERIE WATTS,

Plaintiff,

vs.

J. O. DEVAN, R. E. LAMBERT, JR., ED-
WARD B. HALE, L. Y. SADLER, JR., and
HARRY A. MASON, as members of the Wil-
cox County, Alabama Board of Education,
and Guy S. Kelly, as Superintendent of Edu-
cation of Wilcox County, Alabama,

Defendants,

CASE NO.

*PETITION FOR ALTERNATIVE WRIT OF MANDAMUS*TO THE HONORABLE JUDGES OF THE ABOVE-STYLE
COURT AT LAW SITTING:

Comes now VALERIE WATTS, the Petitioner herein
and respectfully shows to this Honorable Court the following:

1. Your Petitioner is a Negro teacher in the Wilcox County School System and has been employed by the Wilcox County Board of Education for some Fifteen (15) years. The Teacher's Tenure Law of the State of Alabama (Code of Alabama [Recompiled 1959]), Title 52, Section 351 et seq, Chapter 13). was at all times pertinent herein, in effect in Wilcox County and Petitioner has long since acquired continuing service status as defined in said Teacher's Tenure Law.

2. The Defendants are members of the Wilcox County Board of Education, hereinafter called Board, and the Superintendent of Education of Wilcox County, hereinafter called Superintendent. On September 29, 1965, the Defendant Board members held a hearing for the purpose of considering the cancellation of Petitioner's contract as a teacher in the employ of the Board on the grounds of justifiable decrease in the number of teaching positions available.

3. As a result of said hearing, the Petitioner's contract was cancelled effective August 31, 1965. A copy of the action taken by the Defendant Board members is attached hereto, incorporated herein, made a part hereof and marked as Plaintiff's Exhibit 1.

4. The Petitioner appealed the action of the Defendant Board members to the Alabama State Tenure Commission, hereinafter called Commission. The Commission, after consideration of the matter, reversed the action of the Board and held that it, the Commission, was unable to uphold the cancellation of Petitioner's contract by the Board. This decision was dated November 8, 1965 and a copy of the same is attached hereto, incorporated herein, made a part hereof and marked as Plaintiff's Exhibit 2.

5. Said decision by the Board notwithstanding, the Defendants have failed and refused and continue to fail and refuse to reinstate and return Petitioner to an active full-time teaching status. And the Petitioner alleges that such failure and refusal by the Defendants constitutes failure on their part to perform a ministerial duty imposed upon them as Board members and Superintendent by the Statutes of this State.

6. The Petitioner further alleges that subsequent to the decision by the Commission, her attorney, Fred D. Gray, wrote a letter to the Defendant Superintendent, wherein inquiry was made as to when Petitioner should report for work, and further, that said letter has been neither acknowledged nor answered; a copy of said letter is attached hereto, made a part hereof, incorporated herein and marked as Plaintiff's Exhibit 3.

7. The Petitioner alleges that, in view of the foregoing, she has a specific legal right to be reinstated as a teacher and that there is no other adequate legal remedy for the enforcement of such right save that of a Writ of Mandamus. And the Petitioner further alleges that she has a lawful right to recover wages according to the terms of her contract for the period that she has been illegally prevented from performing her duties.

8. The Petitioner further alleges that the Defendants' action in refusing to reinstate Petitioner, despite a clear mandate from the Commission to reinstate her, constitutes a taking of Petitioner's property without due process of Law; and further, that if such action is allowed to stand, Petitioner will have been deprived of her property without due process of Law, contrary to the Constitution of the State of Alabama and the Fourteenth Amendment to the Constitution of the United States.

9. The Petitioner further alleges that the Defendants have retained and are now retaining teachers who are qualified to teach in the same position as Petitioner, but who have not obtained continuing service status, all of which is contrary to the said Teacher's Tenure Law.

10. The Petitioner further alleges that the Defendants' action in refusing to reinstate Petitioner, despite a clear man-

date from the Commission to reinstate her, is a violation of the said Teacher's Tenure Law.

WHEREFORE, THE PREMISES CONSIDERED, Petitioner respectfully prays that this Honorable Court will issue its Alternative Writ of Mandamus, commanding the Defendants to show cause why they should not be required to reinstate the Petitioner to an active full-time teaching status retroactive as of August 31, 1965, and that upon a hearing hereof, this Court will issue its Writ of Mandamus, ordering and requiring Defendants to reinstate the Petitioner to an active, full-time teaching status in Wilcox County, Alabama, retroactive as of August 31, 1965 and to pay to Petitioner wages according to the terms of her contract for the period that she has been illegally restrained from performing her duties.

And Petitioner prays for such other and further relief to which she may be entitled under the facts above alleged.

And Petitioner will ever pray.

GRAY & SEAY

BY: /s/ Solomon S. Seay, Jr.

ATTORNEYS FOR PETITIONER

34 North Perry Street

Montgomery, Alabama

STATE OF ALABAMA
MONTGOMERY COUNTY

Before me, the undersigned authority, personally appeared FRED D. GRAY, known to me, who being first duly sworn, deposes and says upon oath that he is Attorney for VALERIE WATTS, who is the Petitioner in the foregoing Petition; that he is authorized to make this affidavit and to sign said Petition; that as such Attorney, he has knowledge of the facts, allegations and statements set out in the foregoing Petition; and that the facts, allegations and statements therein set out, are true and correct.

/s/ Fred D. Gray
FRED D. GRAY

Filed:

March 8, 1966

/s/ Earl McNeill
Clerk, Circuit Court
Wilcox County, Alabama

Sworn to and subscribed before
me this 4 day of March, 1966.

/s/ Coburn C. Pryor

NOTARY PUBLIC

EXHIBIT 1

BOARD OF EDUCATION

J. O. DEVAN, President, Pine Hill
R. E. SAMBERT, JR., Vice-President, Darlington
EDWARD S. HALE, Pine Apple
L. Y. BADLER, JR., Camden
HARRY A. MASON, Pine Hill

OFFICE OF
SUPERINTENDENT OF EDUCATION

GUY S. KELLY, Superintendent
WILCOX COUNTY — CAMDEN, ALABAMA

October 2, 1965

Valerie Watts
Coy
Alabama

Dear Valerie:

The following action was taken by the Wilcox County Board of Education, all members voting, in reference to the proposed cancellation of your contract, after having heard the evidence presented to the Board on September 29, 1965:

"WHEREAS the Board of Education having duly considered the evidence produced at the hearing on the proposed cancellation of the contract of Valerie Watts; and

WHEREAS a motion was duly made and seconded and upon vote, the Board unanimously canceled the contract of Valerie Watts effective the 31st day of August, 1965.

The Board further directed the Superintendent of Education to notify Valerie Watts within five (5) days of September 29, 1965, of the Board's action as to the canceling of her contract by sending said notice by certified mail addressed to

Valerie Watts, Only, postage prepaid with a returned receipt requested."

Yours truly,

/s/ Guy S. Kelly
Guy S. Kelly, Secretary to
Wilcox County Board of Education
GSK:ir

Filed:
March 8, 1966
/s/ Earl McNeill, Clerk

EXHIBIT 2

IN THE MATTER OF THE APPEAL OF VALERIE WATTS

At a meeting of the Alabama State Tenure Commission held in Montgomery, Alabama, on November 9, 1965, the cancellation of the teacher contract of Valerie Watts by the Wilcox County Board of Education was considered.

The Commission after considering the transcript in the matter of Mrs. Watts is unable to determine whether or not the appellant is qualified to teach in the position in which non-tenure teachers are presently employed; therefore, on the basis of the evidence presented, the Commission is unable to uphold the cancellation of the contract of this teacher.

Done this 8th day of November, 1965.

J. T. Greene, Chairman
Alabama State Tenure Commission

Filed:
March 8, 1966
/s/ Earl McNeill, Clerk

EXHIBIT 3

GRAY & SEAY
ATTORNEYS AND COUNSELLORS
34 N. PERRY ST.
MONTGOMERY, ALA.
TEL. 263-9360

November 30, 1965

Mr. Guy S. Kelly, Superintendent
Board of Education
Wilcox County
Camden, Alabama

Dear Mr. Kelly:

We represent Mms. Jessie Johnson Lymons, Valerie Watts, and Vashti J. Hayes, in connection with the proposed cancellation of their contracts as teachers in Wilcox County, Alabama.

We have received notice from the Alabama State Tenure Commission which notice in effect, states that the action taken by the Wilcox County Board of Education was null and void. The Tenure Commission refused to affirm the decision of said Board.

Please advise me, as counsel for these teachers, when and where are they suppose to report to work.

Please let me hear from you at your earliest convenience, with reference to this matter.

Yours truly,

FRED D. GRAY

FDG/mm

EXHIBIT "D"

Form 7

TEACHERS' RETIREMENT SYSTEM OF ALABAMA

Application of Member For Return Of Accumulated
Contributions

The applicant should fill out part one and then send the blank to the executive officer of the employing board who should fill out part two and mail the blank to the office of the Retirement System.

PART ONE

To the Board of Trustees
Teachers' Retirement System of Alabama
State Administrative Building
64 North Union Street
Montgomery 4, Alabama

I hereby make application for the return of the amount of contributions and accrued interest thereon standing to my credit in the Annuity Savings Fund. In consideration of the return of such amount I do hereby waive for myself, my heirs, and my assigns all my right, title, and interest in the said Annuity Savings Fund and in any and all funds under the care and control of the Board of Trustees of the Teachers' Retirement System of Alabama.

The Date of My Withdrawal from Service is September 1965.

The Cause of My Withdrawal is cancellation of my contract by the Board of Education because of low A.D.A.

My Membership Number is 041605.

I was last employed in Alabama by:

Board or Institution, Wilcox County Board of Education.

School Name, Prairie Elementary School, Prairie, Alabama.

Title of Position Held, 3rd and 4th grade teacher. Annual Salary, \$4200.00. Monthly Salary, \$275.0. Number of months employed during current school year 9. Total number of years employed: 20.

I am not now employed and do not now expect to teach again in the public schools or state educational institutions of Alabama.

Signed (Mrs.) Valerie Watts

Address for Refund, Rt. 1, Box 54, Coy, Ala.

If name has been changed by marriage,
please enter present name here _____

Dear Superintendent:

I am not now teaching and do not intend to teach again in the public schools or state educational institutions of Alabama. Therefore, I desire to withdraw the accumulated contributions to my credit in the Teachers' Retirement System of Alabama. In order for me to do this, it is necessary that you complete, sign, and mail to the office of the Retirement System this form. I shall very much appreciate it if you will do this for me promptly.

Signed (Mrs.) Valerie Watts

PART TWO

To be filled in by the executive officer of the board or institution by whom the applicant was last employed. (The date on which service terminated and the date through which deductions have been made should be identical.)

DATE 4-1-66

I hereby certify that said Valerie Watts has left the service of the public schools and educational institutions of Alabama and is no longer employed therein. Service as a teacher terminated on June 30, 1964 and all retirement deductions have been made to and including June 30, 1964. The total amount of the unreported deductions (deductions not already reported on Check List sent in at close of fiscal year. See reverse side.) are:

Beginning July 1, 19___, and ending June 30, 19___	\$00
Beginning July 1, 19___, and ending date service terminated	\$00
TOTAL	\$00

Signed Guy S. Kelly
Title—Supt.

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
JUN 7 1966
WILLIAM J. O'CONNOR
CLERK

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
JUN 21 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

AMENDMENT TO DEFENDANTS ANSWERS

Now comes the Defendants, Wilcox County Board of Education, J. O. DeVan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., and Harry A. Mason, members of the Wilcox County Board of Education, Guy S. Kelly, Superintendent of Education for Wilcox County, Alabama, separately and severally, by their attorneys of record and amend the following answers, viz:

(a) The original answer of said Defendants to the original Complaint; and,

(b) Defendants answer to the Complaint in Intervention of William P. Thompson, et al; and,

(c) Defendants answer to the Complaint in Intervention of Albert James Gordon, et al; and,

(d) Defendants answer to the Complaint in Intervention of Patsie Primm, a minor, et al;

by adding to each of said answers, separately and severally, the following:

A.

The Defendants herein deny that they at any time prior hereto have assigned any pupils to any schools solely on the

basis of race or color; these Defendants further aver that there is no constitutional prohibition against an assignment of individual students to particular schools on a basis of intelligence, achievement or other aptitudes, upon a uniform administered program, so long as race or color is not a factor used in making the assignment.

These Defendants further allege that the Civil Rights Act of 1964 specifically provides for, and does not prohibit the classification and assignment of students to schools for reasons other than race, color, religion or national origin.

No student shall have the right to be assigned or transferred out of his neighborhood to any school or class in a school, the mean I.Q. of which exceeds the I.Q. of the student. These Defendants further say that the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States requires integration of the races in public schools only where children have "the same educational qualifications" and are "of similar age and qualifications". These Defendants further say that in order to comply with the above constitutional provisions and decisions and pursuant thereto and the 1964 Civil Rights Act, it would be necessary for the Wilcox County Board of Education to establish a mean I.Q. for each of its separate schools, and by using its present freedom of choice assignment doctrine, allow any student who has an I.Q. equal to or greater than the mean I.Q. of the school to which said student desires to attend, to attend this school if it is by his own freedom of choice and that said students be given ample opportunity, after such test, of choosing the school to which they desire to attend; the Defendants further aver that in order to carry out such a testing program it would require the employment of an expert in the field of test and measurement

and that it would probably require said expert twelve months or longer in order to establish the mean I.Q. of the separate schools in Wilcox County, Alabama, and to determine the caliber of student that could attend said school; the Defendants further aver that such a testing program would assure against the discrimination of any pupil, white or colored. Such a plan of testing would assure the operation of the schools of Wilcox County for all races in such a manner as would provide the best possible education for all school children with the greatest benefit to all children without regard to race or color, but with regard to similarity, ages and qualifications.

B.

These Defendants say that they have not signed or consented or accepted the 1965 or 1966 rules and regulations or guidelines of the Department of Health, Education and Welfare, because said guidelines require acts or deeds or performance of acts in the operation of said public schools that is not required by the Statutes of the United States and far exceed the powers and duties of the Department of Health, Education and Welfare in that said guidelines require: (a) the balance of races in the public schools; (b) the transportation of pupils from one school to another school to balance the races (c) the desegregation of the faculty, teachers or other personnel. These Defendants say that the regulations issued by the United States Department of Health, Education and Welfare seek to regulate and control employment practices and assignment of teachers and administrative personnel employed by the Wilcox County Board of Education; these Defendants say that such regulations violate a specific provision of Title 6 of the Civil Rights Act of 1964, under which authority the

Department purports to act, which said specific provision is Section 604 and reads as follows:

"Nothing contained in this title shall be construed to authorize action under this Title by any department or agency with respect to any employment practices of any employer . . . except when a primary objective of the federal financial assistance is to provide employment and these Defendants say that the primary objective of said guidelines is not federal financial assistance to provide employment. These Defendants further say that the public policy of this nation is that federal control of local education shall be prohibited. This has been expressed in not less than fifteen separate provisions of federal law and in each instance, make clear the purpose and intent of Congress to abide by the public policy. The language used in the Civil Rights Bill as it passed the House of Representatives would have repealed this national policy, but the same was deleted by the United States Senate and enacted without such repealing language; therefore, it follows that the law under which the United States Department of Health, Education and Welfare finds its authority is governed by the same policy as that established in all previous federal legislature appropriating federal funds for education.

These Defendants in further answer say that if it was required to carry out the guidelines published by the Department of Health, Education and Welfare relative to the desegregation of the faculty of the various schools in Wilcox County, Alabama, that the constitutional rights and privileges of individual students attending certain schools would be invaded for the purpose of trying to grant unto certain other pupils constitutional privileges.

The Defendants aver that under the laws of the State of Alabama, as amended, they have the duty of and is vested with the power of supervision and administration of the public schools and educational interest of Wilcox County, Alabama, and are vested with all the powers necessary or proper for the administration and the management of free public schools within such county, including the right of assignment of teachers without regard to race, color, creed or national origin. These Defendants allege that a teacher does not have a constitutional right to demand to be assigned to any particular school, nor does a teacher have the right to demand employment by these Defendants.

/s/ McLean Pitts

Of Counsel for said Defendants

PITTS & PITTS

Attorneys at Law

Selma, Alabama

ATTORNEYS FOR SAID DEFENDANTS

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
JUN 21 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

MOTION TO QUASH SUBPOENA DUCES TECUM

Comes the Defendants, Wilcox County Board of Education, J. O. DeVan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., and Harry A. Mason, members of the Wilcox County Board of Education, Guy S. Kelly, Superintendent of Education for Wilcox County, Alabama, separately and several by their attorneys, Pitts and Pitts, and move to quash the subpoena duces tecum (civil subpoena to produce documents or objects issued by this Court under date of June 17, 1966) and for grounds of said Motion, assign the following separate and several grounds, viz:

1. Said subpoena is unreasonable and oppressive.
2. Said subpoena calls for information that is incompetent, irrelevant, immaterial and not relevant to any of the issues involved before this Court.
3. The items, documents or instruments requested have heretofore been furnished to said Plaintiff under an Order of the Court to Produce dated April 7, 1966, except those documents or instruments or information requested in said subpoena which the Court entered an Order denying the right to said Plaintiff to obtain said documents, instruments or information, and except item No. 1, which the Defendants aver on information and belief and to their best knowledge Plaintiff already has a copy thereof; the Defendants further aver that it would be impossible for them to produce the original of said letter as it was a mimeographed letter and the original

would be the letter that was dispatched by the Defendants to various persons.

/s/ McLean Pitts
Of Counsel for said Defendants

PITTS & PITTS
Attorneys at Law
Selma, Alabama

ATTORNEYS FOR SAID DEFENDANTS

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
JUN 21 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
JUN 21 1966
WILLIAM J. O'CONNOR
CLERK

MOTION TO QUASH SUBPOENA DUCES TECUM

Comes the Defendants, Wilcox County Board of Education, J. O. DeVan, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., and Harry A. Mason, members of the Wilcox County Board of Education, Guy S. Kelly, Superintendent of Education for Wilcox County, Alabama, by their attorneys, Pitts and Pitts, and moves to quash the subpoena duces tecum (civil subpoena to produce document or object) directed to

each of the individual Defendants, and assigns the following separate and several grounds:

1. Said subpoena is unreasonable and oppressive.
2. Said documents or objects call for information that is incompetent, irrelevant, immaterial and not related to any of the issues involved in this cause.
3. Items No. 1 and No. 5 in said subpoena call for information similarly requested by the Plaintiff in its Motion for Order to Produce Records for Inspection and Copying heretofore filed in this Court in this cause, which information was subsequently denied by this Court in an Order dated April 7, 1966.
4. The remainder of the documents or objects listed in said subpoena called for information previously furnished by these Defendants to the Plaintiff in response to Plaintiff's Motion to Produce and pursuant to the Order of this Court dated April 7, 1966, which said information may be made available to the Intervenor Plaintiffs by the Plaintiff.

/s/ McLean Pitts
Of Counsel for said Defendants

PITTS & PITTS
Attorneys at Law
Selma, Alabama
ATTORNEYS FOR SAID DEFENDANTS

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
JUN 21 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

Certain pending motions in the above entitled cause having been argued before the court, and the court having considered the same, it is ORDERED and ADJUDGED AS FOLLOWS:

- (1) Motion to Dismiss, filed on December 10, 1965 by Defendant State Board of Education is DENIED;
- (2) Motion to Dismiss filed by Defendants on June 7, 1966 is DENIED;
- (3) Motion to Quash Subpoena Duces Tecum directed to each of the defendants, filed on June 21, 1966 is taken under SUBMISSION;
- (4) Motion to Quash Subpoena Duces Tecum issued June 17, 1966, filed by defendants on June 21, 1966, is taken under SUBMISSION.

Now, the above-entitled cause having been regularly set down for trial on this date on the merits and on the motion for preliminary injunction, witnesses are examined, exhibits offered in evidence on behalf of the plaintiff, and plaintiff rests.

Witnesses are examined and exhibits offered in evidence on behalf of Intervenor, William P. Thompson, et al. and Plaintiff-Intervenor William P. Thompson, et al. rest.

The trial of the case not having been completed at 4:40 o'clock P.M., the trial is now RECESSED until June 24, 1966 at 9:00 o'clock A.M.

DONE at Selma, Alabama this the 23rd day of June, 1966.

DANIEL H. THOMAS
UNITED STATES DISTRICT
JUDGE

U. S. DISTRICT COURT
SOU. DIST. ALA.
FILED AND ENTERED THIS THE
23RD DAY OF JUNE, 1966,
MINUTE ENTRY NO. 20395.
WILLIAM J. O'CONNOR, CLERK
BY—/s/ John V. O'Brien
Deputy Clerk.

(Caption Omitted)

Come the parties into open court by and through their attorneys, and the Hearing on the Merits and on the Motion for Preliminary Injunction is resumed.

Witnesses are examined and exhibits offered on behalf of the Plaintiffs-Intervenors, Albert James Gordon, et al and Plaintiffs-Intervenors, Patsie Primm, a minor et al., and

The trial of the case not having been completed, at 3:00 o'clock P.M. the trial is RECESSED until Monday morning, June 27, 1966 at 9:30 o'clock A.M.

DONE at Selma, Alabama this the 24th day of June, 1966.

DANIEL H. THOMAS
UNITED STATES DISTRICT
JUDGE

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED AND ENTERED THIS THE
24TH DAY OF JUNE, 1966,
MINUTE ENTRY NO. 20397.
WILLIAM J. O'CONNOR, CLERK
By—John V. O'Brien
DEPUTY CLERK

(Caption Omitted)

AMENDMENT OF INTERVENING PLAINTIFFS

Now comes the plaintiffs, Albert James Gordon, Valerie Watts, Vashtie Jones Hayes, and Jessie J. Lymons and amend their Complaint In Intervention, heretofore filed as follows:

1. By adding to the names of the plaintiffs in the caption of said Complaint the following:

“and all other Negro teachers similarly situated.”

2. By adding paragraph 3A, to said Complaint in Intervention as follows:

“3A. This is a class action brought by teachers similarly situated, pursuant to the provisions of Rule 23(a) (3) of the Federal Rules of Civil Procedure. The members of the class are all adult Negro citizens. The members of the class on behalf of whom these plaintiffs sue are so numerous as to make it impracticable to bring them all individually before this Court, but there are common questions of law and fact involved, common grievances arising out of common wrongs and common relief is sought for each plaintiff and for each member of the class whose interests are adequately represented by plaintiffs.”

3. By striking paragraph 1(c) of the Prayer of said Complaint and substituting the following:

“Allow plaintiff their costs herein, reasonable counsel fees, and grant such other, further, additional or alterna-

tive relief, as may appear to the Court to be equitable and just."

/s/ Orzell Billingsley, Jr.
ORZELL BILLINGSLEY, JR.
PETER A. HALL

1630 Fourth Avenue, North
Birmingham, Alabama

JACK GREENBERG
NORMAN C. AMAKER
10 Columbus Circle
New York, New York 10019
Attorneys for Applicant Intervenor

Filed In Open Court
June 24, 1966, 9:50 A.M.
/s/ William J. O'Connor, Clerk

(Caption Omitted)

Come the parties into open court by and through their attorneys, and the Hearing on the Merits and on the Motion for Preliminary Injunction is resumed.

Witnesses are further examined and exhibits offered on behalf of the Plaintiffs-Intervenors, Albert James Gordon, et al. and Plaintiffs-Intervenors, Patsie Primm, a minor, et al., and all plaintiff-intervenors rest.

Witnesses are examined and exhibits offered in evidence on behalf of the defendants, and defendants rest.

It is now ORDERED and ADJUDGED by the Court that the case is taken under SUBMISSION, and leave is given to counsel for all parties to file simultaneous briefs on or before the 25th day of July, 1966.

DONE at Selma, Alabama this the 27th day of June, 1966.

DANIEL H. THOMAS
United States District Judge

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED AND ENTERED THIS THE
27TH DAY OF JUNE, 1966,
MINUTE ENTRY NO. 20398-A.
WILLIAM J. O'CONNOR, CLERK
BY—/s/ Robert D. Phillips
DEPUTY CLERK

(Caption Omitted)

Come now intervenor-plaintiffs, William P. Thompson, Dr. Eugene Carson Blake, The United Presbyterian Church in the United States of America, Marshall L. Scott and Dr. Gayraud S. Wilmore, by and through their attorney of record, Peter A. Hall, and adopt and join in brief and plan filed by the United States of America, by Nicholas deB. Katzenbach, Attorney General, in the above-styled cause.

/s/ Peter A. Hall
PETER A. HALL
1630 Fourth Avenue, North
Birmingham, Alabama 35203

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
JUL 22 1966
WILLIAM J. O'CONNOR
CLERK

MINUTES OF THE MEETING OF THE WILCOX COUNTY BOARD OF EDUCATION—MAY 10, 1966

The Board of Education met in special session on May 10, 1966, with the following members present: Mr. Lambert, Mr. Mason and Mr. Sadler.

The meeting was called to order at 9:30 a.m. by the Chairman, Mr. Lambert. The minutes of the previous meeting were read and approved as read.

The chairman stated that in accordance with the law that this was a special meeting held "for the purpose of giving the public an opportunity of presenting to the board matters relating to the allotment of public school funds, or any other matter relating to the administration of the public schools of the county".

There being no one appearing at this meeting before the Board and no complaints or recommendations being made to the Board by the public, the Board proceeded to attend to its regular business.

The Superintendent discussed with the Board the matter of James Ranaldson's financial difficulties and presented a letter from Attorney Hubbard H. Harvey.

Upon motion of Mr. Sadler, seconded by Mr. Mason, the Board approved the installation of water pipes and fire hydrants at the Wilcox County High School by J. D. Vann of Montgomery for the sum of \$3,700.00. Unanimously approved.

Upon motion of Mr. Mason, seconded by Mr. Sadler, the Board unanimously approved the April payrolls as follows:

Checks No. 2978—3496

Salaries	\$ 97,654.26
Bills (Regular)	14,346.80
School Lunchroom	2,842.99
Social Security—Unit 001	1,156.56
Debt Service	80,202.22
Total	96,202.83

The Superintendent discussed with the Board the report of Father Furman on his visits to the schools of Wilcox County. Report of Father Furman is as follows:

Report on Visits Made to Wilcox County, Alabama

1. Dates and schools visited

March 1	Camden, Alabama	Camden Academy
March 3	Camden, Alabama	Camden Academy
March 10	Camden, Alabama	Camden Academy
March 22	Pine Hill, Ala.	Pine Hill Jr. High School
April 19	Pine Hill	Pine Hill Jr. High School
April 28	Pine Apple	W. J. Jones High School
May 5	Annie Manie	Annie Manie High School
May 10	Pine Apple	W. J. Jones High School

2. Person in charge of program: Mr. Guy S. Kelly, Superintendent of Education, Wilcox County.

3. Activities in the program:

On each visit every period of the school day was used to visit mathematics classes and speak to students in these classes. Also an opportunity was given to teachers to observe the presentation of various topics in mathematics to students in the classes. Opportunity was provided to visit throughout the course of the visits to each school every class in mathematics in every grade in the school. At the close of the school day a conference was held with the teachers to explain to them whatever topics they wished to have discussed in modern mathematics to assist them in their teaching.

4. Special discussion with administrative officials:

On each visit lengthy discussions were held with the superintendent of education regarding the state of the mathematics program in the county in each of the schools visited and definite plans were proposed to him for the improvement of mathematics in the schools. On March 22 a meeting was arranged with the county School Board to explain to them the Visiting Scientists Program and the Cooperative College School Science Program and how these programs may be used to improve mathematics and science in the school system. Members of the School Board showed great interest in this program and wish to continue it.

5. Reactions to the program:

The Superintendent of Education, the members of the Board of Education, school principals and teachers have all

shown great interest and enthusiasm in the program. Parents of school children have been impressed by the interest of the students in the schools visited in this program and are glad that definite steps are being taken to improve the mathematics program in the county. Students in the classes visited have shown great interest and attention and have requested additional visits.

6. Number affected by the program:

The number of teachers participating in the program is about fifty and the number of students affected by the program is about 2500.

7. Topics discussed in the classes with the students:

Elementary grades 1-3: Number line and its use in addition, subtraction, multiplication and division. An introduction to negative numbers and simple operations involving addition and multiplication with them.

Grade 4-6: Number bases other than ten and operations of addition, subtraction, multiplication and division in these bases. Introduction to coordinate systems by use of two intersection number lines. Locating points by coordinates.

Grades 7-8: Introduction to topics in geometry. Angle measurement, radian as measure of angle, elementary geometric constructions. Introductions of trigonometric functions as ratios of the sides of a right triangle and simple illustrations of their use.

First year algebra classes: Factoring of polynomials, solution of word problems, rational numbers, repeating decimals.

Geometry classes: Use of congruence theorems and theorems dealing with parallel lines in the solution of geometric problems. Geometric constructions.

Second year algebra classes: Solution of word problems, systems, of equations.

8. Topics discussed with the teachers:

Number systems other than base ten and arithmetic in these systems involving addition, subtraction, multiplication, division. Prime factorization of numbers. Commutative, associative and distributive laws of arithmetic.

9. Evaluation of the program:

By the visits to the schools and opportunity to meet with every class in each school visited, the consultant became thoroughly familiar with the mathematics program in the school system, the texts in use and the interest of the students and teachers alike in mathematics. A questionnaire regarding the mathematics taught by each teacher was circulated. Information asked for included the grade taught and textbook used, the courses in college mathematics taken by each teacher with date taken, semester hours credit earned and grade made, and any further preparation for teaching modern mathematics such as attendance at summer institutes. Teachers were requested not to give their names. The information was gladly furnished and is considered to be necessary general information regarding the present state of mathematics in the school system, the present preparation of teachers, and their needs for assistance in developing a strong mathematics curriculum in the school system. The benefits to the system of the program are rated

high by the superintendent, principals and teachers. Excellent cooperation has been given the consultant on each visit. It is the opinion of the consultant that much good has been done for the school system in this limited program.

10. Recommendations of the Consultant to the School System:

Not every high school in the county has a four year high school mathematics program. The first step should be made in this direction by introducing a fourth year high school mathematics course which includes trigonometry. In order to do this, it will be necessary to reorganize the mathematics program in several of the schools to begin first year algebra in the ninth grade instead of in the tenth grade as is now the case in such schools. This will in turn require that students finishing the eighth grade be prepared to begin algebra in the ninth grade. The school system could profit greatly from the assistance of a consultant in this general reorganization of the mathematics program. Teachers who have not taken any modern mathematics likewise will need assistance in the introduction of modern topics into their classes. The school system has gladly accepted these suggestions and will take steps towards their implementation.

W. L. Furman, S.J., Consultant
Spring Hill College
Mobile, Alabama

May 12, 1966

The following written recommendation was presented to the Board of Education by Superintendent Guy S. Kelly:

"In order to pay the May 1966 payrolls which are now due and the note of \$116,000.00 and the interest of \$386.67,

I hereby recommend that \$112,000.00 be borrowed for a period of thirty (30) days."

The following motion was made by Mr. Mason, seconded by Mr. Sadler, and adopted by unanimous vote of the Board:

"It is hereby ordered that \$112,000.00 be borrowed from the Bank of Camden, Camden, Alabama. The note shall be dated May 31, 1966, and shall be made payable on or before June 30, 1966, and shall bear interest at the rate of 4% per annum from date issued to date paid. All funds accruing to the credit of the General School Funds are hereby pledged in the payment of this note. President R. E. Lambert, Jr. or Vice-President Byron Hale and Superintendent Guy S. Kelly are authorized to sign the note in the name of the Board of Education, Wilcox County, Alabama.

It is further ordered that the note of \$116,000.00 and the interest of \$386.67 be paid."

There being no further business the Board adjourned at 11:30 a.m.

/s/ R. E. Lambert, Jr., President

/s/ Harry A. Mason

/s/ L. Y. Sadler, Jr.

/s/ J. O. DeVan

/s/ Guy S. Kelly, Sec.

MINUTES OF THE MEETING OF THE WILCOX COUNTY BOARD OF EDUCATION—JUNE 21, 1966

The Board of Education met in regular session on June 21, 1966, with the following members present: Mr. R. E. Lambert, Jr., Mr. Byron Hale, Mr. J. O. DeVan, Mr. Harry Mason, and Mr. L. Y. Sadler, Jr. The meeting was called to order by the Chairman, Mr. Lambert, at 9:30 a.m.

The Superintendent recommended the acceptance of the following resignations:

Earlinell Williams Chestang

Fred A. Williamson, Jr.

Janie C. Melton

Louise Aiken

Mary Ann Brock

Antoinette Watson

Anderson Knight

John Rumph

Emily Boler

Mr. Sadler made a motion that the above resignations be accepted. Mr. Mason seconded the motion and the Board unanimously approved it.

The Superintendent presented in writing the recommendation that the following teachers be employed:

Lisa McNeill Dobson, Wilcox County High School

Judy Ward, Wilcox County High School

Hugh C. Dale, Wilcox County High School

Jerry Rogers Fuller, Pine Hill High School

Betty Garris, Pine Hill High School

Charles Branon, Moore Academy

Karen Bryant, Moore Academy

Mrs. Frank Lyon, Moore Academy

Upon motion of Mr. DeVan, seconded by Mr. Hale, the Board unanimously approved the employment of the above teachers.

Upon motion of Mr. Sadler, seconded by Mr. Mason, the Board approved the payment of \$120.00 to W. J. Lawler, Jr., Pine Hill, for surveying Pine Hill Jr. High School addition under the Board's program of enlargement and consolidation.

Upon motion of Mr. Mason, seconded by Mr. DeVan, the Board unanimously approved the recommended 1966-67 school calendar.

Upon motion of Mr. Hale, seconded by Mr. DeVan, the Board unanimously approved the May payrolls as follows:

Checks No. 3497-3997

Salaries	97,367.99
Bills (regular)	8,578.78
School Lunchroom	2,633.42
Debt Service	116,386.67
Total	<u>\$224,966.86</u>

The Superintendent discussed with the Board the matter of giving the teachers contracts for 1966-67 school year. It was brought out that the forthcoming special session of the Legislature was intended to give teachers a salary increase and

it was the feeling of the Board that the contracts should be delayed until more definite information is received.

The Superintendent presented a letter from Mr. O. P. Richardson showing the Wilcox County Board of Education's order for ten (10) new school buses had been processed.

The matter of the government suit against the Wilcox County Board of Education was set for hearing in Selma on June 23 and every member of the Board was urged to be present for the hearing. Mr. DeVan expressed a desire to be there but his doctor had advised against his attending.

The Superintendent presented to the Board a notice of Levy on Percy L. Bullard by the U.S. Treasurer Department, Internal Revenue Service, which was a notice of levy on the above named taxpayer and which requests the Wilcox County Board of Education to turn over all monies due and owing to such taxpayer at the time of this Levy. The Board deferred action for further study.

The following written recommendation was presented to the Board of Education by Superintendent Guy S. Kelly:

"In order to pay the June 1966 payrolls which are now due and the balance of the note for \$112,000.00 which balance is \$22,000.00 and the interest of \$73.33, I hereby recommend that \$124,000.00 be borrowed for a period of thirty (30) days."

The following motion was made by Mr. Sadler, seconded by Mr. Mason, and adopted by unanimous vote of the Board:

"It is hereby ordered that \$124,000.00 be borrowed from the Bank of Camden, Camden, Alabama. The note shall be dated

July 1, 1966, and shall be made payable on or before July 31, 1966, and shall bear interest at the rate of 4% per annum from date issued to date paid. All funds accruing to the credit of the General School Funds are hereby pledged in the payment of this note. President R. E. Lambert, Jr. or Vice-president E. Byron Hale and Superintendent Guy S. Kelly are authorized to sign the note in the name of the Board of Education, Wilcox County, Alabama.

It is further ordered that the balance of the note for \$112,000.00, which balance is \$22,000.00, and the interest of \$73.33 be paid."

There being no further business the Board adjourns at twelve noon.

/s/ R. E. Lambert, Jr., Chairman

/s/ Harry A. Mason

/s/ L. Y. Sadler, Jr.

/s/ J. O. DeVan

/s/ Guy S. Kelly, Sec.

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
JUL 28 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

MOTION TO STRIKE BRIEFS

Comes the Defendants, Wilcox County Board of Education, J. O. DeVan, R. E. Lambert, Jr., Edward B. Hale, L. Y.

Sadler, Jr., Harry A. Mason, members of the Wilcox County Board of Education, Guy S. Kelly, Superintendent of Education for Wilcox County, separately and severally, and moves that the Court strike from the files in this case the following:

(1) Brief of the United States of America, Appellant vs. Jefferson County Board of Education, et al, Appellees, filed in the Fifth Circuit Court of Appeals, Case No. 23345.

(2) Volumes 1, 2, 3 and 4 of the Appendices to the following briefs filed in the United States Fifth Circuit Court of Appeals, viz:

(a) No. 23,173 in the Case of Johnson v. Jackson Parish School Board;

(b) No. 23,192, in the Case of Banks v. Clairborne Parish School Board;

(c) No. 23,274 in the Case of United States v. Caddo Parish School Board;

(d) No. 23,331 in the Case of United States v. Fairfield Board of Education;

(e) No. 23,335 in the Case of Brown v. Board of Education of the City of Bessemer;

(f) No. 23,345 in the Case of United States v. Jefferson County Board of Education; and

(g) No. 23,365 in the Case of United States v. Bossier Parish School Board.

and for grounds of said Motion assigns the following separate and several grounds:

1. The facts set forth in said brief and appendices are not applicable to the facts in the case at bar.

2. For that it is not proper for the Court to consider facts in the above cases in making a decision in the case at bar.

3. For that the United States through its attorney has deliberately attempted to mislead the Court in the offering of evidence in the case at bar as to the condition of the Wilcox County schools and further attempted to deliberately mislead the Court in the brief of the United States that was filed in the case at bar relative to the condition of said schools and is now further attempting to mislead the Court by injecting into said case facts from the above cases that are pending before the Fifth Circuit Court of Appeals which are entirely different and have nothing to do with the facts in the case at bar.

4. That Jefferson County and all other schools set forth in the above brief are geographically far removed from Wilcox County and none of the facts set forth in said brief have any application to the issues involved in the Wilcox County Board of Education case.

5. For that the Court granted the United States and the Defendants until the 25th day of July, A.D., 1966, to file briefs and the above briefs were filed after said date and after the Government received the brief of the Defendants in this case in an effort to offset the impact of the Defendant's brief in the case at bar.

6. That it is unfair to allow the United States of America to file the above briefs after the date set for the filing of briefs by the Court.

/s/ McLean Pitts
Of Counsel for Defendants

DEMAND FOR ORAL ARGUMENT

The Defendants' counsel request that this Motion be presented to the Court and that said counsel be granted oral argument in support of this Motion.

/s/ McLean Pitts
Of Counsel for Defendants

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
JUL 28 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This action was instituted by the United States pursuant to Section 407(a) of the Civil Rights Act of 1964 on November 22, 1965. The complaint alleged, inter alia, that the defendants operate a segregated school system, and this court so finds. The evidence adduced at the hearing established

without dispute that no Negro had ever attended a white school.

Twelve years have passed since the United States Supreme Court decreed that separate but equal facilities are inherently unequal. *Brown v. Board of Education*, 347 U.S. 483 (1954). The eradication of the pattern of segregated school system was to be performed with "deliberate speed." The United States Court of Appeals for the Fifth Circuit has become increasingly dissatisfied with the inaction of local school boards in the face of this clear mandate for change.

"Another (reason) is that appellate court requirements have grown more exacting as time has passed, and during the last eighteen months pronouncements of this court have interpreted the Supreme Court's interim decisions as requiring considerably greater measures of desegregation. * * * It must also be borne in mind that this school board (Mobile County, Alabama) ignored for nine years the requirement clearly stated in *Brown* that the School authorities have the primary responsibility for solving this constitutional problem." *Davis, et al v. Board of School Comm'rs.*, U.S. Court of Appeals, 5th Cir., August 16, 1966.

In the *Davis* case, quoted above, the decree compelled total desegregation by the fall of 1967.

This case was heard on its merits during the latter part of June. Briefs were submitted in July. This Court has delayed its findings in this case, inasmuch as eight other school desegregation cases are now pending before the Fifth Circuit Court of Appeals. These cases were argued orally and submitted to the Fifth Circuit on May 24, 1966.

Many of the questions raised in those appeals are common to this case. Since the Fifth Circuit's ruling in the Mobile School case *Birdie Mae Davis vs. Board of School Commissioners of Mobile County*, United States Court of Appeals for the Fifth Circuit, August 16, 1966, the Government has urged that the Wilcox County Board be required to fix a time for transfers from one school to another in all grades in the school system, between now and September 6th, the date of the opening of schools for the fall term in Wilcox County. The Court feels that there is not sufficient time for this adequately to be accomplished. To require the same would seriously interfere with the orderly education of all pupils in Wilcox County and the resulting confusion would seriously over-balance any good that could be accomplished by any transfers at this late date.

Knowing that the Wilcox County Board of Education is not complying with *Brown vs. Board of Education*, supra, and that desegregation must be had, the Board of Education of Wilcox County is hereby given no longer than 45 days after the ruling of the Fifth Circuit in those school cases taken under submission on May 24th, 1966, for the submission to the Court of a plan that provides for desegregation for the first, second, third, seventh, eighth, and ninth grades by the spring semester of 1967 and total desegregation of its entire school system by the spring semester of 1968. Provided, however, in the event the ruling of the Fifth Circuit does not issue within 60 days prior to the beginning of the spring term of 1967, then the first step of the plan shall be applicable to the fall term of 1967 and total desegregation shall be accomplished by the fall term of 1968. What steps toward that end might be taken with respect to the forthcoming fall 1966 semester are left to the discretion of the local Board.

The Court realizes that all of the questions raised in this case are not met by this ruling. However, the Court will defer ruling on these matters, awaiting the ruling of the Fifth Circuit on the eight desegregation cases now pending before it.

DATED at Mobile, Alabama, this the 23 day of August, 1966.

DANIEL H. THOMAS
UNITED STATES DISTRICT
JUDGE

U.S. DISTRICT COURT
SOU. DIST. ALA.

FILED AND ENTERED THIS THE
23 DAY OF AUGUST, 1966.

MINUTE ENTRY NO. 20728

WILLIAM J. O'CONNOR, CLERK

BY /s/ William E. Taylor
DEPUTY CLERK

(Caption Omitted)

It is hereby ORDERED, ADJUDGED and DECREED by the court that the defendant Wilcox County Board of Education submit to the court a Plan for the desegregation of schools in Wilcox County, pursuant to and not inconsistent with the Findings of Fact and Conclusions of Law entered herein on this date.

Done at Mobile, Alabama this 23rd day of August, 1966.

/s/ Daniel H. Thomas
District Judge

U.S. DISTRICT COURT
SOU. DIST. ALA.

FILED AND ENTERED THIS THE
23RD DAY OF AUGUST, 1966,

MINUTE ENTRY NO. 20729.

WILLIAM J. O'CONNOR, CLERK,

BY—
Deputy Clerk

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
(AUGUST 30, 1966)
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

*NOTICE OF APPEAL AND
DESIGNATION OF RECORD*

NOTICE is given that the plaintiff hereby appeals to the United States Court of Appeals for the Fifth Circuit from the Order entered on August 23, 1966, by the United States District Court for the Southern District of Alabama.

Plaintiff designates the following to be contained in the record on appeal:

The complete record and all of the pleadings, proceedings, and evidence received in the above-titled action.

/s/ Vernol R. Jansen, Jr.
Vernol R. Jansen, Jr.
United States Attorney

U.S. COURT OF APPEALS
F I L E D
AUG 30 1966
EDWARD W. WADSWORTH
CLERK

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
SEP 1 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

*APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT
OF ALABAMA*

Before BROWN, GEWIN and THORNBERRY, Circuit Judges.
PER CURIAM:

In this cause the appellant has moved for an injunction pending appeal from an order of the United States District Court for the Southern District of Alabama wherein the District Court refused to direct the appellees to adopt and put into effect for the 1966 fall term a plan whereby students could transfer from one school to another. The District Court found that the appellees are operating a segregated school system and that no Negro student has ever attended a white school in Wilcox County, and the Court noted the fact that 12 years have passed since the decision in *Brown v. Board of Education*, 347 U.S. 483 (1954). It was the feeling of the District

Court that there was not sufficient time adequately to accomplish such transfer from one school to another in all grades of the school system.

While it may be true that some inconvenience will be experienced, but in view of the long delay since the decision in the *Brown* case, we do not feel that all relief should be denied.

In accordance with procedure followed in other cases, *Stell v. Savannah-Chatham County Board of Education*, 318 F. 2d 425; *Armstrong v. Board of Education*, 323 F. 2d 333, it is ORDERED that the District Court for the Southern District of Alabama enter the following judgment and order:

"IT IS ORDERED, ADJUDGED and DECREED that the defendants and their agents, servants, employees and successors in office and those in active concert with them who shall receive notice of this order, be and they hereby are restrained and enjoined during the pendency of this case before the United States Court of Appeals for the Fifth Circuit from requiring segregation of the races in any school system under their supervision in violation of the terms and provisions of this judgment and order.

"IT IS FURTHER ORDERED, ADJUDGED and DECREED that said persons be and they hereby are required to adopt and put into effect for the 1966 fall term of school in Wilcox County, Alabama, a free-choice plan for the first, second, third, seventh, eighth and ninth grades in which all students in the affected grades will be afforded a reasonable time up to and including September 12, 1966, in which to exercise a free and unrestrained choice of schools they wish to attend.

"IT IS FURTHER ORDERED, ADJUDGED and DECREED that on or before September 6, 1966, the defendants shall make available to all students who enroll in the above designated grades of the Wilcox County public schools for the 1966 fall term appropriate forms upon which each student shall be allowed and provided the opportunity to exercise a free choice of the school he wishes to attend for the 1966-67 school year, which choice shall be without regard to race or color. No student shall be required or compelled to seek a transfer from one school to another, and no choice shall be denied except for good and sufficient reasons related to the administration of the school system such as oversubscription beyond the physical capacity of a given school, in which case preference shall be given to students whose residences are nearest to the school involved.

"In all other respects the order of this Court entered on August 23, 1966, shall remain in full force and effect and shall be strictly complied with."

In view of the unusually long delay involved, it is ORDERED that the mandate shall issue forthwith. The foregoing order shall remain in effect until final determination of the appeal in the Court of Appeals for the Fifth Circuit and until further order of this Court, during which time the District Court is directed to enter such other and further orders as may be appropriate or necessary in carrying out the expressed terms of the foregoing order.

In view of the shortness of time involved in this case, this order will be forwarded to the Clerk of the United States

District Court for the Southern District of Alabama and to the counsel for the parties.

MOTION GRANTED.

/s/ John R. Brown (G)
UNITED STATES CIRCUIT JUDGE

/s/ Walter Gewin
UNITED STATES CIRCUIT JUDGE

/s/ Homer Thornberry (G)
UNITED STATES CIRCUIT JUDGE

A true copy

Test: EDWARD W. WADSWORTH

Clerk, U.S. Court of Appeals, Fifth Circuit

By /s/ Eugenia S. McMurphy
Deputy

New Orleans, Louisiana

AUG 30 1966

(Caption Omitted)

Pursuant to the order and direction of the United States Court of Appeals for the Fifth Circuit in this case on August 30, 1966, the following order and decree is this date issued.

It is ORDERED, ADJUDGED and DECREED that the defendants and their agents, servants, employees and successors in office and those in active concert with them who shall receive notice of this order, be and they hereby are restrained

and enjoined during the pendency of this case before the United States Court of Appeals for the Fifth Circuit from requiring segregation of the races in any school system under their supervision in violation of the terms and provisions of this judgment and order.

It is further ORDERED, ADJUDGED and DECREED that said persons be and they hereby are required to adopt and put into effect for the 1966 fall term of school in Wilcox County, Alabama, a free-choice plan for the first, second, third, seventh, eighth and ninth grades in which all students in the affected grades will be afforded a reasonable time up to and including September 12, 1966, in which to exercise a free and unrestrained choice of schools they wish to attend.

It is further ORDERED, ADJUDGED and DECREED that on or before September 6, 1966, the defendants shall make available to all students who enroll in the above designated grades of the Wilcox County public schools for the 1966 fall term appropriate forms upon which each student shall be allowed and provided the opportunity to exercise a free choice of the school he wishes to attend for the 1966-67 school year, which choice shall be without regard to race or color. No student shall be required or compelled to seek a transfer from one school to another, and no choice shall be denied except for good and sufficient reasons related to the administration of the school system such as oversubscription beyond the physical capacity of a given school, in which case preference shall be given to students whose residences are nearest to the school involved.

In all other respects the order of this Court entered on August 23, 1966, shall remain in full force and effect and shall be strictly complied with.

The Clerk is directed to forthwith mail copies of this order and decree to the attorneys of record for all parties, and the Marshal to forthwith serve a copy upon the attorneys for the defendants.

Done at Birmingham, Alabama, this 31st day of August 1966.

/s/ Daniel H. Thomas
UNITED STATES DISTRICT
JUDGE

U.S. DISTRICT COURT
SOU. DIST. ALA.

FILED AND ENTERED THIS THE
31 ST DAY OF AUGUST, 1966,
MINUTE ENTRY NO. 20789.
WILLIAM J. O'CONNOR, CLERK,
BY /s/ William E. Taylor
Deputy Clerk

(Caption Omitted)

RECEIVED
U.S. MARSHAL
MOBILE, ALABAMA
C-3660
SEP 1 9:26 A.M. '66

Pursuant to the order and direction of the United States Court of Appeals for the Fifth Circuit in this case on August 30, 1966, the following order and decree is this date issued.

It is ORDERED, ADJUDGED and DECREED that the defendants and their agents, servants, employees and successors in office and those in active concert with them who shall receive notice of this order, be and they hereby are restrained and enjoined during the pendency of this case before the United States Court of Appeals for the Fifth Circuit from requiring segregation of the races in any school system under their supervision in violation of the terms and provisions of this judgment and order.

It is further ORDERED, ADJUDGED and DECREED that said persons be and they hereby are required to adopt and put into effect for the 1966 fall term of school in Wilcox County, Alabama, a free-choice plan for the first, second, third, fourth, eighth and ninth grades in which all students in the affected grades will be afforded a reasonable time up to and including September 12, 1966, in which to exercise a free and unrestrained choice of schools they wish to attend.

It is further ORDERED, ADJUDGED and DECREED that on or before September 6, 1966, the defendants shall make available to all students who enroll in the above designated grades of the Wilcox County public schools for the 1966 fall term appropriate forms upon which each student shall be allowed and provided the opportunity to exercise a free choice of the school he wishes to attend for the 1966-67 school year, which choice shall be without regard to race or color. No student shall be required or compelled to seek a transfer from one school to another, and no choice shall be denied except for good and sufficient reasons related to the administration of the school system such as oversubscription beyond the physical capacity of a given school, in which case preference shall be given to students whose residences are nearest to the school involved.

In all other respects the order of this Court entered on August 23, 1966, shall remain in full force and effect and shall be strictly complied with.

The Clerk is directed to forthwith mail copies of this order and decree to the attorneys of record for all parties, and the Marshal to forthwith serve a copy upon the attorney for the defendants.

Done at Birmingham, Alabama, this 31st day of August 1966.

DANIEL H. THOMAS
UNITED STATES DISTRICT
JUDGE

CERTIFIED A TRUE COPY
WILLIAM J. O'CONNOR, CLERK
By /s/ Mrs. M. P. Cox
Deputy Clerk

RETURN

Received this Order at Selma, Ala. on September 1st, 1966 and executed same on September 1st, 1966 by handing copy to Mr. McLean Pitts, Attorney for Defendants.

George M. Stuart, U.S. Marshal
By /s/ W. F. Armstrong
Deputy

Fee \$3.00

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
SEP 7 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

MOTION OF WILCOX COUNTY BOARD OF EDUCATION FOR TEMPORARY INJUNCTION

The Defendant, Wilcox County Board of Education, respectfully moves this Court for a temporary injunction protecting the jurisdiction of this Court and in aid to the decree of this Court entered on, to-wit: August 31, 1966, and in support of said Motion, submits the following:

1. On August 31, 1966, this Court did enter its order or decree pursuant to the orders and direction of the United States Court of Appeals for the Fifth Circuit, dated August 30, 1966, and in and by the decree of this Court, this Defendant was required to adopt and put into effect for the 1966 Fall term of school in Wilcox County, Alabama a free-choice plan for the first, second, third, seventh, eighth and ninth grades, in which all students enrolled in the affected grades will be afforded a reasonable time up to and including September 12, 1966, in which to exercise a free and unrestrained choice of schools they wish to attend; the Court did further decree that on or before September 6, 1966, the Defendant shall make available to all students who enrolled in the above designated grades of said school system for the 1966 Fall term appropriate forms upon which each student shall be allowed and provided the opportunity to exercise a free choice of the school he wishes to attend for the 1966-67 school year, which choice will be without regard to race or color; said order did further decree that no student shall be required or compelled to seek a transfer from one school to another and no person shall be denied except for good and sufficient reasons related to the administration of the school system such as oversubscription beyond the physical capacity of a given school, in which case preference shall be given to students whose residences are nearest to the

school involved; the Court did further decree that in all other respects the order of this Court entered August 22, 1966, shall remain in full force and effect and shall be strictly complied with.

2. Pursuant to the above order and decree of this Court, immediately upon the decree of this Court, dated August 31, 1966, being received by Guy S. Kelly, Superintendent of Education of Wilcox County, Alabama, by informal discussion with Board members, he was immediately authorized to put into effect the plan as set forth in said Court's decree and did have immediately prepared transfer slips, a supply of which was delivered to each principal of each school in Wilcox County, Alabama, and there was written to said principals of all schools a letter dated September 6, 1966, and on, to-wit: September 7, 1966, a special session of the Wilcox County Board of Education was held and a resolution was adopted ratifying, confirming and approving the actions of the said Guy S. Kelly, Superintendent of said school system and making a finding of fact that had occurred in Wilcox County, Alabama, since August 31, 1966, the date of the decree of this Court; a copy of said resolution is attached hereto, marked Exhibit 1, and made a part hereof as if herein set forth in detail.

3. The Superintendent, Guy S. Kelly, upon receiving said Court decree immediately contacted law enforcement agencies in Wilcox County and advised them of the contents of said decree. On the morning of September 2, 1966, one Daniel Harrell, a civil rights worker in Wilcox County, Alabama, and who resides at or near Camden in Wilcox County, Alabama, appeared at the Wilcox County High School with a group of Negro children and adult Negroes and demanded admission into the Wilcox County High School; the Superintendent, Guy S. Kelly, explained to the said Daniel Harrell that transfer

slips had been delivered to each principal and in order to have an orderly compliance with the Court decree it was necessary for these children to go to their respective schools and sign transfer slips which were to be delivered to the Superintendent of Wilcox County School System immediately after the close of school on September 12, 1966; the said Harrell persisted in his demands to enter said Negro children in said Wilcox County High School; there was a large group of angry White people present. He was requested to leave the school premises in order that law and order could prevail, was told not to return under any circumstances and that there was no need of him bringing children to said school and that only the parents of said children should go to any school with said children. If it had not been for the active and immediate work of the said Superintendent and of the law enforcement agencies in Wilcox County a serious race riot could have occurred in the front of said school; that the said Daniel Harrell is antagonizing the White citizens of Wilcox County by presenting himself with said large group of Negroes at said school. On September 2, 1966, as he was leaving he made the statement "I will be back, we must integrate this school." On September 6, 1966, the said Harrell returned, although he had been warned not to come back to said school. He and a group appeared in several vehicles loaded with Negro adults and Negro children; on this occasion there was a very large group of White people present, which group was even larger than the group that was present on September 2, 1966; the concern and feeling that has built up in the parents and local people has about reached an uncontrollable point; on this occasion the said Harrell drove into the school yard after being advised to leave, and all of the available law enforcement officers of Wilcox County were present, which was a small group, and it was necessary to hold said crowd of people back from attacking the said Daniel Harrell and his group.

4. The Wilcox County Board of Education is attempting to carry out the decree of this Court in an orderly fashion without demonstrations on the streets or roads and without inciting riotous conditions, but the decree of this Court did not enjoin such persons as the said Daniel Harrell, or persons, firms or corporations in active concert with him, from interfering with the orderly desegregation of the Wilcox County school.

5. This Defendant avers that the said Daniel Harrell and his group are civil rights agitators and their actions in presenting themselves to the Wilcox County High School, is serious, affecting the orderly desegregation of schools and could easily incite a racial riot; the law enforcement in Wilcox County is adequate for ordinary times, but could be seriously overtaxed in the event of an explosive situation and it is desirable and in fact, necessary, that the Court issue a supplemental decree temporarily enjoining the said Daniel Harrell and all other persons, firms or corporations in active concert with him, from interfering with the normal functions of the Wilcox County Board of Education in carrying out the decree of this Court and enjoining them from presenting themselves and transporting or directing the transportation of children to said schools without authority from the Wilcox County Board of Education.

6. This Motion is based upon a resolution adopted by the Wilcox County Board of Education on September 7, 1966, a copy of which is attached hereto and marked Exhibit 1; an affidavit of Felix Reginald Albritton, Mayor of the Town of Camden, Alabama, and Chief of Police, which is attached hereto and marked Exhibit 2; the affidavit of Guy S. Kelly, Superintendent of Education of Wilcox County, Alabama, which is attached hereto and marked Exhibit 3; the affidavit of P. C. Jenkins, Sheriff of Wilcox County, Alabama, which is attached hereto, marked Exhibit 4, and made a part hereof.

WHEREFORE, Defendant prays that this Court enter an order making the said Daniel Harrell a party defendant to this suit and issuing a temporary injunction against the said Daniel Harrell and persons, firms or corporations or associations in active concert with the said Daniel Harrell, enjoining them from interfering with the normal functions of the Wilcox County Board of Education in carrying out the decree of this Court, dated August 31, 1966; enjoining them from presenting themselves and transporting or directing the transportation of children to Wilcox County schools without authority from the Wilcox County Board of Education; from demonstrating or appearing in large groups at or near or in the vicinity of any of the schools of the Wilcox County system for admission; from appearing at any of said schools and demanding admission of children in a school to which said child has not been assigned by the Wilcox County Board of Education; from doing any other thing, act or deed that would interfere with the Wilcox County Board of Education carrying out the decree of this Court; from doing any act, thing or deed that would incite a racial riot at, near or in the vicinity of any of the schools of the Wilcox County system; from demonstrating on any street, road, avenue or alley in Wilcox County, Alabama, in regard to the desegregation or integration of the Wilcox County schools or the manner in which the same is being conducted.

PITTS & PITTS
Attorneys at Law
Selma, Alabama

L. Y. SADLER, JR.
Attorney at Law
Camden, Alabama

ATTORNEYS FOR WILCOX COUNTY
BOARD OF EDUCATION

/s/ McLean Pitts
Of Counsel for the Wilcox County
Board of Education

EXHIBIT 1

A RESOLUTION

THAT, WHEREAS, in the case styled United States of America et al vs. Wilcox County Board of Education et al, pending in the United States District Court for the Southern District of Alabama, Northern Division, Civil Action No. 3934-65, Honorable Daniel H. Thomas, Judge of said Court, did render an opinion dated August 23, 1966, and did enter a decree or order of the Court ordering the Defendants, Wilcox County Board of Education et al to comply with the Finding set forth in said opinion, which the Wilcox County Board of Education was willing to do and had implemented plans to carry out the decree of said Court; and,

WHEREAS, the United States of America did appeal from said decree of said District Court to the United States Circuit Court of Appeals for the Fifth Circuit and did make application to said Circuit Court of Appeals for a temporary injunction pending the outcome of said appeal; and,

WHEREAS, upon said Wilcox County Board being notified of said appeal and said application for temporary injunction, said Board did authorize its attorneys to file an answer and objections to the Petition seeking a temporary injunction pending the appeal, which said answer and objections were mailed to the United States Circuit Court of Appeals on Sunday, the 28th day of August, 1966; and,

WHEREAS, on August 30, 1966, the United States Circuit Court of Appeals for the Fifth Circuit did render its opinion and did set forth in its said opinion an order to be entered by the United States District Judge at Mobile; and,

WHEREAS, on August 31, 1966, Honorable Daniel H. Thomas, United States District Judge, did enter his order pursuant to the orders and direction of the United States Court of Appeals for the Fifth Circuit and in said order did decree and order the Wilcox County Board of Education to set into operations plans by which students in the first, second, third, seventh, eighth and ninth grades would have a freedom of choice as to which school they would attend; and,

WHEREAS, in-training service, teacher meetings and institutes for the various schools in Wilcox County had been previously set for August 31, 1966; and,

WHEREAS, the Wilcox County Board of Education was not officially notified of the United States District Judge's decree until said decree was served upon its attorney, McLean Pitts, in the City of Selma, Dallas County, Alabama, at about 4:00 P.M. on September 1, 1966, and said attorney immediately transmitted said decree to said Board of Education and said Board of Education did not in fact learn of all of the provisions of said decree until September 2, 1966; and,

WHEREAS, September 2, 1966, was the previous date set for the opening and enrollment of students in schools in Wilcox County, Alabama, at 8:00 A.M.; and,

WHEREAS, Mr. Guy S. Kelley, Superintendent of Education, to the best of his ability informed and has kept informed, the members of the Wilcox County Board of Education and said Board members informally authorized said Superintendent to carry out the provisions of the decree of the United States District Court and said Superintendent had immediately prepared the necessary forms; and,

WHEREAS, the Wilcox County Board of Education desires to ratify confirm and approve all of the actions of said Superintendent which were done at the informal instruction of the members of said Board and it desires to place of record its intention to carry out all of the terms and provisions of said court decree to the best of its ability.

NOW, THEREFORE, BE IT RESOLVED BY THE WILCOX COUNTY BOARD OF EDUCATION, AS FOLLOWS:

1. The Board will abide by and carry out all of the terms and provisions of the decree of the United States District Court issued in pursuance to the orders and directions of the United States Court of Appeals, Fifth Circuit, dated August 31, 1966, although it is very difficult for said Board and its members to carry out all of the provisions of said decree in such a short length of time, but it is the intention of this Board to fully comply with said decree, although there may be administrative problems involved.
2. That the Wilcox County Board of Education in pursuance to the orders and directions of Judge Daniel H. Thomas in said decree of Court does hereby adopt a freedom of choice plan for the first, second, third, seventh, eighth and ninth grades for the school year commencing August 31, 1966, for all schools in Wilcox County which are under the supervision and control of the Wilcox County Board, in which all students in the affected grades will be afforded a reasonable time up to and including September 12, 1966, in which to exercise a free and unrestrained choice of schools they wish to attend.
3. The action of Guy S. Kelley, Superintendent of Education of Wilcox County in furnishing to the Principals of

the various schools in Wilcox County, a letter dated September 6, 1966, which reads as follows:

A copy of said letter is attached to this resolution, marked Exhibit "A", and made a part hereof as if herein set forth in detail.

and the action of Guy S. Kelley, Superintendent of Education of Wilcox County in preparing and furnishing to the various schools to be delivered to all pupils in said affected grades a transfer slip which is in words and figures as follows:

A copy of said transfer slip is attached to this resolution, marked Exhibit "B", and made a part hereof as if herein set forth in detail.

be and the same are hereby ratified, confirmed and approved by the Wilcox County Board of Education.

4. The Wilcox County Board of Education finds that on September 2, 1966, enrollment was had in all schools in the Wilcox County School System, and that on September 6, 1966, at the request and instruction of Superintendent Guy S. Kelley the Principals of all schools of the Wilcox County Public School System received from the said Superintendent ample supplies of transfer slips or forms, a sample of which is hereinabove set out, with instructions to deliver one such slip to every student enrolled in the first, second, third, seventh, eighth and ninth grades of said Principals respective schools. The Board further finds that each and every Principal of the public schools of the said Wilcox County School System were furnished and had available to them for proper distribution under the written instructions of said Superintendent an ample supply of said transfer slips.

6. That this Board will meet immediately after the close of the school day of September 12, 1966, to hear a report from the Superintendent as to the number of transfers requested and to which schools said transfers are requested, at which meeting the Board will consider administrative problems and procedures. That Guy S. Kelley, Superintendent of Education of Wilcox County, be and he is hereby directed to make arrangements for the immediate delivery to his office in Camden, Alabama, of all transfer slips that may be in the hands of the Principals of the various schools of Wilcox County immediately after the close of school on September 12, 1966.

7. The Board further finds that Superintendent Guy S. Kelley has notified the appropriate law enforcement agencies in Camden and Wilcox County, Alabama, of the decree of the Court and of the intention of the Wilcox County Board of Education in order that law and order will prevail throughout Wilcox County, Alabama, in the administration of this Court decree.

8. The Board further finds that the breach of peace has been seriously threatened by the action of one Daniel Harrell, a so-called SCLC employee and civil rights worker, located at Camden, Alabama, by his action on September 2, 1966, in loading up Negro children in two pick up trucks and an automobile and bringing them to the Wilcox County High School at Camden, Alabama, in a group, and by his action on September 6, 1966, in transporting or directing the transport of Negro children to the Wilcox County High School in motor vehicles. The Board further finds that the actions of Harrell, and those in active concert with him, were done after Superintendent Guy S. Kelley on, to-wit: September 1, 1966, notified the said Harrell when the said Harrell came to his office that the

said Kelley had heard of said Court decree and knew roughly the contents of said court decree and that said court decree was going to be complied with and the said Harrell was again requested by Guy S. Kelley on September 2, 1966, at the Wilcox County High School not to return and that there was no need of him transporting children or directing the transport of children, demanding admittance immediately, when the Wilcox County Board of Education had already informed him that said court decree would be complied with, but in spite of this, the said Harrell transported, or directed the transportation of Negro children to the Wilcox County High School on, to-wit: September 6, 1966. The Board further finds that the said Daniel Harrell has no children in the Wilcox County School System. The Board further finds that on September 2, 1966, and on September 6, 1966, the White people of Wilcox County were very much disturbed over the impending integration of their said schools and the safety and welfare of their children and turned out in great numbers to accompany their children to schools, and the action of the said Harrell on said two occasions created an explosive situation that but for the wise action and diligence of the Superintendent, Guy S. Kelley, and the quick action on the part of law enforcement authority, could have resulted in a disastrous confrontation; the Board further finds that it was the action of the said Harrell and other civil rights leaders in active concert with him, that created said explosive situation. The Board further finds that the said Harrell and other civil rights leaders are threatening or have expressed their intentions of returning to the Wilcox County High School or other White schools in the County on September 12, 1966, demanding immediate admittance of Negro children and this could cause another serious explosive situation.

9. The Board further finds that while said Court did issue an injunction against said Board and the members thereof and the Superintendent of Education, the Court did not give the Wilcox County Board of Education and its member and its Superintendent protection from civil rights agitators and those in active concert with them; that the Board has nothing to do with police protection to these civil rights agitators and the Board finds that the law enforcement in Wilcox County is ample for ordinary times, but could be seriously overtaxed in the event of an explosive situation and it is desirable and in fact, necessary, that the Court issue a supplemental temporary injunction enjoining said civil rights workers from interfering with the normal function of the Board in carrying out the decree of the Court and enjoining them from presenting themselves and transporting under their direction children to said schools without authority from the Board of Education. That the attorneys for the Board be instructed to have prepared and be able to present to the United States District Court on short notice, a Petition praying for such a temporary injunction.

ADOPTED this the 7th day of September, A.D., 1966, at 12:30 P.M. by the Wilcox County Board of Education in special session.

/s/ R. E. Lambert
Chairman—R. E. Lambert
/s/ Byron E. Hale
Byron E. Hale
/s/ Oscar DeVan
Oscar DeVan
/s/ Harry Mason
Harry Mason
/s/ L. Y. Sadler, Jr.
L. Y. Sadler, Jr.

EXHIBIT "A"

BOARD OF EDUCATION

R. E. LAMBERT, JR., President, Darlington
EDWARD B. HALE, Vice President, Pine Apple
J. O. DeVAN, Pine Hill
L. Y. SADLER, JR., Camden
HARRY A. MASON, Pine Hill

OFFICE OF
SUPERINTENDENT OF EDUCATION

GUY S. KELLY, Superintendent
Wilcox County — Camden, Alabama

September 6, 1966

TO: ALL SCHOOL PRINCIPALS IN WILCOX COUNTY

FROM: GUY S. KELLY, SUPERINTENDENT
/s/ Guy S. Kelly

SUBJECT: FREEDOM OF CHOICE TRANSFER SLIPS
AND NOTICE TO PARENTS AND CHILDREN

All children in your school, who are enrolled in the 1st, 2nd, 3rd, 7th, 8th and 9th grades, are to be given a transfer slip, pursuant to an order of the United States Circuit Court of Appeals for the 5th Circuit to the United States District Court for the Southern District of Alabama. This slip must be given to the children not later than the 6th day of September, 1966. The slip must be returned not later than the 12th day of September, 1966, provided the child wishes to transfer, and they must be turned in to this office by you not later than the afternoon of the 12th day of September, 1966. NO CHILD SHALL BE REQUIRED OR COMPELLED TO SEEK A TRANSFER FROM ONE SCHOOL TO ANOTHER.

EXHIBIT "B"

WILCOX COUNTY BOARD OF EDUCATION
Camden, Alabama

TRANSFER SLIP

To: Guardian of Any Wilcox County School Child

Pursuant to an order, direction and command of the United States Circuit Court of Appeals for the 5th Circuit, the United States District Court for the Southern District of Alabama has hereby ordered the Wilcox County Board of Education to allow, on a freedom of choice basis, on or before September 6, 1966, and up to and including September 12, 1966, all students enrolled in the 1, 2, 3, and 7, 8, 9 grades of the Wilcox County Public Schools to exercise a freedom of choice of the school he wishes to attend for the 1966-67 school year.

IT FURTHER ORDERED THAT NO STUDENT SHALL BE REQUIRED OR COMPELLED TO SEEK A TRANSFER FROM ONE SCHOOL TO ANOTHER.

Therefore, the Board of Education is requesting, if you see fit to do so, that you exercise the choice of school you wish your child to attend on the form herein below. It is ordered by the Court that you have until September 12th to complete and return this form if you see fit to do so.

WILCOX COUNTY BOARD OF EDUCATION
By: /s/ Guy S. Kelly
Guy S. Kelly, Superintendent

September 6, 1966

Name of Child Last Name First Middle

School and Grade currently or last attended: Name of School

School chosen for 1966-67 term:

Signature of Child or
Signature of Parent or Guardian

Address: Town
Post Office Box or Route Number

Date:
Is student assigned to school chosen? Yes..... No.....

EXHIBIT 2

STATE OF ALABAMA
COUNTY OF WILCOX

Before me, the undersigned authority, in and for said state and county, personally appeared FELIX REGINALD ALBRITTON, who, being by me first duly sworn, on oath, deposes and says:

My name is Felix Reginald Albritton. I am 44 years of age. I am the Mayor of the Town of Camden, Alabama, and as such, I am also Chief of Police. The Town of Camden has four regular employed policemen. The Sheriff of Wilcox County has two fulltime deputies, only one of which deputies is assigned to the Camden area.

I learned of the court decree and I instructed Camden policemen to be in the vicinity of the Wilcox County High School on the morning of September 2, 1966. I did not personally go to the school. However, I received a radio message that Daniel Harrell had appeared at the school with a load of Negro children and some adults. I immediately went to the Wilcox County High School and found Harrell, adult Negroes and some Negro children in front of the school. As I came up one Daniel Harrel was driving off. There were a large group of angry White people present. When Harrell saw me, he stopped and called me over to his car. I talked with him, and in this conversation he complained to me about the apparent attitude and hostility of the crowd. I advised him that his very presence presented an uncontrollable situation and that for his safety and the public safety in general I did not want him to come back up there under any circumstances. That to my knowledge he had no children in this general area and I felt he did not have any real business at any school in this County. Harrel then told me "I will be back, we must integrate this school".

On September 6, 1966, a similar situation happened. I was at the school when Harrell appeared on September 6, 1966. Even though I had warned him not to come back to the school he and a group appeared in several vehicles. Harrell himself was driving a pickup loaded with Negro children, which had no license tag on it. He pulled up in front of the school in spite of the fact there was quite a crowd of hostile Whites gathered in that general area. He was instructed by my policemen, upon my orders, to drive on away from the school as quickly as possible. Instead of driving on away from the school and taking a route that would not have brought him back by the schoolhouse he chose to turn around and drive right back through this hostile crowd. I feel that the only thing

that saved the lid from coming off was the quick action of the small Camden police force. The concern and the feeling that has built up in the parents and the local people had gotten to a point almost uncontrollable. Harrell was followed to his home by me and my policemen for his protection. I personally entered Harrel's house after ordering him to come out, and he refused, and personally advised Harrell not to appear at the Wilcox County High School at any time in the future, that I felt that he would present an uncontrollable situation as he had been warned in the past. At this time he advised me he would be back. I feel that if he carries out this threat he will endanger the life of each White child in this school, the lives of the general public and the lives of the Negro children that he brings to this school and the lives of the law enforcement officers.

/s/ Felix Reginald Albritton
Felix Reginald Albritton

SWORN TO AND SUBSCRIBED before me on this 7th day of September, A.D., 1966.

/s/ Leon Y. Sadler, Jr.
Notary Public, Wilcox County,
Alabama

(SEAL)

EXHIBIT 3

STATE OF ALABAMA COUNTY OF WILCOX

Before me, the undersigned authority, in and for said state and county, personally appeared GUY S. KELLY, who, being by me first duly sworn, on oath, deposes and says:

My name is Guy S. Kelly. I am 56 years of age. I am Superintendent of Education of Wilcox County, Alabama. I

was informed by Mr. McLean Pitts, the attorney for the Wilcox County Board of Education, by long distance telephone that the United States Circuit Court of Appeals for the Fifth Circuit had ordered the District Judge to enter an order issuing a temporary injunction against the Wilcox County Board of Education, me and its members. At that time Mr. Pitts did not have a copy of the opinion of the court and related to me and Mr. L. Y. Sadler, Jr., a report that he had received from Judge Walter Gewin. I immediately started making plans for trying to work out what would be done but I was handicapped until I received a copy of the United States District Court's order entered in pursuance to the order and direction of the United States Circuit Court of Appeals for the Fifth Circuit which was received by Mr. L. Y. Sadler, Jr., on September 2, 1966, in the mail. Late on the afternoon of September 1, 1966, Mr. Pitts called and advised Mr. Sadler and me that he had been served with a copy of the order at 4:00 P.M. on September 1, 1966. The Wilcox County System was scheduled to open school on September 2, 1966. I went to the Wilcox County High School. One Daniel Harrell appeared with a group in several motor vehicles, demanding admission of the Negro children in his group to the Wilcox County High School. These children should have been in school at this time as were all of the other children of the County. There was a large group of White people present who were there for the purpose of entering their children in school and seeing after the welfare of their children and protecting their children. When Harrell and his group made an appearance it was very evident that a very explosive situation existed. There seemed to be two groups and I went to a group of Negroes and Harrell was not present in this group and I explained to them that the Wilcox County Board of Education was operating under a court injunction and that it intended to follow the court's decree to the letter. I then asked the group

to leave because of the explosive situation. They promptly turned and left. I went inside the building and a few moments later I was called back out and Daniel Harrell was there with another group. I walked up to that group and was confronted with Daniel Harrell himself. He said he wanted to talk to me. I told him I did not have anything to talk with him about, we were operating under a court injunction. The Board intended to follow that injunction to the letter and I was asking him to take this group and leave the grounds immediately. He persisted in wanting to talk with me. I continued to inform him that we were operating under the court injunction and would obey it to the letter and continued to ask him to leave. I told him that transfer slips would be sent to every school in the county not later than September 6th to be given to those children enrolled in the first, second, third, seventh, eighth and ninth grades. There was a large crowd, angry, hostile White citizens at the school enrolling their children. I became very apprehensive for his safety and the safety of children and adults in the area. It was very evident that the least thing could have set off a violent situation. In my opinion it was the presence of Daniel Harrell that was inciting the group. I asked Daniel Harrell not to return to this school again.

On September 6, 1966, Harrell again returned to the school with several vehicles loaded with Negro adults and children. There was an extremely large and angry crowd of White people in the vicinity of the school. I went immediately to the vehicle which Harrell was driving. I asked him not to let any one get out of the vehicles because this was a very tense situation and in my opinion a very dangerous situation. I again told him we were operating under a court order, which would be obeyed to the letter and to leave immediately with these vehicles. He then pulled off from the school and the crowd grew

even more threatening as he pulled away. As he pulled off there was a group beating on his motor vehicle and shaking the motor vehicles. He went past the schoolhouse and turned around and came back through the crowd with his vehicle loaded with Negro parents and children. In my opinion if this man or any group similar to his group again appeared at one of the White schools and particularly Wilcox County High School, there is going to be a very violent explosion of temper and could provoke a race riot.

Before Harrell left he told me he was going to return on Monday, September 12, 1966, to enroll these children in the Wilcox County High School. I asked him not to return to the school, that each child would be notified by the Board of Education of its action in each individual case.

/s/ Guy S. Kelly
Guy S. Kelly

SWORN TO AND SUBSCRIBED before me on this 7th day of September, A.D., 1966.

/s/ Leon Y. Sadler, Jr.
Notary Public, Wilcox County, Ala.

(SEAL)

EXHIBIT 4

STATE OF ALABAMA COUNTY OF WILCOX

Before me, the undersigned authority, in and for said state and county, personally appeared P. C. JENKINS, who, being by me first duly sworn, on oath, deposes and says:

My name is P. C. Jenkins. I am Sheriff of Wilcox County, Alabama. I was present at the Wilcox County High School on

September 2, 1966, and I was present at the Wilcox County High School on September 6, 1966. On both of these occasions Daniel Harrell, a Negro, and a group of Negroes, came to the Wilcox County School in several motor vehicles. I understood they were demanding immediate admission to the school. There was a large crowd of White people present who were there for the purpose of bringing their children to school and protecting them. This crowd was made up of women and men of Camden. The crowd looked to be very angry when Harrell made his appearance. I saw immediately that an explosive situation existed and that it would not take much to blow the lid and there could be a general riot. After Superintendent Guy S. Kelly had completed his statement to Harrell he continued to want to argue or talk with Mr. Kelly and kept advancing towards Mr. Kelly. I stepped up and told him that "Mr. Kelly has told you what he can do and what he can't do and from now on you are trying to make trouble and you better leave here now because you are going to cause trouble". This occurred on September 2, 1966. I was personally of the opinion that Harrell and his group was in serious danger of bodily harm. He returned in spite of warnings on September 6, 1966, and a similar situation existed. In fact, I am of the opinion that the crowd on September 6, 1966, was probably even more provoked than the crowd on September 2, 1966, and I do know there was a large crowd. On September 6, 1966, after Mr. Kelly told him to move on and leave, he drove up on the school grounds to turn around and when he did this the policy and law enforcement officials had to stop people from going over to his truck.

I have a very small deputy force. I have only two deputies. The Camden police department has only a very small force. If the crowd had decided to go after Harrell on September 2, 1966 or September 6, 1966, there was not enough

law enforcement officers present to handle the situation. As a law enforcement officer I feel that it would be to the best interest of all of the citizens of Wilcox County that the Court issue a temporary injunction restraining these civil rights workers from marking on the schools.

/s/ P. C. Jenkins
P. C. Jenkins

SWORN TO AND SUBSCRIBED before me on this 7th day of September, A.D., 1966.

/s/ Leon Y. Sadler, Jr.
Notary Public, Wilcox County, Ala.

(SEAL)

Filed September 8, 1966,
/s/ William J. O'Connor, Clerk

(Caption Omitted)

REPORT TO COURT

Comes the Defendants, Wilcox County Board of Education, its members, and its Superintendent, Guy S. Kelly, and respectfully report to this Court, as follows:

1. The Wilcox County Board of Education, its members and its Superintendent, Guy S. Kelly, immediately upon learning of the contents of the decree of this Court, dated August 31, 1966, did place into operation the orders of said Court and did immediately order or prepare an ample supply of transfer slips to be furnished to each principal of each school in Wilcox County, Alabama, and did advise each of said principals by

letter that one of said transfer slips was to be furnished to each pupil in each school and that said pupils would have through the school day of September 12, 1966, within which to sign and return said transfer slip to the principal of his respective school.

2. That the Wilcox County Board of Education did have a special session on, to-wit: September 7, 1966, and did pass a resolution, a copy of which is attached hereto, marked Exhibit 1, and made a part hereof; that said resolution clearly sets forth what has taken place and transpired since these Defendants learned of the contents of the Court's decree under date of August 31, 1966.

3. These Defendants report to the Court that civil rights agitators are seriously affecting the carrying out of the Court's decree in Wilcox County, Alabama, by presenting themselves in large groups to schools in said system, principally the Wilcox County High School; that unless this Court takes action to protect its decree, these Defendants will be helpless in carrying out the provisions of said decree. That while the individual members of said Board disagree with the plan of desegregation of the schools in the Wilcox County system at this time, said members of said Board fully intend to comply with all of the terms and provisions of this Court's decree and any other decree entered by this Court, but it is going to be necessary for this Court to protect said Defendants and take action that would enjoin the civil rights agitators from inciting the peace of Wilcox County, Alabama.

4. These Defendants further report to the Court that a supplemental report will be issued and filed in this Court immediately following September 13, 1966, the date upon which said schools first are to be actually desegregated.

5. There is also attached to this report a copy of an affidavit of Felix Reginald Albritton, Mayor of the Town of Camden, Alabama, and Chief of Police, which is attached hereto and marked Exhibit 2; the affidavit of Guy S. Kelly, Superintendent of Education of Wilcox County, Alabama, which is attached hereto and marked Exhibit 3; the affidavit of P. C. Jenkins, Sheriff of Wilcox County, Alabama, which is attached hereto, marked Exhibit 4, and made a part hereof.

/s McLean Pitts
Of Counsel for said Defendants

PITTS & PITTS
Attorneys at Law
Selma, Alabama

L. Y. SADLER, JR.
Attorney at Law
Camden, Alabama

ATTORNEYS FOR SAID DEFENDANTS

EXHIBIT 1

A RESOLUTION

THAT, WHEREAS, in the case styled United States of America et al vs. Wilcox County Board of Education et al, pending in the United States District Court for the Southern District of Alabama, Northern Division, Civil Action No. 3934-65, Honorable Daniel H. Thomas, Judge of said Court, did render an opinion dated August 23, 1966, and did enter a decree or order of the Court ordering the Defendants, Wilcox County Board of Education et al to comply with the findings

set forth in said opinion, which the Wilcox County Board of Education was willing to do and had implemented plans to carry out the decree of said Court; and,

WHEREAS, the United States of America did appeal from said decree of said District Court to the United States Circuit Court of Appeals for the Fifth Circuit and did make application to said Circuit Court of Appeals for a temporary injunction pending the outcome of said appeal; and,

WHEREAS, upon said Wilcox County Board being notified of said appeal and said application for temporary injunction, said Board did authorize its attorneys to file an answer and objections to the Petition seeking a temporary injunction pending the appeal, which said answer and objections were mailed to the United States Circuit Court of Appeals on Sunday, the 28th day of August, 1966; and,

WHEREAS, on August 30, 1966, the United States Circuit Court of Appeals for the Fifth Circuit did render its opinion and did set forth in its said opinion an order to be entered by the United States District Judge at Mobile; and,

WHEREAS, on August 31, 1966, Honorable Daniel H. Thomas, United States District Judge, did enter his order pursuant to the orders and direction of the United States Court of Appeals for the Fifth Circuit and in said order did decree and order the Wilcox County Board of Education to set into operations plans by which students in the first, second, third, seventh, eighth and ninth grades would have a freedom of choice as to which school they would attend; and,

WHEREAS, in-training service, teacher meetings and institutes for the various schools in Wilcox County had been previously set for August 31, 1966; and,

WHEREAS, the Wilcox County Board of Education was not officially notified of the United States District Judge's decree until said decree was served upon its attorney, McLean Pitts, in the City of Selma, Dallas County, Alabama, at about 4:00 P.M. on September 1, 1966, and said attorney immediately transmitted said decree to said Board of Education and said Board of Education did not in fact learn of all of the provisions of said decree until September 2, 1966; and,

WHEREAS, September 2, 1966, was the previous date set for the opening and enrollment of students in schools in Wilcox County, Alabama, at 8:00 A.M.; and,

WHEREAS, Mr. Guy S. Kelley, Superintendent of Education, to the best of his ability informed and has kept informed, the members of the Wilcox County Board of Education and said Board members informally authorized said Superintendent to carry out the provisions of the decree of the United States District Court and said Superintendent had immediately prepared the necessary forms; and,

WHEREAS, the Wilcox County Board of Education desires to ratify confirm and approve all of the actions of said Superintendent which were done at the informal instructions of the members of said Board and it desires to place of record its intention to carry out all of the terms and provisions of said court decree to the best of its ability.

NOW, THEREFORE, BE IT RESOLVED BY THE WILCOX COUNTY BOARD OF EDUCATION, AS FOLLOWS:

1. The Board will abide by and carry out all of the terms and provisions of the decree of the United States District Court issued in pursuance to the orders and directions of the United States Court of Appeals, Fifth Circuit, dated August 31, 1966, although it is very difficult for said Board and its members to carry out all of the provisions of said decree in such a short length of time, but it is the intention of this Board to fully comply with said decree, although there may be administrative problems involved.

2. That the Wilcox County Board of Education in pursuance to the orders and directions of Judge Daniel H. Thomas in said decree of Court does hereby adopt a freedom of choice plan for the first, second, third, seventh, eighth and ninth grades for the school year commencing August 31, 1966, for all schools in Wilcox County which are under the supervision and control of the Wilcox County Board, in which all students in the affected grades will be afforded a reasonable time up to and including September 12, 1966, in which to exercise a free and unrestrained choice of schools they wish to attend.

3. The action of Guy S. Kelley, Superintendent of Education of Wilcox County in furnishing to the Principals of the various schools in Wilcox County, a letter dated September 6, 1966, which reads as follows:

A copy of said letter is attached to this resolution, marked Exhibit "A", and made a part hereof as if herein set forth in detail.

and the action of Guy S. Kelley, Superintendent of Education

of Wilcox County in preparing and furnishing to the various schools to be delivered to all pupils in said affected grades a transfer slip which is in words and figures as follows:

A copy of said transfer slip is attached to this resolution, marked Exhibit "B", and made a part hereof as if herein set forth in detail.

be and the same are hereby ratified, confirmed and approved by the Wilcox County Board of Education.

4. The Wilcox County Board of Education finds that on September 2, 1966, enrollment was had in all schools in the Wilcox County School System, and that on September 6, 1966, at the request and instruction of Superintendent Guy S. Kelley the Principals of all schools of the Wilcox County Public School System received from the said Superintendent ample supplies of transfer slips or forms, a sample of which is hereinabove set out, with instructions to deliver one such slip to every student enrolled in the first, second, third, seventh, eighth and ninth grades of said Principals respective schools. The Board further finds that each and every Principal of the public schools of the said Wilcox County School System were furnished and had available to them for proper distribution under the written instructions of said Superintendent an ample supply of said transfer slips.

6. That this Board will meet immediately after the close of the school day of September 12, 1966, to hear a report from the Superintendent as to the number of transfers requested and to which schools said transfers are requested, at which meeting the Board will consider administrative problems and procedures. That Guy S. Kelley, Superintendent of Education of Wilcox County, be and he is hereby directed to make ar-

rangements for the immediate delivery to his office in Camden, Alabama, of all transfer slips that may be in the hands of the Principals of the various schools of Wilcox County immediately after the close of school on September 12, 1966.

7. The Board further finds that Superintendent Guy S. Kelley has notified the appropriate law enforcement agencies in Camden and Wilcox County, Alabama, of the decree of the Court and of the intention of the Wilcox County Board of Education in order that law and order will prevail throughout Wilcox County, Alabama, in the administration of this Court decree.

8. The Board further finds that the breach of peace has been seriously threatened by the action of one Daniel Harrell, a so-called SCLC employee and civil rights worker, located at Camden, Alabama, by his action on September 2, 1966, in loading up Negro children in two pick up trucks and an automobile and bringing them to the Wilcox County High School at Camden, Alabama, in a group, and by his action on September 6, 1966, in transporting or directing the transport of Negro children to the Wilcox County High School in motor vehicles. The Board further finds that the actions of Harrell, and those in active concert with him, were done after Superintendent Guy S. Kelley on, to-wit: September 1, 1966, notified the said Harrell when the said Harrell came to his office that the said Kelley had heard of said Court decree and knew roughly the contents of said court decree and that said court decree was going to be complied with and the said Harrell was again requested by Guy S. Kelley on September 2, 1966, at the Wilcox County High School not to return and that there was no need of him transporting children or directing the transport of children, demanding admittance immediately, when the Wilcox

County Board of Education had already informed him that said court decree would be complied with, but in spite of this, the said Harrell transported, or directed the transportation of Negro children to the Wilcox County High School on, to-wit; September 6, 1966. The Board further finds that the said Daniel Harrell has no children in the Wilcox County School System. The Board further finds that on September 2, 1966, and on September 6, 1966, the White people of Wilcox County were very much disturbed over the impending integration of their said schools and the safety and welfare of their children and turned out in great numbers to accompany their children to schools, and the action of the said Harrell on said two occasions created an explosive situation that but for the wise action and diligence of the Superintendent, Guy S. Kelley, and the quick action on the part of law enforcement authority, could have resulted in a disastrous confrontation; the Board further finds that it was the action of the said Harrell and other civil rights leaders in active concert with him, that created said explosive situation. The Board further finds that the said Harrell and other civil rights leaders are threatening or have expressed their intentions of returning to the Wilcox County High School or other White schools in the County on September 12, 1966, demanding immediate admittance of Negro children and this could cause another serious explosive situation.

9. The Board further finds that while said Court did issue an injunction against said Board and the members thereof and the Superintendent of Education, the Court did not give the Wilcox County Board of Education and its members and its Superintendent protection from civil rights agitators and those in active concert with them; that the Board has nothing to do with police protection to those civil rights agitators and the Board finds that the law enforcement in Wilcox County is

ample for ordinary times, but could be seriously overtaxed in the event of an explosive situation and it is desirable and in fact, necessary, that the Court issue a supplemental temporary injunction enjoining said civil rights workers from interfering with the normal function of the Board in carrying out the decree of the Court and enjoining them from presenting themselves and transporting or transporting under their direction children to said schools without authority from the Board of Education. That the attorneys for the Board be instructed to have prepared and be able to present to the United States District Court on short notice, a Petition praying for such a temporary injunction.

ADOPTED this the 7th day of September, A.D., 1966, at 12:30 P.M. by the Wilcox County Board of Education in special session.

/s/ R. E. Lambert
Chairman—R. E. Lambert

/s/ Byron E. Hale
Byron E. Hale

/s/ Oscar DeVan
Oscar DeVan

/s/ Harry Mason
Harry Mason

/s/ L. Y. Sadler, Jr.
L. Y. Sadler, Jr.

EXHIBIT "A"

BOARD OF EDUCATION

R. E. LAMBERT, JR., President, Darlington
 EDWARD B. HALE, Vice President, Pine Apple
 J. O. DEVAN, Pine Hill
 L. Y. SADLER, JR., Camden
 HARRY A. MASON, Pine Hill

OFFICE OF

SUPERINTENDENT OF EDUCATION

GUY S. KELLY, Superintendent
 Wilcox County — Camden, Alabama

September 6, 1966

TO: ALL SCHOOL PRINCIPALS IN WILCOX COUNTY

FROM: GUY S. KELLY, SUPERINTENDENT
 /s/ Guy S. Kelly

SUBJECT: FREEDOM OF CHOICE TRANSFER SLIPS
 AND NOTICE TO PARENTS AND CHILDREN

All children in your school, who are enrolled in the 1st, 2nd, 3rd, 7th, 8th and 9th grades, are to be given a transfer slip, pursuant to an order of the United States Circuit Court of Appeals for the 5th Circuit to the United States District Court for the Southern District of Alabama. This slip must be given to the children not later than the 6th day of September, 1966. The slip must be returned not later than the 12th day of September, 1966, provided the child wishes to transfer, and they must be turned in to this office by you not later than the afternoon of the 12th day of September, 1966. NO CHILD SHALL BE REQUIRED OR COMPELLED TO SEEK A TRANSFER FROM ONE SCHOOL TO ANOTHER.

EXHIBIT "B"

WILCOX COUNTY BOARD OF EDUCATION
 Camden, Alabama

TRANSFER SLIP

To: Guardian of Any Wilcox County School Child

Pursuant to an order, direction and command of the United States Circuit Court of Appeals for the 5th Circuit, the United States District Court for the Southern District of Alabama has hereby ordered the Wilcox County Board of Education to allow, on a freedom of choice basis, on or before September 6, 1966, and up to and including September 12, 1966, all students enrolled in the 1, 2, 3, and 7, 8, 9 grades of the Wilcox County Public Schools to exercise a freedom of choice of the school he wishes to attend for the 1966-67 school year.

IT FURTHER ORDERED THAT NO STUDENT SHALL BE REQUIRED OR COMPELLED TO SEEK A TRANSFER FROM ONE SCHOOL TO ANOTHER.

Therefore, the Board of Education is requesting, if you see fit to do so, that you exercise the choice of school you wish your child to attend on the form herein below. It is ordered by the Court that you have until September 12th to complete and return this form if you see fit to do so.

WILCOX COUNTY BOARD OF EDUCATION

By: /s/ Guy S. Kelly
 Guy S. Kelly, Superintendent

September 6, 1966

Name of Child _____
 Last Name First Middle

School and Grade currently or last attended: _____
 Name of School

Grade _____
 School chosen for 1966-67 term: _____

 Signature of Child or Signature of Parent or Guardian
 Address: _____
 Post Office Box or Route Number Town

Date: _____
 Is student assigned to school chosen? Yes _____ No _____

EXHIBIT 2

STATE OF ALABAMA
COUNTY OF WILCOX

Before me, the undersigned authority, in and for said state and county, personally appeared FELIX REGINALD ALBRITTON, who, being by me first duly sworn, on oath, deposes and says:

My name is Felix Reginald Albritton. I am 44 years of age. I am the Mayor of the Town of Camden, Alabama, and as such, I am also Chief of Police. The Town of Camden has four regular employed policemen. The Sheriff of Wilcox County has two fulltime deputies, only one of which deputies is assigned to the Camden area.

I learned of the court decree and I instructed Camden policemen to be in the vicinity of the Wilcox County High School on the morning of September 2, 1966. I did not personally go to the school. However, I received a radio message that Daniel Harrell had appeared at the school with a load of Negro children and some adults. I immediately went to the Wilcox County High School and found Harrell, adult Negroes and some Negro children in front of the school. As I came up one Daniel Harrell was driving off. There were a large group of angry White people present. When Harrell saw me, he stopped and called me over to his car. I talked with him, and in this conversation he complained to me about the apparent attitude and hostility of the crowd. I advised him that his very presence presented an uncontrollable situation and that for his safety and the public safety in general I did not want him to come back up there under any circumstances. That to my knowledge he had no children in this general area and I felt he did not have any real business at any school in this County. Harrell then told me "I will be back, we must integrate this school".

On September 6, 1966, a similar situation happened. I was at the school when Harrell appeared on September 6, 1966. Even though I had warned him not to come back to the school he and a group appeared in several vehicles. Harrell himself was driving a pickup loaded with Negro children, which had no license tag on it. He pulled up in front of the school in spite of the fact there was quite a crowd of hostile Whites gathered in that general area. He was instructed by my policemen, upon my orders, to drive on away from the school as quickly as possible. Instead of driving on away from the school and taking a route that would not have brought him back by the schoolhouse he chose to turn around and drive

right back through this hostile crowd. I feel that the only thing that saved the lid from coming off was the quick action of the small Camden police force. The concern and the feeling that has built up in the parents and the local people had gotten to a point almost uncontrollable. Harrell was followed to his home by me and my policemen for his protection. I personally entered Harrell's house after ordering him to come out, and he refused, and personally advised Harrell not to appear at the Wilcox County High School at any time in the future, that I felt that he would present an uncontrollable situation as he had been warned in the past. At this time he advised me he would be back. I feel that if he carries out this threat he will endanger the life of each White child in this school, the lives of the general public and the lives of the Negro children that he brings to this school and the lives of the law enforcement officers.

/s/ Felix Reginald Albritton
Felix Reginald Albritton

SWORN TO AND SUBSCRIBED before me on this 7th day of September, A.D., 1966.

/s/ Leon Y. Sadler, Jr.
Notary Public, Wilcox County, Ala.

EXHIBIT 3

STATE OF ALABAMA COUNTY OF WILCOX

Before me, the undersigned authority, in and for said state and county, personally appeared GUY S. KELLY, who, being by me first duly sworn, on oath, deposes and says:

My name is Guy S. Kelly. I am 56 years of age. I am Superintendent of Education of Wilcox County, Alabama. I was

informed by Mr. McLean Pitts, the attorney for the Wilcox County Board of Education, by long distance telephone, that the United States Circuit Court of Appeals for the Fifth Circuit had ordered the District Judge to enter an order issuing a temporary injunction against the Wilcox County Board of Education, me and its members. At that time Mr. Pitts did not have a copy of the opinion of the court and related to me and Mr. L. Y. Sadler, Jr., a report that he had received from Judge Walter Gewin. I immediately started making plans for trying to work out what would be done but I was handicapped until I received a copy of the United States District Court's order entered in pursuance to the order and direction of the United States Circuit Court of Appeals for the Fifth Circuit which was received by Mr. L. Y. Sadler, Jr., on September 2, 1966, in the mail. Late on the afternoon of September 1, 1966, Mr. Pitts called and advised Mr. Sadler and me that he had been served with a copy of the order at 4:00 P.M. on September 1, 1966. The Wilcox County System was scheduled to open school on September 2, 1966. I went to the Wilcox County High School. One Daniel Harrell appeared with a group in several motor vehicles, demanding admission of the Negro children in his group to the Wilcox County High School. These children should have been in school at this time as were all of the other children of the County. There was a large group of White people present who were there for the purpose of entering their children in school and seeing after the welfare of their children and protecting their children. When Harrell and his group made an appearance it was very evident that a very explosive situation existed. There seemed to be two groups and I went to a group of Negroes and Harrell was not present in this group and I explained to them that the Wilcox County Board of Education was operating under a court injunction and that it intended to follow the court's decree to the letter. I

then asked the group to leave because of the explosive situation. They promptly turned and left. I went inside the building and a few moments later I was called back out and Daniel Harrell was there with another group. I walked up to that group and was confronted with Daniel Harrell himself. He said he wanted to talk to me. I told him I did not have anything to talk with him about, we were operating under a court injunction. The Board intended to follow that injunction to the letter and I was asking him to take this group and leave the grounds immediately. He persisted in wanting to talk with me. I continued to inform him that we were operating under the court injunction and would obey it to the letter and continued to ask him to leave. I told him that transfer slips would be sent to every school in the county not later than September 6th to be given to those children enrolled in the first, second, third, seventh, eighth and ninth grades. There was a large crowd, angry, hostile White citizens at the school enrolling their children. I became very apprehensive for his safety and the safety of children and adults in the area. It was very evident that the least thing could have set off a violent situation. In my opinion it was the presence of Daniel Harrell that was inciting the group. I asked Daniel Harrell not to return to this school again.

On September 6, 1966, Harrell again returned to the school with several vehicles loaded with Negro adults and children. There was an extremely large and angry crowd of White people in the vicinity of the school. I went immediately to the vehicle which Harrell was driving. I asked him not to let any one get out of the vehicles because this was a very tense situation and in my opinion a very dangerous situation. I again told him we were operating under a court order, which would be obeyed to the letter and to leave immediately with these vehicles. He then pulled off from the school and the crowd

grew even more threatening as he pulled away. As he pulled off there was a group beating on his motor vehicle and shaking the motor vehicles. He went past the schoolhouse and turned around and came back through the crowd with his vehicles loaded with Negro parents and children. In my opinion if this man or any group similar to his group again appeared at one of the White schools and particularly Wilcox County High School, there is going to be a very violent explosion of temper and could provoke a race riot.

Before Harrell left he told me he was going to return on Monday, September 12, 1966, to enroll these children in the Wilcox County High School. I asked him not to return to the school, that each child would be notified by the Board of Education of its action in each individual case.

/s/ Guy S. Kelly
Guy S. Kelly

SWORN TO AND SUBSCRIBED before me on this 7th day of September, A.D., 1966.

/s/ Leon Y. Sadler, Jr.
Notary Public, Wilcox County, Ala.

EXHIBIT 4

STATE OF ALABAMA COUNTY OF WILCOX

Before me, the undersigned authority, in and for said state and county, personally appeared P. C. JENKINS, who, being by me first duly sworn, on oath, deposes and says:

My name is P. C. Jenkins. I am Sheriff of Wilcox County, Alabama. I was present at the Wilcox County High School on

September 2, 1966, and I was present at the Wilcox County High School on September 6, 1966. On both of these occasions Daniel Harrell, a Negro, and a group of Negroes, came to the Wilcox County School in several motor vehicles. I understood they were demanding immediate admission to the school. There was a large crowd of White people present who were there for the purpose of bringing their children to school and protecting them. This crowd was made up of women and men of Camden. The crowd looked to be very angry when Harrell made his appearance. I saw immediately that an explosive situation existed and that it would not take much to blow the lid and there could be a general riot. After Superintendent Guy S. Kelly had completed his statement to Harrell he continued to want to argue or talk with Mr. Kelly and kept advancing towards Mr. Kelly. I stepped up and told him that "Mr. Kelly has told you what he can do what he can't do and from now on you are trying to make trouble and you better leave here now because you are going to cause trouble". This occurred on September 2, 1966. I was personally of the opinion that Harrell and his group was in serious danger of bodily harm. He returned in spite of warnings on September 6, 1966, and a similar situation existed. In fact, I am of the opinion that the crowd on September 6, 1966, was probably even more provoked than the crowd on September 2, 1966, and I do know there was a large crowd. On September 6, 1966, after Mr. Kelly told him to move on and leave, he drove up on the school grounds to turn around and when he did this the policy and law enforcement officials had to stop people from going over to his truck.

I have a very small deputy force. I have only two deputies. The Camden police department has only a very small force. If the crowd had decided to go after Harrell on September 2,

1966 or September 6, 1966, there was not enough law enforcement officers present to handle the situation. As a law enforcement officer I feel that it would be to the best interest of all of the citizens of Wilcox County that the Court issue a temporary injunction restraining these civil rights workers from marking on the schools.

/s/ P. C. Jenkins
P. C. Jenkins

SWORN TO AND SUBSCRIBED before me on this 7th day of September, A.D., 1966.

/s/ Leon Y. Sadler, Jr.
Notary Public, Wilcox County, Ala.

Filed September 8, 1966,
/s/ William J. O'Connor, Clerk

(Caption Omitted)

RECEIVED
U.S. MARSHAL
MOBILE, ALABAMA
SEP 9 1:47 P.M. '66

Motion to join Daniel Harrell as a party defendant, filed by the defendant, Wilcox County Board of Education on September 8, 1966, is GRANTED.

It is further ordered by the Court that the motion for preliminary injunction filed by the defendant Wilcox County Board of Education on September 8, 1966, is set for hearing on MONDAY, SEPTEMBER 12, 1966, at 11:00 A.M., at Mobile, Alabama. Such setting, within less than five days of

the filing of the motion, is made by authority of Rule 6(d) of the Federal Rules of Civil Procedure.

DATED at Mobile, Alabama, this the 9 day of September, 1966.

DANIEL H. THOMAS
UNITED STATES DISTRICT
JUDGE

CERTIFIED A TRUE COPY
WILLIAM J. O'CONNOR, CLERK
By /s/ John V. O'Brien
Deputy Clerk

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED AND ENTERED THIS THE
9TH DAY OF SEPTEMBER, 1966
MINUTE ENTRY NO. 20843
WILLIAM J. O'CONNOR, CLERK,
BY—/s/ William E. Taylor
DEPUTY CLERK

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
SEP 14 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

REPORT TO THE COURT — NO. 2

Comes the Defendants, Wilcox County Board of Education, its members, and its Superintendent, Guy S. Kelly, and

hereby respectfully submits to the Court its report No. 2, as follows:

1. That in its report to this Court of September 8, 1966, these Defendants did advise the Court that a supplemental report would be issued and filed in this Court immediately following September 13, 1966.

2. That the Wilcox County Board of Education did have a special meeting on, to-wit, at 6:00 P.M., September 12, 1966, at which meeting its Superintendent, Guy S. Kelly, advised the Board of Education that he had received from the principals of the various schools in the Wilcox County school system a total of ninety-three (93) applications for transfer. The Superintendent produced said transfer applications for inspection by the Board, and the Board did tabulate said transfer applications to verify the number of same, but by the close of its meeting at 9:00 P.M. on September 12th it did not review each and every application administratively.

3. That the tabulation of said transfer applications revealed the following information as to schools chosen:

(a) Fifty of the applications were to the Wilcox County High School and Elementary School located at Camden, Alabama. Sixteen of these applications were from the Boykin School in Gees Bend, which is situated approximately forty miles from the Wilcox County High School in Camden, Alabama; sixteen of these applications were from Tate's Chapel, which is situated approximately twenty miles from the Wilcox County High School in Camden, Alabama; four of these applications were from the Coy Public School, which is situated approximately

twenty miles from the Wilcox County High School in Camden, Alabama; one of these applications was from the Snow Hill Institute, which is situated approximately fourteen miles from the Wilcox County High School in Camden, Alabama; two of these applications were from the Prairie School, which is situated approximately thirteen miles from the Wilcox County High School in Camden, Alabama; and, eleven of these applications were from the Camden Academy, which is situated at or near Camden, Alabama. Of this sixteen that were supposed to be transfers from Boykin School, only three are now enrolled in Boykin School and the thirteen, according to Boykin Principal, Booker T. Booker, are not enrolled in Boykin School and were not at the time the applications were filed, and so far as this Board knows, were not enrolled in any school. It was apparent that some of the applicants were for grades not included in the Court's Order, for instance, there were some applications for the sixth grade. The Board has not had an opportunity to thoroughly review any of these transfer applications. The Board has not had the opportunity to ascertain whether transferees from other schools were actually enrolled in said school.

The Board finds and reports that the Wilcox County High School and Elementary School is at the present time over-subscribed as to its physical capacity. At the present time there are three elementary classes housed in the Junior High School and High School building because of overcrowded conditions in the elementary school. This has caused the forced use of the auditorium for certain classes such as history and speech; in addition to this, it has caused it to be necessary to take the Guidance Director's room for a classroom and place

the Guidance Director in the Home Economic building. The classes in many instances are way beyond the state maximum teacher load. Of course, there are some classes, such as advanced math, which are not to capacity. This condition not only exists this year, but it has existed from last year. This is the largest eighth grade in the history of the school. One of the greatest problems that the school would have by increasing its enrollment would be the cafeteria problem which is now taxed beyond capacity. It was necessary for a very strict schedule to be adopted whereby elementary children start eating at 11:00 A.M. each school day and the elementary school lunch is completed at 12:00 Noon and then from 12:35 P.M. to 1:05 P.M. the Junior High and High School are fed. It has been worked out where elementary students eating in the cafeteria have only approximately fifteen minutes in the cafeteria and the entire Junior High and High School must be fed between 12:35 and 1:05 each day. The interim between the close of the feeding period of the elementary school and the beginning of the feeding period for the Junior High and High School is absolutely necessary for the sanitary problems in cleaning up and preparation of the food. The physical capacity of this school is greatly taxed.

(b) Forty-three of the applications were to the Pine Hill Elementary and High School. Of these forty-three applications for transfer thirty-one were from the Lower Peachtree High School and Elementary School; ten of the applications were from Pine Hill Junior High School; two of the applications were from Annemanie School. Pine Hill High School and Elementary School at the present time has an approximate enrollment of 341 students. It has ten classrooms. Its cafeteria facilities at the present time are overtaxed.

The Board is unable at this time, without further processing the applications for transfer, to approve or disapprove any of said transfers. The Board can report that if any transfers are approved to the Wilcox County High School and Elementary School, it is going to be necessary to remove from said school certain students who have already selected said school and who are now already attending classes in said school. Therefore, it is not only the processing of the ninety-three transfer applications, but this also involves the taking of an inventory of pupils of the school system.

4. The Board reports that the only applications for transfer were to the Wilcox County High School and Elementary School and the Pine Hill High School and Elementary School.

5. Not later than Friday, September 16, 1966, the Board will have a special session for the purpose of authorizing the Superintendent to notify applicants for transfer of the disposition of their application and the student so applying will be delivered a notice, through the Principals, of the disposition of his application for transfer, not later than Wednesday, September 21, 1966. Students whose application for transfer have been approved will be notified of the time and date to report to their school of choice.

6. The Board is working diligently on this problem and as reported above, met for several hours on the night of September 12, 1966, and is scheduled for special sessions during the week.

/s/ McLean Pitts
Of Counsel for the Wilcox County
Board of Education et al

PITTS & PITTS
Attorneys at Law
Selma, Alabama

L. Y. SADLER, JR.
Attorney at Law
Camden, Alabama

ATTORNEYS FOR SAID DEFENDANTS

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
SEP 14 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

APPLICATION FOR AN ORDER

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
SEP 15 1966
WILLIAM J. O'CONNOR
CLERK

The plaintiff hereby applies to this Court for an Order, without notice or hearing, as set fourth in the proposed Order, which is attached hereto and made a part hereof.

This application is based on the pleadings and papers on file in this case and more particularly on the Order of this

Court herein of August 31, 1966, and the defendants' Report to the Court—No. 2, filed herein September 14, 1966.

/s/ Charles Quaintance
CHARLES QUAINANCE,
Attorney, Department of Justice

(Caption Omitted)

ORDER

It appearing from the record in this case that on August 30, 1966, the Court of Appeals for the Fifth Circuit entered an Order granting the plaintiff's motion for an injunction pending appeal; that pursuant to the Order of the Court of Appeals this Court on August 31, 1966, entered an Order which provided in part that the defendants adopt a free choice plan for six grades to be "put into effect for the 1966 fall term of school"; that on September 9, 1966, the defendants filed with this Court a report in which they designated September 13, 1966, "the date upon which said schools [in Wilcox County] first are to be actually desegregated"; that on September 14, 1966, the defendants filed their Report to the Court—No. 2, in which they stated they have not yet approved or disapproved any of the applications for assignment filed during the choice period; that the choice period was concluded on September 12, 1966; that the defendants' second report to the Court states that students who exercised choices to attend schools they did not previously attend will receive notice "not later than September 21, 1966," whether the defendants will honor their choices; that the defendants' second report to the Court states, "Students whose application for transfer have been approved

will be notified of the time and date to report to their school of choice"; that the second report does not specify when the accepted students will be notified of the time and date to report to their school of choice and does not specify what that time and date will be; that students enrolled in the Wilcox County schools on September 2, 1966, and have attended classes subsequent to that date; and that unless this order is issued forthwith, the plaintiff will suffer irreparable injury, consisting of the denial of rights under the Constitution and laws of the United States.

IT IS HEREBY ORDERED that the defendants are enjoined from:

1. Failing to honor or reject on or before Friday, September 16, 1966, all choices exercised during the choice period that concluded September 12, 1966;
2. Failing to notify on or before September 18, 1966, each student who chose to attend a school he had not previously attended whether the defendants have honored or rejected his choice;
3. Failing to notify on or before September 18, 1966, each student whose choice to attend a school he had not previously attended, and whose choice the defendants honor, whether and how the defendants will transport the student to the school of his choice;
4. Failing to permit each student whose choice the defendants honor to enroll at the school of his choice immediately upon the opening of school on September 19, 1966, or at any time thereafter, during school hours, on or before September 26, 1966;

5. Failing to file with this Court, on or before noon, September 17, 1966, a report naming the Negro students whose choices to attend previously all-white schools the defendants will honor, and stating the grade of each such student, his address, the school he will be permitted to attend, and the transportation, if any, that the defendants will make available to him; and

6. Failing to file with this Court, on or before September 19, 1966, a report naming the Negro students, if any, whose choices to attend previously all-white schools the defendants have rejected, and stating the grade of each such student, his address, the school he chose to attend, and the reason for rejection.

DONE at Selma, Alabama, this _____ day of September, 1966.

UNITED STATES DISTRICT JUDGE

(Caption Omitted)

ORDER

Pursuant to Application For An Order filed in this cause, this date, the same has been considered by the Court.

It is ORDERED, ADJUDGED, and DECREED by the Court that the Defendant, Board of Education of Wilcox County shall:

1. Honor or reject, on or before Monday, September 19, 66, all choices exercised during the choice period that concluded September 12, 1966.

2. Notify, on or before September 20, 1966, each student, who chose to attend a school he had not previously attended, whether the Defendants have honored or rejected his choice.

3. Permit each student, whose choice the Defendants honor, to enroll at the school of his choice immediately upon opening of school on September 23, 1966. Said students so accepted must elect to attend the schools indicated in their transfer by no later than September 23, 1966 except for good cause such as, but not limited to, sickness.

4. File with this Court on or before noon, September 20, 1966, a report naming the Negro students whose choices to attend previously all-white schools the Defendants will honor and stating the grade of each such student, his address, and the school he will be permitted to attend.

5. File with this Court on or before September 20, 1966, a report naming the Negro students, if any, whose choices to attend previously all-white schools the Defendants have rejected and stating the grade of each such student, his address, the school he chooses to attend, and the reason for rejection.

DONE at Selma, Alabama, this 15th day of September, 1966.

/s/ Daniel H. Thomas
UNITED STATES DISTRICT
JUDGE

U.S. DISTRICT COURT
SOU. DIST. ALA.

FILED AND ENTERED THIS THE
15 DAY OF SEPTEMBER, 1966,
MINUTE ENTRY NO. 20892.
WILLIAM J. O'CONNOR, CLERK,
BY /s/ William J. O'Connor
CLERK

(Caption Omitted)

For good cause shown

IT IS ORDERED by the Court that the hearing on motion for preliminary injunction filed by the defendant Wilcox County Board of Education on September 8, 1966, and set for hearing on this day, September 12, 1966, at 11:00 A.M., be and the same is continued until further orders of this court.

DATED at Mobile, Alabama, this the 12 day of September, 1966.

DANIEL H. THOMAS
UNITED STATES DISTRICT
JUDGE

U.S. DISTRICT COURT
SOU. DIST. ALA.

FILED AND ENTERED THIS THE
12 DAY OF SEPTEMBER, 1966
MINUTE ENTRY NO. 20864
WILLIAM J. O'CONNOR, CLERK,
BY—/s/ William E. Taylor
DEPUTY CLERK

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
SEP 16 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

NOTICE OF APPEAL

NOTICE is given that the Intervenor-Plaintiffs, William P. Thompson, Dr. Eugene Carson Blake, The United Presby-

terian Church in the United States of America, Marshall L. Scott and Dr. Gayraud S. Wilmore hereby appeal to the United States Court of Appeals for the Fifth Circuit from the Order entered on August 23, 1966, by the United States District Court for the Southern District of Alabama.

/s/ Peter A. Hall

PETER A. HALL
Attorney for Intervenor-Plaintiffs

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
SEP 16 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

NOTICE OF APPEAL

Notice is hereby given that the plaintiff-intervenors, Albert James Gordon, et al., and Patsy Primm, et al., hereby appeal to the United States Court of Appeals for the Fifth Circuit from the order entered on August 23, 1966, by the United States District Court for the Southern District of Alabama.

/s/ Norman C. Amaker
NORMAN C. AMAKER
Attorney for Intervenors

STATE OF ALABAMA
COUNTY OF MOBILE

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT
CIVIL ACTION NO. 3934-65

KNOW ALL MEN BY THESE PRESENTS, that WILLIAM P. THOMPSON, Moderator of the General Assembly of the United Presbyterian Church in the United States of America; DR. EUGENE CARSON BLAKE, as Stated Clerk of the General Assembly of the United Presbyterian Church in the United States of America; THE UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA; MARSHALL L. SCOTT, Chairman; and DR. GAYRAUD S. WILMORE, Executive Director of THE COMMISSION ON RELIGION AND RACE of the United Presbyterian Church in the United States of America, as principals, and Peter A. Hall, as surety, are held and firmly bound unto WILCOX COUNTY BOARD OF EDUCATION; J. O. DEVAN; R. E. LAMBERT, JR.; HARRY A. MASON, members of the Wilcox County Board of Education; GUY S. KELLY, Superintendent of Education; A. R. MEADOWS, State Superintendent of Education; and THE STATE BOARD OF EDUCATION OF ALABAMA, in the penal sum of Two Hundred Fifty (\$250.00) Dollars, for the payment thereof well and truly to be made, we bind ourselves, our successors and assigns, jointly and severally, by these presents:

The condition of this bond is such that:

WILLIAM P. THOMPSON, Moderator of the General Assembly of the United Presbyterian Church in the United

States of America; DR. EUGENE CARSON BLAKE, as Stated Clerk of the General Assembly of the United Presbyterian Church in the United States of America; THE UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA; MARSHALL L. SCOTT, Chairman, and DR. GAYRAUD S. WILMORE, Executive Director of the COMMISSION ON RELIGION AND RACE of the United Presbyterian Church in the United States of America, have appealed to the U.S. Court of Appeals for the Fifth Circuit, from an Order of the U.S. District Court for the Southern District of Alabama, on August 23, 1966, in that certain cause styled UNITED STATES OF AMERICA, by NICHOLAS deB. KATZENBACH, Attorney General, Plaintiff; v WILCOX COUNTY BOARD OF EDUCATION, et al., Defendants; WILLIAM P. THOMPSON, et al.; ALBERT JAMES GORDON, et al.; and PATSIE PRIMM, et al., Intervenor-Plaintiffs; Civil Action No. 3934-65.

NOW, THEREFORE, if said Appellants shall pay or cause to be paid all costs and disbursements incurred by reason of this said appeal and is taxed against them, then this obligation shall be void; otherwise, it shall remain in full force and effect.

IN WITNESS WHEREOF, we, the above and undersigned principals and surety, have hereunto set our hands and seals on this 26th day of September, 1966.

WILLIAM P. THOMPSON, Moderator of the General Assembly of the United Presbyterian Church in the United States of America; DR. EUGENE CARSON BLAKE, as Stated Clerk of the General Assembly of the United Presbyterian Church in the United States of America;

THE UNITED PRESBYTERIAN CHURCH
IN THE UNITED STATES OF AMERICA;
MARSHALL L. SCOTT, Chairman; and DR.
GAYRAUD S. WILMORE, Executive Director
of THE COMMISSION ON RELIGION AND
RACE of the United Presbyterian Church in
the United States of America.

BY: /s/ Peter A. Hall (SEAL)

Attorney

BY: /s/ Peter A. Hall

AS SURETY

Approved this 3rd day of
October, 1966.

/s/ Daniel H. Thomas
JUDGE

U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED IN CLERK'S OFFICE
SEP 29 1966
WILLIAM J. O'CONNOR
CLERK

(Caption Omitted)

*ORDER EXTENDING TIME FOR DOCKETING
AND FILING RECORD ON APPEAL*

For cause shown,

IT IS ORDERED by the Court that the time for filing
and docketing the record on appeal in the United States Court
of Appeals for the Fifth Circuit in the above-entitled case be,
and the same hereby is EXTENDED to and including DECEM-
BER 15, 1966, under the provisions of Rule 73(g) of the
Federal Rules of Civil Procedure.

Made at Mobile, Alabama, this the 12 day of October,
1966.

DANIEL H. THOMAS
UNITED STATES DISTRICT
JUDGE

U.S. DISTRICT COURT
SOU. DIST. ALA.

FILED AND ENTERED THIS THE
12 DAY OF OCTOBER, 1966,

MINUTE ENTRY NO. 21088.

WILLIAM J. O'CONNOR, CLERK,
BY—/s/ William E. Taylor
DEPUTY CLERK

CIVIL DOCKET
UNITED STATES DISTRICT COURT

Jury demand date:

D. C. Form No. 10A Rev.

TITLE OF CASE	ATTORNEYS
UNITED STATES OF AMERICA, by NICHOLAS deB. KATZENBACH, Attorney General, Plaintiff,	For plaintiff: Nicholas deB. Katzenbach Attorney General of the United States U. S. Department of Justice Washington, D. C. John Doar, Asst. Attorney General Frank M. Dunbaugh, Attorney U. S. Department of Justice Washington, D. C. Vernol R. Jansen Jr., United States Attorney 311 Federal Building Mobile, Alabama Mr. Charles Quaintance, Attorney Department of Justice P.O. Box 751, Selma, Ala., 36702 For defendant: A. R. Meadows & The State Board of Education of Ala. Richmond M. Flowers Atty. Gen. of the State of Ala. Gordon Madison Asst. Atty. Gen. of the State of Ala. FOR: Members of the Wilcox Co. Board of Education & Guy S. Kelly, Supt. of Education for Wilcox Co. W. McLean Pitts and L. Y. Sadler, Jr. Pitts & Pitts Camden, Alabama P. O. Box 722 Selma, Alabama For Intervenor-Plaintiffs: William P. Thompson, et al.
vs.	
WILCOX COUNTY BOARD OF EDUCATION; J. O. DEVAN, R. E. LAMBERT, JR., EDWARD B. HALE, L. Y. SADLER, JR., HARRY A. MASON, Members of the Wilcox County Board of Education; GUY S. KELLY, Superintendent of Education for Wilcox County; A. R. MEADOWS, State Superintendent of Education; and THE STATE BOARD OF EDUCATION OF ALABAMA, Defendants.	
Suit to desegregate public schools of Wilcox County, Alabama, filed under Civil Rights Act of 1964.	

STATISTICAL RECORD	COSTS	DATE	RECEIPT NO.	REG.	DEB.
J.S. 5 mailed	Clerk	15 00	Peter A. Hall & Orzell Billingsley, Jr. Suite 320 1639 Fourth Avenue North Birmingham, Alabama,		35,203.
J.S. 6 mailed	Marshal		Norman C. Amaker 10 Columbus Circle New York, N.Y.		
Basis of Action:	Docket fee				
Federal Question.	Witness fees				
Action arose at:	Depositions				

DATE	PROCEEDINGS	Date Ord Judgment
11-22-65	Complaint filed,	
11-22-65	Summons issued, with copy of s. & c. for service on each defendant,	
12/3-65	Summons returned executed on A. R. Meadows and the State Board of Education of Alabama,	
12-7-65	Summons returned executed on L.Y. Sadler, Guy S. Kelly, R.E. Lambert, Jr., Edward B. Hale, Harry A. Mason, J.O. Devan,	
12-6-65	Motion to dismiss, filed by defendant, A. R. Meadows,	
12--8-65	Motion to dismiss, filed by defendants, Wilcox County Board of Education, J. O. Devan, R. E. Lambert Jr., Edward B. Hale, L. Y. Sadler, Harry A. Mason and Guy S. Kelly, Supt. of Education for Wilcox County,	
12-10-65	Motion to dismiss, filed by defendant, State Board of Education,	
3-7-66	Plaintiff's Memorandum of Law in Opposition to Defendants' Motions to dismiss, filed,	
3-7-66	Notice of Motion and Motion for an Order to Produce Records for Inspection and Copying Pursuant to Rule 34, F. R. C. P., filed by plaintiff, noticed for hearing on March 17, 1966, at 9:30 A. M. (to be heard at 10:00 A. M.)	
3-15-66	Notice of Motion and Motion for leave to intervene as Plaintiffs filed by William P. Thompson et al. xxx (to be heard at 10:00 A. M.)	
3-15-66	copy of above motion mailed to Mr. Pitts, Mr. Katzenbach, Mr. Doar, and Wilcox County Board of Education at Camden, Alabama and copy given to Mr. Vernol R. Jansen, Jr.,	
3-28-66	Application to the Court for instructions filed by Defendants, with reference to matter of permitting plaintiff to examine certain documents,	
3-28-66	Answer and Objections to Motion to Produce filed by defendants, Opposition to Motion for Leave to Intervene filed by defendants, Order entered taking under SUBMISSION the following motions: Motion to dismiss, filed on Dec. 6, 1965; Motion to dismiss, filed on Dec. 10, 1965; Motion for leave to intervene as plaintiffs, filed on March 15, 1966 and opposition to motion for leave to intervene filed on March 28, 1966; Motion for production of records filed on March 7, 1966 and Objections to motion to produce filed on March 28, 1966; and Motion for instructions filed on March 28, 1966; and DENYING Motion to dismiss filed on Dec. 8, 1965, by Wilcox Co. Board of Education, with same being allowed TEN (10) days, to and including April 7, 1966, within which to answer the complaint. (Minute Entry No. 19,917)	
3-29-66	Copy of Minute Entry mailed to John Doar, Vernol R. Jansen, Jr., Gordon Madison, McLean Pitts and Messrs. Peter A. Hall & Orzell Billingsley, Jr.,	
3-31-66	Order entered GRANTING Motion to intervene as plaintiffs, filed by William P. Thompson et al (Min. Entry No. 19,937)	
4-4-66	Copy of Min. Entry mailed to John Doar, Vernol R. Jansen, Jr., Gordon Madison, W. McLean Pitts and Messrs. Peter A. Hall and Orzell Billingsley,	
4-7-66	Answer to complaint filed by defendants,	

DATE	PROCEEDINGS	Date Order or Judgment Made
4-7-68	Order entered making the following rulings with writ, respect to motion to produce filed by plaintiff on March 7, 1966, (1) GRANTED, provided no photographing to be done while school is in session, (2) GRANTED, (3) GRANTED, (4) GRANTED, (5) DENIED, (6) DENIED, (7) GRANTED, as far back as the year 1955, (8) DENIED, (9) GRANTED, as far back as the year 1955, (10) GRANTED, insofar as such exists, (11) GRANTED, (12) DENIED, (13) GRANTED, if available, (14) GRANTED, (15) GRANTED, (16) DENIED, (17) GRANTED, (18) GRANTED, provided that the information produced by the defendant need only reflect the race of the applicant, the name of school enrolled in and the name of the school to which the pupil sought to be transferred, and the action taken upon the application, (19) GRANTED, (20) GRANTED, it is further ORDERED that the records be made available by the 1st day of May, 1966. (Min. Entry No. 19,978)	
4-8-68	Copy of Min. Entry mailed to John Dear, Charles QUAINANCE, Vernon R. Jensen, Jr., Gordon Madison, W. McLean Pitts, Peter A. Hall and Orzell Billingsley, attorneys,	
4-8-68	Motion to amend motion for an order to produce records for inspection and copying pursuant to Rule 34, F.R.C.P. filed by plaintiff,	
4-8-68	Motion for continuance filed by defendants,	
4-11-68	Answer and Objections to amended motion to produce filed by defendant, Wilson Co. Board of Education,	
4-11-68	Answer to complaint in intervention filed by defendants,	
4-11-68	ORDER entered continuing trial of this case set for Apr. 20, 1966 until further notice of the court, see M/E 19,988,	
4-11-68	Copy of M/E 19,988 mailed to attorneys of record,	
4-22-68	Notice of Motion and motion for preliminary injunction filed by plaintiff, James Carson Blake, J. Forrest Burns, William P. Thompson, Gayraud S. Wilmore and Claude C. Brown, filed	
5-26-68	Notice of Motion and Motion for Leave to Intervene as plaintiffs filed, by Albert James Gordon, et al,	
5-26-68	Order entered granting Motion for leave to intervene as plaintiffs, (Min. Entry No. 20,282)	
5-26-68	Notice of Motion and Motion for leave to intervene as plaintiffs filed by Patsie Prim et al,	
5-26-68	Order entered granting Motion for leave to intervene as plaintiffs, (Min. Entry No. 20,281)	
5-26-68	Copy of Min. Entry No. 20,281 and 20,282 mailed to McLean Pitts, Attorney, Depositions of Eugene Carson Blake, J. Forrest Burns, William P. Thompson, Gayraud S. Wilmore and Claude C. Brown, filed,	
6-3-68	Copy of Min. Entry No. 20,281 and 20,282 mailed to John Dear, Gordon Madison, Peter A. Hall and Orzell Billingsley, Jr., attorneys, and delivered to U. S. Attorney,	
6-7-68	Defendants' answer to complaint in intervention filed,	
6-21-68	Motion to Dismiss filed by Defendants,	
6-21-68	Amendment to Defendants' Answers filed,	
6-21-68	Motion to Quash subpoena duces tecum issued June 17, 1966 filed by defendants,	
6-21-68	Motion to Quash subpoena duces tecum directed to each of the individual defendants filed by defendants,	

DATE	PROCEEDINGS	Special Judge
6-23-66	Order entered DENYING Motion to Dismiss filed the State Board of Education on Dec. 10, 1965; DENYING Motion to Dismiss filed by defendants on June 7, 1966; Taking under SUBMISSION the motion to Quash Subpoena Duces Tecum directed to each of the defendants; taking under SUBMISSION the Motion to Quash Subpoena Duces Tecum issued June 17, 1966, filed by defendants on June 21, 1966.	
6-24-66	TRIAL is begun, witnesses are examined, and exhibits offered in evidence. Trial not having been completed at 4:40 P.M. it is recessed until 9:00 A.M. June 24, 1966. (Min. Entry No. 20,395)	
6-24-66	TRIAL is resumed witnesses are examined and exhibits offered in evidence. Trial not having been completed at 3:00 P.M. it is recessed until Monday, June 27, 1966 at 9:30 A.M. (Min. Entry No. 20,397)	
6-24-66	Copies of Min. Entry No. 20,395 and 20,397 mailed to John Doar, Charles Quintance, Vernon Jansen, Gordon Madison, McLean Pitts, Messrs. Peter A. Hall & Orzell Billingsley, Jr. and Messrs. Jack Greenberg & Norman Amaker, attorneys.	
6-24-66 6-27-66	Amendment of Intervenor-Plaintiff's motion filed in open court. Court is resumed, witnesses are further examined and exhibits offered in evidence. Case is taken under SUBMISSION and leave is given to counsel for all parties to file simultaneous briefs on or before the 25th day of July, 1966. (Min. Entry No. 20,398-A)	
7-1-66	Copy of min. entry No. 20,398-A mailed to Messrs. Jack Greenberg & Norman Amaker, Messrs. Peter A. Hall & Orzell Billingsley, Jr., McLean Pitts, Gordon Madison, Vernon R. Jansen, Jr., Charles Quintance and John Doar, attorneys.	
7-20-66	Plaintiff's Trial Brief together with a volume of appendices filed,	
7-21-66	Notice of Intervenor-Plaintiff adopting and joining brief and plan filed by the United States.	
7-22-66	Defendants trial brief filed,	
7-22-66	Brief and Appendices filed by the United States, (4 volumes)	
7-22-66	Copy of minutes of meeting of the Wilcox Co. Board of Education of May 10, 1966 and June 21, 1966, filed,	
7-23-66	Motion to Strike Briefs filed by Defendants,	
8-23-66	Findings of Fact and Conclusions of Law entered by the Court on Aug. 23, 1966, Min. Entry No. <u>20,728</u> Decree of the Court that Defendant Wilcox County Board of Education submit plan in conformity with Findings of Fact and Conclusion of Law, Min. Entry No. <u>20,729</u> Copy of Min. Entry No. <u>20,728</u> and Min. Entry No. 20,729 mailed on Aug. 23, 1966, to Messrs. Nicholas deB. Katzenbach, John Doar, Charles Quintance, Vernon R. Jansen Jr., Richmond M. Flowers, Gordon Madison, W. McLean Pitts, L. Y. Sadler Jr., Peter A. Hall and Orzell Billingsley, Jr. and the United States.	
8-26-66 9-1-66	OPINION-ORDER on appellant's motion for injunction pending appeal, received from Circuit Court of Appeals, Fifth Circuit, directing desegregation of grades 1,2,3,7,8, and 9 on a free-choice plan etc., notice to be given and forms furnished by Sept. 6, 1966 and students allowed to Sept. 12, 1966 to make choice of schools they wish to attend, etc. Order entered by CCA on August 30, 1966.	
9-20-66	Order entered on cross motion for summary judgment. (Min. Entry No. 20,729) Order entered on cross motion for summary judgment. attorney for defendants - McLean Pitts, or Mr. Leon Sadler. Copy of order mailed to each attorney on Sept. 20, 1966.	

CONTINUATION OF JIL ACTION NO. 83-4-61.

DATE	PROCEEDINGS	Date Order Judgment N
9-1-66	Follow-up John Doar, Vernon R. Jansen, Jr., Chad Quaintance, Gordon Madison, McLean Pitts, Leon Sadler, Peter A. Hall and Orzell Billingsley, attorneys	
8-31-66	Order entered restraining the defendants from segregating the races in any Wilcox Co. School System and putting into effect a free-choice plan for the first, second, third, seventh, eighth and ninth grades, (M/E No. 20789)	
9-1-66	Copy of M/E No. 20789 issued to U. S. Marshal for service on defendants attorney, and copy mailed to John Doar, Vernol R. Jansen, Jr., Chad Quaintance, Gordon Madison, McLean Pitts, Leon Sadler, Peter A. Hall, and Orzell Billingsley, attorneys	
9-7-66	Order returned executed as to McLean Pitts, atty. for defendants,	
9-8-66	Motion for temporary injunction and Motion for order of court making Daniel Harrell a party defendant, filed by defendant, Wilcox County Board of Education with attached exhibits, and certificate,	
9-8-66	Report to Court filed by defendant, Wilcox County Board of Education,	
9-9-66	ORDER entered making DANIEL HARRELL a party defendant and setting motion for preliminary injunction for hearing on Monday, Sept. 12, 1966 at 11:00 a.m., see M/E 20,843, Messrs. Amaker & Greenberg,	
9-9-66	Copy of M/E 20,843 mailed to John Doar, Chad Quaintance, McLean Pitts, Leon Sadler, Peter A. Hall & Orzell Billingsley and copy delivered to V. R. Jansen Jr., U. S. Attorney,	
9-9-66	2 certified copies of order making DANIEL HARRELL a party defendant delivered to U. S. Marshal for service on defendant, Harrell,	
9-12-66	Order making DANIEL HARRELL a party defendant, returned executed	
9-14-66	Report No. 2 of the Wilcox County Board of Education filed	
9-15-66	Application for an Order filed by the Plaintiff.	
9-15-66	Order entered enjoining defendants from further acts of discrimination and ordering reports filed, etc., (M/E No. 20892)	
9-15-66	Copy of M/E 20892 delivered to McLean Pitts and Chad Quaintance,	
9-15-66	Copy of M/E No. 20892 mailed to John Doar, Vernol R. Jansen, Jr., Richmond M. Flowers, and messrs. Peter A. Hall & Orzell Billingsley, Jr., attorneys,	
9-12-66	Order continuing hearing on motion for preliminary injunction until further orders of this court, M/E 20,864	
9-16-66	Notice of Appeal filed by Intervenor-Plaintiffs, William P. Thompson, Jr., Edward Carson Dicks, The United Presbyterian Church, Marshall B. Scott and Dr. Gayford S. Walcott,	
9-22-66	Notice of Appeal filed by plaintiff-intervenor, Albert James Gordon, et al and Petition for relief, et al,	
9-22-66	50 certified copies of Order of 8-31-66 and 50 certified copies of Order of 9-15-66 delivered to U. S. Marshal for service at request of attorneys for plaintiff,	
9-21-66	Report No. 3 of Wilcox County Board of Education filed,	
9-25-66	Order entered by Intervenor-Plaintiffs,	
9-30-66	Application for an Order to Show Cause filed by plaintiff, Affidavit of Frank M. Dunbaugh and Affidavit of Robert P. Watkins, in support of application for an order to show cause filed, Proposed Order to Show Cause filed by plaintiff,	
10-5-66	Certificate of service of Application for Order to Show Cause, etc., filed by Mr. John Doar, Asst. Attorney General, for plaintiff,	
10-12-66	Order entered EXTENDING time for filing record on appeal to 12-15-66.	

DATE	PROCEEDINGS	Date Order Judgment N
11-21-66	Application for Order to Show Cause why transportation should not be furnished to Negro children attending formerly all-white schools, filed by U. S.	
11-22-66	Certificate of Service of plaintiff's Application for an Order to Show Cause,	
12-19-66	Certified copy of an order granting appellants' motion for an extension of time within which to file and docket the record on appeal, received from U. S. Court of Appeals, New Orleans, La.	
1-6-67	Motion for an order to show cause on its applications of Sept. 30, 1966 and Nov. 21, 1966 and for a hearing on or before January 17, 1967, filed by plaintiff,	
1-12-67	Certificate of Service filed by plaintiff,	
1-16-67	Order entered RESTRAINING defendants from permitting Negro children who has previously registered for school in grades one, two, three, seven, eight, and nine to attend the school of their choice and from furnishing them transportation as needed, (M/E No. 21455)	
1-17-67	Copy of M/E to John Doar, Vernol R. Jansen, Jr., Charles Quaintance, Gordon Madison, W. McLean Pitts, L. Y. Sadler, Jr. Peter Hall and Orzell Billingsley, Jr. and Norman C. Amaker,	
1-18-67	Service of Writ and Order returned, executed on Wilcox County Board of Education, R. E. Lambert, Jr., Edward B. Hale, L. Y. Sadler, Jr., Harry A. Mason, and Guy S. Kelly. J. O. Devan died on November, 1966.	
1-18-67	Service of Writ returned, executed on Dr. Ernest Stone, Supt. State Board of Education, and State Board of Education of Ala.,	
1-26-67	Objections to Defendants' Petition filed, by plaintiff United States,	
1-24-67	Report to the Court - No. 4 filed by defendants,	
1-30-67	Petition to the Court for Relief filed by defendants,	
1-30-67	Objection to Defendants' Petition filed by intervenor-plaintiffs William P. Thompson, et al.	
1-30-67	Order entered DENYING defendant's petition for relief, (M/E 21,557)	
1-31-67	Copy of M/E to John Doar, Vernol R. Jansen, Jr., Charles Quaintance, Gordon Madison, McLean Pitts, L. Y. Sadler, Jr., Norman C. Amaker, Peter A. Hall & Orzell Billingsley, Jr.,	
2-1-67	Objections to Defendants' petition of 1-24-67 filed by intervenor-plaintiffs, Albert James Gordon, et al.,	
2-27-67	Objections to Defendants' petition of 1-24-67 filed by intervenor-plaintiffs, Patsie Prim, et al.	
2-28-67	Transcript filed,	
2-28-67	Supplemental Record (Transcript of Proceedings) mailed to U. S. Court of Appeals, New Orleans, La.	
4-10-67	Motion for Further Relief filed by plaintiffs on April 10, 1967.	

CERTIFICATE

UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

I, WILLIAM J. O'CONNOR, Clerk of said Court do hereby certify that the foregoing TWO HUNDRED AND FORTY-THREE (243) PAGES, numbered One (1) to Two Hundred Forty-Three (243) both inclusive contain the original papers and a certified copy of the docket entries, being the true and correct proceedings had in said Court in the case of UNITED STATES OF AMERICA, by NICHOLAS deB. KATZENBACH, Attorney General versus WILCOX COUNTY BOARD OF EDUCATION, ET AL, CIVIL ACTION NO. 3934-65, as fully as the same appear of record in my office as such Clerk.

IN WITNESS THEREOF, I have hereunto set my hand and caused to be affixed the seal of the United States District Court for the Southern District of Alabama, at Mobile, Alabama, this the 12th day of December, 1966.

(SEAL)

/s/ William J. O'Connor

WILLIAM J. O'CONNOR, CLERK,
UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF ALABAMA