

83 S.Ct. 10
Supreme Court of the United States

James H. MEREDITH, Movant,
v.
Charles Dickson FAIR et al.

Sept. 10, 1962.

Motion to vacate orders by which a Judge of the Court of Appeals for the Fifth Circuit had purported to stay execution and enforcement of mandates under which that Court had ordered admission of a Negro applicant to the University of Mississippi. Mr. Justice Black held that staying of execution and enforcement of mandates of the United States Court of Appeals could only work further delay and injury to the applicant and that immediate enforcement would do no appreciable harm to the University, and enjoined the taking of any steps to prevent enforcement of the Court of Appeals' judgment and mandate.

Stays vacated.

Opinion

*10 Mr. Justice BLACK.

This is a motion asking me to vacate orders of Judge Ben F. Cameron, a judge of the Court of Appeals for the Fifth Circuit, which purport to stay the execution and enforcement of mandates of that court. The Court of Appeals held that movant Meredith, a Negro, had been denied admission to the University of Mississippi solely because of his race. The court granted injunctive relief which has the effect of requiring the admission of Meredith to the University of Mississippi at the opening of its new academic year commencing in September 1962.

Judge Cameron, however, stayed the mandate of the Court of Appeals pending action by this Court on a petition for writ of certiorari by respondents in this motion. Later the Court of Appeals, 306 F.2d 374, vacated the stay on the grounds (1) that Judge Cameron's action came too late, and (2) that his stay had been 'improvidently granted.' Judge Cameron nevertheless

later issued three other stays, claiming that his first stay had rendered any further proceedings of the Court of Appeals 'void and beyond the jurisdiction' of that court. The Court of Appeals has treated all of Judge Cameron's stays as ineffective and void.

*11 ^[1] The respondents, trustees and officials of the University, who were enjoined by the Court of Appeals, have filed a petition for a writ of certiorari, and the movant Meredith has waived his right to file a brief in opposition to that petition. In this situation I am satisfied that the Court has jurisdiction and power under 28 U.S.C. s 1651, 28 U.S.C.A. s 1651, to take such steps as are necessary to preserve the rights of the parties pending final determination of the cause and that 28 U.S.C. s 2101(f), 28 U.S.C.A. s 2101(f) and Rule 51 of the Rules of this Court, 28 U.S.C.A. give the same jurisdiction and power to me as a single Justice of this Court.

^[2] I agree with the Court of Appeals that the stays issued in this case can only work further delay and injury to movant while immediate enforcement of the judgment can do no appreciable harm to the University or the other respondents. I further agree with the Court of Appeals that there is very little likelihood that this Court will grant certiorari to review the judgment of the Court of Appeals, which essentially involves only factual issues. I am therefore of the opinion that all the stays issued by Judge Cameron should be and they are hereby vacated, that the judgment and mandate of the Court of Appeals should be obeyed, and that pending final action by this Court on the petition for certiorari the respondents should be and they are hereby enjoined from taking any steps to prevent enforcement of the Court of Appeals' judgment and mandate.

Although convinced that I have the power to act alone in this matter, I have submitted it to each of my Brethren, and I am authorized to state that each of them agrees that the case is properly before this Court, that I have power to act, and that under the circumstances I should exercise that power as I have done here.

Stays vacated.

All Citations

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