

IN THE
UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

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ANN JAMAR;

HILDA BANKS, a Minor, by her
sister and next friend, Mary Banks
Davis; and

REV. WARD S. PARHAM, President of the
Columbus Branch of the National
Association for the Advancement of
Colored People,

Plaintiffs,

v.

OHIO BUREAU OF UNEMPLOYMENT COMPENSATION;

WILLARD P. DUDLEY, Administrator, Ohio
Bureau of Unemployment Compensation;

DONALD HEINEMAN, Director of Employment
Service, Ohio Bureau of Unemployment
Compensation;

MILLARD E. DROUDT, Director, Local Office
Operations, Ohio State Employment Service;

JOHN PLATTENBURG, Area Office Manager, Ohio
State Employment Service, Bureau of Unem-
ployment Compensation;

JACK HARRIS, Manager, Youth Opportunity
Center, Ohio Bureau of Unemployment Com-
pensation;

W. WILLARD WIRTZ, Secretary, United States
Department of Labor; and

STANLEY H. RUTTENBERG, Assistant Secretary
and Manpower Director, United States
Department of Labor,

Defendants.

CIVIL ACTION
No. _____

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COMPLAINT

Plaintiffs, for their verified complaint, allege as
follows:

I.

JURISDICTION OF THE COURT

1. The jurisdiction of the Court over the complaint arises under Title 28 U.S.C., Sections 1331, 1343(3) and (4), 2201 and 2202; Title 42 U.S.C., Sections 1981, 1983 and 2000d et seq.; the Constitution of the United States--more particularly the Fifth, Thirteenth and Fourteenth Amendments thereto--rules and regulations promulgated by the Department of Labor pursuant to 42 U.S.C., Section 2000d-1 and 29 U.S.C., Section 49k (see 29 C.F.R. 31.1 et seq.); and Title 29, U.S.C., Sections 49, et seq. and additional rules and regulations issued pursuant to 29 U.S.C., Section 49k (see 20 C.F.R. 601.1 et seq.).

2. The amount in controversy, exclusive of grants and costs, exceeds the sum or value of \$10,000.00.

II.

PARTIES

A. Plaintiffs

3. Plaintiff, Ann Jamar, an emancipated minor, and plaintiff, Hilda Banks, a minor who is suing through her sister and next friend, are both wage earners and Negro citizens of Ohio and the United States. They reside in the city of Columbus, Ohio, and have sought the services of the defendant Ohio Bureau of Unemployment Compensation, hereinafter referred to as O.B.U.C., its agencies and offices, for referral and placement in private employment. They sue on behalf of themselves, as well as all Negro residents of Columbus, Ohio, similarly situated, which class is too numerous to bring before the Court.

4. Plaintiff, Rev. Ward S. Parham, is President of the Columbus Branch of the National Association for the Advancement of Colored People (NAACP) and chief officer of that organization. He is a Negro citizen of Ohio and the United States

and resides in Columbus, Ohio. The NAACP is an organization devoted to promoting equality of rights and the elimination of racial prejudice among citizens in the United States. The Association seeks to advance the interest of Negro citizens by securing for them equality in such areas as employment, education, housing and the administration of justice. In pursuing these ends, the Columbus Branch of the NAACP has been particularly active in attempting to secure equal employment opportunities for Negroes, and in so doing has negotiated with the defendants or some of them in relation to the policies of the O.B.U.C., its agencies and offices. Furthermore, members of the Columbus Branch of the NAACP have on occasion sought the services of the defendant Bureau of Unemployment Compensation for referral and placement in private employment. Plaintiff Parham sues on behalf of himself, all members of the Columbus Branch of the NAACP, as well as all Negro residents of said city similarly situated, which classes are too numerous to bring before the Court.

5. Plaintiffs bring this action pursuant to Rule 23 of the Federal Rules of Civil Procedure. The classes above described are so numerous that joinder of all of their members herein is impractical. There are questions of law and of fact common to each class; the claims of the plaintiffs are typical of the claims of each class; and the plaintiffs will fairly and adequately protect the interest of each class.

B. Defendants

6. Defendant Ohio Bureau of Unemployment Compensation is an administrative agency existing under the laws of the State of Ohio and as such is an instrumentality of said State. Pursuant to Title 29, U. S. C., Sections 49-49k, the Ohio Bureau of Unemployment

Compensation receives federal financial assistance from the United States Employment Service. Defendant Dudley is the Chief Administrator of the O.B.U.C. He is sued in his official capacity.

7. Defendant Heineman is Director of the Employment Service Division of the O.B.U.C., which administers the employment services of the Ohio State Employment Service. This Service is maintained under the laws of the State of Ohio, which require the O.B.U.C. to establish and maintain free public employment offices. Defendant Heineman is sued in his official capacity.

8. Defendant Droudt is Director of local office operations of the Ohio State Employment Service of the O.B.U.C. and defendant Plattenburg is Area Office Manager of the Ohio State Employment Service. They are sued in their official capacities.

9. Defendant Harris is Manager of the Youth Opportunity Center, 239 South Fourth Street, Columbus, Ohio. The Youth Opportunity Center is an agency of the O.B.U.C. and was established pursuant ^{to} O.B.U.C.'s authority to provide job opportunities to the unemployed. O.B.U.C. has established similar centers in other locations in Columbus and in other locations throughout Ohio. Defendant Harris is sued in his official capacity.

10. Defendant Wirtz is Secretary of the United States Department of Labor. Defendant Stanley H. Ruttenberg is Assistant Secretary and Manpower Director of the United States Department of Labor. The Department of Labor, through its Manpower office, administers and operates the United States Employment Service. Defendants are being sued in their official capacities.

11. Each defendant is sued individually and in his official capacity. Injunctive relief is sought against each as well as against his agents, employees and all persons acting in concert or cooperation with him.

III.

FIRST CAUSE OF ACTION

12. The defendants herein, under color of certain statutes and laws of the State of Ohio, have engaged in policies, practices, customs and usages which subject the plaintiffs, citizens of the United States, to the deprivation of rights, privileges and immunities secured to them by the Constitution and the laws of the United States.

13. Pursuant to these policies, practices, customs and usages, defendants or some of them, their agents and employees, have refused to plaintiffs, and the classes they represent, solely because of their race or color, full and equal utilization of the job referral and placement services of the O.B.U.C. and the offices and agencies under its control, management and supervision.

14. Specifically, the O.B.U.C., the offices and agencies under its control, management and supervision, its agents, representatives and employees, have and continue to discriminate against Negroes in its job referral and placement services by accepting the registration of and referring Negroes to employers who discriminate against Negroes in their employment practices, by failing to refer Negroes to all employers registered with it and by referring Negroes to employers who restrict the hiring of Negroes to menial low-paying jobs.

15. Plaintiffs Jamar and Banks during the period June, 1966, to November, 1966, attempted to utilize the job referral and placement services of the Youth Opportunity Center. Plaintiffs were unable to secure employment through the Youth Opportunity Center because said Center discriminated in their policies by

accepting the registration of employers who discriminated against Negroes in their employment practices by refusing to refer plaintiffs to all employers registered with it, by referring plaintiffs to employers who discriminated against Negroes, and by referring plaintiffs to employers who restrict the hiring of Negroes to menial low-paying jobs. Defendant Harris, manager of said Center, his agents and employees, were at all times aware, or should have been aware, of the discriminatory policies of the employers they serviced. The unequal service they afforded plaintiffs was solely because of plaintiffs' race. These actions by the Youth Opportunity Center denied to plaintiffs and persons similarly situated federally protected rights by failing to afford them equal employment opportunities to their great detriment and loss.

16. On March 22, 1966, plaintiff Columbus Branch of the NAACP requested defendant Wirtz to conduct an investigation of alleged racial discrimination by the Columbus, Ohio, Youth Opportunity Center. On June 20, 1966, an agent of Secretary Wirtz, defendant Ruttenberg, advised the Columbus Branch of the NAACP that the Department of Labor had investigated the allegations and had found reasonable cause to believe that acts of discrimination were being practiced by the Youth Opportunity Center. Plaintiff NAACP further was advised that the Department of Labor would take action to bring about compliance with federal statutes and Labor Department regulations regarding equal employment opportunities.

17. Up to and including the time of the filing of this complaint the O.B.U. C. and its officers, aides, agents and representatives have continued and are continuing to fail to place and refer plaintiffs and others similarly situated on jobs with

employers without regard to their race or color. Further, the O.B.U.C., its officers, aides, agents and representatives have continued to permit, or have failed to insure against permitting, employers who practice discrimination or are reasonably suspected of practicing discrimination, to utilize its services. The O.B.U.C. has failed to take effective follow-up action against patterns of discrimination or discriminatory job orders.

18. The policies, practices, customs and usages of defendant O.B.U. C. and the offices and agencies under its control, management and supervision heretofore described, deprive plaintiffs and persons similarly situated of rights secured to them by the Constitution of the United States and particularly the Fifth, Thirteenth and Fourteenth Amendments thereto. These policies, practices, customs and usages violate the plaintiffs' Fifth Amendment rights in that it denies them the right to seek and hold employment and it violates the plaintiffs' Thirteenth and Fourteenth Amendment rights in that it denies them full and equal citizenship, due process and equal protection of the laws and abridges their privileges and immunities as citizens of the United States. They also violate rights secured to plaintiffs and the classes they represent by Title 42, United States Code, Sections 1981 and 1983.

IV.

SECOND CAUSE OF ACTION

19. Plaintiffs re-allege allegations 1 through 18.

20. The Ohio State Employment Service, an agency of defendant O.B.U.C., is a part of the Federal-State public employment service which consists of the United States Department of

Labor's Employment Services and affiliated state employment services. Federal cooperation with State Employment services is pursuant to Title 29, U.S.C., Sections 49-49k.

21. Defendant O.B.U.C., because of the participation of its State Employment Service in the federal public employment service program is under an obligation to perform its duties within the purview of the Act of Congress of June 6, 1933, as amended, "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system and for other purposes," commonly known as the Wagner-Peyser Act, Title 29, U.S.C., Sections 49-49k. The Director of the Employment Service Division, defendant Heineman, is charged with the duty of cooperating with any official or agency of the United States having duties under the provisions of said Act and of doing all things necessary to secure to the State of Ohio the benefits of said Act in the promotion and maintenance of a system of public employment offices.

22. Defendant O.B.U.C., its agencies and offices, as a recipient of federal financial assistance is required to conduct activities within the purview of Title VI of the Civil Rights Act of 1964 (Title 42, U.S.C., Sections 2000d, et seq.) which provides that "No person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." Under rules and regulations issued pursuant to Title VI and pursuant to the Wagner-Peyser Act (29 C.F.R. 31.1, et seq.), the O.B.U.C. and its officers, aides, agents and

representatives are required to pursue an active and effective non-discriminatory policy in regard to the placement and referral of job applicants and the servicing of employment requests. Under said rules and regulations, defendant O.B.U.C., its agencies and offices, also is required to take effective follow-up action on discriminatory job orders to apply effective administrative procedures to ensure against servicing employers who are known to discriminate or who are reasonably suspected of discriminating, to make reasonable reviews of practices of employers to ensure overall effectiveness of its operations in regard to the civil rights laws, and to report evidence of discrimination to the Ohio Civil Rights Commission. Said rules and regulations also provide that if such policies and practices are not pursued and followed by a recipient of funds from the Department of Labor, no further federal financial assistance shall be supplied to said recipient.

23. The United States Department of Labor and its agency the United States Employment Service has the responsibility for seeing that State agencies, including the Ohio State Employment Service, which participate in the national employment service program, comply with the federal statutes and regulations specified in paragraphs 21 and 22. Defendants Wirtz and Ruttenberg, their agents and employees, are responsible for the operation of the United States Employment Service and, therefore, are the officials responsible for securing compliance with said statutes and regulations.

24. Up to and including the time of the filing of this complaint, defendants Wirtz and Ruttenberg, their agents and employees, have continued to approve the issuance of federal

financial assistance to the O.B.U.C. and its agency, the Ohio Employment Service, despite the failure of O.B.U.C. and said Service to comply with the lawful rules and regulations of the Department of Labor and despite the Department's finding of reasonable cause to believe that the O.B.U.C. and Ohio Employment Service, its agents and employees, have pursued and are pursuing racially discriminatory policies and practices.

25. The defendant officers, aides, agents and representatives of the O.B.U.C. have the executive and administrative power to promulgate and enforce rules and regulations with respect to the utilization and enjoyment of all services of the O.B.U.C. All such rules and regulations must conform to the Constitution and laws of the United States as well as the lawful rules and regulations of the Department of Labor and the United States Employment Service.

26. Defendants Wirtz and Ruttenberg, their agents and employees, have failed and refused to exercise their duty and authority under Title 42, U.S.C., Sec. 2000d and under Title 29, U.S.C., Sec. 49h either to compel the defendant O.B.U.C. to follow and to comply with the Constitution and laws of the United States and the lawful rules and regulations of the Department of Labor and the U. S. Employment Service, or to exclude the O.B.U.C. or its agency, the Ohio State Employment Service, from receiving federal financial assistance.

27. Failure by defendants Wirtz and Ruttenberg to exercise their duties and obligations with respect to defendant O.B.U.C., its agencies and offices, has resulted and continues to result in denial to plaintiffs and the classes they represent, of rights guaranteed to them by the Fifth, Thirteenth and Fourteenth Amendments to the Constitution of the United States and by Titles 42, U.S.C., Section 2000d et seq. and 29, U.S.C. Sections 49-49k. It denies plaintiffs' Fifth Amendment rights in that it interferes with their right to seek employment; it violates plaintiffs' Thirteenth and Fourteenth Amendment rights in that it denies them full and equal citizenship, due process and equal protection of the

law, and abridges their privileges and immunities as citizens of the United States. It violates rights guaranteed by the above-mentioned sections of the United States Code in that it denies plaintiffs solely because of their race benefits afforded citizens by the United States government and denies to them the right to equal participation in federal programs.

V.

EQUITY

28. Unless restrained by order of this Court, defendant O.B.U.C. and defendant State officials will continue to engage in the aforementioned discriminatory policies, practices, customs and usages which deny to plaintiffs and the classes they represent, federally protected rights and privileges. Unless ordered by this Court, defendant federal officials will continue to refuse to perform their obligations and duties with respect to the discriminatory policies of defendant O.B.U. C., its agencies and offices.

29. Discrimination in the area of employment, aside from its obvious financial impact, seriously interferes with the educational, psychological and technical development of the class of persons subject to such inequities. The aforementioned failures of defendants hardens and intensifies employment discrimination to the continuing irreparable harm of plaintiffs and persons they represent.

30. Plaintiffs have no adequate administrative or legal remedy.

WHEREFORE, plaintiffs pray for the following relief:

(1) That proper process issue and this cause be advanced upon the docket;

(2) That a declaratory judgment issue declaring that

defendant O.B.U.C., its officers, aides, agents and representatives have pursued and are continuing to pursue policies, customs, usages, and practices of racial discrimination in contravention to the Fifth, Thirteenth and Fourteenth Amendments to the Constitution of the United States, to Title 42, United States Code, Sections 1981, 1983 and 2000d, et seq., to Title 29, United States Code, Sections 49, et seq., and to rules and regulations of the United States Department of Labor and the United States Employment Service lawfully promulgated pursuant thereto;

(3) That interlocutory and permanent injunctions issue

- a. Restraining defendants and each of them from refusing or denying or failing to provide Negroes with the full rights and privileges of and the enjoyment of all of the services, agencies and facilities of the O.B.U. C., its agencies and offices, from discriminating in any manner on account of race or color against plaintiffs and the classes they represent and from failing or refusing to refer or to place qualified Negro job applicants in positions of employment without regard to their race or color;
- b. Restraining defendants O.B.U. C., its officers, aides, agents and representatives from accepting or filling any job requisitions or indications of openings which express or imply in any way that the employer prefers, seeks or wishes to hire employees of a particular race or color, or from accepting job requisitions or indications of openings from employers who, the O.B.U. C. or

its officers, aides, agents or representatives know, believe or have reason to know or to believe, practice racially discriminatory employment policies or practices;

- c. Restraining the defendants and each of them, their agents and employees from issuing, circulating or causing to be issued or circulated any statement, advertisement or publication, application or form, procedure or rule, written or unwritten conditions, or making any inquiry in connection with prospective employment which expresses, directly or indirectly, any limitation, specification or discrimination as to race, religion, color, national origin or ancestry or exercising any intent to make any such limitation, specification or discrimination.
- d. Restraining defendants Wirtz and Ruttenberg, their agents and employees, from continuing to approve federal financial assistance for the O.B.U.C., its agencies and offices, so long as the policies and practices of the O.B.U.C., its agencies and offices discriminate against Negroes and so long as the O.B.U.C., its officers, aides, agents and representatives fail to carry out faithfully and effectively the provisions of the Constitution and laws of the United States and the lawful rules and regulations of the Department of Labor and the United States Employment Service;

(4) That a permanent injunction issue ordering defendants O.B.U.C., its officers, aides, agents and representatives to take effective follow-up action on discriminatory job orders and to report such orders to the Ohio Civil Rights Commission; to apply effective administrative procedures to ensure against servicing employers who are known to discriminate or who are reasonably suspected of discriminating; to make reasonable reviews of the practices of employers to ensure overall effectiveness of its operations in regard to the civil rights laws.

(5) For any and all other relief which this Court may see fit to grant.

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Attorneys for Plaintiffs

By _____

Dated: October____, 1967

VERIFICATION

STATE OF OHIO)
CITY OF COLUMBUS)ss.:
COUNTY OF)

_____, being duly sworn,
deposes and says that she is one of the plaintiffs in the within
action; that she has read the foregoing complaint and knows the
contents thereof; that as to the allegations regarding herself,

she verifies them to be true and that as to all other matters and things alleged therein she verily believes them to be true.

Sworn to before me this
_____ day of October, 1967.
