

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

Civil Action
File No. _____

RALPH D. ABERNATHY, J.E. LOWERY,
S.S. BEAY, SR., and FRED L.
SHUTTLESWORTH,

Plaintiffs,

v.

JOHN PATTERSON, individually and as
Governor of Alabama, EARL JAMES,
individually and as Mayor of Mont-
gomery, L.B. SULLIVAN, individually
and as Commissioner of Police of
Montgomery, FRANK PARKS, individ-
ually and as Commissioner of Public
Affairs of Montgomery, MAC SIM
BUTLER, individually and as Sheriff
of Montgomery County, RAY D. BRIDGES,
individually and as Sheriff of
Mobile County, HOLT A. McDOWELL,
individually and as Sheriff of
Jefferson County, and WILMER SHIELDS
individually and as Sheriff of
Marengo County,

Defendants.

COMPLAINT

Law Offices:
CHARLES S. CONLEY
530 South Union Street, Suite A
Montgomery 4, Alabama

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

RALPH D. ABERNATHY, et al.,)

Plaintiffs. :

VS.

Civil Action.

JOHN PATTERSON, et al., :

File No. _____

Defendants)

LAWYERS' AFFIDAVIT

STATE OF ALABAMA)

ΣΣ. :

MONTGOMERY COUNTY)

CHARLES S. CONLEY, VERNON Z. CRAWFORD, SOLOMON S. SEAY,
JR., being duly sworn depose and say:

1. That they are attorneys and solicitors of the State of Alabama and attorneys for the plaintiffs herein.

2. On Monday, January 30, 1961, a motion to desegregate the courtroom during the course of the trial and duly made in chambers before the Honorable Walter B. Jones, Presiding Judge of the 15th Judicial Circuit, Montgomery, County, Alabama.

3. In the action which was being tried, Earl D. James vs. The New York Times Company, a corporation, Ralph D. Abernathy, Fred L. Shuttlesworth, S. S. Seay, Sr., and J. E. Lowery, all of the individual defendants are members of the Negro race.

4. The Negro defendants, each of whom is a leader in the struggle of the Negro people to acquire better educational, economic and political opportunities for Negro Americans comparable and equal to those of the majority segment of the American people, gave as grounds for their motion to desegregate the courtroom the fact that Negroes were subjected to enforced racial segregation; that pursuant to established custom, practice and usage, the courtroom wherein the said cause was tried was segregated, pursuant to the direction of

officers of the Court; that to require the Negro defendants to submit to trial before said racially segregated tribunal deprives the Negro defendants of the due process of the laws and equal protection of the laws which are guaranteed by the 14th Amendment to the Constitution of the United States of America.

5. An offer of proof of the allegation with reference to enforced segregation was made by attorneys for the Negro defendants. The presiding judge declined the offer and stated that there was no such requirement and himself sent for the Clerk of the Circuit Court who testified thereafter in chambers that there were no such rules or regulations requiring segregation.

6. On Tuesday, January 31, 1961 (the second day of the trial), Negro spectators were permitted to sit wherever space was available without restriction.

7. But on Wednesday, February 1, 1961 (the third day of the trial), extra county officers were on duty and, pursuant to orders, required all Negroes to sit on the left side of the courtroom. See Exhibits #1 and #2, for sworn statements of persons who, among others, were asked to move after taking seats on the right side of the courtroom reserved for white persons.

8. When the presiding judge entered the courtroom, the affiants asked to be heard out of the presence of the jury in the judge's chambers. When affiants were informed by the court that any motion which they wished to make would be heard in open court, a motion was made, partially in the presence of the jury, for a mistrial.

9. When the jury was excused and sent to the jury room after having heard the reasons why counsels wished to be heard in chambers, the grounds stated, among others, was the fact that

segregation of the races was being enforced in the presence of the jury.

10. The presiding judge denied the motion for a mistrial and read an extensive, previously prepared statement (see Exhibit #3) in which he stated that the 14th Amendment had to application in his court and suggested that the contempt power of the court would be used if counsels for the plaintiffs in the proceedings objected to the pronunciation of the word "Negro", which was being pronounced as "Negra" or "Nigra".

Charles S. Conley
Wm. C. Crawford
Solomon S. Leary, Jr.

Sworn to and subscribed

before me this 20th

day of February, 1961.

Calvin C. Ryan
NOTARY PUBLIC



COURT OF THE UNITED STATES
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

[illegible]

AFFIDAVIT

STATE OF ALABAMA }
COUNTY OF MONTGOMERY } ss.:

RALPH D. ABERNATHY, being duly sworn deposes and says:

1. He is one of the plaintiffs in the above entitled action.

2. That this action is brought to enjoin the defendants, their agents, servants, employees, attorneys and other divers persons from acting under their authority from the further levies, executions and garnishments; and to enjoin further proceedings brought against the New York Times, Company, a Corporation, et al. by the defendants which are presently pending in the Circuit Court of Montgomery County, Alabama, which were instituted by the defendants John Patterson and Frank Parks, as well as other relief as set forth in the complaint.

3. Deponent is presently threatened with immediate, imminent and irreparable injury and harm in that his automobile in which he owns a one half equity is scheduled to be sold Tuesday, February 21st, 1961 pursuant to an execution to be conducted in Montgomery County. In addition, the sale of other real property of which deponent and other plaintiffs in the above entitled action of which plaintiffs have an interest is similarly threatened with immediate, imminent and irreparable injury.

RALPH D. ABERNATHY

Sworn to and subscribed before
me this day of
1961

NOTARY PUBLIC

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JOHN SIBLEY

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SLUMS: This is one of the apartments at 137 East 114th Street, a tenement owned by Robert Bernard. The picture was shown in evidence at the owner's trial. He was fined \$500 for Health Code violations and ordered to clean up the violations by March 15 or go to jail for thirty days.

TURKISH CHILDREN GAIN LAND ORDERED SOLD IN LIBEL JUDGMENT

They Will Be Admitted to
White Schools in Carolina

SUMTER, S. C., Feb. 15 (AP)—The Sumter County school board announced today that segregated Turkish children would be admitted to white schools in the fall of 1961.

The segregation of Turkish children by Sumter County schools in the elementary level occurred only in this county.

Dr. Hugh Stoddard, superintendent of School District 17, said the board acted Jan. 31 on requests by Turkish parents for transfers of their children to white schools. He said the board voted to transfer all sixty-six of the children and notification was sent out Tuesday.

The Turks apparently are descendants of Turkish sailors who came to South Carolina during the Seventeen Hundreds. Most of them are olive-skinned and have dark hair. They live in the Dalzell community near here.

FIRE TIES UP IND LINE

8th Ave. Runs Cut Between
W. 4th St. and Brooklyn

Thousands of homeward-bound subway riders were delayed during the rush hour last night by a cable fire in a tunnel under the East River.

The fire caused a shutdown of service on the Eighth Avenue IND line between West Fourth Street, Manhattan, and Jamaica Avenue, Brooklyn. Four lower Manhattan IND stations were closed without service for forty-one

LOUISIANA HOLDING 5TH SPECIAL SESSION

Special to The New York Times

BATON ROUGE, La., Feb.

The Louisiana Legislature opened its fifth special session early November today. Gov. Jimmie H. Davis' administration introduced measures allow local elections to elect public schools ordered integrated and to replace them with private segregated schools.

A proposed companion measure, setting up a \$10,000,000 bond issue secured by a portion of the state's 2 percent sales tax, was not introduced. Davis leaders said it would be introduced later. The Governor said he would increase the session at the third session.

The session opened today after a twelve-day recess. The session was expected to last five days.

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