

IN THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT OF
HINDS COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

EX REL

ROSS R. BARNETT, GOVERNOR

VS:

JAMES H. MEREDITH

FILED
SEP 20 1982

COMPLAINANT

NO. 12

FRANK T. SCOTT
CHANCERY CLERK

DEFENDANT

BILL OF COMPLAINT

Now comes the State of Mississippi by Ross R. Barnett, Governor of said State, and presents this, his Bill of Complaint by and through Joe T. Patterson, Attorney General of said State, against James H. Meredith, colored, who, Complainant is advised and believes has no fixed place of residence within this State but presently may be found in the First Judicial District of Hinds County, Mississippi, where process of this Court may be served upon him, and complaining shows unto the Court the following:

1.

This suit is brought by virtue of the authority conferred upon the Governor of the State of Mississippi by Section 116 and Section 123 of the Constitution of 1890, and by Section 3975(M) of the Mississippi Code of 1942, and is brought in the name of the State of Mississippi, Ex Rel Ross R. Barnett, Governor of the State of Mississippi, for the reason that Honorable Joe T. Patterson, the Attorney General of the State of Mississippi has been requested to

bring this suit in the name of the State of Mississippi, and has refused or neglected so to do, but only on the ground that it is his judgment that this suit can be more effectively prosecuted in the name of the Governor with the full approval of the Attorney General, which approval is hereby fully and completely asserted.

2.

Complainant shows unto the Court that James H. Meredith, the Defendant herein, is seeking and plans to apply for admission, enrollment and matriculation as a student at the University of Mississippi, by virtue of an illegal decree and an illegally issued injunction issued thereon mandatorily requiring that he be admitted and be enrolled as a student at said school.

3.

James H. Meredith, the Defendant, is a colored man. The University of Mississippi is an educational institution belonging to and being operated by the State of Mississippi, under its Constitution and Statutes, lawfully enacted, establishing it as an Institution of Higher Learning for members of the white race. It is against the public policy of the State of Mississippi, as well as its laws for any colored person to be admitted as a student at said institution and his enrollment and entry therein would be in direct violation of the laws of the State of Mississippi.

4.

The Board of Trustees of State Institutions of Higher Learning has prescribed certain fundamental requirements that all applicants meet before they can qualify for admission as a student at the University of Mississippi, and the said James H. Meredith does not meet the qualifications so fixed by said Board of Trustees of State Institutions of Higher Learning and is not competent or qualified to be admitted as a student at said University.

5.

Complainant further shows unto the Court that the said James H. Meredith is not a person of good character and that he has been convicted of a criminal offense in the Courts of Hinds County, Mississippi, and is also therein charged with a felony committed by him in that County. It is against the policy of the State of Mississippi and the rules and regulations established by the Board of Trustees of State Institutions of Higher Learning to admit any person as a student on said campus who is not of good moral character and the Defendant having been convicted of the crime of false pretense, as aforesaid, does not meet the standards of moral character required to be met by the Board of Trustees of State Institutions for Higher Learning as a prerequisite to admission as a student in said University.

6.

Complainant further shows unto the Court that the

Ku Klux Klan from thirty States held a meeting in Alabama last week and, according to the press expressed themselves as being interested in the situation presented at Ole Miss by the attempt of the Defendant to enter the University as a student and threatened to appear at the University of Mississippi and there intervene to prevent the said James H. Meredith from entering said school as a student. Public feelings throughout the entire State of Mississippi and in neighboring states are inflamed and aroused by the threatened attempt by the Defendant to apply for enrollment as a student at the University of Mississippi and such attempt, if asserted, will set off violence and breaches of the peace, resulting possible harm to the Defendant as well as others who might be engaged in such threatened attempt. Consequently, Complainant charges that the entry of the said Defendant into the University of Mississippi as a student would be inflammatory, setting off confusion, disorder and disturbance among the students at the University, and trouble, riot and possible bloodshed threatening the safety of the Defendant and others who might be engaged in assisting him in his efforts to so enter in said school.

7.

Complainant further shows unto the Court that the State has a responsibility as a *parens patriae* for the safety, comfort, peace and welfare of the students at the University of Mississippi, and it is the solemn duty of the State of Mississippi to so protect said students and to

establish and maintain an environment upon the campus of the University that is safe and secure for the students attending said institution and is conducive to their education among environment and surroundings that are peaceful and free from tumult and breaches of the peace and diverting influences such as would be caused by the admission of the Defendant as a student into the University of Mississippi.

8.

Complainant further charges that facilities for the education of said Defendant are available at the Institution that he is now attending and Complainant is advised and believes that the purpose of the Defendant in seeking admission to the University of Mississippi is not for his educational advantage but is solely for the purpose of creating a disturbance upon the campus of the University of Mississippi, disrupting the quiet and peaceable atmosphere now prevailing on the campus of that institution and to foment strife, disturbance, riot and breaches of the peace.

9.

Complainant further shows unto the Court that it is to the best interest of the University of Mississippi, the student body thereat and of this Defendant that he be enjoined from pursuing any attempt to enter said University as a student thereat and that he be commanded by this Court to desist from any and all efforts in connection therewith, whether through himself, his Attorney or any Agent or other

person acting in his behalf.

10.

Complainant further shows unto the Court that unless a temporary injunction be issued restraining the Defendant, his Agents and Attorneys from the commission of the aforesaid acts it will result in irreparable harm and damages to the Complainant and its said University and the students thereat for whom the Complainant is responsible.

The giving of notice of the application for such temporary injunction is not practical since it is the information of Complainant that the said Defendant proposes to apply for admission on Thursday, the 20th day of September, 1962, or at some time immediate thereafter, and there is not sufficient time for the giving of such notice.

WHEREFORE, THE PREMISES CONSIDERED, Complainant prays that process issue for the Defendant commanding him to be and appear at the next term of this Honorable Court to then and there plead, answer or demur to this Bill of Complaint, but not under oath, answer under oath being hereby waived, and that a temporary injunction issue enjoining the Defendant, his Agents, employees, attorneys and accomplices from applying to the University of Mississippi, or any of the Agents, employees or officials for matriculation, registration, entry or otherwise becoming a student at said University and that upon the hearing of this cause upon its merits that said temporary injunction be made permanent.

If mistaken in the relief herein prayed for, then
Complainant prays for such other and further relief,
either general or special, as to a Court of equity may
seem meet and proper and the facts of the case may require.

And as in duty bound Complainant will ever pray.

STATE OF MISSISSIPPI

BY: Ross R. Barnett
Ross R. Barnett, Governor

Joe T. Patterson
Joe T. Patterson
Attorney General
State of Mississippi

WATKINS and EAGER
Plaza Building
Jackson, Mississippi

BY: T. H. Watkins
T. H. Watkins

BARNETT, MONTGOMERY, McCLINTOCK
& CUNNINGHAM
Suite 315-21 Barnett Building
Jackson, Mississippi


BY: M. B. Montgomery
M. B. Montgomery

ATTORNEYS FOR COMPLAINANT

STATE OF MISSISSIPPI

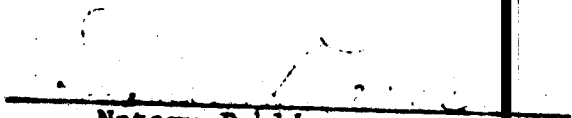
HINDS COUNTY : : : :

THIS DAY personally appeared before me the undersigned authority in and for said County and State, the within named ROSS R. BARNETT, Governor of the State of Mississippi, who, being by me first duly sworn, deposes and says that the foregoing Bill of Complaint is filed on behalf of the State of Mississippi as a sovereign state and that the facts stated therein are true as therein stated to the best of his knowledge, information and belief as the Governor of the State of Mississippi.



Ross R. Barnett

SWORN TO and SUBSCRIBED before me this, the 22 day
of September, 1962.



Notary Public

My Commission Expires:

My Commission Expires Dec. 12 1963

IN THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT OF
HINDS COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

EX REL

ROSS R. BARNETT, GOVERNOR

COMPLAINANT

VS:

NO. _____

JAMES H. MEREDITH

DEFENDANT

TO: JAMES H. MEREDITH, DEFENDANT:

GREETING:

WHEREAS, the Complainant in the above entitled cause filed a verified complaint praying for a temporary injunction against you as Defendant requiring you to refrain from certain acts hereinafter more particularly mentioned, and it appearing to the above entitled Court that a temporary injunction should issue in the premises and that the State of Mississippi be not required to give any injunction bond,

NOW, THEREFORE, you, the said Defendant, your Agents, Servants, Employees, Attorneys and accomplices are hereby absolutely enjoined and restrained, during the pendency of the above entitled action, and until its final determination or until the Court should otherwise order from applying to the University of Mississippi, or any of its Agents, employees or officials for matriculation, registration, entry or otherwise becoming a student at said University.

WITNESS the Honorable _____, Chancellor of the

Chancery Court of the First Judicial District of Hinds County,
State of Mississippi, attested by my hand and seal of said
Court this, the _____ day of September, 1962.

Frank T. Scott, Chancery Clerk

BY: _____

D. C.

IN THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT OF
HINDS COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

EX REL

ROSS R. BARNETT, GOVERNOR

COMPLAINANT

VS:

NO. _____

FILED
SEP 20 1982

JAMES H. MEREDITH

DEFENDANT

ORDER GRANTING TEMPORARY INJUNCTION

FRANK T. SCOTT
CHANCERY CLERK

This matter came on for hearing on the Motion of the Complainant praying for a temporary injunction and the Court having heard Counsel for the Complainant and finding that the giving of notice of the hearing on the temporary injunction to the Defendant is impracticable and that there is not sufficient time for the giving of said notice and the Court being satisfied that it has jurisdiction to do that herein done and that a temporary injunction should issue, IT IS, THEREFORE,

ORDERED, ADJUDGED and DECREED that a temporary injunction issue enjoining the Defendant, his Agents, employees, Attorneys and accomplices from doing or performing any act necessary, proper, incident to or connected with applying for admission into the University of Mississippi as a student thereof, including, but not restricted to applying for registration, matriculation or performing any other act

in anywise connected with or incident to the obtaining of
permission to attend said University as a student thereof. V
No bond shall be required of the State of Mississippi for
the issuance of this injunction and the Clerk of this Court
is hereby ordered and directed to issue said injunction, as
aforesaid, and place the same in the hands of the Sheriff
for service upon the Defendant, his Agents, Employees,
Attorneys or accomplices.

ORDERED, ADJUDGED and DECREED this, the 26 day
of September, 1962.

W. D. Miller
CHANCELLOR

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED
SEP 26 1962

NO. 19675

EDWARD W. WADSWORTH
CLERK

**JAMES H. MEREDITH, on behalf of himself
and others similarly situated,**

Appellant,

versus

**CHARLES DICKSON FAIR, President of the
Board of Trustees of the State Institutions
of Higher Learning, et. al.,**

Appellees.

ORDER

Appellant has moved this Court for an order directing Ross
R. Barnett, Governor of Mississippi, to show cause why he should
not be adjudged in contempt of orders issued by this Court in this
action. On consideration of that motion, presented to this Court
on the 25th day of September, it is now Ordered:

1. That Governor Ross R. Barnett be, and is, required to show
cause, if he has any, before this Court in the City of New Orleans, Old
Post Office Building, on the 27th day of September 1962 at 10 A.M.,
why he should not be adjudged in contempt of the orders issued by
this Court.

2. Service of this order is to be made by United States Marshal.

1/s/ Elbert P. Tuttle
United States Circuit Judge

1/s/ John R. Brown
United States Circuit Judge

1/s/ John Minor Wisdom
United States Circuit Judge

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

*Filed Friday **

JAMES H. MEREDITH,

Appellant

vs.

CHARLES DICKSON FAIR, et al

Appellees

NO. 19475

UNITED STATES OF AMERICA,
Amicus Curiae and Petitioner

~~PERMISSION TO DISMISS, CONTINUE,
RECALL, OR
REOPEN THIS CASE~~

vs.

STATE OF MISSISSIPPI, et al,

Defendants

COMES NOW the State of Mississippi as Amicus Curiae pursuant to leave of this Court previously obtained, and moves this Honorable Court to dismiss this action, to continue this cause for such a reasonable time as necessary to permit the Defendants a fair opportunity to present their defenses to this action, to transfer it to the United States District Court for the Southern District of Mississippi, or, in the alternative, to change the location of the hearing of this action to the United States Court Room in Jackson, Mississippi, and in support thereof would show:

1. The sovereign State of Mississippi is the only

* I think this was the attachment (To Miss. application for amicus status) that was not permitted to be filed.

real party in interest in this cause. The Governor, the Lieutenant Governor, and all other officials of this State whose acts, attitudes and activities are alleged to give rise to any right or cause of action or proceeding herein have been exclusively done and taken for and on behalf of the sovereign State of Mississippi alone and not pursuant to or in furtherance of any individual or personal interest of any such actor or participant; the said Governor being charged with the duty, by the Constitution of the State of Mississippi and by its Statutes, with the discharge of the functions of the chief executive officer of said State and being thereunder required to do and perform such acts and actions as he deemed necessary to secure the best interests of the people of the State of Mississippi and the peace, dignity, and good order of said citizens, the Lieutenant Governor and other officials acting herein having acted pursuant to the directions and authority of the Governor in the discharge of his said official duties.

2. This Honorable Court of Appeals lacks original jurisdiction of this action against the sovereign State of Mississippi, said jurisdiction having been vested by the Constitution of the United States of America in the Supreme Court of said United States and no act of Congress having ever been passed vesting or purporting to vest such original jurisdiction in this Honorable Court.

3. This Honorable Court of Appeals lacks jurisdiction to hear or determine or proceed with this cause any further for the reason that since the 15th day of September,

1962, the jurisdiction of this action has been fully vested in the United States District Court for the Southern District of Mississippi, subject only to its possible withdrawal by the Supreme Court of the United States of America, should said Supreme Court grant a pending Petition for Writ of Certiorari to this Honorable Court of Appeals.

4. This Honorable Court lacks jurisdiction at this particular time to proceed with this cause for the reason that the stay orders entered by Honorable Ben F. Cameron on July 18, 1962, and subsequently, have stayed under the terms and provisions of Section 2101(f) the execution and enforcement of the injunctive orders of this Court upon which these proceedings are based, and said stay orders are presently valid and outstanding and in full force and effect, because the Honorable Supreme Court of the United States has not yet ruled upon the pending Petition for Certiorari in this cause.

5. This Honorable Court of Appeals has no power to add parties defendant to an existing proceeding for the first time at the appellate level and especially at a time when this Court's mandate has been finally returned to the United States District Court for the Southern District of Mississippi for execution and enforcement by that Court.

6. No Court other than the Supreme Court of the United States has original jurisdiction of a suit against the sovereign State of Mississippi at any point or place other than at the seat of government of said sovereign State, to-wit:

Jackson, Mississippi, under the terms and provisions of Section 4387, Mississippi Code of 1942.

7. Through news media, the attorneys appearing herein have been advised that a citation for contempt has been issued by this Court against Honorable Ross R. Barnett requiring him to appear before this Court on the morning of Friday, September 28, 1962, at New Orleans, Louisiana, but no valid service of said citation has ever been made upon said official or the said real party in interest, the State of Mississippi, and this Court therefore lacks jurisdiction to hear, determine or proceed with said citation for contempt until due and proper service of process has been had.

8. This Honorable Court of Appeals should not proceed with the hearing of any part of this matter on the morning of September 28, 1962, at New Orleans, Louisiana, for the reason that the distance and location of such place is over 50 miles from the nearest part of the State of Mississippi and more than 200 miles from the seat of government of said State and that notice of the holding of this hearing was not received by counsel appearing herein until the morning of September 26, 1962. Said length of notice and distance of the point of hearing are so short in time and great in distance as to constitute the holding of said hearing at the time and place scheduled a violation of the rights of the parties herein under the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

9. This Honorable Court of Appeals should transfer this cause to some point or place in the Southern District of Mississippi for the reason that territorial venue of this cause lies in said District under the plain meaning and intent of Sections 1391(b) and 1392(a) of Title 28 of the United States Code.

10. For the convenience of parties and witnesses and in the interests of justice, this Honorable Court of Appeals should change the location of the place of hearing of this action to the United States Court Room in Jackson, Mississippi, or, in the alternative, should transfer this cause to the Jackson Division of the United States District Court for the Southern District of Mississippi, where the said Governor of this State can and will appear as a witness in this cause, despite his executive duties and functions connected with an extraordinary session of the Legislature of the State of Mississippi now in progress in the City of Jackson, Mississippi.

11. These proceedings in the name of the United States are being conducted and prosecuted at a time when the Appellant in this Court is represented by counsel who have filed with this Court identical proceedings seeking the same relief and against the same defendants and, the proceeding being one solely in civil contempt, the said United States as Amicus Curiae has no standing whatsoever, not being a party to this litigation to prosecute or proceed with this matter

in the present status of the proceeding.

RESPECTFULLY SUBMITTED,

By _____
Thomas H. Watkins
Suite 200, Plaza Building
Jackson, Mississippi

John C. Satterfield
340 First National Bank Building
Jackson, Mississippi

SPECIAL ASSISTANT ATTORNEYS GENERAL
OF THE STATE OF MISSISSIPPI

Garner W. Green, Sr., Esq.
Electric Building
Jackson, Mississippi

OF COUNSEL

Sep. 26 1962

Edward W. Wadsworth
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

JAMES H. MEREDITH,
Appellant,

v.

CHARLES DICKSON FAIR, et al.,
Appellees

NO. 19475

UNITED STATES OF AMERICA,

Amicus Curiae and
Petitioner,

v.

STATE OF MISSISSIPPI, et al.,
Defendants.

APPLICATION BY THE UNITED STATES,
AMICUS CURIAE, FOR AN ORDER REQUIRING
PAUL B. JOHNSON, JR., TO SHOW CAUSE
WHY HE SHOULD NOT BE HELD IN CIVIL
CONTEMPT

The United States, amicus curiae herein, applies to the Court for an order requiring Paul B. Johnson, Jr. to show cause, if any he has, why he should not be held in civil contempt of the temporary restraining order issued by this Court September 25, 1962, and as reason therefor states:

1. Paul B. Johnson, Jr. is Lieutenant Governor of the State of Mississippi and, as such, is an officer and agent of the State of Mississippi.

2. On July 28, 1962, this Court entered its order in the case of James Howard Meredith, et al., v. Charles Dickson Fair, et al. No. 19,475, requiring the defendant officials of the University of Mississippi and the defendant members of the Board of Trustees of

Institutions of Higher Learning of the State of Mississippi, to register and admit James H. Meredith as a student in the University of Mississippi.

3. On September 25, 1962, this Court, upon application of the United States, issued its temporary restraining order in this action restraining the State of Mississippi, its agents, employees, officers and successors, together with all persons in active concert or participation with them, from interfering with or obstructing by any means or in any manner the enjoyment of rights or the performance of obligations under this Court's order of July 28, 1962 and the order of the United States District Court for the Southern District of Mississippi entered September 13, 1962, both of which orders require the enrollment of James H. Meredith at the University of Mississippi.

4. On September 26, 1962, Paul B. Johnson, Jr., acting as an officer and agent of the State of Mississippi and in active participation and concert with Ross R. Barnett, wilfully prevented James H. Meredith from entering the campus of the University of Mississippi in Oxford, Mississippi, and did thereby prevent him from enrolling in and attending the University.

5. At all times mentioned in the preceding paragraph, Paul B. Johnson, Jr. had actual and constructive notice of the terms of the temporary restraining order issued by this Court on September 25, 1962 and his conduct was and is in violation of that order.

WHEREFORE, the United States asks that this Court enter an order requiring Paul B. Johnson, Jr. to appear before this Court at a time and place to be fixed by the Court to show cause, if any he has, why he should not be held in civil contempt of

this Court's temporary restraining order of September 25, 1962.

UNITED STATES OF AMERICA,
Amicus Curiae,

By:

/s/ Burke Marshall
BURKE MARSHALL
Assistant Attorney General

/s/ St. John Barrett
ST. JOHN BARRETT
Attorney, Department of Justice

VERIFICATION

St. John Barrett, being first duly sworn, says that he is an attorney with the Department of Justice, that he has read the statements of fact contained in the foregoing application for an order to show cause and that he is informed and believes them to be true.

/s/ ST. JOHN BARRETT

Sworn to and subscribed before
me this 26th day of September, 1962.

NOTARY PUBLIC

My Commission expires at my death.

Sept. 26 1962

IN THE UNITED STATES COURT OF APPEALS Edward W. Wadsworth
FOR THE FIFTH CIRCUIT Clerk

JAMES H. MEREDITH,

Appellant,

v.

CHARLES DICKSON FAIR, et al.,

Appellees.

NO. 19475

UNITED STATES OF AMERICA,
Amicus Curiae and Petitioner,

v.

STATE OF MISSISSIPPI, et al.,

Defendants.

ORDER REQUIRING PAUL B. JOHNSON, JR.
TO SHOW CAUSE WHY HE SHOULD NOT BE
HELD IN CIVIL CONTEMPT

This Court having entered an order on July 28, 1962, and the District Court for the Southern District of Mississippi having entered an order pursuant to the mandate of this Court on September 13, 1962, requiring officials of the University of Mississippi and the members of the Board of Trustees of Institutions of Higher Learning of the State of Mississippi to register and admit James H. Meredith as a student in the University of Mississippi, and

This Court having entered a temporary restraining order on September 25, 1962, restraining the State of Mississippi, Ross R. Barnett, their agents, employees, officers and successors, together with all persons in active concert and participation with them, from interfering with or obstructing by any means or in any manner the performance of obligations or the enjoyment of rights under this Court's order of July 28, 1962 and the order of the United States District Court for the Southern District of Mississippi of September 13, 1962, and

It appearing from the verified application of the United States, amicus curiae herein, that Paul B. Johnson, Jr. is an officer and agent of the State of Mississippi; that on September 26, 1962, after receiving actual and constructive notice of the terms of this Court's temporary restraining order of September 25, 1962, and while acting in concert and active participation with Ross R. Barnett, he prevented James H. Meredith from entering the campus of the University of Mississippi in Oxford, Mississippi, and did thereby prevent James H. Meredith from enrolling in and attending the University, all for the purpose of interfering with and obstructing James H. Meredith in the enjoyment of rights, and preventing and obstructing the officials of the University and the Board of Trustees of Institutions of Higher Learning from performing obligations under this Court's order of July 28, 1962, and the order of the United States District Court for the Southern District of Mississippi of September 13, 1962,

IT IS ORDERED that Paul B. Johnson, Jr. appear personally before this Court on September 29, 1962, at 10 o'clock a.m. in the court room of the United States Court of Appeals for the Fifth Circuit at 600 Camp Street, New Orleans, Louisiana, to show cause, if any he has, why he should not be held in civil contempt of the temporary restraining order issued by this Court on September 25, 1962.

The Marshal is directed to serve a copy of this order upon Paul B. Johnson, Jr. forthwith.

Signed this September 26, 1962, at 5 o'clock p.m.

/s/ Richard T. Rives
CIRCUIT JUDGE

/s/ John R. Brown
CIRCUIT JUDGE

/s/ John Minor Wisdom
CIRCUIT JUDGE

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

JAMES H. MEREDITH,

Appellant,

v.

CHARLES DICKSON FAIR, et al.,

Appellees.

UNITED STATES OF AMERICA,
Amicus Curiae and Petitioner,

v.

STATE OF MISSISSIPPI, et al.,

Defendants.

NO. 19475

APPLICATION OF THE STATE
OF MISSISSIPPI FOR AN
ORDER DESIGNATING IT AS
AMICUS CURIAE

The State of Mississippi respectfully applies to this Honorable Court for an order designating and authorizing it to appear and participate in this action as Amicus Curiae in this Court, for the purpose of protecting the sovereign capacity of the State of Mississippi, which is affected by this proceeding, and for the purpose of aiding this Court in arriving at a proper conclusion in this matter and, particularly, for the purpose of filing in this cause and presenting to this Honorable Court the motion attached hereto as Exhibit "A", which is made a part hereof by reference as fully as though copied at length herein.

Respectfully submitted,

*Attachment not permitted to be filed
cause amicus application denied
To be under TRO filed separately
By State of Miss*

Garner W. Green, Sr., Eng.
Electric Building
Jackson, Mississippi

By Thomas B. Watkins
Suite 300, Plaza Building
Jackson, Mississippi

John C. [unclear]
Bank Building
Jackson, Mississippi

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

JAMES H. MEREDITH,

Appellant,

v.

CHARLES DICKSON FAIR, et al.,

Appellees.

UNITED STATES OF AMERICA,
Amicus Curiae and Petitioner,

v.

STATE OF MISSISSIPPI, et al.,

Defendants.

NO. 19475

NOTICE TO DISSOLVE TEMPORARY
RESTRAINING ORDER AND STAY OR
DISMISS CONTEMPT PROCEEDINGS.

CORRE NOW the State of Mississippi and moves this Honorable Court to dissolve the temporary restraining order issued against it without notice on the 25th day of September, 1962, and to dismiss the contempt proceedings instituted against Ross R. Barnett as Governor of the said State of Mississippi on the 25th day of September, 1962, and, in support of this motion, would show unto this Honorable Court:

1.

That the temporary restraining order issued without notice, the motion for preliminary injunction and the said citation of the Governor of this sovereign state for contempt are ancillary and collateral proceedings and this state, as a defendant, has a full standing in this case to file and present this motion.

2.

The sovereign State of Mississippi is the only real party in interest in this cause. The Governor, the Lieutenant Governor, and all other officials of this State whose acts, attitudes and activities are alleged to give rise to any right or cause of action or proceeding herein have been exclusively done and taken for and on behalf of the sovereign State of Mississippi alone and not pursuant to or in furtherance of any individual or personal interest of any such actor or participant; the said Governor being charged with the duty, by the Constitution of the State of Mississippi and by its Statutes, with the discharge of the functions of the chief executive officer of said State and being thereunder required to do and perform such acts and actions as he deemed necessary to secure the best interests of the people of the State of Mississippi and the peace, dignity, and good order of said citizens, the Lieutenant Governor and other officials acting herein having acted pursuant to the directions and authority of the Governor in the discharge of his said official duties.

3.

This Honorable Court of Appeals lacks original jurisdiction of this action against the sovereign State of Mississippi, said jurisdiction having been vested by the Constitution of the United States of America in the Supreme Court of said United States and no act of Congress having ever been enacted vesting or purporting to vest such original jurisdiction in this Honorable Court.

4.

This Honorable Court of Appeals lacks jurisdiction to hear or determine or proceed with this cause any further for the reason that since the 13th day of September, 1962, the jurisdiction of this action has been fully vested in the United States District Court for the Southern District of Mississippi, subject only to its possible withdrawal by the Supreme Court of the United States of America, should said Supreme Court grant a pending Petition for Writ of Certiorari to this Honorable Court of Appeals.

5.

This Honorable Court lacks jurisdiction at this particular time to proceed with this cause for the reason that the stay orders entered by Honorable Ben F. Cameron on July 18, 1962, and subsequently, have stayed under the terms and provisions of Section 2101 (f) the execution and enforcement of the injunctive orders of this Court upon which these proceedings are based, and said stay orders are presently valid and outstanding and in full force and effect, because the Honorable Supreme Court of the United States has not yet ruled upon the pending Petition for Certiorari in this case.

6.

This Honorable Court of Appeals has no power to add parties defendant to an existing proceeding for the first time at the appellate level and especially at a time when this Court's mandate has been finally returned to the United States District Court for the Southern District of Mississippi for

execution and enforcement by that Court.

7.

No Court other than the Supreme Court of the United States has original jurisdiction of a suit against the sovereign State of Mississippi at any point or place other than at the seat of government of said sovereign State, to-wit: Jackson, Mississippi, under the terms and provisions of Section 4387, Mississippi Code of 1942.

8.

Through news media, the attorneys appearing herein have been advised that a citation for contempt has been issued by this Court against Honorable Ross R. Barnett requiring him to appear before this Court on the morning of Friday, September 28, 1962, at New Orleans, Louisiana, but no valid service of said citation has ever been made upon said official ^{of} the said real party in interest, the State of Mississippi, and this Court therefore lacks jurisdiction to hear, determine or proceed with said citation for contempt until due and proper service of process has been had.

9.

This Honorable Court of Appeals should not proceed with the hearing of any part of this matter on the morning of September 28, 1962, at New Orleans, Louisiana, for the reason that the distance and location of such place is over 50 miles from the nearest part of the State of Mississippi and more than 200 miles from the seat of government of said State and that notice of the holding of this hearing was not received by counsel

appearing herein until the morning of September 26, 1962. Said length of notice and distance of the point of hearing are so short in time and great in distance as to constitute the holding of said hearing at the time and place scheduled a violation of the rights of the parties herein under the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

10.

This Honorable Court of Appeals should transfer this cause to some point or place in the Southern District of Mississippi for the reason that territorial venue of this cause lies in said District under the plain meaning and intent of Sections 1391 (b) and 1392 (a) of Title 28 of the United States Code.

11.

For the convenience of the parties and witnesses and in the interests of justice, this Honorable Court of Appeals should change the location of the place of hearing of this action to the United States Court Room in Jackson, Mississippi or, in the alternative, should transfer this cause to the Jackson Division of the United States District Court for the Southern District of Mississippi, where the said Governor of this State can and will appear as a witness in this cause, despite his executive duties and functions connected with an extraordinary session of the Legislature of the State of Mississippi now in progress in the City of Jackson, Mississippi.

These proceedings in the name of the United States are being conducted and prosecuted at a time when the Appellant in this Court is represented by counsel who have filed with this Court identical proceedings seeking the same relief and against the same defendants and, the proceeding being one solely in civil contempt, the said United States as Amicus Curiae has no standing whatsoever, not being a party to this litigation to prosecute or proceed with this matter in the present status of the proceeding.

RESPECTFULLY SUBMITTED,

By

Thomas M. Watkins
Suite 800, Plaza Building
Jackson, Mississippi

John C. Satterfield
340 First National Bank Building
Jackson, Mississippi

SPECIAL ASSISTANT ATTORNEYS GENERAL
OF THE STATE OF MISSISSIPPI

Garner W. Green, Sr., Esq.
Electric Building
Jackson, Mississippi

OF COUNSEL

and considered the legal issues involved, now renders its Findings of Fact and Conclusions of Law and Judgment as follows:

FINDINGS OF FACT

1. Since this Court entered its order of July 28, 1962, and the District Court for the Southern District of Mississippi entered its order on September 13, 1962, requiring the admission of James H. Meredith to the University of Mississippi, Ross E. Barnett, as Governor of the State of Mississippi, has issued a series of proclamations calling upon all officials of the state to prevent and obstruct the carrying out of the Court's orders with respect to the admission of James H. Meredith to the University. Two of these proclamations were issued by Ross E. Barnett on September 24 and September 25, 1962.

2. On September 25, 1962, this Court entered its temporary restraining orders restraining Ross E. Barnett from interfering with or obstructing in any manner or by any means the enjoyment of rights or the performance of obligations under this Court's order of July 28, 1962 and the order of the District Court of September 13, 1962.

3. At approximately 4:30 P. M. on September 25, 1962, Ross E. Barnett, having full knowledge of the existence and terms of this Court's temporary restraining orders, went to the office of the Board of Trustees of Institutions of Higher Learning in Jackson, Mississippi at a time when James H. Meredith was due to appear at the office and be enrolled as a student in the University of Mississippi, pursuant to the order of this Court. When James H. Meredith arrived at the office and sought to enter for the purpose of enrolling, Ross E. Barnett deliberately prevented him from enrolling and told him that his application for enrollment was denied by Ross E. Barnett.

4. On September 26, 1962, James H. Meredith sought to enter the campus of the University of Mississippi in Oxford,

Mississippi. He was prevented from entering by Paul R. Johnson, Jr., Lieutenant Governor of the State of Mississippi, acting pursuant to the instructions and under the authorization of Ross E. Barnett.

5. The conduct of Ross E. Barnett in preventing James H. Meredith from enrolling as a student in the University of Mississippi has been with the deliberate and announced purpose of preventing compliance with the orders of this and other federal courts.

REASONS OF LAW

1. This Court has jurisdiction of the person of Ross E. Barnett.

2. Ross E. Barnett is in contempt of the temporary restraining orders entered by this Court on September 23, 1962.

JUDGMENT OF CIVIL CONTEMPT

Upon the foregoing findings of fact and conclusions of law:

IT IS ORDERED, ADJUDGED AND DECREED THAT:

Rees E. Barnett is in civil contempt of the temporary restraining orders of this Court entered September 25, 1962 that such contempt is continuing; and that Rees E. Barnett shall be committed to and remain in the custody of the Attorney General of the United States and shall pay a fine to the United States of \$10,000. per day unless on or before Tuesday, October 2nd, 1962 at 11:00 a.m. he shows to this Court that he is fully complying with the terms of the restraining orders, and that he has notified all law enforcement officers and all other officers under his jurisdiction or command:

(a) To cease forthwith all resistance to and interference with the orders of this Court and the District Court for the Southern District of Mississippi;

(b) To maintain law and order at and around the University and to cooperate with the officers and agents of this Court and of the United States in the execution of the orders of this Court and of the District Court for the Southern District of Mississippi to the end that James H. Meredith be permitted to register and remain as a student at the University of Mississippi under the same conditions as apply to all other students.

Nothing herein shall prevent a later assertion of a charge of criminal contempt against Defendant.

Jurisdiction is hereby reserved for such other
and further orders as may be appropriate.

Judges Stone, Curtis and Bell dissent from that
portion of the judgment imposing a fine upon the Defendant.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

JAMES H. MURPHY,

Appellant,

v.

CHARLES DEWITT FAIR, et al.,

Appellees.

NO. 19475

UNITED STATES OF AMERICA,
Amicus Curiae and Petitioner,

v.

STATE OF MISSISSIPPI, et al.,

Defendants.



The State of Mississippi respectfully applies to this Honorable Court for an order designating and authorizing it to appear and participate in this action as Amicus Curiae in this Court, for the purpose of protecting the sovereign capacity of the State of Mississippi, which is affected by this proceeding, and for the purpose of aiding this Court in arriving at a proper conclusion in this matter and, particularly, for the purpose of filing in this cause and presenting to this Honorable Court the motion attached hereto as Exhibit "A", which is made a part hereof by reference as fully as though copied at length herein.

Respectfully submitted,

*Attachment not permitted
to be filed because amicus
application denied.*

By _____
James H. Murphy
State Bar Building
Jackson, Mississippi

Charles D. ...
State Bar Building
Jackson, Mississippi

_____ State Bar Building
Jackson, Mississippi

OF COURSE

_____ OFFICE OF THE CLERK OF
THE COURT OF APPEALS

Final Summary

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

JAMES L. HENNING,

Appellant,

v.

GERRIE RICHSON FAIR, et al.,

Appellees.

**UNITED STATES OF AMERICA,
Amicus Curiae and Petitioner,**

v.

STATE OF MISSISSIPPI, et al.,

Defendants.

NO. 12475

**NOTICE TO DISCLOSE DOCUMENTS
REQUIREMENTS UNDER RULE 6(e) OF
FEDERAL RULES OF APPELLATE PROCEDURE**

THIS NOW the State of Mississippi and moves this Honorable Court to dissolve the temporary restraining order issued against it without notice on the 15th day of September, 1962, and to dismiss the contempt proceedings instituted against Paul B. Johnson as Lieutenant Governor of the said State of Mississippi on or about the 26th day of September, 1962, and, in support of this motion, would show unto this Honorable Court:

1. That the temporary restraining order issued without notice, the motion for preliminary injunction and the said citation of the Lieutenant Governor of this sovereign state for contempt are auxiliary and concurrent proceedings and this state, as a defendant, has a full standing in this state to file and present this motion.

2. The sovereign State of Mississippi is the only real party in interest in this case. The Governor, the Lieutenant Governor, and all other officials of this State have no, standing and authority

K

X

are alleged to give rise to any right or cause of action or proceeding herein have been exclusively done and taken for and on behalf of the sovereign State of Mississippi alone and not pursuant to or in furtherance of any individual or personal interest of any such actor or participant; the said ^{Lieutenant} Governor being charged with the duty, by the Constitution of the State of Mississippi and by its Statutes, with the discharge of the functions of ^{his office as Lieutenant Governor of} ~~the State of Mississippi~~ of said State and being thereunder required to do and perform such acts and actions as he deemed necessary to secure the best interests of the people of the State of Mississippi and the peace, dignity, and good order of said citizens, the Lieutenant Governor and other officials acting herein having acted pursuant to the directions and authority of the Governor in the discharge of his said official duties.

3.

This Honorable Court of Appeals lacks original jurisdiction of this action against the sovereign State of Mississippi, said jurisdiction having been vested by the Constitution of the United States of America in the Supreme Court of said United States and no act of Congress having ever been enacted vesting or purporting to vest such original jurisdiction in this Honorable Court.

4.

This Honorable Court of Appeals lacks jurisdiction to hear or determine or proceed with this cause any further for the reason that since the 13th day of September, 1962, the jurisdiction of this action has been fully vested in the United States District Court for the Southern District of Mississippi, subject only to its possible withdrawal by the Supreme Court of the United States of America, should said Supreme Court grant a pending Petition for Writ of Certiorari to this Honorable Court of Appeals.

5.

This Honorable Court lacks jurisdiction at this particular time to proceed with this cause for the reason that the stay orders

have stayed under the terms and provisions of Section 2101 (f) the execution and enforcement of the injunctive orders of this Court upon which these proceedings are based, and said stay orders are presently valid and outstanding and in full force and effect, because the Honorable Supreme Court of the United States has not yet ruled upon the pending Petition for Certiorari in this cause.

6.

This Honorable Court of Appeals has no power to add parties defendant to an existing proceeding for the first time at the appellate level and especially at a time when this Court's mandate has been finally returned to the United States District Court for the Southern District of Mississippi for execution and enforcement by that Court.

7.

No Court other than the Supreme Court of the United States has original jurisdiction of a suit against the sovereign State of Mississippi at any point or place other than at the seat of government of said sovereign State, to-wit: Jackson, Mississippi, under the terms and provisions of Section 4387, Mississippi Code of 1942.

8.

Through news media, the attorneys appearing herein have been advised that a citation for contempt has been issued by this Court against Honorable Paul E. Johnson requiring him to appear before this Court on the morning of Saturday, September 29, 1962, at New Orleans, Louisiana, but no valid service of said citation has ever been made upon said official or the said real party in interest, the State of Mississippi, and this Court therefore lacks jurisdiction to hear, determine or proceed with said citation for contempt until due and proper service of process has been had.

9.

This Honorable Court of Appeals should not proceed with the hearing of any part of this matter on the morning of September 29, 1962 at New Orleans, Louisiana, for the reason that the citation and jurisdiction

of such place is over 50 miles from the nearest part of the State of Mississippi and more than 200 miles from the seat of government of said State and that notice of the holding of this hearing was not received by counsel appearing herein until on or about the morning of September 27, 1962. Said length of notice and distance of the point of hearing are so short in time and great in distance as to constitute the holding of said hearing at the time and place scheduled a violation of the rights of the parties herein under the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

10.

This Honorable Court of Appeals should transfer this cause to some point or place in the Southern District of Mississippi for the reason that territorial venue of this cause lies in said District under the plain meaning and intent of Sections 1391 (b) and 1392 (a) of Title 28 of the United States Code.

11.

For the convenience of the parties and witnesses and in the interests of justice, this Honorable Court of Appeals should change the location of the place of hearing of this action to the United States Court Room in Jackson, Mississippi or, in the alternative, should transfer this cause to the Jackson Division of the United States District Court for the Southern District of Mississippi, where the said Lieutenant Governor of this State can and will appear as a witness in this cause, despite his sensitive duties and functions connected with an extraordinary session of the Legislature of the State of Mississippi now in progress in the City of Jackson, Mississippi.

12.

These proceedings in the name of the United States are being conducted and prosecuted at a time when the Appellant in this Court is represented by counsel who have filed with this Court identical proceedings seeking the same relief and against the same defendants and, the

proceeding being one solely in civil contempt, the said United States
as Amicus Curiae has no standing whatsoever, not being a party to this
litigation to prosecute or proceed with this matter in the present
status of the proceeding.

INTERVENING PARTIES,

By _____
WALTER L. WALKER
Suite 500, First Building
Jackson, Mississippi

By _____
JOHN J. WALKER
340 First National Bank Building
Jackson, Mississippi

**SPECIAL ASSISTANT ATTORNEY GENERAL
OF THE STATE OF MISSISSIPPI**

Garner W. Green, Sr., Esq.
Electric Building
Jackson, Mississippi

OF COUNSEL

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 19,475

JAMES H. HEREDITH,

Appellant,

vs.

CHARLES DICKSON FAIR, et al.,

Appellees.

**UNITED STATES OF AMERICA,
Amicus Curiae and Petitioner,**

vs.

STATE OF MISSISSIPPI, et al.,

Defendants.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND
JUDGMENT OF CIVIL CONTEMPT AGAINST
PAUL B. JOHNSON, JR.**

Before RIVES, BROWN and WISDOM, Circuit Judges.

This Court having entered an order on September 26, 1962, requiring Paul B. Johnson, Jr. to appear before this Court today at 10:00 A. M. to show cause, if any he has, why he should not be held in civil contempt of the temporary restraining order entered in this action upon application of the United States on September 25, 1962, and Paul B. Johnson, Jr., having been given notice of the order to show cause and it having been regularly called on the calendar for hearing at 10:00 A. M. this day, and Paul B. Johnson, Jr. having failed to appear or respond, in person or by counsel, and having failed to deny the factual statements contained in the verified application of the

and the order of the District Court of November 12, 1962.

United States, and

The Court having heard and received evidence on behalf on the United States and having deliberated and considered the legal issues involved, now renders its findings of fact, conclusions of law and judgment as follows:

FINDINGS OF FACT

1. On September 25, 1962 this Court entered its temporary restraining order upon application of the United States, amicus curiae herein, restraining the State of Mississippi, Ross R. Barnett, their agents, employees, officers and successors, together with all persons in active concert or participation with them, from interfering with or obstructing in any manner or by any means the enjoyment of rights or the performance of obligations under this Court's order of July 28, 1962 and the order of the District Court of September 13, 1962.

2. The temporary restraining order of September 25, 1962 was served upon the State of Mississippi through its designated agent Joe T. Patterson, the Attorney General of the State of Mississippi, on September 25, 1962 and was served on Ross R. Barnett on September 25, 1962.

3. On September 26, 1962 Paul B. Johnson, Jr., acting as an officer and agent of the State of Mississippi and as an agent of and in active concert and participation with Ross R. Barnett, prevented James H. Meredith from entering the campus of the University of Mississippi at Oxford, Mississippi at a time when James H. Meredith was seeking to so enter for the purpose of enrolling as a student in the University pursuant to the orders of this Court of July 28, 1962 and the order of the District Court of September 13, 1962.

The conduct of Paul B. Johnson, Jr., in preventing James H. Meredith from entering the campus of the University of Mississippi and from enrolling as a student in the University was with the deliberate and announced purpose of preventing compliance with the orders of this and other federal courts.

CONCLUSIONS OF LAW

1. This Court has jurisdiction of the person of Paul B. Johnson, Jr.
2. Paul B. Johnson, Jr. is in contempt of the temporary restraining order of September 25, 1962.

JUDGMENT OF CIVIL CONTEMPT

Upon the foregoing findings of fact and conclusions of law,

IT IS ORDERED, ADJUDGED AND DECREED that:

Paul B. Johnson, Jr. is in civil contempt of the temporary restraining order of this Court entered on September 25, 1962 upon application of the United States, amicus curiae; that such contempt is continuing, and that Paul B. Johnson, Jr. shall pay a fine to the United States of \$5,000.00 per day, unless on or before October 2, 1962 at 11:00 a. m. he shows to this Court that from and after the time of the issuance of this order he has been, and is, in full compliance with the terms of the restraining order, that he intends to do so in the future and that he will, during any periods of time that he is acting for or on behalf of, or in the name, place or stead of, or with the authority or power of, or as Governor of the State of Mississippi, notify all law enforcement officers and all other officers under his jurisdiction or command:

(a) To cease forthwith all resistance to and interference with the orders of this Court and the District Court for the Southern District of Mississippi;

(b) To maintain law and order at and around the University and to cooperate with the officers and agents of this Court and of the United States in the execution of the orders of this Court and of the District Court for the Southern District of Mississippi to the end that James H. Meredith shall be permitted to register and remain as a student at the University of Mississippi under the same conditions as apply to all other students.

In the event that Paul B. Johnson, Jr. while acting for, or on behalf of, or in the name, place or stead of, or with the authority or power of, or as Governor of the State of Mississippi fails at any time to take the steps set forth in sub-paragraphs (a) and (b) he shall, on a finding of such fact by the Court, be committed to the custody of the Attorney General and shall pay a fine to the United States of \$10,000.00 per day, such daily fine and imprisonment to continue during such period as he fails to purge himself of such contempt.

Nothing herein shall prevent a later assertion of a charge of criminal contempt against Respondent.

Jurisdiction is hereby reserved for such other and further orders as may be appropriate.

September 29, 1962