

SEP 25 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.

UNITED STATES OF AMERICA,  
Amicus Curiae and Petitioner,

v.

NO. 19475

STATE OF MISSISSIPPI; ROSS R. BARNETT,  
Governor of the State of Mississippi;  
JOE T. PATTERSON, Attorney General  
of the State of Mississippi;  
T. B. BIRDSONG, Commissioner of Public  
Safety of the State of Mississippi;  
PAUL G. ALEXANDER, District Attorney  
of Hinds County, and WILLIAM R. LAMB,  
District Attorney of Lafayette County,  
individually and as representatives of  
a class consisting of the District  
Attorneys all of counties and districts  
in Mississippi; J. ROBERT GILFOY, Sheriff  
of Hinds County, and J. W. FORD, Sheriff  
of Lafayette County, individually and as  
representatives of a class consisting of  
the sheriffs of all counties in Mississippi;  
WILLIAM D. RAYFIELD, Chief of Police of  
the City of Jackson, and JAMES D. JONES,  
Chief of Police of the City of Oxford,  
individually and as representatives of a  
class consisting of the chiefs of police  
of all cities in Mississippi; WALTON  
SMITH, Constable of the City of Oxford,  
individually and as a representative of  
a class consisting of all city constables  
and town marshals in the State of Mississippi;  
and A. L. MEADOR, SR., individually and as  
representative of a class consisting of  
the plaintiffs in the case of A. L. Meador,  
Sr., et al. v. James Meredith, et al.,  
No. 19355 in the Chancery Court of Jones  
County, Mississippi,

Defendants.

PETITION OF THE UNITED STATES, AMICUS CURIAE, FOR AN INJUNCTION.

1. This petition is filed by the United States as amicus curiae pursuant to the order of this court entered in this action designating it as such and authorizing it to initiate such proceedings as might be appropriate in order to maintain and preserve the due administration of justice and the integrity of the judicial processes of the United States.

2. The State of Mississippi is a state of the United States. Its principal legislative and executive offices are located in Jackson, Mississippi.

3. Ross R. Barnett is Governor of the State of Mississippi and, as such, is the chief administrative officer of the State. He resides in Jackson, Mississippi.

4. Joe T. Patterson is Attorney General of the State of Mississippi and, as such, is the chief legal officer of the State. He resides in Jackson, Mississippi.

5. T. B. Birdsong is Commissioner of Public Safety of the State of Mississippi and, as such, is director of the Mississippi Highway Safety Patrol and has law enforcement authority throughout the State of Mississippi. He resides in Jackson, Mississippi.

6. Paul G. Alexander is District Attorney for Hinds County, Mississippi and, as such, is authorized to institute and conduct criminal prosecutions for violations of the laws of Mississippi occurring within Hinds County. He resides in Hinds County, Jackson, Mississippi.

7. William R. Lamb is District Attorney for Lafayette County, Mississippi, and, as such, is authorized to institute and conduct prosecutions for violations of the laws of Mississippi occurring within Lafayette County. He resides in Oxford, Mississippi.

8. Paul G. Alexander and William R. Lamb are members of a class consisting of the District Attorneys of all counties and districts in Mississippi and each is sued herein individually and as a representative of all members of the class. The members of the class are so numerous as to make it impracticable to bring them all before the Court and there are common questions of law and fact affecting the rights sought to be enforced by the petitioner against the members of the class and a common relief is sought as to all. The presence of Paul G. Alexander and William R. Lamb as parties defendant will fairly insure the adequate representation of all members of the class.

9. J. Robert Gilfoy is Sheriff of Hinds County, Mississippi and, as such, is responsible for enforcing the laws of Mississippi within Hinds County and is authorized to arrest persons who violate those laws. He resides in Hinds County.

10. J. W. Ford is the Sheriff of Lafayette County, Mississippi and, as such, is responsible for enforcing the laws of Mississippi within Lafayette County and is authorized to arrest persons who violate those laws. He resides in Hinds County.

11. J. Robert Gilfoy and J. W. Ford are members of a class consisting of all sheriffs in the State of Mississippi. The members of this class are so numerous as to make it impracticable to bring them all before the Court and there are common questions of law and fact affecting the rights sought to be enforced by the petitioner against the members of the class and a common relief is

sought as to all. The presence of J. Robert Gilfoxy and J. W. Ford as parties defendant will fairly insure the adequate representation of all members of the class.

12. William D. Rayfield is Chief of Police of the City of Jackson, Mississippi and, as such, is responsible for enforcing the laws of Mississippi within the City of Jackson and for arresting those who violate the laws. He resides in Jackson.

13. James D. Jones is the Chief of Police of the City of Oxford, Mississippi and, as such, is responsible for enforcing the laws of Mississippi within the City of Oxford and for arresting those who violate the laws. He resides in Oxford.

14. William D. Rayfield and James D. Jones are members of a class consisting of all chiefs of police in Mississippi, and each is sued herein individually and as a representative of all members of that class. The members of the class are so numerous as to make it impracticable to bring them all before the Court and there are common questions of law and fact affecting the rights sought to be enforced by the petitioner against the members of the class and a common relief is sought as to all. The presence of William D. Rayfield and James D. Jones as parties defendant will fairly insure the adequate representation of all members of the class.

15. Walton Smith is Constable of the City of Oxford, Mississippi and, as such, has authority to enforce the laws of Mississippi within the City of Oxford and to arrest those who violate the laws. He resides in Oxford.

He is a member of a class consisting of all city constables and town marshals in the State of Mississippi and he is sued herein individually and as a representative of all members of that class. The members of the class are so numerous as to make it impracticable to bring them all before the Court and there are common questions of law and fact affecting the rights sought to be enforced by the petitioner against the members of the class and a common relief is sought as to all. The presence of Walton Smith as a party defendant will fairly insure the adequate representation of all members of the class.

16. A. L. Meador, Sr., is a resident of Harrison County, Mississippi. He is a member of a class consisting of the forty-six plaintiffs in the case of A. L. Meador, Sr., et al. v. James Meredith, et al., No. 19365, filed in the Chancery Court of the Second Judicial District of Jones County, Mississippi, on September 19, 1962. The members of the class are so numerous as to make it impracticable to bring them all before the Court and there are common questions of law and fact affecting the rights sought to be enforced by the petitioner against the members of the class and a common relief is sought as to all. The presence of A. L. Meador, Sr. as party defendant will fairly insure the adequate representation of all members of the class.

17. On February 29, 1956, the Mississippi Legislature adopted Senate Concurrent Resolution No. 125 declaring that the decisions of the Supreme Court of the United States of May 17, 1954 and May 31, 1955 in the case of Brown v. Board of Education, 347 U.S. 483 and 349 U.S. 294, are

unconstitutional and of no lawful effect within the territorial limits of the State of Mississippi.

18. Section 4065.3 of the Mississippi Code (Title 17, Chapter 10) provides that the entire executive branch of the government of the State of Mississippi and all persons within the executive branch of the state and local governments in the State of Mississippi shall, in their official capacity, give full force and effect to Senate Concurrent Resolution No. 125, and directs that they shall "prohibit, by any lawful, peaceful and constitutional means, the implementation of or the compliance with the integration decisions of the United States Supreme Court of May 17, 1954 . . . and of May 31, 1955 . . . , and . . . prohibit by any lawful, peaceful, and constitutional means, the causing of a mixing or integration of the white and Negro races in public schools . . . by any branch of the federal government . . . ."

19. Each of the defendants described in paragraphs 3 through 15 is a member of the executive branch of the State or a local government of Mississippi.

20. On February 5, 1962, James H. Meredith, plaintiff in this action in the court below, appealed to this Court from a judgment rendered by the United States District Court for the Southern District of Mississippi denying him a permanent injunction against officials of the University of Mississippi and of the Board of Trustees of the State Institutions of Higher Learning of Mississippi.

21. On May 28, 1962, while this action was pending

before this Court on appeal, Paul G. Alexander, as District Attorney for Hinds County, instituted a criminal proceeding in the Justice of the Peace Court for Hinds County, Mississippi, Justice District No. 5, charging James H. Meredith with having knowingly procured his registration as a voter in Hinds County by means of a false statement. On June 12, 1962, this Court, in aid of its appellate jurisdiction, enjoined Paul G. Alexander from proceeding with the criminal action then pending in the Justice of the Peace Court for Hinds County.

22. On June 25, 1962, this Court reversed the judgment of the United States District Court for the Southern District of Mississippi in this action and directed the District Court to enter judgment for the plaintiff as prayed for in his complaint.

23. On July 28, 1962, this Court, in aid of its jurisdiction and in order to preserve the effectiveness of its judgment, issued an injunction requiring the defendant University officials and the defendant members of the Board of Trustees of Institutions of Higher Learning of the State of Mississippi to admit James H. Meredith as a student to the University. This Court provided that its order should remain in effect until such time as the District Court had issued and enforced the orders required by this Court and until such time as there has been full and actual compliance in good faith with the orders of this Court and of the District Court.

24. On September 13, 1962 the District Court for the Southern District of Mississippi entered an order, as

required by the mandate issued by this Court, requiring the defendant officials of the University of Mississippi and the defendant members of the Board of Trustees of Institutions of Higher Learning of Mississippi to enroll James H. Meredith as a student in the University.

25. On the evening of September 13, 1962, Ross R. Barnett, Governor of the State of Mississippi, appeared on a state-wide radio and television broadcast and declared that the State of Mississippi had invoked the doctrine of interposition as set forth in Senate Concurrent Resolution No. 125 to prevent the racial desegregation of any schools. He stated:

Therefore, in obedience to legislative and constitutional sanction, I interpose the rights of the sovereign state of Mississippi to enforce its laws and to regulate its internal affairs without interference on the part of the Federal Government or its officers, and in my official capacity as Governor of the State of Mississippi, I hereby make this proclamation: Whereas, the United States of America consists of fifty sovereign states bound together basically for their common welfare, and whereas, the Constitution of the United States of America provides that each state is sovereign with respect to certain rights and powers, and whereas, pursuant to the Tenth Amendment of the Constitution of the United States, the powers not specifically delegated to the Federal Government are reserved to the several states, and whereas, the operation of the public school system is one of the powers which was not delegated to the Federal Government, but which was reserved to the respective states pursuant to the terms of the Tenth Amendment, and whereas, we are now face to face with the direct usurpation of this power by the Federal Government through the illegal use of judicial decree: Now, therefore, I, Ross R. Barnett as Governor of the Sovereign State of Mississippi, by the authority invested in me, do hereby proclaim that the operation of the public schools, the universities and colleges of the State of Mississippi is vested in the duly elected and appointed officials of the state, and I hereby direct each of said officials to uphold and enforce the laws duly and legally enacted by the Legislature of the State of Mississippi, regardless of this unwarranted and illegal and arbitrary usurpation of power, and to interpose the state sovereignty and themselves between the people of the state and any body-politic seeking to usurp such power.



26. On September 14, 1962, Paul G. Alexander instituted a prosecution in the Justice of the Peace Court for Hinds County, Mississippi, charging James E. Meredith with the crime of perjury, a felony, in violation of Section 2315 of the Mississippi Code. This prosecution is based upon the same alleged facts as was the prosecution of James E. Meredith instituted by Paul G. Alexander on May 28, 1962 alleged in paragraph 21.

27. From at least September 15, 1962 it was a matter of general public knowledge in the State of Mississippi that the University of Mississippi would be registering students for the 1962 fall semester at the campus in Oxford, Mississippi on September 19 and 20, 1962.

28. On September 19, 1962, A. L. Meadors, Sr. and the members of the class which he represents filed a bill of complaint in the Chancery Court of the Second Judicial District of Jones County, Mississippi, styled A. L. Meadors, Sr. v. James Meredith, et al., No. 19365, naming as defendants James E. Meredith, plaintiff in this action, John D. Williams, Chancellor of the University of Mississippi, Robert B. Ellis, Registrar of the University of Mississippi, the thirteen members of the Board of Trustees of Institutions of Higher Learning of the State of Mississippi, Robert F. Kennedy, Attorney General of the United States, Robert E. Hauberg, United States Attorney for the Southern District of Mississippi, Bryce E. Wharton, Clerk of the United States District Court for the Southern District of Mississippi, Jack T. Stuart, United States Marshal for the Southern District of Mississippi, Joe Bennett, United States Marshal for the Northern District of Mississippi, and other persons. The bill of complaint

asked the Court to enter an order without notice or hearing restraining all of the defendants from taking any action intended to accomplish the enrollment or registration of James H. Meredith as a student in the University of Mississippi. On the same day, L. B. Porter, Chancellor of the Chancery Court of the Second District of Jones County, Mississippi, issued a fiat requiring the Clerk to enter, and the Clerk did forthwith enter, a writ of injunction enjoining all of the defendants named in the bill of complaint "from doing anything or performing any act, the execution of which is intended to enroll and register the Negro, James Meredith as a student in the University of Mississippi; or do any other thing contrary to the laws and the statutes of the State of Mississippi which would aid or abet the integration of any university, college or common school within the State of Mississippi."

29. On the morning of September 20, 1962, Paul G. Alexander proceeded with the prosecution of James H. Meredith in the Justice of the Peace Court for Hinds County, Mississippi, Justice District No. 5, in the absence of James H. Meredith. James H. Meredith was found guilty by the court and sentenced to pay a fine of \$300 and serve one year in jail.

30. On September 20, 1962, the Legislature of Mississippi passed and Ross R. Barnett, as Governor of Mississippi, signed into law Senate Bill 1501, providing that no person shall be eligible for admission to any institution of higher learning in Mississippi who has pending against him a criminal charge involving moral turpitude in any court, whether or not the proceedings in such court may have been

continued or stayed. Senate Bill 1501 further provides that any person who attempts to enroll in any institution of higher learning while such a charge is pending against him shall be guilty of a misdemeanor and be punished by a fine not to exceed \$300 or imprisonment not to exceed one year, or both. Senate Bill 1501 further provides that any person who aids or abets another to enroll in an institution of higher learning knowing that there is pending against such person a criminal charge involving moral turpitude shall be similarly punished. Senate Bill 1501 was enacted as emergency legislation to become effective immediately upon its enactment.

31. On the afternoon of September 20, 1962, James H. Meredith presented himself at the University of Mississippi, in Oxford, Mississippi, to register as a student in the University. While James H. Meredith was presenting himself for registration, J. W. Ford served him with an order which had been issued by the Chancery Court of Lafayette County, Mississippi upon the application of Ross R. Barnett in the case of State of Mississippi ex rel Ross R. Barnett, Governor, vs. James H. Meredith, No. A-654, enjoining James H. Meredith from applying to the University of Mississippi, or any of its agents, employees or officials, for matriculation, registration or entry or from otherwise becoming a student at the University.

32. On September 24, 1962, Ross R. Barnett, as Governor of Mississippi, issued the following public proclamation:

WHEREAS, the Constitution of the United States of America provides that each state is sovereign with respect to certain rights and powers; and,

WHEREAS, pursuant to the Tenth Amendment to the Constitution of the United States, the powers not specifically delegated to the federal government are reserved to the several states; and,

WHEREAS, we are now face to face with the direct usurpation of this power by the federal government through the illegal use of judicial decree; and,

WHEREAS, all public officials of the State of Mississippi have the legal right, obligation and duty not to acquiesce, impair, waive or surrender any of the rights of the sovereign state of Mississippi; and,

WHEREAS, any acts upon the part of representatives of the federal government to arrest or fine any state official who endeavors to enforce the law of Mississippi, are illegal according to the law of the State of Mississippi, and federal courts have likewise established ample and perfect precedence in this matter;

NOW, THEREFORE, I, Ross R. Barnett, Governor of the State of Mississippi, by the authority vested in me under the Constitution and laws of the State of Mississippi, do hereby proclaim and direct that the arrest or attempts to arrest, or the fining or the attempts to fine, of any state official in the performance of his official duties, by any representative of the federal government, is illegal and such representative or representatives of said federal government are to be summarily arrested and jailed by reason of such illegal acts in violation of this executive order and in violation of the laws of the State of Mississippi.

33. All of the acts and conduct of the defendants herein alleged were for the purpose of discouraging and preventing James H. Merrdith from enrolling as a student in the University of Mississippi pursuant to the orders of this Court and of the District Court for the Southern District of Mississippi, and to punish him on account of his efforts to so enroll.

34. Unless restrained by order of this Court, the defendants named in this petition will continue their unlawful efforts to discourage and prevent James H. Meredith from enrolling in and attending the University of Mississippi

pursuant to the orders of this Court and the United States District Court for the Southern District of Mississippi.

35. Classes commenced at the University of Mississippi, for the fall semester 1962 on September 21, 1962. Pursuant to the orders of the United States Supreme Court, of this Court and of the District Court for the Southern District of Mississippi, James H. Meredith has a right to be enrolled at and attending classes at the University of Mississippi at the present time.

36. The petitioner, having the duty to represent the public interest in the administration of justice and the preservation of the integrity of the processes of this Court, has no remedy against the unlawful acts and conduct described in this petition other than this action for an injunction, and unless such injunction is issued as prayed, and unless a temporary restraining order is issued at once, before notice can be served and a hearing had, petitioner will suffer immediate and irreparable injury consisting of the impairment of the integrity of its judicial processes, the obstruction of the due administration of justice, and the deprivation of rights under the Constitution and laws of the United States.

WHEREFORE, petitioner respectfully prays that a temporary restraining order be issued upon the filing of this petition, that a preliminary injunction be issued after notice and hearing, and that a permanent injunction be entered after trial upon the merits, restraining and enjoining the defendants named in this petition, their agents, employees, officers, successors, the members of the classes they represent, and all persons in active concert or participation with them, from:

1. Arresting, attempting to arrest, prosecuting or instituting any prosecution against James H. Meredith under any statute, ordinance, rule or regulation whatever, on account of his attending, or seeking to attend the University of Mississippi;

2. Instituting or proceeding further in any civil action against James H. Meredith or any other persons on account of James H. Meredith enrolling or seeking to enroll, or attending the University of Mississippi;

3. Injuring, harassing, threatening or intimidating James H. Meredith in any other way or by any other means on account of his attending or seeking to attend the University of Mississippi;

4. 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 entered September 13, 1962 in this action, and

5. Interfering with, or obstructing by force, threat, arrest or otherwise, any officer or agent of the United States in the performance of duties in connection with the enforcement of, and the prevention of obstruction to, the orders entered by this Court and the District Court for the Southern District of Mississippi relating to the enrollment and attendance of James Howard Meredith at the University of Mississippi; or arresting, prosecuting or punishing such officer or agent on account of his performing or seeking to perform such duty.

Petitioner further prays that a temporary restraining order and preliminary and permanent injunction be

entered restraining Paul G. Alexander and J. Robert Gilfooy from proceeding further or serving or enforcing any process in connection with the prosecutions pending in the Justice of the Peace Court of Hinds County, Mississippi, against James H. Meredith.

Petitioner further prays that a temporary restraining order and preliminary and permanent injunctions be entered restraining and enjoining A. L. Meador, Sr., and the class he represents, from taking any further action or seeking to enforce any judgment entered in the case of A. L. Meador, Sr. v. James Meredith, et al.

Petitioner further prays that a temporary restraining order and preliminary and permanent injunctions be entered restraining and enjoining Ross R. Barnett from enforcing or seeking to enforce against James H. Meredith, any process or judgment in the case of State of Mississippi, ex rel Ross Barnett, Governor, vs. James H. Meredith.

Petitioner prays that the Court grant such additional relief as the interest of justice may require.

UNITED STATES OF AMERICA,

Amicus Curiae and Petitioner

By:

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BURKE MARSHALL

Assistant Attorney General

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JOHN DOAR

Attorney, Department of Justice

PARISH OF ORLEANS :  
: SS  
STATE OF LOUISIANA :

VERIFICATION

• John Doar, being first duly sworn, states that he is an attorney with the Department of Justice and is one of the counsel for the United States, amicus curiae and petitioner herein; that he is familiar with the facts relating to the foregoing petition and he is informed and believes that the facts alleged in the petition are true.

\_\_\_\_\_  
JOHN DOAR

Subscribed and sworn to before me  
this 25th day of September,  
1962.

(Seal) H. Peter E. Duffy  
Notary Public in and for the Parish  
of Orleans, State of Louisiana



FILED

SEP 25 1962

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

EDWARD W. WADSWORTH  
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.

NOTICE OF MOTION AND MOTION  
FOR PRELIMINARY INJUNCTIONTO ALL DEFENDANTS NAMED IN THE PETITION OF THE UNITED STATES  
FOR AN INJUNCTION:

Please take notice that on October 5th, 1962, at  
10 o'clock a.m. or as soon thereafter as counsel may be heard, in  
the court room of the United States Court of Appeals for the Fifth  
Circuit, in the United States Court House, New Orleans, Louisiana, the  
United States, amicus curiae herein, will move the Court for a prelimin-  
ary injunction on its petition for an injunction filed herein. The mo-  
tion will be based upon all of the pleadings, documents and other  
papers heretofore filed in this case and upon oral testimony and other  
evidence to be offered at the hearing.

UNITED STATES OF AMERICA,

Amicus Curiae and Petitioner

By:

/s/ John Doar

JOHN DOAR

Attorney, Department of Justice

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

JAMES H. MEREDITH,  
Appellant,

v.

CHARLES DICKSON FAIR, et al.,  
Appellees.

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UNITED STATES OF AMERICA,  
Amicus Curiae and Petitioner,

v.

STATE OF MISSISSIPPI, et al.,  
Defendants.

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U. S. COURT OF APPEALS  
**FILED**

SEP 25 1962

EDWARD W. WADSWORTH  
NO. 19475 CLERK

TEMPORARY RESTRAINING ORDER

This Court having entered its order in this action on July 26, 1962, and the District Court for the Southern District of Mississippi having entered a similar order on September 13, 1962, pursuant to the mandate of this Court, requiring the defendant officials of the University of Mississippi and the defendant members of the Board of Trustees of the Institutions of Higher Learning of the State of Mississippi to enroll James Howard Meredith as a student in the University of Mississippi, and

It appearing from the verified petition of the United States, Amicus Curiae herein, that the State of Mississippi, Ross R. Barnett, Governor of Mississippi, Joe T. Patterson, Attorney General of Mississippi, T. B. Birdsong, Commissioner of Public Safety of Mississippi, Paul G. Alexander, District Attorney of Hinds County, William R. Lamb, District Attorney of Lafayette County, J. Robert Gilfoy, Sheriff of Hinds County, J. W. Ford, Sheriff of Lafayette County, William D. Rayfield, Chief of Police of the City of Jackson, James D. Jones, Chief of Police of the City of Oxford, Walton Smith, Constable of the City of Oxford, the classes consisting of all district attorneys in Mississippi, the classes consisting of the sheriffs of all counties

in Mississippi, the classes consisting of all chiefs of police in Mississippi, and the classes consisting of all constables and town officials in Mississippi, threaten to implement and enforce, unless restrained by order of this Court, the provisions of a Resolution of Interposition adopted by the Mississippi Legislature, the provisions of Section 4065.3 of the Mississippi Code, and a Proclamation of Ross R. Barnett invoking the doctrine of interposition with respect to the enforcement of the orders of this Court in this case; that Paul G. Alexander has instituted two criminal prosecutions against James Howard Meredith on account of the efforts of James Howard Meredith to enroll in the University of Mississippi pursuant to the orders of this Court; that A. L. Meador, Sr., and the class of persons he represents, on September 19, 1962, instituted in the Chancery Court of the Second Judicial District of Jones County, Mississippi, a civil action against James Howard Meredith to prevent him from attending the University of Mississippi; that on September 20, 1962, James Howard Meredith, while seeking to enroll at the University of Mississippi in Oxford, Mississippi, pursuant to the orders of this Court, was served with a writ of injunction issued by the Chancery Court of Lafayette County, Mississippi, at the instance of Ross R. Barnett, enjoining James Howard Meredith from applying to or attending the University of Mississippi; that on September 20, 1962 the State of Mississippi enacted Senate Bill 1501, the effect of which is to punish James Howard Meredith should he seek enrollment in the University of Mississippi; that the effect of the conduct of the defendants herein named in implementing the policy of the State of Mississippi as proclaimed by Ross R. Barnett will necessarily be to prevent the carrying out of the orders of this Court and of the District Court for the Southern District of Mississippi; and that the acts and conduct of the defendants named in the petition will cause immediate and irreparable injury to the United States consisting of the impairment of the integrity of its judicial processes, the obstruction of the due administration of justice, and the deprivation of rights under the Constitution and laws of the United States, all before notice can be served and a hearing had,

Joe T. Patterson, T. B. Birdsong, Paul G. Alexander, William R. Lamb, J. Robert Gilfoy, J. W. Ford, William D. Rayfield, James D. Jones, Walton Smith, the class consisting of all district attorneys in Mississippi, the class consisting of the sheriffs of all counties in Mississippi, the class consisting of all chiefs of police in Mississippi, and the class consisting of all constables and town marshals in Mississippi, their agents, employees, officers, successors, and all persons in active concert or participation with them, be temporarily restrained from:

1. Arresting, attempting to arrest, prosecuting or instituting any prosecution against James Howard Meredith under any statute, ordinance, rule or regulation whatever, on account of his attending, or seeking to attend, the University of Mississippi;
2. Instituting or proceeding further in any civil action against James Howard Meredith or any other persons on account of James Howard Meredith's enrolling or seeking to enroll, or attending the University of Mississippi;
3. Injuring, harassing, threatening or intimidating James Howard Meredith in any other way or by any other means on account of his attending or seeking to attend the University of Mississippi;
4. 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 entered September 13, 1962, in this action, and
5. Interfering with or obstructing, by force, threat, arrest or otherwise, any officer or agent of the United States in the performance of duties in connection with the enforcement of, and the prevention of obstruction to, the orders entered by this Court and the District Court for the Southern District of Mississippi relating to the enrollment and attendance of James Howard Meredith at the University of Mississippi; or arresting, prosecuting or punishing such officer or agent on account of his performing or seeking to perform such duty.

IT IS FURTHER ORDERED that Paul G. Alexander and J. Robert Gilfoy be temporarily restrained from proceeding further, serving or enforcing any process or judgment, or arresting James Howard Meredith in con-

IT IS FURTHER ORDERED that A. L. Meador, Sr., be temporarily restrained from taking any further action or seeking to enforce any judgment entered in the case of A. L. Meador, Sr. v. James Meredith, et al.

IT IS FURTHER ORDERED that Ross R. Barnett be temporarily restrained from enforcing or seeking to enforce against James Howard Meredith, any process or judgment in the case of State of Mississippi, Ex Rel Ross Barnett, Governor vs. James H. Meredith

/s/ ELBERT P. TUTTLE  
Circuit Judge

/s/ RICHARD T. RIVES  
Circuit Judge

/s/ JOHN MINOR WISDOM  
Circuit Judge

Signed this 25th day of  
September, 1962, at 8:30 M.A.M.

A true copy  
Test: EDWARD W. WADSWORTH  
Clerk, U. S. Court of Appeals, Fifth Circuit

By J. F. Buchanan  
Deputy

New Orleans, Louisiana

Sep. 25, 1962

UNITED STATES COURT OF APPEALS  
FOR THE  
FIFTH CIRCUIT.

JAMES H. MEREDITH,

Appellant,

versus

CHARLES DICKSON FAIR, et al.,

Appellees.

No. 19475

SUMMONS

UNITED STATES OF AMERICA,  
Amicus Curiae and Petitioner,

versus

STATE OF MISSISSIPPI, et al.,

Defendants.

To the Defendant: ~~JOS T. SATTENSON~~, Attorney General of the State of  
Mississippi.

You are hereby summoned and required to serve upon John Doar

plaintiff's attorney, whose address U. S. Department of Justice,  
Room 1143, Washington 25, D. C.

an answer to the petition which is herewith served upon you,  
within twenty days after service of this summons upon you,  
exclusive of the day of service. If you fail to do so, judgment  
by default will be taken against you for the relief demanded in the  
petition..

Edward W. Wadsworth  
Clerk of Court

*Edward E. Wadsworth*  
Deputy Clerk

Date: September 25, 1962

(Seal of Court)

The United States, ex parte Curtis herein, applies to the Court for an order requiring Ross H. Barnett 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 this day and as reason therefor states:

1. On July 25, 1962, this Court entered its order in the case of James Edward Meredith, et al. v. Charles Jackson Fair, et al. No. 19,475, requiring Robert B. Ellis, Registrar of the University of Mississippi, James Davis Williams, Chancellor of the University, Arthur Beverly Lewis, Dean of the College of Liberal Arts of the University, and the University members of the Board of Trustees of Higher Learning, to register and admit James H. Meredith as a student in the University of Mississippi.

APPEAL FROM THE UNITED STATES, ANTI-TRUST DIVISION  
 ON PETITION FOR WRIT OF HABEAS CORPUS IN CIVIL CONTEMPT

JAMES H. MEREDITH,  
 Appellant,  
 v.  
 CHARLES JACKSON FAIR, et al.,  
 Appellees.  
 UNITED STATES OF AMERICA,  
 Amicus Curiae and Petitioner,  
 v.  
 STATE OF MISSISSIPPI, et al.,  
 Defendants.

NO. 19475

IN THE UNITED STATES COURT OF APPEALS  
 FOR THE FIFTH CIRCUIT

EDWARD W. WALDSWORTH  
 CLERK

FILED  
 U. S. COURT OF APPEALS  
 SEP 25 1962

2. On September 24, 1962, this Court, in instructing the above-named officials of the University of Mississippi and the members of the Board of Trustees of Higher Learning what they must do to comply with this Court's order of July 26, 1962, directed Robert B. Ellis to be available at Jackson, Mississippi at the office of the Board of Trustees, from 1:00 p. m. to 6:00 p. m. <sup>if</sup> on September 25, 1962, for the purpose of registering James H. Meredith and admitting him as a student to the University.

3. At 8:30 a. m. today, this Court, upon application of the United States, issued its temporary restraining order in this action, restraining Ross R. Barnett from interfering with or obstructing by any means or in any manner the enjoyment of rights under this Court's order of July 26, 1962, requiring the enrollment of James H. Meredith at the University.

4. At approximately 4:30 p. m. today, Ross R. Barnett, having been served with a copy of the temporary restraining order described in the preceding paragraph, and having actual notice of the terms of that order, deliberately prevented James H. Meredith from entering the office of the Board of Trustees in Jackson, Mississippi, all for the purpose of preventing James H. Meredith from enrolling as a student in the University and for the purpose of preventing James H. Meredith from enjoying his rights under this Court's order of July 26, 1962, and preventing Robert B. Ellis from performing his obligations under that order.

WHEREFORE the United States asks that this Court enter an order requiring Ross R. Barnett to appear before this Court, at a time and place to be fixed by this 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:

Burke Marshall Sr

BURKE MARSHALL

Assistant Attorney General



**VERIFICATION**

John Doar, being first duly sworn, states that he has read the allegations set forth in the foregoing application of the United States for an order to show cause and that the allegations are true.

*John Doar*

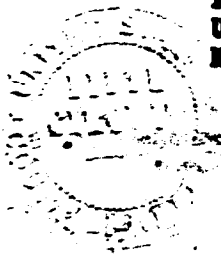
JOHN DOAR

*Richard T. Lewis*  
CLERK OF THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

CERTIFIED TO BE A TRUE COPY

TEST:

*Edward W. Wadsworth*  
Edward W. Wadsworth, Clerk  
U. S. Court of Appeals, 5th Circuit  
New Orleans, La.



*Accepted  
Sept 15*

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

U.S. Court of Appeals  
FILED  
Sep 25 1962

Edward W. Wadsworth  
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 ROSS R. BARNETT  
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, on September 24, 1962, instructed Robert B. Ellis, Registrar of the University of Mississippi, James Davis Williams, Chancellor of the University, Arthur

Beverly Lewis, Dean of the College of Liberal Arts of the University, and the defendant members of the Board of Trustees of Institutions of Higher Learning, what action they were required to take in order to comply with the order of this Court, and having particularly directed Robert B. Ellis to be available at Jackson, Mississippi at the office of the Board of Trustees of Institutions of Higher Learning from 1:00  
6 RTR  
a.m. to 4:00 p.m. on September 25, 1962 for the purpose of the registration of James H. Meredith and his actual admission to the University on the same basis as other students, and this Court having entered a temporary restraining order at 8:30 a.m. this day restraining Ross R. Barnett 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 on the afternoon of this day Ross R. Barnett, having been served with a copy of the temporary restraining order referred to above and having actual knowledge of the terms of that order, deliberately prevented James H. Meredith from entering the office of the Board of Trustees in Jackson, Mississippi at a time when James H. Meredith was seeking to appear before Robert B. Ellis in order to register as a student in the University, and that by such conduct Ross R. Barnett did wilfully interfere with and obstruct James H. Meredith in the enjoyment of his rights under this Court's order of July 28, 1962 and did wilfully interfere with and obstruct Robert B. Ellis in the performance of his obligations under this Court's order of July 28, 1962, all in violation of the terms of the temporary restraining order entered by the Court this day,

IT IS ORDERED that Ross R. Barnett appear personally before this Court on September 28th, 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 entered by the Court this day.

The Marshal is directed to serve a copy of this order upon Ross R. Barnett, forthwith.

Signed this September 25th, 1962, at 8:20  
o'clock p.m.

/s/ Richard T. Rives  
CIRCUIT JUDGE

/s/ John Minor Wisdom  
CIRCUIT JUDGE

/s/ Walter P. Gevin  
CIRCUIT JUDGE

Certified to be a true copy

Test: Edward W. Wadsowrth /s/

Edward W. Wadsworth, Clerk  
U. S. Court of Appeals

Sep. 26 1962

Edward W. Wadsworth  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

JAMES H. MEREDITH,  
v. Appellant,

CHARLES DICKSON FAIR, et al.,  
Appellees

UNITED STATES OF AMERICA,  
v. Amicus Curiae and  
Petitioner,

STATE OF MISSISSIPPI, et al.,  
Defendants.

NO. 19475

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

No. 11093

*Murphy*

30 September 1962

EXECUTIVE ORDER

- - - -

PROVIDING ASSISTANCE FOR THE REMOVAL OF  
UNLAWFUL OBSTRUCTIONS OF JUSTICE IN THE  
STATE OF MISSISSIPPI

WHEREAS on September 30, 1962, I issued Proclamation No. 3497 reading in part as follows:

"WHEREAS the Governor of the State of Mississippi and certain law enforcement officers and other officials of that State, and other persons, individually and in unlawful assemblies, combinations and conspiracies, have been and are willfully opposing and obstructing the enforcement of orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit; and

"WHEREAS such unlawful assemblies, combinations and conspiracies oppose and obstruct the execution of the laws of the United States, impede the course of justice under those laws and make it impracticable to enforce those laws in the State of Mississippi by the ordinary course of judicial proceedings; and

"WHEREAS I have expressly called the attention of the Governor of Mississippi to the perilous situation that exists and to his duties in the premises, and have requested but have not received from him adequate assurances that the orders of the courts of the United States will be obeyed and that law and order will be maintained:

"NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States, under and by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code, particularly sections 332, 333 and 334 thereof, do command all persons engaged in such obstructions of justice to cease and desist therefrom and to disperse and retire peaceably forthwith;" and

WHEREAS the commands contained in that proclamation have not been obeyed and obstruction of enforcement of those court orders still exists and threatens to continue:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10, particularly Sections 332, 333 and 334 thereof, and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. The Secretary of Defense is authorized and directed to take all appropriate steps to enforce all orders of the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit and to remove all obstructions of justice in the State of Mississippi.

Section 2. In furtherance of the enforcement of the aforementioned orders of the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit, the

Secretary of Defense is authorized to use such of the armed forces of the United States as he may deem necessary.

Section 3. I hereby authorize the Secretary of Defense to call into the active military service of the United States, as he may deem appropriate to carry out the purposes of this order, any or all of the units of the Army National Guard and of the Air National Guard of the State of Mississippi to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders. In carrying out the provisions of Section 1, the Secretary of Defense is authorized to use the units, and members thereof, ordered into the active military service of the United States pursuant to this section.

Section 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this order.

THE WHITE HOUSE

September 30, 1962

/s/ John F. Kennedy

*McA*

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

NO. 19,475

JAMES H. KENNEDY,

Appellant,

v.

CHARLES DICKSON FAIR, et al.

Appellees.

*H...*

U. S. COURT OF APPEALS

FILED

OCT 19 1962

EDWARD W. WADSWORTH  
CLERK

3-7

UNITED STATES OF AMERICA,  
Amicus Curiae and Petitioner,

- versus -

STATE OF MISSISSIPPI: ROSS R. BARNETT, Governor of the State of Mississippi; JOE T. PATTERSON, Attorney General of the State of Mississippi; T. E. BIRDSONG, Commissioner of Public Safety of the State of Mississippi; PAUL G. ALEXANDER, District Attorney of Hinds County, and WILLIAM R. LUM, District Attorney of Lafayette County, individually; J. ROBERT GILFOY, Sheriff of Hinds County, and J. N. FORD, Sheriff of Lafayette County, individually; WILLIAM D. RAYFIELD, Chief of Police of the City of Jackson, and JAMES B. JONES, Chief of Police of the City of Oxford, individually; WALTON SMITH, Constable of the City of Oxford,

Defendants.

ORDER AND JUDGMENT ON THE MOTION OF THE STATE OF MISSISSIPPI TO DISSOLVE THE TEMPORARY RESTRAINING ORDER OF SEPTEMBER 25, 1962, TO DISMISS THE CONTEMPT PROCEEDINGS AGAINST ROSS R. BARNETT and PAUL D. JOHNSON, JR., and ORDER AND JUDGMENT ON MOTION OF APPELLANT and UNITED STATES OF AMERICA, AMICUS CURIAE, PETITIONER, FOR PRELIMINARY INJUNCTION.

*W...*

This matter came on for hearing on October 12, 1962, pursuant to an order to show cause why a preliminary injunction should not be granted against the named Respondents, and on a motion subsequently filed by the State of Mississippi to dissolve the temporary restraining order entered by this Court on September 25, 1962, and to dismiss the pending contempt proceedings which had resulted in a judgment of this Court finding

respondent, Ross R. Barnett, guilty of civil contempt. The United States, Amicus Curiae, by designation of the Court, as petitioner herein, named all of the respondents whose names are included in the caption of this order. The appellant named some but not all of the said respondents but did not name the State of Mississippi as a party.

Petitioners introduced oral testimony and documentary evidence which fully sustained the allegations of the petition. Respondents all appeared by counsel. Neither the State of Mississippi nor any other respondent made any factual showing in an effort to contradict the allegations of fact or the testimony tendered on behalf of petitioners supporting said allegations. The respondents contend that these petitions for injunction, as well as the petitions for temporary restraining order against the parties herein named undertook to make additional parties in an equity cause on appeal. as to which none of said parties had had an opportunity to contest the judgment of the trial court or the judgment of this Court which resulted in the injunction of July 23, 1962. These judgments required the defendants in the original complaint, the administrative officials and the Board of Trustees of the University of Mississippi to admit James H. Meredith as a student and to permit his continued attendance as a student on the same basis as all other students.

The posture of this case at the time these motions for preliminary injunction and the accompanying motions for temporary restraining order were filed, is that this Court had issued its injunction, above referred to, prohibiting the officials of the University and the Trustees of the State Institutions of Higher Learning of the State of Mississippi from interfering with the admission of James H. Meredith and his continuance as a student in the University of Mississippi, and also prohibiting certain of the defendants now before the Court from further prosecuting criminal proceedings against the said Meredith; whereupon, it

was alleged in the petition of the United States, the State of Mississippi, through its official state policy, pursuant to actions of its Legislature, and through the actions of its Governor by proclamation, and all of the other respondents, were then engaged in actively frustrating the execution of this Court's injunction against the officials of the University. These proceedings, therefore, are purely ancillary to the original lawsuit, and this Court has ample power to proceed against any party, including the State of Mississippi, which is shown to be engaged in a wilful, intentional effort to frustrate this Court's injunction.

The motion to dissolve the restraining order and the motion to dismiss the contempt proceedings by the Respondents are, therefore, DENIED.

The ruling just stated equally disposes of the contention made by the respondents that this Court is now powerless to issue the preliminary injunction. We, therefore, hold that the Court has the power to issue this injunction against the persons not previously named as defendants in the main suit to prevent their active interference with this Court's prior injunctions.

The evidence adduced before this Court, neither attacked by respondents nor contended by them to be legally insufficient to warrant the granting of the relief sought, establishes the following facts:

The State of Mississippi, Ross R. Barnett, Governor of Mississippi, Joe L. Patterson, Attorney General of Mississippi, T. B. Birdsong, Commissioner of Public Safety of Mississippi, Paul G. Alexander, District Attorney of Hinds County, William R. Lamb, District Attorney of Lafayette County, J. Robert Gilley, Sheriff of Hinds County, J. M. Ford, Sheriff of Lafayette County, William D. Rayfield, Chief of Police of the City of Jackson, James D. Jones, Chief of Police of the City of Oxford, Walton Smith, Constable of the City of Oxford, threaten to implement and enforce, unless restrained by order of this Court, the provisions of a Resolution of Interposition adopted by the

Mississippi Legislature, the provisions of Section 4065.3 of the Mississippi Code, and a Proclamation of Ross R. Barnett invoking the doctrine of interposition with respect to the enforcement of the orders of this Court in this case; that Paul G. Alexander has instituted two criminal prosecutions against James Howard Meredith on account of the efforts of James Howard Meredith to enroll in the University of Mississippi pursuant to the orders of this Court. On September 23, 1962, James H. Meredith was tried in absentia by the Justice of the Peace of Hinds County, Mississippi, and convicted on the charge by Paul Alexander that Meredith had falsely secured registration as a voter of Hinds County, when he was in fact a resident of Attala County, and for which he was assessed a penalty of imprisonment for one year and a fine of \$300. On September 20, 1962 James Howard Meredith, while seeking to enroll at the University of Mississippi in Oxford, Mississippi, pursuant to the orders of this Court, was served with a writ of injunction issued by the Chancery Court of Lafayette County, Mississippi, at the instance of Ross R. Barnett, enjoining James Howard Meredith from applying to or attending the University of Mississippi, and to which Meredith and his attorneys are required to show cause on the 4th day of November, 1962, why this injunction should not be made permanent. On September 20, 1962, Ross R. Barnett, the Governor of the State of Mississippi secured an injunction in the Chancery Court of Hinds County against Meredith and his attorneys enjoining them from proceeding to secure the registration, admission and continued attendance of Meredith as a student at the University of Mississippi to which Meredith has been ordered to show cause on the fourth Monday in October, 1962, why the injunction should not continue. Likewise on September 20, 1962, on application of Ross R. Barnett, Governor of the State of Mississippi, the Chancery Court of Hinds County issued an injunction against the Board of



Trustees of the State Institutions of Higher Learning enjoining it from admitting Meredith to the University of Mississippi. On September 20, 1962, the State of Mississippi enacted Senate Bill 1501, the effect of which is to punish James Howard Meredith should he seek enrollment in the University of Mississippi; that on October 3 and 5, 1962, respectively, the House and Senate of the Mississippi Legislature adopted House Concurrent Resolution No. 18, calling for the redress of grievances, including the removal of Meredith from the University, removal of all Federal Marshals and troops; that on September 28, 1962, House Bill 42, Laws of Mississippi, 1962, Extraordinary Session, was enacted, providing that all acts, words and conduct performed by any state officer in keeping Mississippi Institutions of Higher Learning segregated are adopted as the Acts of the sovereign state of Mississippi and not the acts of such individuals; that the effect of the conduct of the defendants herein named in implementing the policy of the State of Mississippi as proclaimed by Ross R. Barnett will necessarily be to prevent the carrying out of the orders of this Court and of the District Court for the Southern District of Mississippi; and that the acts and conduct of the defendants named in the petition will cause immediate and irreparable injury to the appellant Meredith and to the United States consisting of the impairment of the integrity of its judicial processes, the obstruction of the due administration of justice, and the deprivation of rights under the Constitution and laws of the United States unless prevented by an order of the Court.

IT IS NOW THEREFORE ORDERED that the State of Mississippi, Ross R. Barnett, Joe T. Patterson, T. B. Birdsong, Paul G. Alexander, William R. Lamb, J. Robert Gilfoyle, J. W. Ford, William D. Rayfield, James D. Jones, Walton Smith, their agents, employees, officers, successors, and all persons in active concert or participation with them who shall receive actual notice of this injunction by personal service or otherwise, be enjoined

until the further order of this Court from:

1. Arresting, attempting to arrest, prosecuting or instituting any prosecution against James Howard Meredith under any statute, ordinance, rule or regulation whatever, on account of his attending, or seeking to attend, the University of Mississippi; without limiting the generality of the foregoing, this shall include:

(a) Proceeding to arrest the appellant pursuant to the conviction of appellant on September 20, 1962, in the case of State of Mississippi v. Meredith, Case No. 15-242, filed May 23, 1962, in the Justice of the Peace Court, Fifth Supervisors District of Hinds County, Mississippi, and from taking any action to enforce the judgment of conviction against the appellant in this case.

(b) Proceeding with the prosecution of appellant in State of Mississippi v. Meredith, Case No. 16-307, filed September 14, 1962, charging appellant with a felony and alleging that he falsely secured his registration as a voter in Hinds County.

(c) Commencing any other prosecutions or taking any action or doing any act to further prosecute the appellant for allegedly securing his registration as a voter in Hinds County.

2. Instituting or proceeding further in any civil action against James Howard Meredith or any other persons on account of James Howard Meredith's enrolling or seeking to enroll or attending the University of Mississippi; without limiting the generality of the foregoing this includes:

(a) Taking any action or doing any act to enforce or serve the injunction order obtained on the 20th day of September, 1962, in the Chancery Court of Hinds County, Mississippi, by the Governor of the State of Mississippi, Ross R. Barnett, against the appellant and his attorneys in the case of State of Mississippi, ex rel, Ross Barnett

W. Meredith, Complaint No. 62,000 filed September 20, 1962.

(b) Taking any action or doing any act to enforce or serve the injunction order obtained by the Governor of the State of Mississippi in the Chancery Court of Lafayette County, Mississippi, against the appellant and his attorneys in the case of State of Mississippi, ex rel. Ross R. Barnett v. Meredith, Complaint No. A-654, filed September 20, 1962.

(c) Taking any action or doing any act to serve or enforce the injunction issued against the appellee Board of Trustees of State Institutions of Higher Learning by the Chancery Court of Hinds County on September 20, 1962, upon the application of Ross R. Barnett, Governor of the State of Mississippi.

(d) Taking any action or doing any act to secure any further or additional state court injunctions against the appellant, his attorneys, the Board of Trustees of State Institutions of Higher Learning, or any official of the University of Mississippi which are designed to or which have the effect of interfering with the continued attendance of appellant as a student at the University of Mississippi.

3. Injuring, harassing, threatening or intimidating James Howard Meredith in any other way or by any other means on account of his attending or seeking to attend the University of Mississippi;

4. 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 23, 1962, and the order of the United States District Court for the Southern District of Mississippi entered September 13, 1962, in this action, and

5. Interfering with or obstructing, by force, threat, arrest or otherwise, any officer or agent of the United States in the performance of duties in connection with the enforcement of, and the prevention of obstruction to, the orders entered

by this Court and the District Court for the Southern District of Mississippi relative to the enrollment and attendance of James Howard Meredith at the University of Mississippi; or arresting, prosecuting or punishing; such officer or agent on account of his performing or seeking to perform such duty.

DATED: October \_\_\_\_, 1962.

(s) Albert P. Tuttle

Chief Judge, United States Court of Appeals, Fifth Circuit

(s) Richard T. Rives

United States Circuit Judge

(s) Warren L. Jones

United States Circuit Judge

(s) John R. Brown

United States Circuit Judge

(s) John Minor Wisdom

United States Circuit Judge

ENTER FOR THE COURT

(s) Albert P. Tuttle

Chief Judge, United States Court of Appeals, Fifth Circuit

JAMES H. MEREDITH v. CHARLES DICKSON FAIR, NO. 19,475; IN THE APPELLATE  
MATTER OF UNITED STATES OF AMERICA, AMICUS CURIAE AND PETITIONER v.  
STATE OF MISSISSIPPI; ROSS R. BARNETT, GOVERNOR OF THE STATE OF  
MISSISSIPPI, ET AL., Defendants

CIRCUIT JUDGES GEWIN and BELL concurring in part and dissenting in part:

With all deference to our brothers, and realizing that it involves for each of us a matter of judgment, we would make our injunction the mandate of this court and forward it to the United States District Court for the Southern District of Mississippi, there to be made the judgment of that court, and to be supervised and enforced along with our injunction of July 28, 1962 which was entered by that court on September 13, 1962 pursuant to our mandate. Our appellate jurisdiction would continue but the remand should tend to restore normalcy in Mississippi, and would comport with good judicial administration under the circumstances.

Of course, we should retain the contempt proceedings now pending against Governor Barnett and Lieutenant Governor Johnson for final disposition but such retention in no way militates against remand. The Governor and Lieutenant Governor must yield in order to purge themselves of contempt. They must yield also to preserve the integrity of the judicial process, the Federal Constitution and their oaths of office pursuant thereto:

"... and all executive Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation to support this Constitution; . . ." Article 6, Clause 3.

Upon their yielding, the enforcement of all other outstanding orders in this matter would and should be the duty of the District Court.

We have serious doubts, from a procedural and substantive point of view, as to the joinder of the State of Mississippi as a party. We would dissolve the temporary restraining order as to the State of Mississippi and would not include the State of Mississippi in the preliminary injunction. U.S. Const. Art. III, § 2, par. 2 and the 11th Amendment.

We concur in the order of the majority save in this respect.

A true copy

Test:

Clerk, U. S. Court of Appeals, Fifth Circuit

By

Deputy

New Orleans, Louisiana

61 Walter P. Gevin  
United States Circuit Judge  
61 Stephen B. Bell

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS  
**FILED**

NO. 19,475

NOV 15 1962

EDWARD W. WADSWORTH  
CLERK

JAMES H. MEREDITH,

Appellant,

vs.

CHARLES DICKSON FAIR, et al,

Appellees.

UNITED STATES OF AMERICA,  
Amicus Curiae and Petitioner,

vs.

STATE OF MISSISSIPPI, et al,

Defendants.

Before TUTTLE, Chief Judge, and RIVES, JONES, BROWN, WISDOM, GEWIN  
and BELL, Circuit Judges.

O R D E R:

It appearing that this Court, on September 18, 1962, designated the United States as amicus curiae, with the right to submit pleadings, evidence, arguments and briefs, and to initiate such further proceedings, including proceedings for injunctive relief and proceedings for contempt of court, as may be appropriate in order to maintain and preserve the due administration of justice and the integrity of the judicial processes of the United States; and

It appearing that the United States as amicus curiae filed in this Court on November 6, 1962, a memorandum suggesting that the taking of further evidence concerning the actions of Ross R. Barnett would be appropriate with respect to the issue of whether Ross R. Barnett has purged himself of his civil contempt of this Court; and

It appearing from the pleadings filed and the oral testimony and documentary evidence already adduced in the proceedings

on the petitions for temporary restraining order and for preliminary injunction and the civil contempt proceedings heretofore instituted against Ross R. Barnett and Paul B. Johnson, Jr., that proceedings should be instituted against the said Ross R. Barnett and Paul B. Johnson, Jr., to determine whether they are, or either of them is, guilty of criminal contempt of the orders of this Court; and

It appearing undesirable to conduct successive proceedings involving similar factual issues and that litigation of such issues in a criminal contempt proceeding would afford to the said Ross R. Barnett and Paul B. Johnson, Jr., maximum procedural protection;

IT IS ORDERED that the Attorney General of the United States, and such attorneys in the Department of Justice as he may designate, be and they are hereby appointed by the Court to institute and to prosecute criminal contempt proceedings against the said Ross R. Barnett and Paul B. Johnson, Jr., pursuant to Rule 42(b) of the Federal Rules of Criminal Procedure and the order of this Court of September 18, 1962.

This 15th day of November, 1962.

ELBERT P. TUTTLE  
CHIEF JUDGE  
United States Court of Appeals  
Fifth Circuit

RICHARD T. RIVES  
CIRCUIT JUDGE

WARREN L. JONES  
CIRCUIT JUDGE

JOHN R. BROWN  
CIRCUIT JUDGE

JOHN MINOR WISDOM  
CIRCUIT JUDGE

GRIFFIN B. BELL  
CIRCUIT JUDGE

I DISSENT, WALTER P. GEWIN, Circuit Judge.

A true copy

Test: EDWARD W. WADSWORTH  
Clerk, U. S. Court of Appeals, Fifth Circuit



## Department of Justice

*Meredith v. Fair*

STATEMENT ISSUED BY DEPARTMENT OF JUSTICE  
8:40 P.M., SEPTEMBER 21, 1962

The ruling of the district court need not be appealed since essentially the same question will be before the Court of Appeals in New Orleans on Monday. We will ask that court tomorrow to include the three University officials along with the University trustees in the order to show cause why they should not be held in contempt for refusing to register Mr. Meredith.

We are taking this action because the University officials were charged by the courts to admit Mr. Meredith and have failed to do so. It is our conviction that they cannot evade the courts' orders by seeking to turn over this responsibility to the governor or anyone else.

The courts have ordered the University to accept Mr. Meredith. It is our responsibility, together with the courts, to see that these orders are obeyed no matter what course ultimately is necessary.