

COPY

**UNITED STATES DISTRICT COURT
FIFTH CIRCUIT COURT OF APPEALS**

.....
JAMES HOWARD MEREDITH, ET AL.,

Appellants,

VS.

CHARLES DICKSON FAIR, ET AL.,

Appellees.

NO. 19, 475

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

VS.

CHARLES DICKSON FAIR, ET AL.,

Respondents.

.....

HEARING ON RETURN ON CONTEMPT
CITATIONS ISSUED AGAINST
GOVERNOR ROSS R. BARNETT AND
LIEUTENANT GOVERNOR PAUL B.
JOHNSON, held on this 2nd Day
of October, 1962, Room 222,
Post Office Building, New
Orleans, Louisiana, at 11:30
o'clock a.m.

DIETRICH & WITT, Inc.
STENOGRAPHERS
National Bank of Commerce Bldg.
New Orleans

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2 FIFTH CIRCUIT COURT OF APPEALS

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5 Appellants,

6 VS.

7 CHARLES DICKSON FAIR, ET AL.,

8 Appellees.

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17 AGAINST GOVERNOR ROSS R. BARNETT AND LIEUTENANT GOVERNOR
18 PAUL B. JOHNSON, held on this 2nd Day of October, 1962,
19 Room 222, Post Office Building, New Orleans, Louisiana, at
20 11:30 o'clock a.m.,

21 B E F O R E :

22 THE HONORABLE RICHARD T. RIVES,

23 THE HONORABLE JOHN MINOR WISDOM,

24 and

25 THE HONORABLE WALTER P. GEWIN,
Circuit Judges.

1 APPEARANCES:**2** For the United States of America:**3** ST. JOHN BARRETT, Esq.,
4 Attorney,
Civil Rights Division,
Department of Justice.**5** For the Appellant:**6** MRS. CONSTANCE BAKER MOTLEY,
7 Attorney-at-Law,
10 Columbus Circle,
8 New York 19, New York**9** For the Respondents:**10** THE HON. JOE T. PATTERSON,
Attorney General of the
11 State of Mississippi**12** JOHN C. SATTERFIELD, Esq.**13** and**14** CHARLES CLARK, Esq.,**15** Special Assistant Attorneys General**16** HELEN R. DIETRICH,
17 Reporter.**18** ...oOo...**19** P R O C E E D I N G S**20** JUDGE RIVES: The Court calls the case of James
21 Howard Meredith et al. against Charles Dickson Fair, et al.,
22 No. 19,475, and the Court will hear from Counsel for Governor
Barnett and Lieutenant Governor Johnson.**23** MR. PATTERSON: Does the Court wish an announcement
24 as to counsel appearing?
25

1 JUDGE RIVES: If you will.

2 MR. PATTERSON: I am Joe T. Patterson, Attorney
3 General of the State of Mississippi, appearing on behalf of
4 Governor Ross R. Barnett, Lieutenant Governor Paul B.
5 Johnson, and the State of Mississippi. I am assisted here
6 by the Honorable Charles Clark, Attorney, of Jackson,
7 Mississippi, and Special Assistant Attorney General, and
8 Honorable John Satterfield, Attorney, of Jackson and Yazoo
9 City, Mississippi, as Special Assistant Attorney General of
10 the State of Mississippi.

11 JUDGE RIVES: You gentlemen may proceed.

12 MR. CLARK: May it please the Court, the matter
13 that is before the Court this morning is a question with
14 regard to the orders entered finding the Governor and the
15 Lieutenant Governor in contempt of this Court. These orders,
16 which form the basis for the proceedings this morning,
17 stated that prior to court today the Governor was to show
18 the Court that he was fully complying with the terms of the
19 restraining orders. Do Your Honors have those orders in
20 mind or would you prefer that I enumerate them to the Court
21 at this time?

22 JUDGE RIVES: I think we have them very well in
23 mind, Mr. Clark.

24 MR. CLARK: All right, Your Honor. And also he
25 was required to cease forthwith all resistance to and

1 interference with the orders of the Court and the District
2 Court of the Southern District of Mississippi, and to main-
3 tain law and order at and around the University, to cooperate
4 with the officers and agents of the Court in the execution
5 of the orders of the Court, to the end that James H.
6 Meredith be permitted to register and remain as a student
7 at the University of Mississippi under the same terms and
8 conditions applicable to all other students, and, of course,
9 the Lieutenant Governor's citation or order was exactly the
10 same as far as the content is concerned.

11 The facts in the matter, while somewhat confused,
12 are basically known to us correctly to be these:

13 James H. Meredith is registered as a student at
14 the University of Mississippi, he is enrolled as a student
15 there; he is presently attending classes as a student at
16 that institution.

17 The Court, I am sure, is aware of the fact that
18 there are many side circumstances and unfortunate events
19 that have occurred. The United States marshals are present
20 on the campus in great numbers; troops of the United States
21 are present on the campus and the surrounding city, but no
22 act which would constitute a violation of any order to the
23 Governor or Lieutenant Governor under the terms of the
24 orders of this Court has been committed or done by them.
25 There has been no interference in any order, in the execution

1 of any order of this Court by these men at any time.

2 The position that the State of Mississippi through
3 its officials, the Governor and the Lieutenant Governor,
4 who are appearing through counsel in this Court, take is
5 that they have complied with the orders of this Court in
6 every particular and that they are not in contempt of this
7 Court's orders.

8 If the Court has anything of a specific factual
9 nature that it cares to inquire about with regard to any
10 part of this, these officers' performance of their duties
11 and their actions since the orders of this Court, I would be
12 happy to answer, if I can.

13 JUDGE RIVES: My understanding is that you and
14 Attorney General Patterson and Mr. Satterfield appear as
15 counsel in this hearing for Governor Barnett and Lieutenant
16 Governor Johnson.

17 MR. CLARK: We have been requested so to do by
18 those gentlemen, and that is our capacity before the Court
19 at this time.

20 JUDGE RIVES: And you represent to the Court that
21 they are, so far as they can do so, complying with the
22 orders of this Court?

23 MR. CLARK: Yes, Your Honor.

24 JUDGE RIVES: They are maintaining law and order
25 to the best of their ability, and that they will continue

1 to, so far as possible, in the compliance with the orders of
2 this Court?

3 MR. CLARK: Yes, Your Honor. You must know this,
4 if it please the Court: There is no state police force of
5 the State of Mississippi. It has, of course, under the
6 command of its Governor in normal times a national guard,
7 of which he is the commander-in-chief. That national guard
8 has been federalized. He has no authority whatsoever over
9 any member of the National Guard, to give orders or not to,
10 to perform or not perform any act. He is powerless to call
11 on the National Guard.

12 JUDGE RIVES: I thought you did have a State
13 Highway Patrol force.

14 MR. CLARK: The State Highway Patrol force is
15 assuming to act at the request of the Governor in areas
16 where perhaps there is some legal question as to their
17 authority to act, but nevertheless those forces have been
18 used and ordered by the Governor at all times in compliance
19 with the orders of this Court. There have been some news
20 releases that might have indicated otherwise. That is
21 positively untrue and I make that statement on the direct
22 authority of the Governor of the State. At no time were
23 they ordered by him to withdraw or quit the campus of the
24 University. Two of the members of that force were struck in
25 the battle by tear gas projectors, and at that time other

1 members of the force were forced to withdraw from the campus
2 because they did not have sufficient gas mask equipment to
3 stay in the gassed area, but they were never ordered
4 withdrawn by the Governor for the purpose of provoking any
5 violation of the Court's orders, and, in fact, were never
6 ordered withdrawn -- period -- and upon finding that they
7 had left the scene, they were ordered by the Governor to
8 return to the campus, and they did do so as long as it was
9 physically possible for them to remain there.

10 JUDGE RIVES: If it is at all possible to do so,
11 the Court is more interested in the maintenance of law and
12 order in the future and in the compliance with the Court's
13 orders in the future than it is with any controversy as
14 to just what has occurred in the past, and, if it is
15 possible to do so, I would like to avoid having any trial
16 at this time as to just what has occurred in the past in
17 the controversy, as to what has occurred in the meantime.

18 MR. CLARK: Yes, sir. And I also would make a
19 statement to the Court on behalf of the Governor and the
20 Lieutenant Governor that their prime motive for all actions
21 that they will take will be the maintenance of peace and
22 order and also with a due regard and the highest regard to
23 the obedience of the orders of this Court, but they consider
24 that their primary duty is for the peace and safety of the
25 State of Mississippi and with this other order, of course,

1 paramount in their minds, and that will be their intention.

2 JUDGE RIVES: Mr. Attorney General.

3 MR. PATTERSON: If the Court please, Mr. Clark has
4 stated our position. Inasmuch as I am Attorney General of
5 the State, I felt like I should place myself before this
6 Court and reaffirm what Mr. Clark has just said, and our
7 position briefly stated is to the effect that there has been
8 no violation, deliberate violation, of these orders of the
9 Court by the Governor of the State of Mississippi or the
10 Lieutenant Governor since its issuance, that there has been
11 and is now compliance with that order insofar as it is
12 physically possible for them to do so. Only yesterday, I
13 might say, I joined the Governor and came right behind him
14 with a plea to the good people of our state to remain calm,
15 remain at home, let's have law and order, and called on them
16 for their assistance to see that we do have such, and these
17 unfortunate things that have appeared in the paper insofar
18 as I am able to ascertain certainly were not done at the
19 direction of the Governor or the Lieutenant Governor, and
20 I can assure you the Attorney General, and I think when once
21 the real truth is known, it is going to be seen that not
22 even the University boys and girls -- mind you, there are
23 over 5,000 there, and, if any at all were involved, it is
24 going to be relatively few, practically nil, and that these
25 things that did happen were not at the instance of university

1 students or of public officials of Mississippi. It's just
2 one of those things that will happen.

3 JUDGE RIVES: I understand, Mr. Attorney General,
4 you assure us as Attorney General of the State and as
5 attorney for the Lieutenant Governor and for the Governor,
6 that to the best of their ability, they will maintain law
7 and order and will comply with the orders of this Court?

8 MR. PATTERSON: Yes, sir.

9 JUDGE RIVES: Fine.

10 MR. PATTERSON: Thank you, sir.

11 MR. CLARK: May it please the Court, I just
12 wanted to give the Court citations as to two authorities, if
13 you care to have them. One is an Alabama case in 50 So. 218
14 and the particular matter is at Page 223. The other refer-
15 ence is to 17 CJS 149, that is, Page 149 and the section is
16 109, on contempt, sir, and the United Mine Workers case, at
17 Page 330, U.S. 258.

18 JUDGE RIVES: Thank you, sir. May we hear the
19 recommendations of the United States?

20 MR. BARRETT: If the Court please, it seems to me
21 that the showing made by Governor Barnett and Lieutenant
22 Governor Johnson, through Counsel today, has not met the re-
23 quirements of this Court's order. The Court ordered that the
24 Governor and the Lieutenant Governor show to this Court by
25 eleven a.m. today, first the Governor, that he had notified

1 all law enforcement officers and all other officers under his
2 jurisdiction or command, first, to cease forthwith all re-
3 sistance to and interference with the orders of this Court
4 that are here involved and, secondly, to maintain law and
5 order at and around the university and to cooperate with the
6 officers and agents of this Court and of the United States
7 in the execution of the orders of this Court and of the
8 District Court. Now, it seems to me that the representations
9 by Counsel here today have not met that requirement of show-
10 ing that the Governor has notified all law enforcement
11 officers and other persons under his jurisdiction to that
12 effect. We, however, are concerned with the substance of
13 compliance; we are concerned that law and order be maintained
14 around the campus; that there be no interference with the
15 officers of this Court and of the United States and that
16 there be cooperation in maintaining -- both maintaining order
17 and in effectuating the orders of this Court. Accordingly,
18 we do not recommend that immediate action be taken by this
19 Court at this time. We do, however, urge that a further show-
20 ing should be made by the Governor and the Lieutenant
21 Governor that they have in fact complied with the full re-
22 quirements of this Court order and we would hope that there
23 would be no occasion for the settling of a factual issue; that
24 there would be no issue of fact but should there be one, we
25 would, of course, be prepared at that time to ourselves make
a showing to the Court.

1 JUDGE RIVES: Does the Appellant have any recom-
2 mendations?

3 MRS. MOTLEY: The Appellant agrees with the po-
4 sition of the Government that there ought to be a further
5 showing that law and order has been maintained on the campus
6 and that this maintenance of law and order is with the coop-
7 eration of the Governor and the State Police in the State of
8 Mississippi and we don't consider that the showing which has
9 been made to this Court is a sufficient showing as to that
10 matter.

11 JUDGE RIVES: Mr. Attorney General.

12 MR. PATTERSON: I thought Mr. Clark and I made it
13 plain in our opening statement to the Court that there was
14 compliance with the orders of this Court by both the Governor
15 and the Lieutenant Governor, insofar as they were physically
16 able to do so. I might state that on yesterday -- the Licu-
17 tenant Governor spent night before last and all day yesterday
18 in the City of Oxford seeking to do that very thing and the
19 Governor on September 30, which was Sunday, made a public
20 statement over the radio, the TV and through the newspaper
21 and I quote him in that statement: "I urge all Mississippians
22 and instruct every State officer under my command to do
23 everything in their power to preserve peace and to avoid
24 violence in any form." I don't know how the Governor could
25 put it any stronger in an effort to comply.

1 JUDGE GEWIN: Your position being that under the
2 facts and the circumstances of the case, the Governor and
3 the Lieutenant Governor and you so represent to this Court
4 that they have done all things within their power to comply,
5 and that the eruptions or disturbances which may have
6 occurred have been beyond their authority to stop, and that
7 even with whatever force has been applied, there has been
8 some eruption?

9 MR. PATTERSON: Yes, sir.

10 JUDGE GEWIN: In spite of the strength of the
11 police officers and Army personnel there?

12 MR. PATTERSON: The National Guard as this
13 Court knows, was federalized, and, of course, that took
14 really the only weapon of law enforcement away from the
15 Governor that he has in the State of Mississippi. We do
16 not have a State Police like most States have. Our
17 Highway Patrol is very limited in its authority as well
18 as its number. There are only 200 of them.

19 JUDGE GEWIN: Is there any police force there
20 under the law of the State which is under the direct com-
21 mand of the Governor or the Lieutenant Governor?

22 MR. PATTERSON: The nearest approach to it Your
23 Honor is the State Highway Patrol, and the statutes, laws,
24 providing for the Highway Patrol confine their duties
25 mainly to enforcing the traffic laws on the public highways

1 of the State of Mississippi. They are not a police force
2 outright as such, and our Supreme Court has so held.

3 JUDGE RIVES: Our direction is to: (a) show the
4 Court he is fully complying with the terms of the restraining
5 order and that he has notified all law enforcement officers
6 and all other officers under his jurisdiction or command to
7 cease forthwith all resistance and interference with the
8 orders of this Court and the District Court for the Southern
9 District of Mississippi; (b) to maintain law and order at
10 and around the University and to cooperate with the officers
11 and agents of this Court and of the United States in the
12 execution of the orders of this Court and of the District
13 Court of the Southern District of Mississippi to the end
14 that James H. Meredith is permitted to register and remain
15 as a student at the University of Mississippi under the same
16 conditions as apply to all other students; and while the
17 order, the direction, that you have read us gives no
18 specifics, mostly just simply to the maintenance of law and
19 order, you assure the Court, as I understand, that the
20 Governor is and will comply with the orders of this Court
21 in all respects?

22 MR. PATTERSON: Insofar as he is physically able
23 to do so Your Honor.

24 JUDGE RIVES: Yes, sir.

25 JUDGE WISDOM: Of course, there is apparently an

1 area of disagreement between the Government and the Governor
2 of Mississippi insofar as the issue of compliance is con-
3 cerned. Should we accept the recommendation of the Govern-
4 ment, however, that we delay action for any time, if there
5 is any doubt as to that area of disagreement we will have --
6 the Governor will have some opportunity to vitiate that
7 doubt.

8 MR. PATTERSON: Thank you, sir.

9 JUDGE RIVES: May I say that this panel -- this
10 order was entered by the Court en banc. All the members
11 except Judge Cameron, who is ill, participated. Due to the
12 fact that the State of Mississippi was involved and the
13 Governor and the Lieutenant Governor were involved, we felt
14 it was of sufficient dignity for all of the members of the
15 Court to participate. The Court, as Judge Tuttle explained,
16 is beginning an extremely busy Court and at this moment one
17 panel of the Court is holding Court in Houston, Texas,
18 another panel is holding Court in Jacksonville, Florida.
19 Before any definite action is taken on this report, it will
20 be necessary for me to communicate by telephone with all the
21 members of the Court, which will mean long distance calls to
22 Houston and to Jacksonville. It will not be possible for us
23 to make an immediate announcement of the action of this
24 Court on the report. We will probably pass the matter over
25 for an hour or so to give an opportunity to do that, but I

1 understand that you gentlemen also represent the Chancellor,
2 the Dean, the Registrar, and the members of the Board of
3 Trustees, and the Institution of Higher Learning, and
4 possibly some action should be taken on their matters at
5 this same time.

6 MR. PATTERSON: Yes, sir.

7 JUDGE RIVES: If you or Mr. Clark are in a position
8 to make some report on that or some request on that, we may
9 be able to announce that at the same time.

10 MR. PATTERSON: Mr. Clark will present that to the
11 Court. Thank you very much.

12 JUDGE RIVES: Thank you.

13 MR. CLARK: May it please the Court, I am sure
14 that the Court will recall that I was directed to report to
15 the Court on last Tuesday afternoon, which report was made,
16 showing that the Chancellor was on the campus, the Registrar
17 was on the campus -- pardon me -- at that time I believe the
18 Registrar was in Jackson, Mississippi, under the direct
19 requirements of this Court. He did remain there during the
20 hours required by the Court, and he has continuously since
21 that time been at his office at the University in strict
22 compliance with the orders of the Court. The Chancellor
23 took no action whatsoever in any way derogatory to the orders
24 of this Court, and he was at all times in full compliance
25 with the orders of this Court. The same was true as to

1 Dean Lewis, the same was true as to the Board of Trustees.
2 At this time we respectfully request the Court to discharge
3 these gentlemen from the citation for contempt previously
4 issued against them.

5 JUDGE RIVES: The Chancellor, the Dean, and the
6 Registrar?

7 MR. CLARK: And the Board of Trustees too Your
8 Honor.

9 JUDGE RIVES: And the Board of Trustees too.

10 JUDGE WISDOM: Can you give me any information as
11 to what sort of evaluation the Registrar made of Meredith's
12 credits, or do you know?

13 MR. CLARK: I do not have the information at all
14 Your Honor.

15 JUDGE WISDOM: I was just curious to know how he
16 was being entered, as a Junior or --

17 MR. CLARK: Counsel might have the answer to
18 that. I do not.

19 MRS. MOTLEY: I am glad you raised that point
20 Judge Wisdom because we are not able to reach our client
21 to determine whether the order has been complied with to
22 that extent. We don't know what classification or what
23 evaluation has taken place. It may be that Attorney General
24 Patterson could get a call through to Oxford, but we were
25 trying to check with Mr. Meredith to see whether as a matter

1 of fact, everything we heard on the radio and television
2 was correct.

3 JUDGE WISDOM: I would assume just from the news-
4 papers that there had been substantial compliance, if the
5 news report that he is a Junior is true.

6 MRS. MOTLEY: Well, that is what I say. All I
7 know is what I read in the newspaper. I can't communicate
8 with our client, and I can't say what the situation is, but,
9 if they can get a call through so that we can talk to him,
10 we might be able to clear that up.

11 JUDGE WISDOM: It might be very difficult to get
12 a call through to Oxford today.

13 MRS. MOTLEY: That is what I am saying. We tried
14 all day yesterday and couldn't get through.

15 MR. PATTERSON: I know nothing about the evaluation
16 Your Honor that might have been made. Frankly, I thought
17 the main point at issue here was admission.

18 JUDGE WISDOM: I think it was, I think it was
19 admission. However, the credits do bear on whether or not
20 there had been compliance, and I was curious to know to what
21 extent he had been informed of the credits and how much
22 value had been attached to them.

23 MR. PATTERSON: Well, I may have misunderstood the
24 Court's opinion, but I didn't understand this Honorable
25 Court to be taking the position of determining evaluation

1 of credits.

2 JUDGE WISDOM: Oh, no, no. We are absolutely not.
3 That is not --

4 MR. CLARK: You wanted to know if he had been
5 evaluated as all other students?

6 JUDGE WISDOM: Yes.

7 MR. CLARK: That was the obligation I understood
8 the Registrar had.

9 MRS. MOTLEY: Yes. That is what I had in mind,
10 that the order of this Court of July 28th specifically said
11 his credits had to be evaluated the same as all other
12 students, and that is what I had reference to.

13 MR. CLARK: If this evaluation results in the
14 status of Senior, Sophomore, Junior, or whatever, it has to
15 be on the same basis as any other student.

16 MRS. MOTLEY: Right.

17 MR. CLARK: And I will do my best to try to find
18 out for the Court the answer to the question, which I do not
19 know now, but please do understand me, Your Honors: I am
20 asking for a discharge of the Trustees as well. I have
21 already reported to Your Honors the specific things you
22 required. Entry of orders and instructions to University
23 personnel have all been fully and meticulously complied with
24 by the Board of Trustees.

25 JUDGE RIVES: You are asking for discharge also

1 of Mr. Riddell? We have not heard his case, but his counsel
2 did appear in Court and assure the Court that he would
3 comply.

4 MR. CLARK: Yes, sir.

5 JUDGE RIVES: -- in the future. All of the other
6 Trustees, we heard their case.

7 MR. CLARK: Yes, Your Honor.

8 JUDGE RIVES: May I ask insofar as the Governor
9 and the Lieutenant Governor -- I anticipate that it may be
10 difficult to enter any definite order today, but if this
11 matter is passed or set for hearing as to the Governor and
12 the Lieutenant Governor on Friday of this week, will that be
13 acceptable to Counsel on either side?

14 MR. CLARK: We presume it might be set at the same
15 time as the temporary injunction hearing or some nearby
16 time.

17 JUDGE RIVES: The same time as the temporary
18 injunction, and that would be at eleven o'clock instead of
19 ten o'clock, at eleven o'clock on Friday.

20 MR. CLARK: Yes, sir, that does meet with the
21 approval of the State of Mississippi.

22 JUDGE RIVES: Would that be agreeable to you all?

23 MR. BARRETT: That would be satisfactory.

24 JUDGE RIVES: Would that be satisfactory to the
25 Appellant?

1 MRS. MOTLEY: That is right.

2 JUDGE RIVES: Well, we will reassemble, as I say
3 -- I presume I will be able to get calls through and dis-
4 cuss this matter with the other Judges and get reassembled
5 at two o'clock and make some definite announcement as to
6 what the Court will do in the matter. The Court will stand
7 in recess until two o'clock.

8
9Thereupon, at twelve o'clock Noon,
10 Court was recessed until two o'clock
11 P.M.....
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1 Pursuant to the recess, proceedings herein
2 where resumed at 2:00 o'clock p.m., appearances being the
3 same as heretofore noted in the record

4 JUDGE RIVES: Gentlemen, during the noon recess I
5 have been able to communicate with all of the other judges
6 by telephone, except Judge Cameron, who, of course, is not
7 sitting in this case, and I find that Friday, October 12th,
8 is the earliest date that, consistent with the other
9 business of the Court, the Judges can get together. The
10 Judges consider that it will be necessary or will be proper
11 to hold an en banc court with all of the Judges present. In
12 view of that fact, we are also passing the Motion for a
13 Preliminary Injunction to Friday, October 12th and continuing
14 the Restraining Order in effect.

15 The Judges have agreed upon two orders, one dis-
16 posing of the matters so far as the Chancellor, the Dean,
17 the Registrar, and the Members of the Board are concerned,
18 and the other continuing the other matters for disposition
19 on Friday, October 12th.

20 We have not had an opportunity to have these
21 orders duplicated in any great numbers, but I think there
22 are probably enough copies here to supply the needs. I
23 will read them briefly. The substantive order is this:

24 From the testimony heard on the 24th
25 day of September, 1962, and from the

1 reports to this Court made pursuant to
2 its order of that date, it appears to the
3 satisfaction of the Court:

4 1. That John Davis Williams,
5 Chancellor, Arthur Beverly Lewis, Dean
6 of the College of Liberal Arts, and
7 Robert Byron Ellis, Registrar of the
8 University, have at no time been, and
9 are not in civil contempt of any judg-
10 ment or order of this Court.

11 2. That on September 24th, 1962,
12 the President and all members of the Board
13 of Trustees of Higher Learning, including
14 Board member Tally D. Riddell, Esq.,
15 through his counsel, announced in open
16 Court that they would thereafter perform
17 all things ordered and directed by -- and
18 would comply with this Court's orders, and
19 that each of them has since said date
20 acted in compliance with this Court's
21 orders.

22 IT IS NOW, THEREFORE, ORDERED AND
23 ADJUDGED:

24 A. That John Davis Williams,
25 Chancellor, Arthur Beverly Lewis, Dean

1 of the College of Liberal Arts and
2 Robert Byron Ellis, Registrar of the
3 University, have not been and are not
4 guilty of civil contempt of this Court.

5 B. That the Court does not enter a
6 judgment of civil contempt insofar as
7 the President or any of the members of
8 the Board of Trustees of Higher Learning,
9 are concerned and does vacate and dismiss
10 the citation for civil contempt as to
11 the President and each of the members of
12 the Board of Trustees of Higher Learning.

13 The other order, which is very brief, continuing
14 the matters:

15 The matter of the entry of further
16 orders as to civil contempt insofar as
17 concerns Governor Ross R. Barnett or
18 Lieutenant Governor Paul B. Johnson, Jr.,
19 the motion for preliminary injunction,
20 and all other motions or matters in this
21 cause are set for hearing in the courtroom
22 at New Orleans, Louisiana, at 11:00
23 o'clock a.m., on Friday, October 12, 1962.

24 The restraining order heretofore
25 issued by this Court shall remain in full

1 force and effect until such time.

2 Those are the orders, gentlemen. Unless there is
3 some question, --

4 MR. PATTERSON: On the matter going to the Board
5 of Trustees, Your Honor, that also includes their secretary,
6 Mr. E. R. Jobe. He was a party-defendant.

7 JUDGE RIVES: Yes, sir. Let me take that back
8 and make that correction, please, sir. I am sorry we
9 overlooked Mr. -- what is his name?

10 MR. PATTERSON: E. R. Jobe, J-o-b-e.

11 JUDGE RIVES: And his official capacity?

12 MR. PATTERSON: He is merely the Executive
13 Secretary for the Board of Trustees of Institutions of
14 Higher Learning.

15 JUDGE RIVES: E. R. Jobe, Executive Secretary. I
16 am sorry we overlooked Mr. Jobe. We are entering him in
17 the first group finding them not guilty of contempt. By
18 interlincation we have included in paragraph one Mr. Jobe's
19 name, so that it would now read:

20 1. That John Davis Williams,
21 Chancellor, Arthur Beverly Lewis, Dean
22 of the College of Liberal Arts, Robert
23 Byron Ellis, Registrar of the University,
24 and E. R. Jobe, Executive Secretary of
25 the Board of Trustees of Institutions of

1 Higher Learning have at no time been,
2 and are not in civil contempt of any
3 judgment or order of this Court,
4 and in Paragraph A. of the Order:

5 That John Davis Williams, Chancellor,
6 Arthur Beverly Lewis, Dean of the College
7 of Liberal Arts, Robert Byron Ellis,
8 Registrar of the University, and
9 E. R. Jobe, Executive Secretary of
10 the Board of Trustees of Institutions of
11 Higher Learning, have not been and are
12 not guilty of civil contempt of this Court.

13 The carbon copies will need to be corrected.

14 Are there any other questions?

15 MR. SATTERFIELD: May it please the Court, in
16 connection with the filing of briefs on the motion, we will
17 prepare and file our brief on Friday. I believe the
18 Government will prepare and file a reply on Tuesday. I
19 wonder if our response to the Government's reply might be
20 filed on Thursday so it will be in the hands of the Court
21 prior to the 12th.

22 JUDGE RIVES: Yes, that will be agreeable, Mr.
23 Satterfield. Are there any questions on behalf of the
24 Government or the Appellant?

25 MRS. MOTLEY: No, Your Honor.

1 MR. BARRETT: No, Your Honor.

2 JUDGE RIVES: Court then will stand adjourned,
3 subject to further orders.

4
5
6 ...Thereupon, at 2:04 o'clock p.m.
7 the proceedings were adjourned to
8 Friday, October 12, 1962, at 11:00
9 o'clock a.m.

10
11
12 C E R T I F I C A T E

13 I, Helen R. Dietrich, do hereby certify that the
14 above and foregoing (26 pages of typewritten matter) is a
15 true and correct transcription of the stenographic (Steno-
16 type) notes of the proceedings herein, taken down by me,
17 and transcribed partially by me and partially under my
18 supervision, on the day and date hereinbefore noted, in
19 the above-entitled and -numbered cause now pending before
20 the Fifth Circuit Court of Appeals of the United States.

21 New Orleans, Louisiana, this 2nd day of October,
22 1962.

23
24 
25 Reporter