IN THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT OF

HINDS COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

EX REL

ROSS R. BARNETT, GOVERNOR

VS:

JAMES H. MEREDITH

SEP 20 1982 FRANK T. SCOTT Y. CLERK

COMPLAINT

DEFENDAN

COMPLAINANT

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

1.

BILL

OF

This suit is brought by virtue of the authority conferred upon the Governor of the State of Mississippi by Section 116 and Section 123 of the Constitution of 1890, and by Section 3975(N) of the Mississippi Code of 1942, and is brought in the name of the State of Mississippi, Ex Rel Ross R. Barnett, Governor of the State of Mississippi, for the reason that Honorable Joe T. Patterson, the Attorney General of the State of Mississippi has been requested to bring this suit in the name of the State of Mississippi, and has refused or neglected so to do, but only on the ground that it is his judgment that this suit can be more effectively prosecuted in the name of the Governor with the full approval of the Attorney General, which approval is hereby fully and completely asserted.

2.

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

3.

James H. Meredith, the Defendant, is a colored man. The University of Mississippi is an educational institution belonging to and being operated by the State of Mississippi, under its Constitution and Statutes, lawfully enacted, establishing it as an Institution of Higher Learning for members of the white race. It is against the public policy of the State of Mississippi, as well as its laws for any colored person to be admitted as a student at said institution and his enrollment and entry therein would be in direct violation of the laws of the State of Mississippi. The Board of Trustees of State Institutions of Higher Learning has prescribed certain fundemmental requirements · that all applicants meet before they can qualify for admission as a student at the University of Mississippi, and the said James H. Meredith does not meet the qualifications so fixed by said Board of Trustees of State Institutions of Higher Learning and is not competent or qualified to be admitted as a student at said University.

5.

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

Complainant further shows unto the Court that the

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

7.

Compleinant further shows unto the Court that the State has a responsibility as a parens patriae for the safety, comfort, peace and welfare of the students at the University of Mississippi, and it is the solemn duty of the State of Mississippi to so protect said students and to establish and maintain an environment upon the campus of the University that is safe and secure for the students attending said institution and is conducive to their education among environment and surroundings that are peaceful and free from tumult and breaches of the peace and diverting influences such as would be caused by the admission of the Defendant as a student into the University of Mississippi.

Ë.

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

9.

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

10.

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

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

WEREFORE, THE PREMISES CONSIDERED, Complainant prays that process issue for the Defendant commanding him to be and appear at the next term of this Bonorable Court to then and there plead, answer or demur to this Bill of Complaint, but not under oath, answer under oath being hereby waived, and that a temporary injunction issue enjoining the Defendant his Agents, employees, attorneys and accomplices from applying to the University of Mississippi, or any of the Agents, employees or officials for matriculation, registration, entry or otherwise becoming a student at said University and that upon the hearing of this cause upon its merits that eaid temporary injunction be made permenent. If mistaken in the relief herein prayed for, then Complainant prays for such other and further relief, either general or special, as to a Court of equity may seem meet and proper and the facts of the case may require. And as in duty bound Complainant will ever pray.

STATE OF MISSISSIPPI Ross R. Barnett, Governor

Joe Patterson Ť.

Attorney General State of Mississippi

WATKINS and EAGER Plaza Building Jackson, Mississippi

RY Ħ. Vatking

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

2 BY:_ 11 1-2. M. B. Montgomery

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ATTORNEYS FOR COMPLAINANT

STATE OF MISSISSIPPI

HINDS COUNTY : : : :

THIS DAY personally appeared before me the undersigned authority in and for said County and State, the within named ROSS R. BARNETT, Governor of the State of 1 Baissippi, who, being by me first duly sworn, deposes and says that the foregoing Bill of Complaint is filed on behalf of the State of Mississippi as a sovereign state and that the facts stated therein are true as therein stated to the best of his knowledge, information and belief as the Governor of the State of Mississippi.

24.6

Notary Public

day

SWORN TO and SUBSCRIED before me this, the ______ of September, 1962.

My Commission Expires:

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IN THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT OF

MINDS COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

EX REL

ROSS R. BARMETT, GOVERNOR

VS:

JAMES R. MEREDITH

DEFENDANT

NO

COMPLAINANT

TO: JAMES R. MEREDITH, DEFENDANT: GREETING:

WHEREAS, the Complainant in the above entitled cause filed a verified complaint praying for a temporary injunction against you as Defendant requiring you to refrain from certain acts hereinafter more particularly mentioned, and it appearing to the above entitled Court that a temporary injunction should issue in the premises and that the State of Mississippi be no required to give any injunction bond,

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

WITHESS the Honorable St. T. Borton , Chancellor of the

Chancery Court of the Pirot Judicial District of Einds County, Seale of Maciscippi, attacted by my hand and seal of and Court this, the _____ day of September, 1962.

From 2. Seett, Chessery Clerk

J. C.

IN THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT

HINDS COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

EX REL

BOSS R. BARNETT, GOVERNOR

VS: EREDITH SEP 20 1982

PRANK T. SCOTT

CONPLAINA

DEFENDANT

ORDER GRANTING TEMPORARY INJUNCTION

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

CRDERED, ADJUDGED and DECREED that a temporary injunction issue enjoining the Defendant, his Agents, employees, Attorneys and accomplices from doing or performing any act necessary, proper, incident to or connected with applying for edulation into the University of Mississippi as a student thereat, including, but not restricted to applying for registration, metricplation or performing any other act In anywise connected with or incident to the obtaining of permission to attend said University as a student there t. No bond shall be required of the State of Mississippi for the issuance of this injunction and the Clerk of this Court is hereby ordered and directed to issue said injunction, as aforesaid, and place the same in the hands of the Sheriff for service upon the Defendant, his Agents, Employees, Attorneys or accomplices.

ORDERED, ADJUDGED and DECREED this, the <u>ic</u> day of September, 1962.

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CHANCELLOR

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TOR THE FIFTH GIRCHIT

WITED STATES COURT OF APPEALS

10, 19675

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

Appellant,

2-2

U. S. COURT OF A PEALS FILED

SEP 26 1962

EDWARD W. WAUSWORTH

CLERK

GEARLES DICESON FAIR, President of the Jouri of Trustees of the State Institution of Righer Lourning, et. al.,

Appellens.

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Appellant has moved this Court for an order directing Rose L. Berneth, Covernor of Mississippi, to show ennes shy he should not be adjuiged in contempt of orders issued by this Court in this action. On consideration of that notion, presented to this Court on the 25th day of September, it is now Ordered:

1. Inst Governor Rose R. Arrastt be, and is, required to show compose if he has any, before this Court in the City of New Orleans, Old Post affice Building, on the 28th day of September 1962 at 10 A. No. shy he should not be adjuight in contempt of the orders insued by this lout.

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

Chut P. Juttle

IN THE UNITED STATES CO.	
POR THE FLITTE	
JANKS H. MEREDITH, Appellant VS.	
CHARLES DICKSON FAIR, et el Appelless	10. 19475
UNITED STATES OF AMERICA,) Amicus Curise and Petitioner)	J LORG L OT J LORG L OT J LORG L OT J J LORG L OT J S N G C7 T IS C SE
VE. STATE OF MISSISSIPPI, et al, Defendants	

COMES NOW the State of Mississippi as Amicus Curies pursuant to leave of this Court previously obtained, and move this Honorable Court to diamiss this action, to continue this esume for such a reasonable time as moressary to permit the Defendents a fair opportunity to present their defenses to the action, to transfer it to the Halted States District Court for the Southern District of Mississippi, or, in the alternative, to change the location of the heating of this estion to the Malted Status Court Erom in Jackson, Mississippi, and in support heated states faires

* I this was the antichment (To Miss. application for amicus status) that was not primitted Po be filed.

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

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

3. This Honorable Court of Appeels Looks juriodiction to how or dotermine or proceed with this cause any Systems for the reason that since the 13th day of Explander. 1962, the jurisdiction of this action has been fully vested in the United States District Court for the Southern Distric: of Mississippi, subject only to its possible withdrawal by the Supreme Court of the United States of America, should said Supreme Court grant a pending Potition for Writ of Certiorar to this Memorable Court of Appeels.

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

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

6. No Court other than the Suprame Court of the Walton States has original jurisdiction of a suit equinat the sourceign State of Mississippi at any point or place other then at the seat of government of said reversion State, to-with Jackson, Missicalppi, under the terms and providens of Section 4387, Mississippi Code of 1942.

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

8. This Honorable Court of Appeals should not proceed with the bearing of any part of this matter on the merning of September 28, 1962, at New Orleans, Louisiana, for the reason that the distance and location of such place is over 50 miles from the nearest part of the State of Mississ ypi and more than 200 miles from the seat of government of said State and that notice of the holding of this bearing was not received by councel appearing berein until the morning of September 26, 1962. Said length of motice and distance of the point of bearing are so short in timesand guing the time an place scheduled a violation of the rights of the parties based mains the Fifth and Fourteenth Amendments on the Gaustitution of the United Examp of America. 9. This Honorable Court of Appeals should transfer this cause to some point or place in the Southern District of Mississippi for the reason that territorial venue of this same lies in said District under the plain meaning and intent of Soctions 1391(b) and 1392(a) of Title 28 of the United States Code.

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

11. These proceedings in the name of the United States are being conducted and prosecuted at a time when th Appellant in this Court is represented by counsel who have filed with this Court identical proceedings seeking the sam whilef and equinet the same defendants and, the proceeding being one solaly in civil contempt, the sold United States : Anious Caries has no standing whetpeover, not being a party to this litigation to proceedes or proposed with this mether

in the present status of the proceeding.

REFECTIVELY SUBSTITUD.

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Thenes H. Machine Suize 209, Flaze Building Jackson, Mississippi

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John C. Ecterfield 340 First Matismel Bank Building Jackson, Mississippi

SPECIAL ASSISTANT ATTORNEYS CHERAL OF THE STATE OF MISSISSIPPI

Garner V. Green, Sr., Loy. Electric Building Jackson, Mississippi

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OF COUNSEL

U. S. COURT OF APPEALS F I L-E D

· Sep. 26 1962

Edward W. Wadsworth

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JAMES H. MEREDITH,

Appellant,

CHARLES DICKSON FAIR, et al.,

Appellees

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10. 19475

UNITED STATES OF AMERICA,

Amicus Curiae and Petitioner,

STATE OF MISSISSIPPI, et al.,

Defendants.

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

The United States, <u>amicus curiae</u> 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.

other as a 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. In 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 krights 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 Curise,

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 be 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.

HOTARY PUBLIC

My Commission expires at my death.

U. S. COURT OF APPEALS FILED

Sept. 26 1962

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

FOR THE FIFTH CIRCUIT

JAMES H. MEREDITH,

Appellant,

CHARLES DICKSON FAIR, et al.,

Appellees.

NO. 19475

UNITED STATES OF AMERICA, Amicus Curise and Petitioner.

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 er 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, <u>amicus curiae</u> herein, that Faul 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 <u>September 29</u>, 1962, at <u>10</u> o'clock <u>a.m.</u> 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. forther th.

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

[0]	Richard T. Rives CIRCUIT JUDGE	
	CIRCUIT JUDGE	
/s/	John R. Brown	
	CIRCUIT JUDGE	

John Minor Wisdom /\$/ IRCUIT JUDGE

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

JAMES H. MEREDITH,

Appellant,

CHARLES DICKSON FAIR, et al.,

Appellees.

UNITED STATES OF AMERICA, Amicus Curiae and Petitioner,

STATE OF MISSISSIPPI, et al.,

cause amicus application denied

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Electric Taxadate

Jackson, headeling 1

Gener W. Stern, St., Eug.

Defendants.

NO. 19475

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

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

> Seice 200, Flace Building Jackson, Missiosippi

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FOR THE FIFTH CIRCHTY

JANKS H. MERIDITH.

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Appellent,

CHARLES DIGESCH FAIR, et al.,

Appellees.

WITED STATES OF AMERICA, AMERICA,

STATE OF MISSISSIPPI, et al.,

Defendants.

80. 19475

MOTION TO DISSOLVE TERPORARY RESTRATIONS CAUSE AND STAY OR DISELES CONTROPY PROCEEDINGS.

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

That the temperary restraining order issued without notice, the motion for proliminary injunction and the said sitution of the Governor of this poweroign state for contempt are annihilary and conversion proceedings and this state, as a defended, has a fail standing in this cause to file and pro-

The sovereign State of Mississippi is the only real party in interest in this cause. The Governor, the Lieutener Governor, and all other officials of this State whose acts, attitudes and activities are alleged to give rise to any right or cause of action or proceeding berein have been exclusively do and taken for and on behalf of the sovereign State of Mississippi alone and not pursuant to or in furtherance of any individual or personal interest of any such actor or participant; the said Governor being charged with the duty, by the Constitution of the State of Mississippi and by its Statutes, with the discharge of the functions of the chief emecutive officer of said State and being thereunder required to do and perform such acts and actions as he deemed necessary to secure the best interests of the people of the State of Mississippi and the peace, dignity, and good order of said citizens, the Lieutenant Gover nor and other officials acting herein having acted pursuant to the directions and authority of the Governor in the discharge of his said official daties.

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3.

This Monorable Court of Appeals Lacks original jurisdiction of this action against the severaign State of Mississippl, said juriodiction having been vested by the Constitutio of the United States of America in the Supreme Court of said United States and no cat of Congress having over been emetted Vesting or purporting to west such original jurisdiction in

this Reportio Court.

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

5.

This Honorable Court lacks jurisdiction at this particular time to proceed with this cause for the reason that the stay orders entered by Honorable Ben 7. Cameron on July 18, 1962, and subsequently, have stayed under the terms and provisions of Section 2101 (f) the execution and enforcement of the injunctive orders of this Court upon which these proceedings are based, and said stay orders are presently valid and outstanding and in full force and effect, because the Honorable Sepreme Court of the United States has not yet ruled upon the pending Potition for Cortionari in this cause.

This Henorchie Court of Appeals has no power to add parties defendent to an existing proceeding for the first tim at the appellate lovel and especially at a time when this Goust's mendate has been finally submened to the Maited States District Court for the Southern District of Mississippi for moeution and enforcement by that Court

7.

No Court other then the Sepreme Court of the United States has original jurisdistion of a suit against the severeign State of Mississippi at any point or place other them at the seat of government of said severeign State, to-wit: Jackson, Mississippi, under the terms and provisions of Section 4367, Mississippi Code of 1942.

8.

Through nows media, the attorneys appearing herein have been advised that a citation for contempt has been issued by this Court against Honorable Rose R. Barnett requiring him to appear before this Court on the morning of Friday, September 28, 1962, at New Orleans, Louisians, but no valid service of said citation has over been made upon said official 45 the said real party in interest, the State of Mississippi, and this Gourt therefore laoks jurisdiction to hear, determine or proceed with adid citation for contempt until due and proper service of process has been had.

This Henoreble Court of Appeals should not proceed with the hearing of any part of this matter on the norming of September 28, 1962, at New Orleans, Louisians for the reason that the distance and location of such place is over 30 miles from the measure part of the State of Mississippi and more than 200 miles from the seat of government of sold State and that notice of the helding of this hearing was not received by counsel appearing herein until the morning of September 26, 1962. Self length of notice and distance of the point of hearing are-so short in time and great in distance as to constitute the holding of sold hearing at the time and place scheduled a violation of the rights of the partice herein under the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

10.

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

11.

For the convenience of the parties and vitnesses and in the interests of justice, this Removable Court of Appeals should change the location of the place of hearing of this action to the United States Court Room in Jackson, Mississippi or, in the alternative, should transfer this causé to the Jack sen Division of the United States District Court for the Southern District of Mississippi, where the sold Governor of this State can and vill appear as a vitness in this cause, despite his constitue duties and Samtians econotification of Mississippi set in progress in the Edge of Jackson, Mississippi. These proceedings in the same of the United States are being con These dested and proceeded at a time when the Appellant in this Court is represented by councel who have filed with this Court identical proceedings southing the same policif and against the same defendants and, the proceeding being one solely in sivil contempt, the sold United States as Amisus Garies has no standing whatseever, not being a party to this litigation to proceeds or proceed with this mitter in the proceed status of the pro-

SERVECTIONLY SUBCETTED,

Thomas I. Watkins Suits 800, Plans Building Jankson, Mississippi

John G. Setterfield 340 First Mational Bank Building Jackson, Mississippi

SPECIAL ASSISTANT ATTOMETS CENER OF THE STATE OF MISSISSIFFI

Gerner V. Green, Sr., Req. Riestris Building Jackson, Mississippi

OF COURSEL

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N. S. COURT OF APPEALS

FILED

SEP 28 1962

CLERK

EDWARD W. WADSWOFTH

A RESIDENCE

ARLAS DECEMBER DAIR, as el.,

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FIRST OF PACT, OFFICIATION OF LAN

Man Marshall And this court having an September 25, 1962-Lound orders requiring Roos R. Dernott to appear before this Court today at 20:00 A. N., to show ensure, if any he has, why he should not be hold in civil encloses of the temperary sectorizing orders entered in this action on September 25, 1952, and Rose R. Innert having been given notice of the orders, to show ence, and it having been regularly sailed on the subsadar for beering of 20x00 A. S. this day, and Roop S. Result having gailed to ther areas in partie or by annual, and having fulled to r the shekal desizate estated in the verified againetion of the Called Silling, and of the employed and

The Court Lating bands and sections outdants on bands and considered the legal isource involved, now renders its Find ingo of Fact and Considerant of Law and Judgment as follows:

1. Since this Court entered its order of July 38, 1967, and the District Court for the Southern District of Mississippi entered its order as September 13, 1968, requiring the addicate of James H. Mesodith to the University of Mississippi, James H. Jamett, as Bovennor of the State of Mississippi, has issued a series of proclamations celling upon all officials of the state to provent and obstruct the servying out of the Court's orders with respect to the addication of James H. Maredith to the University. Two of these proclamations were issued by Nose H. Jamett on September 24 and September 25, 1962.

2. On September 25, 1962, this Court entered its temperary sectraining orders restraining Ross R. Barnett from interforing with or obstructing in any manner or by any means the enjoyment of rights or the performance of obligations under this Court's order of July 28, 1962 and the order of the District Court of September 13, 1952.

3. At approximately 4:30 P. H. on September 25, 1962, Noes R. Januath, having fall knowledge of the existence and terms of this Court's temporary sestraining orders, went to the office of the Joand of Trustons of Emstitutions of Higher Learn ing in Jackson, Missianippi at a time when James H. Neredith we due to appear at the office and be easedled as a student in the University of Missianippi, purseant to the order of this Court. Then James H. Neredith arrived at the office and sought to east for the purpose of easeiling, News R. Jacobith deliberately provented Mm from existing and told him that his application for consilerent was depiced by Baco R. Jacobit.

W in Astronov II, 1958, Jame I. Heredith sought to other the ensure of the University of Hamilantoni. In Content. Meeteringt. He was prevented from entering by Just 3. John on, Jr., Edenbound Concerns of the State of Masteright, orting pursuant to the instructions and under the authorization of tee 3. Instate.

5. The conduct of here 2, Bernett in proventing June 2. Moredith from excelling as a statemt in the Heirpschy of Manissippi has been with the deliberate and summanded purpos of provinking compliance with the orders of this and other 2 a and county.

MAL TO AND AND AND

2. This Court has jurisdiction of the person of New X. Investi.

2. Nose 2. Burnett is in contrast of the temperary Restraining orders entered by this Court on September 25, 1962.

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HER OF CIVIL CONTRACT

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IT IS CODUCED AND DUCKEND THAT:

ness 2. Sugnett is in civil contampt of the temperary restraining orders of this Court entered September 25,1962 that such contempt is continuing; and that Ross 2. Bernett shall be consisted to and remain in the custody of the Atterney Seneral of the United States and shall pay a fine to the United States of \$10,000, per day unless on or before Tuesay, Geteber 2nd, 1962 at 11:00 s.m. he shows to this Court that he is fully complying with the terms of the restraining or ars, and that he has notified all law enforcement officers and ill other officers under his jurisdiction or commod:

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

(b) To maintain law and order at and around the University and to scoperate with the officers and d symme of this Court and of the United States in the encourtion of the orders of this Court and of the District Court for the Southern District of Mississippi to the one that Source M. Marcelikh be possibled to register and pumpin on a student of the University of Mississippi under the source conditions as apply to all other stude to. Suthing hypein shall provent a later scattion of and states is students and such as an accounties. larialistics is hereby recorrect for such othe

d further colors as my he appropriate.

Judges Junes, Could and Boll dispart from the parties of the judgment imposing a fine upon the Bernander

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FOR THE FIFTH CINCULY

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mathe bitter pair, et al.,

Appellees.

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WITTO STATES OF ANEALCA, Automs Carlao and Potiticaer,

T.

Build of Mussionippi, et al.,

Defenients.

10. 19475

The State of Massissippi respectfully applies to this Massable Sourt for an order designating and anthonizing it to appear and particupate in this action as Anions Ouries in this Court, for the purpose of protecting the sourceign expective of the State of Mississippi, which is affected by this proceeding, and for the purpose of aiding this Court in arriving at a proper conclusion in this motor and, particularly, for the purpose of filing in this cause and proceeding to this Manarable Court the purpose of siling in this cause and proceeding to this Manarable Court the purpose of siling in this cause and proceeding to this Manarable Court the purpose of a fully at though appled at length herein.

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Attachment mot permitted to be filed because americ application deniel

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. Hit the Shate of Maciocingi and noves this Reported the to discolve the temperary restanting order is real as into it without notice on the 25th day of Poylanber, 1968, and to diamins the autoust pressedings instituted against Paul 3. Johnson as Lieutenant towaras of the said State of Messissi on or about the 25th day of September, 1962, and, in suggest of this setion, would show unto this Managerable Court:

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a the first product of the tensory yestingthen wher three with the adding for proliminary intradium and the sold eltection of the Lion governer of this severally state for contempt use molilary and conterpoint perceptions and this state, as a descalant, has a full standing in this come to the and growing the motion.

a concretion denies of Participant in the daty stall prote to transmit to Cale cause. The Constanty day Meridiants Constants, col. di one distant of the State state of a distant

are alleged to give rise to any right or same of action or proceeding herein have been emphasively done and taken for and an behalf of the severcian State of Missiscippi alone and not personnt to or in furtherance of any individual or personal interest of any such actor or perticipant; <u>Montheranth</u> the suid/Governer being charged with the daty, by the Constitution of the State of Missiscippi and by its Statutes, with the discharge of his effice as Missiscipfi and by its Statutes, with the discharge of his effice as Missiscipfi and by its Statutes, with the discharge of his effice as Missiscipfi and by its Statutes, with the discharge of his effice as Missiscipfi and by its Statutes, with the discharge of his effice as Missiscipfi and by its Statutes, with the discharge of his effice as Missiscipfi and by its Statutes, with the discharge of his effice as Missiscipfi and by its Statutes, with the discharge of his effice as Missiscipfi and by its Statutes, with the discharge of his efficient as Missiscipfi and by its former of the State and being thereunder required to do and perform such acts and actions as he deemed necessary to secure the best interests of the people of the State of Missiscippi and the peace, dignity, and good order of said citizens, the Meutemant Governor and other efficials acting herein having acted pursuant to the directions and authority of the Governor in the discharge

of his said official duties.

3.

This Henorable Court of Appeals lacks original jurisdiction of this action equinet the sovereign State of Mississippi, said jurisdiction having been vested by the Constitution of the United States of America in the Supreme Court of said United States and no act of Congress having over been emoted vesting or purperting to vest such original jurisdiction in this Henorable Court.

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This Records Court of Appeals Lasts juristiction to hear or determine or proceed with this same any further for the reason that since the 13th day of September, 1562, the juristiction of this estim has been fully vested in the United States District Court for the Southern District of Mississippi, subject only to its possible withdrumal by the September of the United States of America, should said Septemb Court grant a possing Potition for Writ of Courts to this Innershie Court of America.

5.

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have stayed unles the terms and provisions of Section 2101 (2) the importion and enforcement of the injunctive orders of this Court upon which these proceedings are based, and said stay actors are presently which desse proceedings are based, and said stay actors are presently which desse proceedings are based, and said stay actors are presently which desse proceedings are based, and said stay actors are presently which desse proceedings are based, and said stay actors are presently which desse proceedings are based, and said stay actors are presently which desse destroyed in Suit force and affect, because the Recentle Supreme Court of the United States has not yet relat upon the proling Jutition for furthered in this same.

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This Henceble Court of Appenle has no your to all parties defendant to an emisting proceeding for the first time at the appellate lovel and expectally at a time than this Court's madebe has been Simily poterned to the United States District Court for the Southern Materiat of MacLecippi for excention and enforcement by that Court.

7.

We Court other than the Supreme Court of the United States has original jurisdiction of a suit against the sourceign State of Mississippi at any yoint or place other than at the seat of government of said powereign State, to-wit: Jackson, Mindissippi, under the terms and powersions of Section 4387, Mississippi Code of 1982.

8.

through nows wells, the attorneys appearing harein have been advised that a citation for contempt has been insued by this Court against Benerable Juli 3. Johnson populating him to appear before this fourt on the meming of Suburday, Suptember 29, 1962, at Her Orleans, Instaines, but no will berries of said citation has over been unde upon said official or the said yeal purty in interest, the State of Mexicologic, and this fourt therefore leass periodiction to hear, determine or proceed with said citation for undergo until dee and perper dervice of process has been hele.

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This Manufile Court of Agends deadd ant general still the Inights of any just of this unider on the membry of Sophisher 19, 1968 at Mar Gillern. Louisian. for the second that the Change out Invalue of but place to over 30 miles from the mapped part of the State of Manistight and more than 200 miles from the seath of government of sold State and that motion of the building of this bearing was not resetted by council approxing basels whill an or should the membry of Suphenber 27, 2000. Build length of motion and distance of the yolub of bearing are so short in time and great in distance as to constitute the building of sold hearing at the time and place scheduled a visibility of the sights of the partice basels when the 750th and jouries of the sights of the partice basels when the 750th and iteration.

This Honorable Sourt of Appenis should transfer this sense to sum yours or place in the Southern District of Massiesippi for the senses that territorial vame of this cause like in suid District under the plain meaning and intent of Sections 1351 (b) and 1392 (a) of Title 26 of the Maibel States Colo.

22,

For the convelence of the parties and vitaesees and in the integrate of justice, this Honorable Court of Appenis should change the location of the place of bearing of this action to the United States Sourt Ream in Jackson, Massierippi ar, in the alternative, should trend this same to the Jackson Division of the United States District Sourt for the Southern Division of Massierippi, there the said Massieries Sourt for the Southern Division of Massierippi, there the said Massieries investor of this Make can and vill appear as a vitaese in this cause, density his semastive daties and fractions connected with an extraphinery sectors of the Socialations of the States of Massierippi pay in southern in the States, Massierippi, States of Massierippi pay in

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UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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Appellant,

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CHARLES DICKSON FAIR, et al., そのない 切透 過なみ 人 tion of the Balance Status, the area of Appellees. areathraicean is a Bton 2-20-05

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UNITED STATES OF AMERICA, Amicus Curiae and Petitioner,

STATE OF MISSISSIPPI, et al.,

Defendants.

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

Before RIVES, BROWN and WISDOM, Circuit Judges.

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

and the states of the ble prever pretty of more present the well.

United States, and

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

FINDINGS OF FACT

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

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

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

CONCLUSIONS OF LAW

1. This Court has jurisdiction of the person of Paul B. Johnson, Jr.

2. Paul B. Johnson, Jr. is in contempt of the temporary restraining order of September 25, 1962.

JUDGMENT OF CIVIL CONTEMPT

Upon the foregoing findings of fact and conclusions of

law,

IT IS ORDERED, ADJUDGED AND DECREED that:

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

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

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

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

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

September 29, 1962