

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

NO. 19475

JAMES H. MEREDITH,

Appellant,

v.

CHARLES DICKSON FAIR, et al.,

Appellees.

UNITED STATES OF AMERICA,  
Amicus Curiae and Petitioner,

v.

STATE OF MISSISSIPPI, et al.,

Defendants.

ORDER

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

BY THE COURT:

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

The restraining order heretofore issued by this Court shall remain in full force and effect until such time.

*Notes:*  
CPJ  
gen. g.  
m.  
JKB  
JMW  
KRP  
KAB

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

NO. 19475

JAMES H. MEREDITH,

Appellant,

v.

CHARLES DICKSON FAIR, et al.,

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UNITED STATES OF AMERICA,  
Amicus Curiae and Petitioner,

v.

STATE OF MISSISSIPPI, et al.,

Defendants.

ORDER

Before TUTTLE, Chief Judge, HUTCHESON, RIVES, JONES, BROWN,  
WISDOM, GEMIN, and BELL, Circuit Judges, en banc.

BY THE COURT:

From the testimony heard on the 24th day of  
September, 1962, and from the reports to this Court made pursuant  
to its order of that date, it appears to the satisfaction of the  
Court:

1. That John Davis Williams, Chancellor, Arthur  
Beverly Lewis, Dean of the College of Liberal Arts and Robert Byron  
Ellis, Registrar of the University, <sup>and E. R. Jobe, Executive Secretary of the Board of Trustees of Hedges Research</sup> have at no time been, and are  
not in civil contempt of any judgment or order of this Court.

2. That on September 24th, 1962, the President and  
all members of the Board of Trustees of Higher Learning, including  
Board member Tally D. Riddell, Esq., through his counsel, announced  
in open Court that they would thereafter perform all things ordered

*Enter:  
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W.D.  
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and directed by -- and would comply with this Court's orders,  
and that each of them has since said date acted in compliance with  
this Court's orders.

It is now, therefore, Ordered and Adjudged:

A. That John Davis Williams, Chancellor, Arthur  
Beverly Lewis, Dean of the College of Liberal Arts and Robert Byron  
Ellis, Registrar of the University, *and E. R. Jabe, Executive Secretary of the Board of Trustees of Higher Learning*, have not been and are not  
guilty of civil contempt of this Court.

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

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

SOUTHERN DISTRICT OF MISSISSIPPI  
**FILED**  
OCT 2 1962  
Loryce E. Wharton Clerk  
By Deputy

NEREDITH, ET AL.  
Plaintiffs

V.

CIVIL ACTION NO. 3130

FAIR, ET AL.,  
Defendants

ORDER

On September 10, 1962, the United States as ~~petitioner~~ ~~applicant~~ applied to this Court ~~ex parte~~ for a temporary order restraining ~~inter alia~~ the application and enforcement of S.B.1501, enacted by the Mississippi legislature and signed by the Governor on September 20, 1962, with respect to James E. Meredith, plaintiff in the above case.

After due consideration of the application, this Court, together with United States District Judge Harold Cox, deferred its ruling on the application pending further hearing after notice to the appropriate officials of Mississippi; except that Mississippi's law enforcement officers were enjoined from arresting Meredith or those accompanying him on September 20, 1962 pursuant to S.B.1501.

The application was scheduled to be heard on Monday, September 24, 1962 at 1:30 p.m. in Natchez, Mississippi. Prior to September 24, and with the consent of counsel for ~~petitioner~~ the plaintiff, and the State of Mississippi, the September 24 hearing was postponed and not reset.

~~After~~ United States now moves for leave of Court to withdraw its application to this Court without further hearing and without prejudice on the ground that S.B.1501 is presently the subject matter of an action pending before the United States Court of Appeals for the Fifth Circuit.

**THEREFORE, it is ORDERED, ADJUDGED and DECREED that:** the application of the United States for an order restraining the application and enforcement of S.B.1501 with respect to James E. Meredith may be and hereby is withdrawn without leave of Court and without prejudice.

This order shall be effective immediately.

Done at Natchitoches, Louisiana,

October 2, 1962.

(S) S. C. [Signature]  
United States District Judge

A TRUE COPY, I HEREBY CERTIFY.  
LORYCE E. WHARTON, CLERK  
BY:

[Signature]  
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

FILED  
OCT 2 1962  
Loryce E. Wharton, Clerk  
By Deputy

A. L. MEADOR, ET AL.,

Plaintiffs

v.

CIVIL ACTION NO. 1141

JAMES MEREDITH, ET AL.,

Defendants

O R D E R

This cause came on to be heard after notice on the motion of the United States to vacate the injunction against the movants and others issued by the Chancery Court of the Second District of Jones County, Mississippi, after removal of the action to this Court pursuant to the provisions of 28 U.S.C. 1442(a)(3).

After due consideration of the motion, this Court is of the opinion that the injunction must be vacated and the cause dismissed for the reasons that:

- (1) The Chancery Court of the Second District of Jones County, Mississippi, was without jurisdiction to issue the purported injunction; and
- (2) The Chancery Court of the Second District of Jones County, Mississippi, was without power to enjoin the movants in the exercise of the discretion pursuant to their official duties and without power to enjoin the other defendants from exercising their rights and obligations under federal law.

WHEREFORE, it is hereby ordered, adjudged, and decreed that:

The injunction is vacated as improvidently granted and the action is dismissed.

This order shall be effective immediately.

Done at Natchez, Mississippi, this 2nd day of October, 1962.

COPY, I  
L. E.

S. S. C. [Signature]  
United States District Judge

[Signature]  
Deputy 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.

STATE OF MISSISSIPPI, et al.,

Defendants.

NO. 1275

WITHDRAWAL OF MOTION FOR  
PRELIMINARY INJUNCTION  
AGAINST A. L. NEADOR, SR.  
AND THE CLASS HE REPRESENTS

The United States, amicus curiae, hereby withdraws such part of its Motion for Preliminary Injunction heretofore filed on September 25, 1962 as relates to the defendant A. L. Neador, Sr., individually, and as a representative of a class consisting of the plaintiffs in the case of A. L. Neador, Sr., et al. v. James Meredith, et al., No. 19365 in the Chancery Court of Jones County, Mississippi.

The motion is being withdrawn to the extent above indicated by reason of an order entered by the United States District Court for the Southern District of Mississippi dismissing the complaint in the case of A. L. Neador, Sr., et al. v. James Meredith, et al.

UNITED STATES OF AMERICA, Amicus Curiae

BY:

---

MR. JOHN MARSHALL, Attorney  
Department of Justice

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

*Filed*  
*10/12/62*

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**JAMES H. MERRITT,**

**Appellant,**

**v.**

**CHARLES BOGDAN FAIR, et al.,**

**Appellees.**

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

**v.**

No. 1947

**STATE OF MISSISSIPPI; RUSSELL BARNETT, Governor of the State of Mississippi; JOSE T. PATRICKSON, Attorney General of the State of Mississippi; T. B. BARNES, Commissioner of Public Safety of the State of Mississippi; PAUL G. ALLENBACH, District Attorney of Hinds County, and WILLIAM E. LAMB, District Attorney of Lafayette County, individually and as representatives of a class consisting of the District Attorneys of all counties and parishes in Mississippi; J. ROBERT GRANT, Sheriff of Hinds County, and J. E. FORD, Sheriff of Lafayette County, individually and as representatives of a class consisting of the sheriffs of all counties in Mississippi; WILLIAM B. BARNARD, Chief of Police of the City of Jackson, and JAMES B. JAMES, Chief of Police of the City of Gulfport, individually and as representatives of a class consisting of the chiefs of police of all cities in Mississippi; WALTER SMITH, Constable of the City of Gulfport, individually and as a representative of a class consisting of all city constables and town constables in the State of Mississippi; and A. L. WALKER, et al., individually and as representatives of a class consisting of the plaintiffs in the case of A. L. WALKER, et al. v. James Merritt, et al., No. 1947 in the Supreme Court of Mississippi.**

**Defendants.**



**MOTION TO DISMISS PROCEEDINGS,  
DISSOLVE TEMPORARY RESTRAINING  
ORDER, AND TRANSFER OR DISMISS  
CONTEMPT PROCEEDINGS**

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Come now ROSS E. 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 S. 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 B. JONES, Chief of Police of the City of Oxford; WALTON SMITH, Constable of the City of Oxford; 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. 19365 in the Chancery Court of Jones County, Mississippi, and move this Honorable Court to dismiss the original proceedings commenced in this court against said defendants, to dissolve the temporary restraining order issued by this court against said defendants and to transfer or dismiss the contempt proceedings instituted in this court against ROSS E. BARNETT, GOVERNOR of the STATE OF MISSISSIPPI, and PAUL S. JOHNSON, JR., LIEUTENANT GOVERNOR of the STATE OF MISSISSIPPI, and, in support hereof, would show that the said defendants and each of them adopt each and all of the grounds set out in the Motion To Dismiss Temporary Restraining Order And Show Of Contempt Proceedings heretofore filed

in this court in this cause by the State of Mississippi; and, in addition thereto, would respectfully show unto this Honorable Court the following additional grounds:

A.

On the 8th day of October, 1962, the United States Supreme Court dismissed the petition of appellee for a Writ of Certiorari to this court, thereby fully removing the last medium of possible jurisdiction of this cause in this Honorable Court.

B.

On the 2nd day of October, 1962, this Honorable Court dismissed its citation for civil contempt of the original defendants in this cause. Said defendants are the only officials of the State of Mississippi charged with the constitutional or statutory duty or vested with any constitutional power or authority to conduct the affairs of the University of Mississippi.

C.

This Honorable Court of Appeals lacks jurisdiction to hear or determine this controversy as a class action wherein any of the defendant peace officers in this cause constitute a class of all similar peace officers from all counties and districts within the State of Mississippi.

D.

The sole party whose rights were before this court for adjudication has secured the full remedial relief sought in the Complaint. The temporary injunctive order issued by this court

on July 28, 1962 has expired by its own terms. This court is without jurisdiction to proceed further in any pending ancillary action of civil contempt or ingrafted action of injunction against any of the movants herein. All civil contempt proceedings pending in this court are now moot.

E.

The practice and procedures properly applicable in this proceeding are not clearly defined. When and as such practice and procedures are so defined, movants pray that appropriate opportunity be given them to have a proper determination of their rights therein.

F.

Movants herein who were named in the undated temporary restraining order filed in this court on the 25th day of September, 1962 upon the application of appellant, further adopt this motion in its entirety, including the incorporation of the motion previously filed in this cause by the State of Mississippi, as their response to said application of appellant for temporary restraining order and the said temporary restraining order so issued.

G.

For such other reasons as may be assigned upon the hearing hereof.

**UNANSWERED VERIFICATION,**

**Ray E. 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; 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; Wilton Smith, Constable of the City of Oxford; and A. L. Keador, Sr., individually and as representative of a class consisting of the plaintiffs in the case of A. L. Keador, Sr. et al. v. James Meredith, et al., No. 19265 in the Chancery Court of Jones County, Mississippi, BY THEIR ATTORNEYS,

~~JOE T. BRYANTON~~, ATTORNEY GENERAL  
OF THE STATE OF MISSISSIPPI  
State Capitol Building  
Jackson, Mississippi

~~JAMES W. CANN~~, SR., Electric Bldg.  
Jackson, Mississippi

~~JOHN C. SATTENFIELD~~, 340 First Nat.  
Bank Bldg., Jackson, Mississippi

~~ORIN, GREEN & CUNY~~  
Electric Building  
Jackson, Mississippi

~~THOMAS H. WATSON~~, 600 Plaza Bldg.  
Jackson, Mississippi

~~SATTENFIELD, SMITH, WILLIAMS  
& [REDACTED]~~  
340 First National Bank Bldg.  
Jackson, Mississippi

~~CHARLES CLARK~~, 1741 Deposit Company  
Bank Bldg., Jackson, Mississippi

~~WATSON & [REDACTED]~~  
600 Plaza Building  
Jackson, Mississippi

~~MICHAEL B. [REDACTED]~~, Bennett Bldg.  
Jackson, Mississippi

~~ORIN, BROWN & CLARK~~  
1741 Deposit Company Bank Bldg.  
Jackson, Mississippi

SPECIAL ASSISTANT  
ATTORNEY GENERAL OF THE STATE OF  
MISSISSIPPI

OF COUNSEL

**STATEMENT OF SERVICE**

The undersigned certifies that he has personally served true copies of the foregoing motion upon the Attorneys of Record for Appellant and the United States of America, Amicus Curiae.

THIS \_\_\_\_\_ DAY OF OCTOBER, 1962.

---

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 19,475

and all other off **JAMES HOWARD MEREDITH, etc.,**

(a) To cease regard with all parties **Appellant,**  
interference with the officers of the  
District Court for the

(c) To cease regard with all parties  
University **CHARLES DICKSON FAIR, et al.,**  
agents of the  
Association of the  
District  
Appellees.

other than **UNITED STATES OF AMERICA, as**  
**Amicus Curiae and Petitioner,**  
Petitioner,

**CHARLES DICKSON FAIR, et al.,**  
Restraining order of the Court  
Respondents.

Proposed

**ORDER**

This cause came on to be heard on the 12th day of October,  
1962, pursuant to an order of this Court entered October 2, 1962,  
continuing the showing before this Court as to whether Ross R.  
Barnett, Governor of the State of Mississippi, and Paul B. Johnson,  
Jr., Lt. Governor of the State of Mississippi, have purged them-  
selves of this Court's finding of September 28th and September  
29th, 1962, finding said Governor and Lt. Governor in contempt of  
the restraining orders of this Court of September 25, 1962.

The statement of counsel for the Governor and the  
Lt. Governor of the State of Mississippi in open court on October  
12, 1962, is that said officials of the State of Mississippi

Findings of Fact

1. This Court finds as a fact that Ross R. Barnett, Governor of the State of Mississippi, has not fully purged himself of the contempt order entered by this Court against him on September 28, 1962, in that he has not notified all law enforcement officers and all other officers under his jurisdiction or command:

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

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

2. This Court finds as a fact that Paul B. Johnson, Jr., Lt. Governor of the State of Mississippi has not fully purged himself of contempt of this Court in that he has not shown to this Court "that he intends to fully comply with the terms of the restraining orders of this Court in the future and that he will, during any periods of time that he is acting for or on behalf of, or in the name, place or stead of, or with the authority or power of, or as Governor of the State of Mississippi, notify all law enforcement officers and all other officers under his jurisdiction or command:

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

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

3. The statement of counsel for the Governor and the Lt. Governor of the State of Mississippi in open court on October 12, 1962, is that said officials of the State of Mississippi are

are not now prepared to fully purge themselves of contempt and to comply fully with the express terms of the orders entered against them by this Court on September 28 and 29, 1962, respectively, finding them in contempt of this Court.

and shows to this Court that he is now in full compliance with the terms of the Conclusion of Law

25th  
1. This Court concludes that neither a Governor nor Lieutenant Governor of a State of the United States is immune from the coercive sanctions of this Court in civil contempt proceedings arising under the Fourteenth Amendment. Cf. Cooper v. Aaron, 358 U.S. 1.

It is now ORDERED:

1. That the Governor of the State of Mississippi be, and he hereby is, remitted to the custody of the Attorney General of the United States until such time as he has notified, in writing, all law enforcement officers of the State of Mississippi and all other officers of the State of Mississippi 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 of Mississippi and to cooperate with the officers and agents of this Court and of the United States in the execution of the orders of this Court and of the District Court for the Southern District of Mississippi, to the end that James H. Meredith be permitted to remain as a student at the University of Mississippi under the same terms and conditions as apply to all other students.

2. And the said Ross R. Barnett shall remain in the custody of the United States Attorney General until such time as he personally appears before this Court and shows unto this Court that he is fully complying with the terms of the restraining orders entered against him by this Court on September 25, 1962, and that he intends to do so in the future.

United States Circuit Judge



3. It is further ORDERED that, Paul B. Johnson, Jr., Lt. Governor of the State of Mississippi, be, and he hereby is remitted to the custody of the Attorney General of the United States until such time as he personally appears before this Court and shows to this Court that he is now in full compliance with the terms of the restraining orders entered against him on the 25th day of September 1962, and is no longer in contempt of the orders of this Court as found by this Court on September 29, 1962, and that he will during all times while acting for, or on behalf of, or in the name 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 and command:

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

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

And that he will fully comply with the orders of this Court in the future.

Nothing herein shall prevent a later assertion of a charge of criminal contempt either against the Governor of the State of Mississippi or the Lt. Governor of the State of Mississippi.

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

This \_\_\_\_ day of October, 1962.

United States Circuit Judge

United States Circuit Judge

United States Circuit Judge

United States Circuit Judge

United States Circuit Judge

United States Circuit Judge

United States Circuit Judge

U. S. COURT OF APPEALS

**FILED**

NO. 19,475

OCT 19 1962

JAMES H. MEREDITH,

Appellant,

EDWARD W. WADSWORTH  
CLERK

v.

CHARLES DICKSON FAIR, et al,

Appellees.

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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. 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; J. ROBERT  
GILFOY, Sheriff of Hinds County, and J.  
W. FORD, Sheriff of Lafayette County,  
individually; WILLIAM D. RAYFIELD, Chief  
of Police of the City of Jackson, and  
JAMES D. 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 CON-  
TEMPT PROCEEDINGS AGAINST ROSS R. BARNETT and  
PAUL B. JOHNSON, JR., and ORDER AND JUDGMENT ON  
MOTION OF APPELLANT and UNITED STATES OF AMERICA,  
AMICUS CURIAE, PETITIONER, FOR PRELIMINARY INJUNCTION.

X  
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 pro-  
ceedings which had resulted in a judgment of this Court finding

respondent, Ross R. Barnett, guilt, 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 28, 1962. Those 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 the provisions of a Resolution of Interposition adopted by the

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 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, 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 28, 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 Attalla 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

of this injunction by personal service or otherwise, be enjoined

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 #2, 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 Gilfoy, 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

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 28, 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

of, and the prevention of state -6- and orders entered



v. 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.

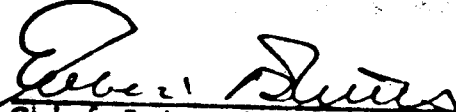
3. Injuring, harassing, threatening or intimidating James Howard Meredith in any other way or by any other means on account of his attending or seeking to attend the University of Mississippi;

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 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

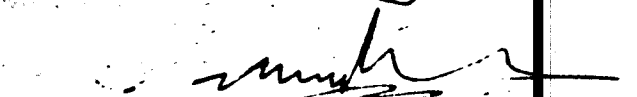
by this Court and the District Court for the Southern District of Mississippi relating to the enrollment and attendance of James Howard Meredith at the University of Mississippi; or arresting, prosecuting or punishing such officer or agent on account of his performing or seeking to perform such duty.

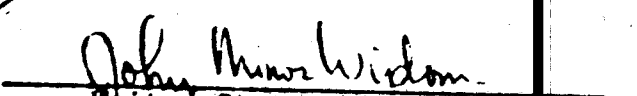
DATED: October 19<sup>th</sup>, 1962.

  
Chief Judge, United States Court of Appeals, Fifth Circuit

  
United States Circuit Judge

  
United States Circuit Judge

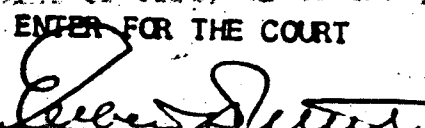
  
United States Circuit Judge

  
United States Circuit Judge

... and all executive officers, with all the judicial States and of the several States, shall be bound by oath or affirmation to support this Constitution. . . . Article 6, clause 3.

... their yielding, the enforcement of all other obligations before in this country could and should be the duty of the District Court.

... have serious doubts, from a procedural and substantive point of view, as to the joinder of the State of Mississippi as a party.

ENTER FOR THE COURT  
  
Chief Judge, United States Court of Appeals, Fifth Circuit

**JAMES H. MEREDITH v. CHARLES DICKSON FAIR, NO. 19,475; IN THE ANCILLARY 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**

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**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:

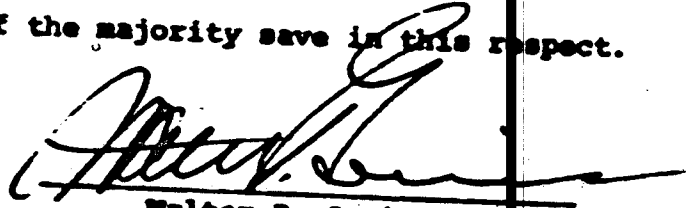
" . . . and all executive Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation to support this Constitution; . . ." Article 6, Clause 3.

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

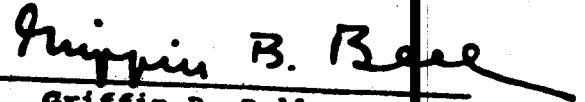
We have serious doubts, from a procedural and substantive point of view, as to the joinder of the State of Mississippi as a party.

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.



Walter P. Gawin  
United States Circuit Judge



Griffin B. Bell  
United States Circuit Judge

A true copy  
Test:

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

By Edward W. Braden

Deputy

New Orleans, Louisiana

OCT 19 1962



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,

v.

STATE OF MISSISSIPPI, et al.,

Defendants.

U. S. COURT OF APPEALS  
FILED

DEC 21 1962

EDWARD W. WADSWORTH  
CLERK

~~RECORDED~~

APPLICATION FOR AN ORDER REQUIRING  
ROSS R. BARNETT AND PAUL B. JOHNSON, JR.  
TO SHOW CAUSE WHY THEY SHOULD NOT BE  
HELD IN CRIMINAL CONTEMPT

Pursuant to this Court's order of November 15, 1962, the Attorney General of the United States applies to the Court for an order requiring Ross R. Barnett and Paul B. Johnson, Jr., to show cause, if any they have, why they should not be held in criminal contempt of this Court for wilfully disobeying the temporary restraining order entered on September 25, 1962, in United States v. State of Mississippi et al., No. 19,475, and as a first count against Ross R. Barnett, states:

FIRST COUNT

1. Ross R. Barnett is Governor of the State of Mississippi and, as such, is an officer and agent of the State.

2. On July 28, 1962, this Court entered its order in the case of James H. Meredith, et al. v. Charles Dickson Fair, et al., No. 19475, 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 to continued attendance as a student at the University of Mississippi on the same terms and conditions as are applied to other students.

3. On September 18, 1962, this Court ordered that the United States be designated and authorized to appear and participate as amicus curiae in the case of Meredith v. Fair, referred to in the preceding paragraph, with the right to submit pleadings, evidence, arguments and briefs and to initiate such further proceedings, including proceedings for injunctive relief, 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.

4. On September 24, 1962, this Court, in instructing the defendant 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 28, 1962, directed the defendant Robert B. Ellis, Registrar of the University, to be available at Jackson, Mississippi, at the office of the Board of Trustees, from 1:00 p.m. to

in the preceding paragraph.

6:00 p.m. on September 25, 1962, for the purpose of registering James H. Meredith and admitting him as a student to the University.

5. On September 25, 1962, the Attorney General filed in this Court in the name of and on behalf of the United States, amicus curiae, an action titled United States v. State of Mississippi, et al., which was ancillary to the case of Meredith v. Fair. In connection with its complaint in the case of United States v. State of Mississippi, the Attorney General, in the name of and on behalf of the United States, applied for, and the Court on September 25, 1962 issued, a temporary restraining order restraining the State of Mississippi and 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 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 an 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.

6. On September 25, 1962, the State of Mississippi and Ross R. Barnett were each served with summons and with copies of the complaint filed by the Attorney General in the name of and on behalf of the United States, together with the application for a temporary restraining order and the temporary restraining order issued by this Court as described in the preceding paragraph.

and as an officer and agent of the State of Mississippi, to prevent James H. Meredith from entering the campus of the

7. On September 25, 1962, Ross R. Barnett, after service of the summons and other papers upon him and upon the State of Mississippi as described in the preceding paragraph, and while having actual notice of the terms of the temporary restraining order, wilfully prevented James H. Meredith from entering the office of the Board of Trustees in Jackson, Mississippi at a time when James H. Meredith, as Ross R. Barnett well knew, was seeking to enter the office for the purpose of registering as a student in the University pursuant to this Court's order of July 28, 1962.

8. The conduct of Ross R. Barnett, as herein described, was in wilful disregard and defiance of the temporary restraining order entered by this Court on September 25, 1962.

As a second and further count against Ross R. Barnett and Paul B. Johnson, Jr., the Attorney General of the United States further states:

#### SECOND COUNT

9. The United States realleges and re-states each of the facts and matters set forth in paragraphs 1, 2, 3, 5 and 6 of the First Count.

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

11. On September 26, 1962, Ross R. Barnett authorized and directed Paul B. Johnson, Jr., as his officer and agent, and as an officer and agent of the State of Mississippi, to prevent James H. Meredith from entering the campus of the



University of Mississippi, in Oxford, Mississippi, and from enrolling as a student in the University.

12. On September 26, 1962, Paul B. Johnson, Jr., acting as the officer and agent of the State of Mississippi and of Ross R. Barnett pursuant to the authorization and direction described in the preceding paragraph, and while having actual notice of the terms of the temporary restraining order described in paragraph 5, wilfully prevented James H. Meredith from entering the campus of the University of Mississippi in Oxford, and did thereby prevent James H. Meredith from enrolling as a student in the University.

13. In all of the acts and conduct described in paragraphs 11 and 12, Ross R. Barnett and Paul B. Johnson, Jr., were in active concert and participation each with the other.

14. The acts and conduct of Ross R. Barnett and Paul B. Johnson, Jr. described in paragraphs 11 and 12 were in wilful disregard and defiance of the temporary restraining order issued by this Court on September 25, 1962.

As a third and further count against Ross R. Barnett and Paul B. Johnson, Jr., the Attorney General of the United States further states:

THIRD COUNT

15. The United States re-alleges and restates each of the facts and matters set forth in paragraphs 1, 2, 3, 5, 6, and 10. ... in encouraging and encouraging efforts to exclude James H. Meredith from the campus of

16. During the day of September 27, 1962, Ross R. Barnett and Paul B. Johnson, Jr., as Governor and Lieutenant Governor of Mississippi, respectively, assumed responsibility for and personal direction of measures necessary to maintain law and order on the campus of the University of Mississippi in Oxford, Mississippi, in connection with the expected enrollment of James H. Meredith at the University.

17. On September 27, 1962, James H. Meredith left Memphis, Tennessee, enroute to Oxford, Mississippi to enroll in the University of Mississippi pursuant to the order of this Court of July 28, 1962, and the order of the United States District Court for the Southern District of Mississippi of September 13, 1962.

18. On September 27, 1962, Ross R. Barnett and Paul B. Johnson, Jr., knowing that James H. Meredith was enroute to Oxford for the purpose of enrolling in the University, wilfully failed to take such measures as were necessary to maintain law and order upon the campus of the University to the end that James H. Meredith might enroll as a student pursuant to the order of this Court, and did, instead, direct and encourage certain members of the Mississippi Highway Safety Patrol, sheriffs and deputy sheriffs of the various Mississippi Counties, members of the police departments of various Mississippi cities, and other officials and residents of Mississippi to obstruct and prevent the entry of James H. Meredith upon the campus of the University that day. The acts and conduct of Ross R. Barnett and Paul B. Johnson, Jr., in directing and encouraging efforts to exclude James H. Meredith from the campus of

University of Mississippi under the laws  
and provisions as apply to all other students.

the University did effectively on that day cause James H. Meredith to abandon his effort to enter the campus and cause him to return to Memphis, Tennessee.

19. All of the acts, conduct and omissions of Ross R. Barnett and Paul B. Johnson, Jr., described in this Third Count, were in wilful disregard and defiance of the temporary restraining order issued by this Court on September 25, 1962.

20. In all of their actions, conduct and omissions described in paragraphs 16 and 18, Ross R. Barnett and Paul B. Johnson, Jr. were in active concert and participation, each with the other.

As a fourth and further count against Ross R. Barnett, the Attorney General states:

#### FOURTH COUNT

21. The United States re-alleges and restates each of the facts and matters set forth in paragraphs 1, 2, 3, 5, and 6.

22. On September 28, 1962, this Court adjudged Ross R. Barnett to be in civil contempt of the restraining order of September 25, 1962, and directed that among the things he must do to purge himself of that contempt was to notify all law enforcement officers and all other officers under his jurisdiction or command:

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

23. The Mississippi Highway Safety Patrol is a law enforcement organization of the State of Mississippi and is a part of the executive department of the State under the authority of Ross R. Barnett as governor.

24. On September 30, 1962, Ross R. Barnett personally assumed the responsibility, as Governor of the State of Mississippi, to direct and request all available law enforcement officers of the State and its political subdivisions to assist in maintaining law and order at the campus of the University of Mississippi in Oxford, Mississippi, in connection with the enrollment of James H. Meredith as a student in the University.

25. On September 30, 1962, James H. Meredith entered the campus of the University of Mississippi for the purpose of enrolling and attending the University as a student. James H. Meredith's entry upon the campus was accomplished without any interference or obstruction as a result of cooperation between the State Highway Patrol and officials of the United States Department of Justice.

26. On September 30, 1962, Ross R. Barnett, knowing of the planned entry of James H. Meredith upon the campus of the University of Mississippi, knowing that disorders and disturbances had attended and would attend such entry, and knowing that any failure by the Mississippi Highway Safety Patrol to take all possible measures for the maintenance of peace and order upon the campus could and would result in interference with and obstruction to the carrying out of this Court's order of July 28, 1962, wilfully failed to exercise his responsibility, authority and influence as Governor to maintain law and order upon the campus of the University of Mississippi.

27. As a result of the acts and omissions of Ross R. Barnett described in the preceding paragraph, the entry of James H. Meredith upon the campus was followed by disorder, disturbances and acts of violence designed to prevent and discourage his enrollment and attendance at the University of Mississippi.

26. All of the acts, conduct and omissions of Ross R. Barnett described in the Fourth Count of this application were in wilful disregard and defiance of the temporary restraining order issued by this Court on September 25, 1962.

Upon the basis of the facts set forth in the First, Second, Third and Fourth Counts above, the Attorney General, on behalf of and in the name of the United States, requests the Court to enter an order requiring Ross R. Barnett and Paul B. Johnson, Jr., to appear before this Court at a time and place to be fixed by the Court, to show cause why they should not be held in criminal contempt. If, upon such appearance, Ross R. Barnett and Paul B. Johnson, Jr., or either of them, pleads not guilty to the charges set forth in this application, the United States further requests that a time and place be set for hearing upon the charges.

*Robert E. Kennedy*  
\_\_\_\_\_  
ROBERT E. KENNEDY  
Attorney General

*Burke Marshall*  
\_\_\_\_\_  
BURKE MARSHALL  
Assistant Attorney General

*John Doar*  
\_\_\_\_\_  
JOHN DOAR  
Attorney

FOR THE FIFTH CIRCUIT

NO. 19,475

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, GEMIN  
and BELL, Circuit Judges.

ORDER:

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

on the petitions for their own restraint, and the preliminary  
injunction and the civil contempt proceedings were  
instituted against Ross R. Barnett and Paul H. Johnson, Jr.,  
that proceedings be instituted against the said Ross R.  
Barnett and Paul H. Johnson, Jr., to determine whether they are,  
or either of them, guilty of criminal contempt of the order  
of this Court; and

It appearing inadvisable to conduct such civil proceed-  
ings involving similar factual issues and the litigation of such  
issues in a criminal contempt proceeding would afford to the said  
Ross R. Barnett and Paul H. Johnson, Jr., maximum personal  
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 H. Johnson, Jr., pursuant to  
Rule 42(b) of the Federal Rules of Criminal Procedure and the  
order of this Court of September 10, 1962.

This 15th day of November, 1962.

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

RICHARD T. HINES  
CIRCUIT JUDGE

WARREN E. THOMAS  
CIRCUIT JUDGE

JOSEPH I. BROWN  
CIRCUIT JUDGE

JOHN MINOR WILLIAMS  
CIRCUIT JUDGE

GRIFFIN B. BELL  
CIRCUIT JUDGE

I DISSENT, WALTER P. GWIN, Circuit Judge.

IN THE UNITED STATES COURT OF APPEALS U. S. COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

FILED

NO. 20240

JAN 5 1962

EDWARD W. WADSWORTH  
CLERK

UNITED STATES OF AMERICA

- versus -

ROSS R. BARNETT and PAUL  
B. JOHNSON, JR.

Before TAYLOR, Chief Judge, RIVES, CAMERON, JONES, BROWN, WISDOM,  
GENIN and BELL, Circuit Judges.

ORDER TO SHOW CAUSE WHY ROSS R. BARNETT AND  
PAUL B. JOHNSON, JR. SHOULD NOT BE HELD IN  
CRIMINAL CONTEMPT

This Court having entered an order on September 18, 1962, in the case of James H. Meredith, et al v. Charles Dickson Fair et al, No. 19475, designating and authorizing the United States to appear and participate in that case as amicus curiae with the right to submit pleadings, evidence, arguments and briefs, and to initiate such further proceedings, including proceedings for injunctive relief, 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, and

The Attorney General having instituted, pursuant to this Court's order of September 18, 1962, an action in the name of and on behalf of the United States, as amicus curiae, which action was entitled United States v. State of Mississippi, et al, restraining the State of Mississippi and Ross R. Barnett, their agents, employees, officers, successors, and all persons in active concert or participation with them, from interfering with or obstructing the enjoyment of rights or the performance of duties under the order of this Court of July 23, 1962, in the case of Meredith v. Fair, and a similar order of the District Court for the Southern District of Mississippi in that case, requiring



and

This Court having ordered on November 15, 1962, that the Attorney General, and such attorneys in the Department of Justice as he may designate, be appointed to institute and prosecute criminal contempt proceedings against Ross R. Barnett and Paul B. Johnson, Jr., and

Probable cause having been made to appear from the application of the Attorney General filed December 21, 1962, in the name of and on behalf of the United States that on September 25, 1962, Ross R. Barnett, having been served with and having actual notice of this Court's temporary restraining order of September 25, 1962, wilfully prevented James H. Meredith from entering the offices of the board of Trustees of the University of Mississippi in Jackson, Mississippi, and thereby deliberately prevented James H. Meredith from enrolling as a student in the University pursuant to this Court's order of July 28, 1962; that on September 26, 1962, Paul B. Johnson, Jr., acting under the authorization and direction of Ross R. Barnett, and as his agent and as an agent and officer of the State of Mississippi, and while having actual notice of the temporary restraining order of September 25, 1962, wilfully prevented James H. Meredith from entering the campus of the University of Mississippi in Oxford, Mississippi, and thereby deliberately prevented James H. Meredith from enrolling as a student in the University pursuant to the orders of this Court; that on September 27, 1962, Ross R. Barnett and Paul B. Johnson, Jr., wilfully failed to take such measures as were necessary to maintain law and order upon the campus of the University of Mississippi and did, instead, direct and encourage certain members of the Mississippi Highway Safety Patrol, Sheriffs and deputy Sheriffs and other officials of the State of Mississippi to obstruct and prevent the entry of James H. Meredith upon the campus of the University that day; that on September 30, 1962, Ross R. Barnett, knowing of the planned entry of James H. Meredith upon the campus of the University of Mississippi, knowing

that disorders and disturbances had attended and would attend such entry, and knowing that any failure of the Mississippi Highway Safety Patrol to take all possible measures for the maintenance of peace and order upon the campus could and would result in interferences with and obstructions to the carrying out of the Court's order of July 28, 1962, wilfully failed to exercise his responsibility, authority, and influence as Governor to maintain law and order upon the campus of the University of Mississippi; and that all of said acts, omissions and conduct of Ross R. Barnett and Paul B. Johnson, Jr., were for the purpose of preventing compliance with this Court's order of July 28, 1962, and of the similar order of the United States District Court for the Southern District of Mississippi, entered on September 13, 1962, and were in wilful disobedience and defiance of the temporary restraining order of this Court entered on September 25, 1962,

IT IS ORDERED that Ross R. Barnett and Paul B. Johnson, Jr., appear before this Court in the courtroom of the United States Court of Appeals for the Fifth Circuit in New Orleans, Louisiana, on February 8, 1963, at 9:30 o'clock a.m., to show cause, if any they have, why they should not be held in criminal contempt, and should either of them at said time and place show such cause, either by pleading not guilty to the charges contained in the application of the United States, or by other means, he shall thereafter appear before this Court for hearing upon said charges at a time and place to be fixed by the Court,

This 4th day of January, 1963.

ELBERT P. TUTTLE

RICHARD T. RIVES

WARREN L. JONES

JOHN R. BROWN

JOHN MINOR WISDOM

GRIFIN B. BELL

United States Circuit Judges  
Fifth Circuit

I DISSENT - BEN E. CAMERON  
UNITED STATES CIRCUIT  
JUDGE, FIFTH CIRCUIT

I DISSENT - WALTER P. GIBBY  
UNITED STATES CIRCUIT  
JUDGE, FIFTH CIRCUIT

I N D E X

Complaint Filed in District Court - 5/31/61 )  
 Motion for Temporary Restraining Order and ) See Vol. I of the  
 Preliminary Injunction - 5/31/61 ) Transcript of Record  
 )  
 Answer )  
 )  
 )

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- 1-A. Order of District Court Denying Preliminary Injunction - 12/14/61
- 1-B. Opinion of the Court of Appeals Affirming Denial of Preliminary Injunction - 1/9/62
- 1-C. Opinion of District Court denying permanent injunction and dismissing complaint - 2/5/62
- 1-D. Court of Appeals denial of Motion for Injunction Pending Appeal - 2/13/62
- 1-E. Appellant's Motion for Injunction in Aid of Court of Appeals' Jurisdiction - 6/13/62
- 1-F. Order Granting Injunction in Aid of Court of Appeals Jurisdiction (Criminal Proceedings against Appellant Enjoined) - 6/12/62
- 1-G. Opinion of Court of Appeals Reversing and Remanding Case to District Court with Instructions to Issue an Injunction as Prayed for in Complaint - 6/25/62
- 1-H. Denial of Appellant's Motion that Court of Appeals' Mandate Issue Forthwith - 7/9/62
- 1-I. Motion Before Judge Cameron For Stay of Court's Mandate - 7/18/62
- 1-J. Motion for Stay Granted - 7/18/62
- 1-K. Opinion and Orders of Court of Appeals vacating Stay, Recalling Mandate, and Issuing New Mandate and Preliminary Injunction - 7/27/62
- 1-L. Order of Court of Appeals Issuing Preliminary Injunction Pending Issuance of District Court's Mandate and full compliance therewith - 7/28/62
- 1-M. Stay of 7/27/62 Mandate by Judge Cameron - 7/28/62
- 1-N. Stay of 7/28/62 Amended Mandate by Judge Cameron - 7/30/62
- 1-O. Order of Court of Appeals Vacating Stay Orders and Reinstating Orders of 7/17/62, 7/27/62, and 7/28/62 - 8/4/62
- 1-P. Stay by Judge Cameron of All Prior Orders of the Court of Appeals - 8/6/62
- 1-Q. Judgment and Order of Justice Black vacating Judge Cameron's Stays and reinstating the Judgment and Orders of the Court of Appeals and Enjoining Any Steps to Prevent Enforcement of Said Orders and Judgment - 9/10/62

- 1-R. Permanent injunction by DC requiring admission of Meredith - 9/13/62
- 1-S. Application of U.S. for designation as amicus - 9/19/62 ✓
- 1-T. Order of CA designating U.S. as amicus in the CA and DC - 9/18/62 ✓
- 1-U. Petition by U.S. to remove Meadors v. Meredith from Jones County Court to U.S. DC - 9/19/62 ✓
- 1-V. Motion of U.S. in DC to vacate order of injunction in Meadors v. Meredith - 9/20/62 ✓
- 1-W. Order of DC setting hearing on motion to vacate Meadors injunction for September 20 - 9/20/62 X
- 1-X. Application of U.S. to DC for TRO - 9/20/62 ✓
- 1-Y. TRO by DC restraining arrest of Meredith under S.B. 1501 - 9/20/62 ✓
- 1-Z. Petition of U.S. to DC for contempt show cause order against Ellis, Williams and Lewis - 9/20/62 ✓
- 2-A. DC order to show cause why Ellis, Williams and Lewis should not be held in contempt, returnable 9/21/62 - 9/20/62 ✓
- 2-B. Petition by U.S. to CA for injunction against further proceedings in Jones County Court on Meadors case - 9/20/62 X
- 2-C. CA order restraining enforcement of S.B. 1501, further proceedings in the Hinds prosecution of Meredith, and further proceedings in the Meadors case - 9/20/62 ✓
- 2-D. Respondents' (Ellis, Lewis and Williams) motion to stay or dismiss contempt proceeding - 9/21/62 X
- 2-E. Order by DC finding Ellis, Williams and Lewis not in contempt - 9/21/62 ✓
- 2-F. Application by U.S. in CA for order requiring Board of Trustees and officials to show cause why they should not be held in contempt - 9/21/62 ✓
- 2-G. CA order to show cause against members of Board - 9/21/62 ✓
- 2-H. U.S. motion to add respondents (Lewis, Williams and Ellis) in CA contempt proceeding - 9/22/62 ✓
- 2-I. CA order requiring Williams, Lewis and Ellis to show cause for contempt - 9/22/62 ✓
- 2-J. Motion by Jobe to quash subpoena - 9/24/62 X
- 2-K. Motion by Board of Trustees to change place of hearing to Jackson - 9/24/62 X

- dismiss or to*
- 2-L. Motion by Board of Trustees to <sup>dismiss or to</sup> change place of hearing to Jackson - 9/24/62
  - 2-M. Motion in CA by Williams, Lewis and Ellis to dismiss as to them - 9/24/62
  - 2-N. Motion in CA by Williams, Lewis and Ellis for severance - 9/24/62
  - 2-O. Entry of special and limited appearance. 9-24-62
  - 2-P. Per curiam order by CA directing Board to take certain steps to comply with injunction of 7/28/62 - 9/24/62 ✓
  - 2-Q. Petition of U.S. in CA for injunction against the State and others - 9/25/62
  - 2-R. Notice of motion by U.S. for hearing for preliminary injunction on 10/5 - 9/25/62 ✓
  - 2-S. TRO by CA against State of Mississippi and others or application of U.S. - 9/25/62 ✓
  - 2-T. Application by U.S. to CA for contempt show cause against Barnett - 9/25/62 ✓
  - 2-U. Show cause order by CA requiring Barnett to appear on 9/28/62 - 9/25/62 ✓
  - 2-V. Application to CA by Meredith for TRO against Barnett restraining him from proceeding in Hinds County Court on injunction suit filed 9/20 - 9/25/62
  - 2-W. Motion by Meredith to add Barnett as a defendant - 9/25/62
  - 2-X. Order by CA upon application of Meredith adding Barnett as a defendant - 9/25/62
  - 2-Y. TRO by CA upon application of Meredith restraining Barnett and Gilfoy from proceeding in 9/20 injunction suit in Hinds County Court; from filing other such suits, and from arresting or interfering with Meredith. Barnett ordered to appear on October 5 for hearing on motion to be added as defendant, and on motion for preliminary injunction - 9/25/62
  - 2-Z. Motion by Meredith for order by CA requiring Barnett to show cause why he should not be held in contempt - 9/26/62
  - 3-A. Order by CA upon application of Meredith requiring Barnett to show cause on 9/28 why he should not be held in contempt - 9/26/62
  - 3-B. Application to CA by U.S. requiring Paul B. Johnson, Jr. to show cause why he should not be held in contempt - 9/26/62
  - 3-C. CA order requiring Johnson to show cause on 9/29/ why he should not be held in contempt - 9/26/62

- 3-D. Application by State for designation as amicus in CA re contempt proceedings against Barnett - 9/28/62
- 3-E. Motion by State to dissolve TRO and stay or dismiss Barnett contempt proceedings in CA - 9/28/62
- 3-F. Order by CA finding Barnett in contempt and allowing him until 10/2 to purge himself - 9/28/62
- 3-G. Application by State for order designating it as amicus in CA contempt proceedings against Johnson - 9/29/62
- 3-H. Motion by State to dissolve TRO and stay or dismiss CA contempt proceedings against Johnson - 9/29/62
- 3-I. Order by CA finding Johnson in contempt and allowing him until 10/2 to purge himself - 9/29/62
- 3-J. Memorandum order of CA discharging contempt proceedings against the University officials and Board of Trustees - 10/2/62
- 3-K. Memorandum order of the CA requiring Barnett and Johnson to make further showing of compliance on October 12, 1962, and re-setting hearing on motion for preliminary injunction for October 12 - 10/2/62
- 3-L. Order of DC dismissing Meador complaint - 10/2/62
- 3-M. Order of DC permitting U.S. to withdraw application for injunction against S.B. 1501 - 10/2/62
- 3-N. Withdrawal of 9-25-62 Motion by U.S. for Preliminary Injunction against Meador, because of decision under 3-L. - 10/12/62
- 3-O. State's Motion to dismiss, dissolve TRO, and transfer or dismiss contempt proceedings - 10/12/62
- 3-P. Order for preliminary injunction prohibiting arrest of Meredith or further state proceedings against him and interference with desegregation orders. 10-19-62
- 3-Q. Court of Appeals order of 11/15/62 directing Attorney General to prosecute Barnett and Johnson for criminal contempt.
- 3-R. Application of U. S. for criminal contempt show cause order on Barnett and Johnson - 12/21/62.
- 3-S. Criminal contempt order to show cause - 1/5/63.