

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 19,475

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

Appellant,

v.

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

Appellees.

. . . Now there, the following injunctive order is
issued:

ORDER

Pending such time as the District Court has issued and enforced the orders herein required and until such time as there has been full and actual compliance in good faith with each and all of said orders by the actual admission of plaintiff-appellant to, and the continued attendance thereafter at the University of Mississippi on the same basis as other students who attend the University, the defendants, their servants, agents, employees, successors and assigns, and all persons acting in concert with them, as well as any and all persons having knowledge of the decree are expressly:

(1) Ordered to admit the plaintiff, James H. Meredith, to the University of Mississippi, on the same basis as other students at the University, under his applications heretofore filed, which are declared to be continuing applications, such admission to be immediate or, because of the second summer session having started, such admission to be in September, at Meredith's option, and without further registration,

(2) Prohibited from any act of discrimination relating to Meredith's admission and continued attendance, and is

(3) Orderly promptly to evaluate and approve Meredith's credits without discrimination and on a reasonable basis in keeping with the standards applicable to transfers to the University of Mississippi.

In aid of this Court's jurisdiction and in order to preserve the effectiveness of its judgment, this Court entered a preliminary injunction on June 12, 1962. The injunction was against Paul G. Alexander, Attorney for Hinds County, Mississippi, his agent, employees, successors, and all persons in active concert and participation with him and all persons who received notice of the issuance of the order, restraining and enjoining each and all of them from proceeding with the criminal action instituted against James H. Meredith in the Justice of the Peace Court of Hinds County, Justice District No. 5, or any other court of the State of Mississippi, charging that Meredith knowingly secured his registration as a voter in Hinds County but was a resident of Attala County, Mississippi. In further aid of this Court's jurisdiction and in order to preserve the continued effectiveness of its judgment and orders, the said preliminary injunction is continued against the same parties and all other parties having knowledge of this decree pending the final action of the United States Supreme Court if and when the defendants-appellees should apply for a writ of certiorari or for any other appropriate action in this cause by the United States Supreme Court.

It is further ordered that a copy of this order be served upon the defendants-appellees, through their attorneys, and upon Paul G. Alexander, County Attorney for Hinds County, Mississippi, and Joseph T. Patterson, Attorney General for the State of Mississippi.

Entered at New Orleans, Louisiana

this 28th day of July, 1962

UNITED STATES Circuit Judge

United States Circuit Judge

United States Circuit Judge

U. of Miss.

United States Department of Justice

UNITED STATES ATTORNEY
NORTHERN DISTRICT OF MISSISSIPPI
Oxford, Mississippi
August 2, 1962

To Mr. Marshall
M

PERSONAL ATTENTION

Mr. Burke Marshall
Assistant Attorney General
Civil Rights Division
Department of Justice
Washington 25, D.C.

Dear Burke:

Enclosed is a copy of the order which I spoke to John Doar about yesterday. The order was served on our Marshal by Joe T. Patterson, Attorney General, State of Mississippi.

With best wishes, I am

Sincerely yours,



H. M. Ray
United States Attorney

HMR/mkh
Encl.

Key
al. (circled) and

BEFORE HONORABLE BEN F. CAMERON, JUDGE OF THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

IN RE: CAUSE #19475 IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

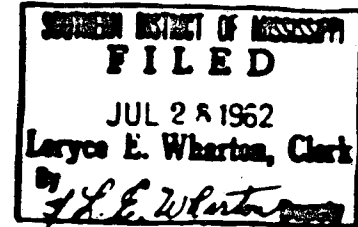
JAMES HOWARD MEREDITH, on behalf of
Himself and Others similarly situated,

Appellant,

v.

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

Appellees.



A judgment was entered herein by the United States Court of Appeals for the Fifth Circuit on July 17, 1962, which judgment was and is subject to review by the Supreme Court on writ of certiorari and a certified copy of said judgment was, in conformity with the order of this Court dated February 15, 1958 (Page 44 of the Rules of this Court), transmitted as the mandate of this Court to the United States District Court for the Southern District of Mississippi, Jackson Division, and was received by said District Court on July 18, 1962. Before said mandate had been executed or enforced, the execution and enforcement thereof was, on July 18, 1962, stayed by the undersigned Judge of said Court of Appeals acting under authority vested in him by the Constitution and laws of the United States (cf. 28 U.S.C.A. Sec. 2101 and Rules 38 and 36 of the Supreme Court) and said stay was and is valid and in full force and effect.

It now appearing that a panel of said Court of Appeals has by its order and judgment of July 27, 1962 essayed to set aside said stay of mandate and to conduct further proceedings in this cause in violation and contravention thereof and has entered a judgment and order which have

as such to said District Court, and that such proceedings were and are void and beyond the jurisdiction of said panel and in violation of said stay of July 18, 1962, and it appearing that the judgment and order of said Court dated July 27, 1962 are subject to review by the Supreme Court on writ of certiorari;

IT IS ORDERED that the execution and enforcement of the "Judgment" dated July 27, 1962, issued as and for the mandate of said Court on the same date and the "Order Vacating Stay, Recalling Mandate and Issuing New Mandate Forthwith" dated the same date be and the same are hereby stayed for a period of thirty days from the date of this Order; the stay to continue in force until the final disposition of the case by the Supreme Court, provided that within thirty days from the date of this Order there shall be filed with the Clerk of this Court the Certificate of the Clerk of the Supreme Court that Certiorari Petition and record have been filed. It is further ordered that this stay shall be vacated upon the filing of a copy of an Order of the Supreme Court denying the Writ, or upon the expiration of thirty days from the date of this Order, unless the above mentioned Certificate shall be filed with the Clerk of this Court within that time.

IT IS FURTHER ORDERED that the stay granted by the undersigned on the 18th day of July, 1962, be and the same is hereby extended until the expiration of thirty days from and after the date of this Order to enable Appellees to file with the Clerk of the Fifth Circuit Court of Appeals, the Certificate of the Clerk of the Supreme Court of the United States that the Certiorari Petition and certified record required under the rules of said Supreme Court have been filed therein. Said stay, under the terms of the Order granted by the undersigned on the 18th day of July, 1962, is to continue in force until the final disposition of the case by the said Supreme Court if said Petition and record are filed within said thirty day period.

DONE AT MEMPHIS, MISSISSIPPI this 25 day of July, 1962.

RECEIVED
JUL 25 1962
U.S. DISTRICT COURT
MEMPHIS, TENN.

[Handwritten signature]

[Handwritten initials]



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

Memphis, Tennessee
February 9, 1962

**RE: JAMES HOWARD MEREDITH
RACIAL MATTERS**

Sheriff Joe V. Ford, Oxford, Mississippi, advised on February 8, 1962, that he was contacted by Mr. Hugh H. Clegg, University of Mississippi, on February 6, 1962, concerning the captioned individual, who advised he is of the opinion that the Circuit Court of Appeals in New Orleans will rule in favor of Meredith at the Circuit Court hearing on February 10, 1962, and will rule that Meredith is to be admitted to the University of Mississippi.

At the suggestion of Mr. Clegg, Sheriff Ford contacted members of the Oxford Chapter of Comenrus and other leading citizens and briefed them concerning the possibility of the ruling. Sheriff Ford is presently contacting the leading Negro citizens in Oxford. His stated purpose in these contacts is to try to keep down any violence in the event Meredith does appear on the campus following the decision.

Mr. Clegg advised Sheriff Ford that he plans to have the Campus Police on duty at the entrances to the campus and is considering the possibility of having them stop all traffic except students, teachers and others who have legitimate reasons for being on the campus.

According to the plan of the University, they will allow Meredith to register, but will advise him that they have no facilities for eating or sleeping on the campus; that he must obtain a room away from the campus. In the event he does not comply with the ruling of the University, Sheriff Ford advised he will no doubt be notified and be requested to ask Meredith to leave the campus after the close of his classes. He stated that under the Mississippi Code and Statutes, he will have to enforce

his power of arrest in the event Meredith does not comply with his orders. He stated he has been assured by the Attorney General of Mississippi that he will "back him up" while he is carrying out his sworn duties as a sheriff.

Sheriff Ford repeatedly stated that he will do everything possible to preserve the peace and keep down disorder.

Chief of Campus Police Burgess Tatum, University of Mississippi, advised on February 8, 1967, that the University fully expects Meredith to make an appearance at the University during the week of February 12-15, 1967, in the event the three judge hearing rules in favor of Meredith. He advised that Mr. Clegg has handled the entire matter so far concerning Meredith and that he has very recently been to Jackson, Mississippi, and reportedly has been in contact with officials at the Mississippi Highway Patrol to have them on hand at the campus in the event Meredith makes an appearance. He pointed out that on a previous occasion when it appeared that Meredith was to come to the campus on a particular day, several patrolmen were present in civilian clothes. Tatum advised that he has not been officially advised concerning this and in fact stated that Mr. Clegg and other officials of the University did not advise him of their plans until the day before Meredith was expected, on the other occasion.

He did state that he has been instructed by University officials that he and all of his patrolmen were not to wear sidearms on the day Meredith makes his appearance. He explained that University officials are doing everything possible to keep down any violence. He stated he has learned that his men are to be assigned to all entrances to the University but he has not yet received any orders to stop cars. He advised that there are five entrances to the campus and he only has seven men in his Department including himself.

Chief Tatum further stated that the campus is located outside the city limits of Oxford and that the

Oxford Police Department has no jurisdiction on the campus.

The following is a breakdown of the law enforcement officers in Oxford, Mississippi:

Oxford Police Department	7 men
University of Mississippi	
Campus Police	7 men
Sheriff's Office	2 men (one is part time deputy)
Mississippi Highway Patrol	2 men
Alcohol and Tobacco Tax Unit	1 man
U. S. Marshal's Office	3 men

In addition, Sheriff Ford has a police dog which was recently trained; however, this dog has not been used to any extent by his department.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Ver - Stewart
Special University
file made - 2/14/62
February 7, 1962

Burke Marshall
Assistant Attorney General
Civil Rights Division

St. John Barrett, Second Assistant - SJB:arg

University of Mississippi - 144-100-40-Sub
possible efforts to frustrate
order for admission of James
Mereditth.

You asked that I give some thought to the devices which Mississippi authorities might use to avoid the effect of any court order requiring the admission of James Mereditth to the University of Mississippi this semester. The following contrivances occur to me:

1. Transfer of the admissions function to persons who are not now defendants in the desegregation suit.
2. Change in the rules of admission.
3. Arrest of Mereditth.
4. Commitment of Mereditth for mental observation.
5. Closing the University.
6. Expulsion of Mereditth to preserve the peace.
7. Expulsion of Mereditth for personal misconduct.
8. Refusal to furnish adequate protection for Mereditth from private harassment and intimidation.
9. Declaration of a school holiday.

Change in administrators. Any shift in the official control over university admissions and/or administration would apparently require new legislation. Section 6719 of

CC: Records
Chron.
✓ Mr. Barrett
Mr. Bear
Mr. Greene

the Mississippi Code provides that the Board of Trustees of State Institutions of Higher Learning is responsible for the management of the University of Mississippi. This Board is a defendant in the Meredith suit. Any shift in responsibilities below the level of the Board could not provide an escape from responsibility under a court order directed to the Board. In any event, this would appear to be a problem that could be anticipated and adequately provided for in the framing of the court order by making it clear that "successors" included any and all successors to the particular function involved.

Change in admission rules. The Board of Trustees might change the admission rules to exclude late registrants, or impose some other additional qualification which would eliminate Meredith, even though (perhaps) eliminating some other students as well. This would raise a question of whether the Board was acting in good faith or whether it was in contempt. Presumably the question would be raised by Meredith's counsel.

Arrest. Under Section 9724(c) of the Mississippi Code the Board is authorized to prescribe rules and regulations for policing the campus and to authorize the arrest of persons violating, on campus, any criminal law of the state. Meredith might be arrested for "breaching the peace" or for conspiracy to do so with the same reasonableness with which such arrests have been made of Negroes using formerly "white" terminal facilities. If the arrest was made on campus under authority of the Board it would raise a question of contempt. If made elsewhere by others there would be a question of lawful interference.

Mental commitment. In 1958 Clennon King, a Negro applicant for the University of Mississippi summer session, was taken into custody and held for observation under a civil mental commitment warrant issued by the Chancery Clerk of Lafayette County. In the hearings before Judge Nix in the Meredith case, the University registrar testified that investigation had revealed Meredith "has psychological problems because of his race," and that his Air Force record revealed that he suffered from "compulsive and obsessive neurosis."

Closing of the University. Section 6232-21 of the Mississippi Code authorizes the Governor to close the University if, in his discretion, he determines such closure to be in the interest of the University or its students, or that "such closure will promote or preserve the public peace, order, or tranquility." Closure for the purpose of avoiding the effect of the federal court order would be enjoined on the precedent of the Little Rock, Virginia, or Louisiana cases. However, the effectiveness of injunctions in these prior cases has probably been due, in large measure, to the desire of the school administrators to keep the schools open, and their willingness to do so when once freed of state restraint. If this is not the situation with respect to the University of Mississippi there could well be formidable problems in implementing an order against closure.

Expulsion to preserve the peace. In 1956, Autherine Lucy was expelled from the University of Alabama, where she was attending classes pursuant to court order, upon the grounds that her presence at the school was fomenting violence. Although her readmission was ordered by Judge Greens the school authorities were not held in contempt for the expulsion. 1 RLR 323. With respect to Meredith, the use of this device could apparently be of only temporary effectiveness and would be subject to court review. In any event, the expulsion could be justified only for such period as was necessary for making other arrangements to preserve the peace.

Expulsion for personal misconduct. Prior to Judge Greens' order requiring the readmission of Miss Lucy to the University of Alabama the school authorities again expelled her, this time for alleged false statements in her petition to the District Court asking readmission. This latter expulsion remained effective and Judge Greens did not hold the school authorities in contempt. In the present case any personal misconduct by Meredith - whether by word or deed - could well be used as an excuse for his expulsion. Should it occur its validity would be subject to litigation between the parties to the lawsuit.

Failure to afford protection. If school authorities fail to protect Meredith from harassment and intimidation on the part of fellow students, or others, there would be

at least three remedies. Meredith could go back before the court for additional relief against either the authorities or the private persons; the United States (as amicus or otherwise) could seek injunctive relief against the private interference, or the United States could arrest and prosecute, under 18 U.S.C. 1509, any persons committing acts of violence upon Meredith, or who threatened or intimidated him.

School holiday. State officials might seek delay through declaration of a school holiday. The bona fides of such declaration would appear to be a question to be raised by the private litigants.

In countering any state moves to frustrate a restraining order issued by the Court of Appeals for the Fifth Circuit there would be some procedural problems not met in prior school cases. I presume that any petition for a finding of contempt of the Court of Appeals order would be filed in the Court of Appeals, rather than the District Court. If the alleged contempt is criminal I presume the Court of Appeals could designate the Attorney General to prosecute it. If civil, the proceedings would be handled by the private plaintiff. If there is interference with or obstruction to the carrying out of the Court of Appeals order I would suppose that the Court of Appeals itself could designate the Attorney General, as amicus, to prosecute ancillary proceedings for removal of the obstruction. These proceedings would presumably be before the Court of Appeals, even though they involve the trial of original issues of fact. I suppose that an alternate way of proceeding would be to file an original lawsuit in the District Court to protect the interest of the United States in the due administration of justice. I will discuss these problems with Mr. Greene and arrange for the research of those that appear troublesome.

Highlights of Opinions in Mississippi University Case

... Judge Mize further stated for a fact, that the University is a racially segregated institution. Concepts from Judge Mize's opinion, finding of fact and conclusions of law follow:

Plaintiff James Howard Meredith, is a member of the Negro race and a citizen of Mississippi. He filed this suit against the members of the Board of Trustees of State Institutions, the Chancellor of the University of Mississippi, the Dean of the College of Liberal Arts and the Registrar of the University. He alleged that he sought admission to the University of Mississippi as a resident undergraduate transfer student to that institution and that he was denied admission solely because of his race. The complaint was answered by the Defendants, denying that he was refused admission solely because of his race. A motion for preliminary injunction was filed and a full and complete hearing upon the motion for the preliminary injunction was given the Defendants from refusing to admit him which by the Court and on December 12, 1961, his motion for preliminary injunction was denied and the Court set the case for final hearing on January 15, 1962. After fully hearing all the evidence and considering the record on the motion for a preliminary injunction, the Court held that the Plaintiff was not denied admission because of his race. The Plaintiff filed his notice of appeal from this judgment on December 14, 1961 to the Court of Appeals for the Fifth Circuit, which appeal was heard on January 9, 1962 and the opinion rendered by the Court of Appeals on January 12, 1962, affirming the judgment of the District Court and the Court of Appeals denied the motion of the Plaintiff to order the District Court to enter a preliminary injunction in time to secure the Plaintiff's admission to the February 6 term of the

Question for Decision

The only question presented for decision is whether or not the Plaintiff is denied admission to the University of Mississippi solely because of his race or color and this a question of fact appears for determination.

Plaintiff alleges and contends that he was denied admission solely because of his race. Defendants vigorously deny that he was denied admission because of his race and aver that his race had no bearing at all on the rejection of his application for admission.

As held on the hearing conducted on the preliminary injunction, the evidence, including testimony, showed that the Plaintiff was not denied admission because of his race. The Plaintiff during this hearing on the motion, called as adverse witnesses nearly every member of the Board of Trustees who testified unequivocally and definitely that at no time had the question of the race of a party ever been discussed at a meeting of the Board of Trustees or at any other place and that so far as the members of the Board of Trustees was concerned all policies and regulations were adopted and followed without regard to race, creed or color and that at no time was the application of James Meredith the Plaintiff ever discussed by any members of the Board of Trustees. The Registrar, who also had testified on the motion for preliminary injunction, again testified to the effect that the question of the race of the Plaintiff was not discussed or considered in any way whatsoever when his application for admission to the University was being considered. All of the other officials of the University testified to substantially the same thing. One member of the Board of Trustees was not used in addition to a few members who were not called because of ill health.

The effect of this additional testimony heard during the trial on the final merits strengthens the former finding of the Court that the Plaintiff was not denied admission because of his race other than weakness.

The proof shows on this trial, and I find as a fact, that there is no custom or policy now, nor was there any at the time Plaintiff's application was rejected, which excluded qualified Negroes from entering the University. The proof shows, and I find as a fact, that the University is not a racially segregated institution. Prior to the decision in the case of Brown, et al. v. Board of Education of Topeka, et al., there was such a custom which was required by the statutes of the State of Mississippi and the Court takes judicial notice of that custom as outlined by the statutes given to the trial of the Brown case. This custom or doctrine had been approved by the doctrine of the Supreme Court of the United States in the case of Plessy v. Ferguson. Prior to the Brown decision this was a legitimate and legal custom and was not in the process of being

... upon these facts. The Court in the instant case in his hearing fails to show that the application of any terms of Chapman or anyone of any other race has been rejected in case of his race or color. Under the plea in this case judicial notice, while considered and properly so is not enough to meet the burden of proof cast upon Plaintiff to show that he was denied admission because of his race. Judicial notice of facts is not conclusive on factual matters, but is considered along with all the other evidence in the case.

The Court takes judicial notice of Sec. 4853 of the Missouri Civil Code of 1942 as amended. This was passed in 1942 and the Act requires the officers to use any lawful, general or constitutional means to prevent the implementation of or the compliance with the segregation decisions of the Supreme Court of the United States. The Legislature in passing that Act used in mind to use every legitimate means to prevail upon the Supreme Court of the United States to return to the justice of Plessy v. Ferguson but nowhere are any of the defects required to justify the Justice of the Supreme Court of the United States. There is nothing in the Act that obligates or casts a burden upon any official to disobey or disregard the decisions of the Supreme Court of the United States or to use any unlawful means to prevent compliance. All the plea in this case considered in the light of the opinion of the Court of Appeals affirming the judgment of this Court and denying the preliminary injunction, but holding that it was improper to deny the failure to furnish evidence from the admission of the University demonstrates clearly that the Plaintiff was not denied admission because of his race. I have weighed the testimony and in the light of the decision of the Court of Appeals and have decided in weighing it, the evidence to the effect that he had failed to furnish certificates of the status affecting the custom of segregation and in my opinion and find as a fact that he was not denied admission because of his race. It is rather difficult to determine the weight to be given to judicial notice of facts as differentiated from judicial notice of laws, but giving full consideration to the judicial notice that the policy prior to the decision in the Brown case was to segregate the races and considering that policy along with all the evidence in this case as of 1961 and 1962 I conclude that the evidence is insufficient to hold that that policy is now in effect.

Plaintiff Failed Entirely

The burden of proof was upon the Plaintiff to prove by a preponderance of the evidence that the University at the time of his application would accept to the University of Missouri a person of his race to prove by a preponderance of the evidence that such action was applied to the Plaintiff in order to practice discrimination. The Plaintiff failed entirely to meet that burden but on the contrary the evidence shows rather conclusively that he was not denied admission because of his race. In the trial on the merits every witness called by the Plaintiff testified that the race of the Plaintiff was not discussed or considered at all in passing on his application for admission. Each member of the Board of Trustees who was called testified that the question of race was not at any time discussed with any other member of the Board of Trustees concerning the admission of applicants to the University of Missouri. It is a well accepted rule of law that every point in testimony unless unreasonable is to be taken as true or unless denied by sworn testimony is to be accepted as true.

Since all of the evidence and all of the exhibits that were introduced into evidence on the trial of the motion for preliminary injunction is now before this Court upon this trial on the merits I adopt the finding of fact that was made in my opinion of December 12, 1961 as my finding of fact herein, and in what is thereto I find as a fact from all of the additional evidence that was offered on this trial when considered with all of the evidence offered on the former trial that the Plaintiff was not denied admission because of his race and that the evidence taken in its entirety shows clearly that there was no denial of admission because of his race or color. In adopting the finding of fact which I made in my opinion of December 12, 1961 I am making the same finding after having disregarded those features of it that were eliminated by the Court of Appeals in its decision affirming my judgment.

The Registrar on cross examination by attorney for Plaintiff, testified that if the application filed by the Plaintiff for admission were considered as still a pending application for admission that he would not accept the application of the Plaintiff, but that his rejection of the application for admission would be based not in the slightest on the fact that the same rule would be applied to a white person, that

In the case of the Plaintiff I did not enter into his allegations. The Register gave as his reasons for this statement that credible evidence had been furnished to prove the Plaintiff's application had been presented and rejected that Plaintiff was a rather unstable person, was depressed at times and of a highly sensitive temperament, that the Plaintiff had never, before the Circuit Clerk of Hinds County, in making application to register as a voter, claiming that he was a citizen of Hinds County, when as a matter of fact he knew he was a citizen of Hinds County, Mississippi and that through this false affidavit Plaintiff had procured himself to be registered as a voter by the Circuit Clerk of Hinds County, Mississippi, that Plaintiff had had five certificates by officers of Attain County certifying that he was of good moral character and recommending him for admission to the University, but that subsequent investigation showed that in one of these certificates Plaintiff made false representations to the voters as to the purpose for which he intended to use them, stating that he was without a job and needed these statements to help him get a job.

Some of this evidence was objected to, but was tentatively received in evidence. Since the main question before me is whether the Registrar, an administrative officer of the State of Mississippi, had acted in good faith in his rejection of Plaintiff's application for reasons other than race and since these facts were not known to the Registrar at the time the application was rejected, I have concluded that this testimony should not be considered and have not considered it in reaching my conclusions.

Recommendations of Amicus

There is one other question of law which was raised prior to the beginning of the trial on the merits that should be commented upon. A motion was filed by the Defendants for the organization of a three judge court to pass upon the constitutionality of the requirement of the Board of Trustees of State Institutions of Higher Learning that every application for admission to any state institution must be accompanied by recommendations of five alumni. I did not pass upon this question in considering the application for a temporary injunction because of the universal rule that constitutional questions will not be considered if a decision can be reached on non-constitutional questions. In that connection I denied the application for temporary injunction solely on the finding of fact that Plaintiff's application had not been rejected because of his race.

... of Mississippi, its Registrar is a constitutional body and its duties are fixed by Article V of our State Constitution. The principles of the Mississippi Code being set forth in Section 4734 and the following sections of that chapter. The Registrar in acting on Plaintiff's application was engaged in the enforcement of an order made by an administrative Board acting under the statutes of Mississippi but I overruled the motion, declining to require that a three judge court be convened because the Court of Appeals had in its opinion declared these requirements of Mississippi law unconstitutional.

Inasmuch as Plaintiff has failed to meet the burden by showing by a preponderance of the evidence that he was denied admission to the University of Mississippi solely because of his race, the complaint must be dismissed. The Plaintiff undertook to bring the action as a claim arising under Rule 21(a) of the Federal Rules of Civil Procedure, but since Plaintiff failed to maintain this action in his own behalf, he cannot maintain it as a class action.

This the Court do on February 1962

S. S. May
UNITED STATES DISTRICT JUDGE



On Feb 12 the United States Court of Appeals for the Fifth Circuit in a three-judge decision denied Meredith's motion to compel the University pending appeal from refusing to admit him for the semester beginning Feb. 6. Exempt from the majority opinion of Justice Richard T. Poore and John Moore Wisdom is Justice

the appellant moves the Court for an injunction during the pendency of this appeal, enjoining the appellees from refusing to admit appellant to the Liberal Arts College of the University of Mississippi for the semester which commenced February 6, 1962, and as to which admissions can be received no later than February 15, 1962, on the ground that such injunction is necessary in aid of this Court's jurisdiction of this appeal which, according to appellant, would otherwise be defeated through mootness of this appeal. The Court's jurisdiction of this appeal was entered on the docket of this Court on February 1962 and will be the subject of a later decision.

The district court is not yet available to this Court. Hearing on the motion for injunction pending appeal was laid before this Court on Saturday, February 10, 1962.

The ground upon which appellant claims that this appeal will become moot before it can be heard and decided in normal course is that, prior to such time, the appellant will graduate from Jackson State College, and will then lose any right to be admitted to the Liberal Arts College of the University of Mississippi. The appellees point out that it is within the appellant's power to avoid that result by his non-attendance on Jackson State College for one quarter of a school year. The appellees insist and assure this Court that such an attendance would not operative the appellant's claim to a right to be admitted to the Liberal Arts College of the University of Mississippi.

While we appreciate the hardship which such non-attendance may impose on the appellant, when that hardship is balanced against other possible hardships or damages which might be suffered by the appellant himself and by the appellees from the issuance of the mandatory injunction prayed in the writ, the judgment of the district court should ultimately be affirmed. Such hardship is not sufficient to justify us to issue the mandatory injunction requested without an opportunity to study the full record and testimony on the hearing before the district court. At this time we express no views on the merits of this appeal.

By expediting the hearing of this appeal, it can be decided on its merits before the beginning of the next college term. The Clerk of this Court and the parties are therefore directed to take all necessary and proper steps to expedite the hearing of this appeal on its merits, and the motion for injunction pending appeal is denied. The Clerk is directed to issue the mandate forthwith.

★ ★ ★

Likelihood of Reversal

Chief Judge Elbert Tuttle deemed *Freeman's* term has almost follow.

I think the record already submitted, without the benefit of the record in the trial on the merits, calls for our granting the injunction pending appeal.

The stated facts of which we have already taken cognizance when this case was here on appeal from denial of an interlocutory injunction show that the appellant was denied admission on the stated grounds: (1) that he had failed to furnish recommendations from six alumni of the University; (2) that the University policy adopted after Meredith originally applied for transfer provided a transfer from an unaccredited institution. Jackson State College was at that time unaccredited. (3) the letter then stated "I see no need for mentioning any other deficiencies."

In view of our holding in the earlier opinion that "We take judicial notice that the state of Mississippi maintains a policy of segregation in its schools and colleges," and our holding that the requirement of alumni recommendations was unconstitutional as to Negro applicants and in view of the failure of the defendants to assume any other reason for rejecting appellant's application for transfer, I am very sure that there is sufficient likelihood that this Court will reverse the trial court's finding that Meredith was not denied admission on racial grounds that I would grant the injunction pending appeal.

Jackson State College is now fully accredited and there is thus no real barrier to appellant's transfer on that ground. Nor is there any evidence even on the trial on the merits that Meredith would necessarily lose any credits which he has already earned at Jackson State College.

If Meredith continues as a student at Jackson State College, which he must do in order to continue to be entitled to his GI education benefits for himself and his family, he will graduate in June of this year and he cannot thereafter enter the University of Mississippi as a candidate for a bachelor's degree. I do not believe that he should be required to leave college at the beginning of his final term to prevent his appeal from becoming moot. Unless he is admitted to the University by February 15, just three days hence, he cannot transfer until the next term. Therefore, if he is denied the injunction and does not quit school for a term, he keeps from graduating, he will be forever denied the right to enter his state university as a candidate for an undergraduate degree, which right I think this Court may well ultimately decide he is entitled to.

I do not think this Court ought to concern itself with any possible damage to the appellant by granting his motion for injunction. He does not need for us to help him decide whether he really wants what he is now fighting so hard to get.

I therefore respectfully dissent.

Mississippi
file

To : James J. P. McShane
From: John W. Cameron

June 29, 1962

If It is necessary to send Deputy United States Marshals to Oxford, Mississippi, when the University of Mississippi is integrated on, or about, July 12, 1962.

As I understand it, one 28 year old negro male is to enter the university. It appears that any trouble that may develop will involve him personally and that, if he is kept from harm, the operation would be a success.

1. Two deputies should be assigned to accompany the student at all times.
2. Two deputies should be assigned to transport the student and the two deputies with him by automobile between classes, home, and meals and be available at points where student is dropped.
3. Other deputies should be assigned to keep the campus, especially those parts where the student will be attending classes, under surveillance.
4. The aerial photo indicates that there are seven automobile roads entering the campus. It appears that if the situation warrants it, access to the campus on these roads should be restricted to students, faculty, and others having business there.
5. The student's home should be kept under surveillance.
6. The place he takes his meals may have to be kept under surveillance.
7. A force of deputies should be standing by, ready to render necessary assistance. If possible, they should standby on campus; Otherwise, as near thereto as possible.
8. We should bring in the Border Patrol to supply transportation and communications - At least 25 radio cars and a base set.
9. If Border Patrol cannot furnish enough cars, arrangements should be made to rent some.

It is difficult to estimate the size force necessary. Some details would necessitate someone being on the job 24 hours a day. It appears that 80 men could do a pretty good job:

4-men-could-do

- 4 men and 1 car with student
- 14 men and 7 cars watching access roads
- 12 men and 4 cars watching campus
- 1 man on radio base set
- 49 men and 12 cars standing by

We will need:

1. housing for 80 men
2. A room to set up base set and office
3. A briefing and standby room
4. A storeroom
5. 80 arm bands
6. Tear gas equipment for 4 squads
7. Several copies of aerial photograph

544 North 4th St.
Oxford, Miss.

July 9, 1962

Mr. Burke Marshall
Department of Justice
Washington 25, D. C.

*To as possible...
University...
that...
has no action...
since...
We are very...
...
...
...*

Dear Mr. Marshall:

You have not received a phone call from here because there has been nothing in the way of new information. However, you may find it worthwhile to note the following, which summarizes opinions or information from several individuals.

There is almost complete agreement here, among both those who know the legal procedures as well as others, that Mr. Meredith will not be entering the Second Summer session for which registration takes place on July 13. Almost no one feels that a court order is likely to be issued before then, and most seem to feel that a Supreme Court appeal is likely to delay the order for admission. On the other hand, there is almost complete agreement that the appeal will fail and that the order will be issued.

There is also almost complete agreement that the Summer Session would be a better time for admission, considering such matters as housing and the attitude of the student body. There are only about 1/3 as many students here as during the regular academic year, and the students are on a very tight schedule, both of which facts should keep things more calm.

It should be realized that university officials on the campus have almost nothing to say about the policies to be followed on these matters, which are determined by the Board of Trustees of the Institutions of Higher Learning and by the State Attorney-General. The university officials are on a tightrope between the officials just referred to and their own educational responsibilities. The University is in a difficult competitive position with the other state schools (Mississippi State and Mississippi Southern, both of which have recently been named "universities" by the state Legislature and both of which are more popular with the above-mentioned officials and the Citizens Council). University officials are afraid to appear "willing" to see Mr. Meredith enrolled, since this would be used as an argument that the University is pro-integration.

All this helps explain an attitude that has been expressed by several university officials, that when the court is issued it should be very specific in enjoining any and all types of possible interference with the order by University officials, state officials, local government authorities, faculty members, or the student body or general public and that the Department of Justice should be well represented and should make it clear that no interference with the order will be tolerated.

It is important that Mr. Meredith should show some care in picking particular courses and faculty members. You are aware of particular faculty members who would be of value on this point. The University official who would do the advising knows of this problem, but it would be wise for Mr. Meredith to know of it also.

Finally, it should be pointed out that the plan which was in readiness for last February is not now an active plan, perhaps mainly because of the belief that the order will not be issued this summer. In any case, there is complete agreement that the Department of Justice should have an impressive number of representatives here when the order is issued. There is considerable fear that violence may be attempted and that state and local law enforcing officers may not be all that is required, and there is some doubt as to whether their main interest would be in protecting Mr. Meredith.

Sincerely,

Paul H. Smith

U. ———
July 17, 1962

Professor Russell M. Barrett
344 North Ninth Street
Oxford, Mississippi

Dear Professor Barrett:

The Court of Appeals refused to expedite their mandate in the University case. It is for that reason that there has been no action this semester. There will be none until September.

We are very appreciative of your interest in these matters.

Sincerely,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

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MEMORANDUM TO THE ATTORNEY GENERAL

Dean Ribble called and left the following message.

He talked to Dean Frawley with respect to the situation in Mississippi in the coming registration and was told there will be no trouble from the people in Oxford. If there is any trouble it will come from the Citizens Council. Secondly, the Chancellor of the University, Mr. J. G. Williams, organized a meeting with the Attorney General of the State and the Board of Trustees at the University. They were all in strong agreement in their desire to prevent any disorder. They talked to the Governor and he seems to have quieted down a bit.

The students at the University have been consulted and they are in complete agreement about the avoidance of any disorder, particularly the members of the football team.

The students have been told to avoid crowds on registration day.

the State police will have a substantial force outside of Oxford.

The only difficulty it would seem would be that the Citizens Council might organize elsewhere and move in on Oxford.

He and Dean Frawley thought it might be a good idea to have 50 or 75 Marshals in Memphis, scattered around so that no one would know they were there. Oxford is about 70 miles from Memphis. The Marshals would just stay there but it might be good insurance. Dean Ribble also suggests you call Chancellor Williams and compliment him on his efforts.

mm

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M -edith v Fair

9/19/62

8:20 p.m.

Summary of telephone conversation with Mr. Greene from Mr. Rosen

The Bureau received information from Floyd Mann, Director of Public Safety, Alabama, that seventy-five cars with Klansmen departed shortly after midnight on the 18th from Tuscaloosa to Oxford. They took three different routes and they were to rendezvous at Oxford. The purpose was to find out how much time was consumed in traveling this course. There was no additional information. The matter was not evaluated and the source not identified. The Bureau has checked but has come up with no information to confirm it. If they find out anything more they will let us know.

*U. of Miss
Draft*

EUCLID RAY JOBE
EXECUTIVE SECRETARY
THE BOARD OF TRUSTEES OF STATE
INSTITUTIONS OF HIGHER LEARNING
WOOLFOLK STATE OFFICE BUILDING
JACKSON, MISSISSIPPI

THE PURPOSE OF THIS TELEGRAM IS TO INFORM YOU AND THE BOARD OF TRUSTEES OF THE UNIVERSITY OF MISSISSIPPI OF THE GOVERNMENT'S VIEWS ON THE LEGAL POSITION IN THE MEREDITH CASE. THE OFFICIALS OF THE UNIVERSITY, INCLUDING THE REGISTRAR, HAVE BEEN ORDERED BY BOTH THE DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI AND THE COURT OF APPEALS FOR THE FIFTH CIRCUIT TO ACCEPT AND RETAIN MEREDITH AS A STUDENT THIS SEMESTER AT THE UNIVERSITY. ALL MEMBERS OF THE BOARD OF TRUSTEES ARE COVERED BY THESE ORDERS. THE BOARD OF TRUSTEES IS PREVENTED BY THESE ORDERS AND BY AN ADDITIONAL ORDER OF JUSTICE BLACK OF THE SUPREME COURT OF THE UNITED STATES, WHICH HAS THE CONCURRENCE OF EACH JUSTICE OF THE SUPREME COURT, FROM TAKING ANY STEPS TO ^{HINDER COMPLIANCE WITH} ~~PREVENT ENFORCEMENT OF THE ORDERS OF~~ ~~THE COURT OF APPEALS~~

WE HAVE COOPERATED AND WILL CONTINUE TO COOPERATE WITH GOVERNOR BARNETT AND OTHER STATE OFFICIALS IN MAKING EVERY EFFORT TO AVOID LAW ENFORCEMENT PROBLEMS. IT IS OUR PURPOSE TO SEE THAT THE ORDERS OF THE COURT ARE COMPLIED WITH PEACEFULLY. HOWEVER, I AM INFORMED THAT MEREDITH HAS BEEN UNABLE TO OBTAIN ANY COMMITMENT FROM YOU OR THE BOARD THAT HE WILL BE REGISTERED IN JACKSON WITHOUT EVASION OR DELAY IF HE GOES THERE IN RESPONSE TO YOUR TELEGRAM. I HAVE BEEN UNSUCCESSFUL IN OBTAINING ANY SUCH COMMITMENT AS WELL.

UNDER THE CIRCUMSTANCES, IT IS MEREDITH'S INTENTION TO PROCEED TOMORROW TO OXFORD, MISSISSIPPI, TO REGISTER, ALONG WITH OTHER NEW AND TRANSFER STUDENTS. IT IS THE RESPONSIBILITY OF THE DEPARTMENT OF JUSTICE TO TAKE ALL APPROPRIATE ACTION TO MAKE THE ORDERS OF THESE COURTS EFFECTIVE. IT IS OUR VIEW THAT A REFUSAL BY THE OFFICIALS OF THE UNIVERSITY IN OXFORD TO REGISTER MEREDITH IN OXFORD TOMORROW WOULD BE IN VIOLATION OF THE ORDERS OF THE DISTRICT COURT AND OF THE COURT OF APPEALS. IT IS ALSO OUR VIEW THAT ANY ORDERS OR OTHER STEPS BY THE BOARD OF TRUSTEES INTENDED TO PREVENT THE OFFICIALS OF THE UNIVERSITY AT OXFORD FROM REGISTERING MEREDITH IN THE REGULAR COURSE WOULD BE IN VIOLATION OF THE ORDERS OF THE DISTRICT COURT, THE COURT OF APPEALS, AND THE SUPREME COURT OF THE UNITED STATES.



U. of Miss

Department of Justice

FOR IMMEDIATE RELEASE
SEPTEMBER 25, 1962

The Department of Justice is asking the Court of Appeals to issue an order requiring Governor Barnett to show cause why he should not be held in contempt.

We understand that Meredith will go to the University of Mississippi tomorrow to begin attending classes and will be accompanied by U. S. Marshals.

We also announced that the Attorney General had conferred with the President during the day about the situation in Mississippi.



U. of Miss.

Department of Justice

STATEMENT BY DEPARTMENT OF JUSTICE
SEPTEMBER 27, 1962

The Marshals escorting James Meredith to Oxford, Mississippi, have been directed to return to Memphis without attempting to enter the University of Mississippi.

This action was taken at 6:35 PM (EDT) after receipt of information from Oxford that a large crowd had gathered and that the force accompanying Mr. Meredith might not be sufficient to accomplish its mission without major violence and bloodshed for the citizens of Mississippi.

Several hundred additional United States Marshals are proceeding to Memphis to augment the small force which has been there since last week.

c. An aviation detachment of one fixed wing aircraft, four helicopters, and 16 men is stationed at the University Airfield and possesses a reconnaissance, gas-dispensing, and medical evacuation capability.

d. The remainder of the 300 Army troops at Oxford are at the base camp one mile south of BAXTER HALL and consists of the remainder of the MP company and command, administrative and logistical personnel.

3. Outwardly the current atmosphere at Oxford appears rather calm; however, the Army does not view this with over-optimism nor does it consider it a cause for any relaxation of its day-to-day operations.

4. In the past month the following incidents have occurred, most of which are unknown to the general public:

3 April - Soldier on duty struck by rock.

11 April - Verbal insults by students to Meredith.

12 April - Cherry bomb exploded in BAXTER HALL.

20 April - Bomb threat, University Library; cleared by campus police.

Bomb threat, BAXTER HALL, cleared by campus police.

Bomb threat, CONNOR HALL.

DEPARTMENT OF JUSTICE

May 6, 1963

TO

REMARKS:

- ATTORNEY GENERAL
 - EXECUTIVE ASSISTANT
 - OFFICE OF PUBLIC INFORMATION
- DEPUTY ATTORNEY GENERAL
 - EXECUTIVE OFFICE—U. S. ATTORNEYS
 - EXECUTIVE OFFICE—U. S. MARSHALS
- SOLICITOR GENERAL
- ADMINISTRATIVE DIVISION
 - LIBRARY
- ANTITRUST DIVISION
- CIVIL DIVISION
- CIVIL RIGHTS DIVISION
- CRIMINAL DIVISION
- INTERNAL SECURITY DIVISION
- LANDS DIVISION
- TAX DIVISION
- OFFICE OF LEGAL COUNSEL
- OFFICE OF ALIEN PROPERTY
- BUREAU OF PRISONS
- FEDERAL PRISON INDUSTRIES, INC.
- FEDERAL BUREAU OF INVESTIGATION
- IMMIGRATION AND NATURALIZATION SERVICE
- PARDON ATTORNEY
- PAROLE BOARD
- BOARD OF IMMIGRATION APPEALS
- ATTENTION _____

Mr. Marshall
Mr. Doar

Joe Califano (sp?) left
this for you. He will call
Monday.

LFO

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FROM ASSISTANT ATTORNEY GENERAL
Tax Division

DEPARTMENT OF JUSTICE

COVER

TO

- ATTORNEY GENERAL
 - EXECUTIVE ASSISTANT
 - OFFICE OF PUBLIC INFORMATION
- DEPUTY ATTORNEY GENERAL
 - EXECUTIVE OFFICE—U. S. ATTORNEYS
 - EXECUTIVE OFFICE—U. S. MARSHALS
- SOLICITOR GENERAL
- ADMINISTRATIVE DIVISION
 - LIBRARY
- ANTITRUST DIVISION
- CIVIL DIVISION
- CIVIL RIGHTS DIVISION
- CRIMINAL DIVISION
- INTERNAL SECURITY DIVISION
- LANDS DIVISION
- TAX DIVISION
- OFFICE OF LEGAL COUNSEL
- OFFICE OF ALIEN PROPERTY
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- FEDERAL PRISON INDUSTRIES, INC.
- FEDERAL BUREAU OF INVESTIGATION
- IMMIGRATION AND NATURALIZATION SERVICE
- PARDON ATTORNEY
- PAROLE BOARD
- BOARD OF IMMIGRATION APPEALS
- ATTENTION: _____

REMARKS:

*Mr Marshall
Mr. Swan*

Joe Calogano (sp?)

Left this for you.

He will call Monday.

L.F.O.

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FROM

ASSISTANT ATTORNEY GENERAL

Tax Division

Typed 2/6/63

*Noted
C. J. ...
2/21/63*

Director
Federal Bureau of Investigation

144-40-254

11,801

SM:PAJ:ms

Burke Marshall
Assistant Attorney General
Civil Rights Division

Desegregation of University of Mississippi.

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Evidence secured by Special Agents of your Memphis office indicates a possible violation of 18 U.S.C. 1509 by the Citizens' Councils of Jackson, Greenwood, and Oxford, Mississippi. The evidence indicates that these Councils have been organizing and financing the introduction of fireworks to the University of Mississippi campus for the purpose of harassing James Meredith and interfering with his enjoyment of rights, secured by federal court orders, to attend the University of Mississippi on the same basis as other students and for the further purpose of interfering with federal personnel in the performance of their duties in guarding said James Meredith. This information is contained in the Report of November 20, 1962 by Special Agent William H. Lawrence (Memphis, Tennessee), pp. 221 et seq.

That report indicates, at p. 190, that Robert B. Patterson, Executive Secretary of the Association of Citizens' Councils of Mississippi (ACCM) told Special Agent George A. Everett on October 31, 1962 that "no Citizens' Council money has been used for the purchase of cherry bombs" for use on the university campus, and that "the ACCM and local Citizens' Councils have no connection with the activities of students at the University of Mississippi." On p. 247 of the same report it is stated that on November 7, 1962 Mr. Patterson declined to make any further statement on the subject. Special Agent Lawrence's Report further indicates (pp. 248-253) that Robert P. Parish, J. Howard Peebles, and J. Stanley Sanders, who are all associated with the Citizens' Council of Greenwood, Mississippi, advised Special Agent Everett that they knew of no connection between the Citizens' Council and the introduction of fireworks to the University of Mississippi campus.

cc: Rec. ✓ Mr. Barrett
 Chrono. Trial File (20, 1140)
 Mr. Dear U. S. Attorney (Oxford)

Once weekend plans have been completed, inform the Marshals, FBI and, if necessary the Army personnel; do not contact any local law enforcement officials without directions from Washington.

2. Coordinate the security units activities with the movements by Meredith on the campus.

A. Army

1. Notify appropriate M.P. unit of Meredith's movements in sufficient time to enable them to cover his movements under the procedures previously arranged with the Army.

B. Marshals

1. After the attorney has determined the method to be used in providing the security for each of Meredith's movements he then briefs the Marshals in detail as to how it will be carried out. As determined by the circumstances, the attorney may brief all of the Marshals together, each individually, or only the Senior Marshal. In all cases it is the attorney's responsibility that each Marshal is aware of his assignment.

C. Other Persons

1. Cafeteria - Notify Mr. Bounds or Mr. Odum when Meredith will eat. They should be given as early notice as possible so they can notify the campus police to be present. Be sure they recognize and accept this responsibility of notifying Chief Tatum of the campus police to have a campus policeman inside the cafeteria during every meal.

3. Coordinate the security units with the movements of Meredith when he is off-campus on the weekends.

1. Set up a headquarters near where Meredith spends the weekend. This will usually require coordination of the CIC, FBI, Army and Marshals; and maintaining contact with Washington.

Once weekend plans have been completed, inform the Marshals, FBI and, if necessary the Army personnel; do not contact any local law enforcement officials without directions from Washington.

3. Coordinate the security units activities with the movements by Meredith on the campus.

A. Army

1. Notify appropriate M.P. unit of Meredith's movements in sufficient time to enable them to cover his movements under the procedures previously arranged with the Army.

B. Marshals

1. After the attorney has determined the method to be used in providing the security for each of Meredith's movements he then briefs the Marshals in detail as to how it will be carried out. As determined by the circumstances, the attorney may brief all of the Marshals together, each individually, or only the Senior Marshal. In all cases it is the attorney's responsibility that each Marshal is aware of his assignment.

C. Other Persons

1. Cafeteria - Notify Mr. Bounds or Mr. Odum when Meredith will eat. They should be given as early notice as possible so they can notify the campus police to be present. Be sure they recognize and accept this responsibility of notifying Chief Tatum of the campus police to have a campus policeman inside the cafeteria during every ^{meal} meal.

3. Coordinate the security units with the movements of Meredith when he is off-campus on the weekends.

1. Set up a headquarters near where Meredith spends the weekend. This will usually require coordination of the CIC, FBI, Army and Marshals; and maintaining contact with Washington.

MEMORANDUM

1. The Army mission in Oxford is to enforce the provisions of Executive Order 11503 dated 30 September 1962. Basically it requires the Army to take the steps necessary to assure Mr. Meredith's attendance at the University of Mississippi is not interfered with.

2. To accomplish this mission present Army determination is that 300 troops conducting the following operations, currently being carried out, are the minimum necessary:

a. One platoon of 48 men is on immediate alert in a bivouac area 175 yards northeast of GERARD HALL. Of this platoon, eight guards are stationed 24 hours a day at BAXTER HALL. Seven of these are stationed inside BAXTER HALL: two on the first floor, three on the second floor where Meredith lives, and two on the third floor. One walking guard has a post between BAXTER and GERARD HALLS.

b. A security group, consisting of one sedan, three jeeps, and twelve men, operates when Meredith is on campus or in Oxford. The group monitors Meredith's movements and is alert for any sudden violence directed at Meredith.



U. of Miss.

Department of Justice

STATEMENT BY THE ATTORNEY GENERAL, ROBERT F. KENNEDY

SEPTEMBER 27, 1962

It has been clear from the time of the court's decision ordering the University of Mississippi to accept Mr. Meredith that there would be but one resolution to these difficulties. The orders of the federal courts can and will be enforced. It is important to our country, however, that if possible, that this be accomplished without force and without civil disorder.

Every American has the duty to obey the law and the right to expect that the law will be enforced.

It is fundamental in our system that there be respect for the law and compliance with all laws -- not just those with which we happen to agree. The course which Governor Barnett is following is, therefore, incompatible with the principles upon which this Union is based.

As the Legislature of the State of Mississippi stated in solemn resolve 129 years ago:

"This state owes a duty to the Union above all minor consideration . . . The doctrine of Nullification is contrary to the letter and spirit of the Constitution, and in direct conflict with the welfare, safety and independence of every State in the Union; and to no one of them would its consequences be more deeply disastrous, more ruinous, than to the State of Mississippi"

This matter will be before the court again tomorrow in New Orleans. At that time, Governor Barnett will have an opportunity to state his case before all the judges of the Court of Appeals for the Fifth Circuit. I hope that this matter will be resolved peacefully and without violence or further action by the federal government.

However, if this is not to be, the federal government will see to it that the orders which are presently outstanding are maintained and enforced, whatever action that ultimately may require.



A. of Me

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 1, 1962

Attorney General Robert F. Kennedy today announced that former Army Major General Edwin A. Walker has been arrested in Oxford, Mississippi on charges of rebellion and insurrection, seditious conspiracy, and other crimes, as the result of his asserted participation in the disturbances at Oxford Sunday night and Monday morning.

Mr. Kennedy said Walker was to be arraigned before United States Commissioner Omar Craig in Oxford, today

In addition to the rebellion charge which carries a 10-year \$10,000 maximum penalty Walker was charged with assaulting federal officers (3 years and \$5,000 maximum); conspiring to hinder federal officers in the performance of their duties (6 years and \$5,000); and actually conspiring seditiously to incite to rebellion or insurrection (20 years and \$10,000)

Mr. Kennedy said Walker was arrested at a military roadblock at the outskirts of Oxford.



U. of Miss.

Department of Justice

FOR IMMEDIATE RELEASE
OCTOBER 1, 1962

In view of statements made on the floor of Congress regarding the timing of the marshals' appearance on the campus of the University of Mississippi, the Attorney General issued the following statement:

The admission of both the Federal marshals and Mr. Meredith to the University of Mississippi campus Sunday evening was arranged by Governor Barnett Sunday morning.

Mr. Meredith was escorted onto the campus by the State Police and university officials on the basis of the prior arrangement between the Governor and the Department of Justice.

The Governor also assured the Department of Justice that law and order would be maintained by State Police. Until this arrangement was made it was thought that troops might be necessary to bring Meredith onto the campus and to maintain law and order. Following Mr. Meredith's arrival on the campus the Department was informed by representatives of the Governor that law and order could be maintained with the forces then available.

Shortly afterwards when difficulties began, the State Police received orders to withdraw from the area. A protest was made to the Governor's representatives and shortly afterwards, the State Police were returned. When further violence occurred, the State Police were again withdrawn and during the several hours when the rioting was most intense, the State Police were not available. During at least part of this period of time approximately 150 of the Police were observed sitting in their automobiles within one-half mile of the rioting and shooting.

The Governor made the arrangements for Mr. Meredith to attend the University of Mississippi as a student and the arrangements for the preservation of law and order.



U. of Miss

Department of Justice

STATEMENT BY ATTORNEY GENERAL ROBERT F. KENNEDY

PCR 6:15 P.M. OCTOBER 1, 1962

The federal marshals who finally preserved order in Oxford, Mississippi, showed bravery and devotion to duty in keeping with the highest traditions of law enforcement officers of this nation. When the state police left, they were faced with an unruly mob of students and hoodlums numbering more than 2,500 over an extended period of time. Bricks, bottles, fire bombs and shots from secret snipers in the dark seriously menaced their personal safety.

Yet despite this extreme provocation, the marshals acted with restraint and judgment. They fully obeyed orders to use the minimum force necessary to protect lives and refrained from returning fire.

Deputy Marshal Graham E. Same was critically wounded and a number of other deputies were wounded and injured. Border Patrolman Charles B. Chamblee made repeated trips for tear gas supplies through the mob.

Men like Deputy Marshal Same, Patrolman Chamblee, Chief Marshal James McShane, and John W. Cameron, his assistant, acted in the finest tradition of the federal service.

I would also like to pay tribute to seven officials of the University of Mississippi who worked through the night with the marshals to preserve law and order. They set a fine example of citizenship. These men are:

Dean of Students Al L. Love
Tom S. Hines, Director of Student Activities
John W. White, Director of Physical Plant Department
Chief Burns Tatum, Chief of the Campus Police
Frank E. Moak, Director of Student Placement and
Financial Aid
Douglas Hodo and Kenneth Wroten, University Field
Representatives

I would also like to call attention to a brave and selfless physician, Dr. L. G. Hopkins of Oxford. When he heard about the difficulties on the campus of the University, he voluntarily presented himself for assistance in treating the wounded. He made an immeasurable contribution.

There were a number of University of Mississippi students as well who took the side of law and order and tried to help quell the disturbance.

The University of Mississippi, the town of Oxford, and the entire state should be grateful along with the country for the service performed by these men last night.

10/6/62

For Departmental Attorneys

Six U. of N. C. students, Chapel Hill, N. C., arrived on campus at Old Miss 9/30/62 and left afternoon of 10/1/62. All are representatives of Daily Tar Heel, U. of N. C. newspaper. They say:

Observed acts in front of Lyceum bldg when reporter's car damaged.

Heard jeers and saw mob flip cigarette butts at military vehicle, release air from tire of military vehicle, squirt driver of military vehicle with fire extinguisher.

MHP on hand but failed to take decisive action, except to assist a reporter and woman in car being attacked.

Witnessed firing of first gas by Marshalls. One observed a Marshall strike a member of the mob with a club. One heard a man in plain clothes tell MHP to remove guns and place them in trunk while they radioed Barnett. This occurred just as the President's speech was concluded.

They heard Walker speak on the campus. Walker said he had talked to Barnett who said he never gave orders to permit Marshalls on campus. Walker said Birdsong sold Barnett out. Walker said Barnett did not want violence, and that he, Walker did not want violence. Walker said every American has a right to protest and praised students for their protests.

None of the six students saw firearms in crowd, and did not see ~~any~~ acts of violence by crowd directed toward any particular person. Saw bricks and bottles thrown at Marshalls and troops.

They say MHP did not try to maintain peace diligently. MHP was observed away from campus on two occasions after 8 PM.

We have the names of the six students, ~~xxx~~ We are trying to locate 3 more students reportedly in Oxford from U. of N. C.

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- 1. Meredith's Class Schedule**
- 2. TITLE I of the Civil Rights Act of 1960, SEC. 101
or, 18 U.S.C. 1509, Obstruction of Court Orders**
- 3. 18 U.S.C. 3053, Powers of Marshals and Deputies**
- 4. Temporary Restraining Order Filed By Fifth Circuit
on September 25, 1962**
- 5. Order Granting Permanent Injunction Filed By
District Court on September 14, 1962**
- 6. Order of the Fifth Circuit Filed July 28, 1962**

ASSIGNMENT - BAXTER HALL

A. Tour of Duty

Tours of duty will be for eight days, commencing on Sunday and terminating on the second following Monday night. The attorney assigned to the duty will leave Washington Sunday night at 6:00 on American Airlines connecting with a 7:30 flight from Memphis to Oxford on Souther Airlines. On the second Monday following the attorney will return to Washington on the 3:30 American Airlines flight.

B. Objective

The purpose of this assignment is to direct the detail of Marshals who are assigned to protect Meredith with respect to the overall security pattern at any particular place and time; to anticipate and avoid, if possible, all emergency situations; to maintain good relations with the faculty and administration of the University of Mississippi to the end that all unnecessary resentment of Meredith is avoided; to properly coordinate Meredith's weekend activities; and to report to the Department of Justice on a daily basis as to the situation at Oxford.

I. The long range objective of this program is as follows:

- A. To keep Meredith from being incapacitated while attending the University of Mississippi;
- B. To afford Meredith the opportunity of obtaining a diploma at the University of Mississippi;
- C. To expose Meredith to the students of the University of Mississippi as frequently and as normally as is practicable;
- D. In striving for our long-range objective you should not:

1. Keep Meredith under unnecessary security which will be disruptive of the normal atmosphere of the University and which will also give a continuing impression that Meredith is at the University as a ward of the

United States Government and not as
as a citizen of Mississippi seeking
to gain an education.

2. Interfere with Meredith's deci-
sions or desires as to his life on
the campus except through friendly
advice or suggestion and to make
security measures as inconspicuous
and unobtrusive as possible so that
Meredith will not be distracted from
his studies and can enjoy a normal
life on the University campus.

II. Remember we should never permit the students to
make Meredith take a backward step. For example, once
he started eating at the cafeteria he must not stop eating
there or skip particular meals because of pressure from the
students. In the future, once Meredith starts using any
facilities on the campus he should not stop because of the
attitude of the students. We should counsel Meredith not
to proceed too fast because if we proceed slowly there is
less likelihood of a reversal.

C. Checklist of Duties Performed by Attorney

1. Maintain personal contact with Meredith so as to
coordinate his actions with those of security units:

- A. Continually evaluate Meredith's feel-
ings regarding methods being used in
providing him security, and either
make or recommend changes in these
methods to lessen any of his dissatis-
factions in a manner consistent with
his security.
- B. Obtain the necessary information from
Meredith regarding his movements on
campus so that adequate protection may
be provided for him during these move-
ments.
- C. Obtain from Meredith his weekend plans
well in advance and contact superiors
in Department of Justice so that inadvis-
able parts of the plan can be changed.

Once weekend plans have been completed, inform the Marshals, FBI and, if necessary the Army personnel; do not contact any local law enforcement officials without directions from Washington.

2. Coordinate the security units activities with the movements by Meredith on the campus.

A. Army

1. Notify appropriate M.P. unit of Meredith's movements in sufficient time to enable them to cover his movements under the procedures previously arranged with the Army.

B. Marshals

1. After the attorney has determined the method to be used in providing the security for each of Meredith's movements he then briefs the Marshals in detail as to how it will be carried out. As determined by the circumstances, the attorney may brief all of the Marshals together, each individually, or only the Senior Marshal. In all cases it is the attorney's responsibility that each Marshal is aware of his assignment.

Deal with King Marshall

no

C. Other Persons

1. Cafeteria - Notify Mr. Bounds or Mr. Olson when Meredith will eat. They should be given as early notice as possible so they can notify the campus police to be present. Be sure they recognize and accept this responsibility of notifying Chief Tatum of the campus police to have a campus policeman inside the cafeteria during every meal.

3. Coordinate the security units with the movements of Meredith when he is off-campus on the weekends.

1. Set up a headquarters near where Meredith spends the weekend. This will usually require coordination of the CIC, FBI, Army and Marshals; and maintaining contact with Washington.

4. Do not do things in a predictable or established manner. For example, do not attempt to have Meredith eat at the same hour each day, nor sit at the same table in the cafeteria; nor follow the same path to classes or to the dormitory; or always use the same exit or entrance in the buildings.

5. Brief Marshals on the procedures for protecting Meredith:

A. Positions of Marshals and methods of protecting him while walking, riding and when in class.

1. Emphasize the problems in the various buildings on campus - S.C. Conner Hall, and Post Office.

B. Discuss use of firearms;

C. Discuss use of M.P.'s - when and how signaled.

D. Continual surveillance for suspicious individuals. (Particularly information relating to known individuals who have made threatening statements.)

6. Brief Marshals on the relationship of Marshals with other students, faculty, and the university administration.

A. Friendly and courteous, don't discuss principles of right and wrong of integration (stay with talk on other subjects). Advise them to SMILE and always say "Good Morning" first.

B. Don't show irritation with names and phrases used by students.

7. Relationship with Newman.

A. Enforce the University rule against the taking of photographs in buildings. Approach every individual who has a camera in the building and explain the rule to them. When necessary to enforce the rule, the individual with the camera

should be taken to the attorney or Chief Marshal on duty. They will contact the proper university authority. (Generally the Provost - Mr. Hayward.)

- B. Don't discuss Meredith's movements or schedule or matters relating to his personal life.

8. Intelligence

Meredith's security will depend in large part on the efficiency of our intelligence network. This is made up of:

- A. The FBI which has been instructed to communicate on an expedited basis all intelligence information to lawyer in charge at Dexter Hall and to the Civil Rights Division in Washington.
- B. The Army. It is the responsibility of the attorney in charge to advise the Army that he should be told of all intelligence information that the Army acquires.
- C. The Department of Justice Personnel. It is the responsibility of the attorney in charge to check with Marshals and his other sources of information on campus.

9. Review of Procedures

Constantly review our procedures to see how and when they can be improved. Check with reliable persons on faculty or in school administration to determine if we are doing anything we should not be doing or if we are not doing something we should be doing.

D. Emergencies

Each attorney should carefully review the various emergency situations that might arise. Here are examples:

- A. Meredith is walking alone to or from class and a student clobbers him and knocks him to the ground. He is unconscious. In such situation whatever

*Don't Buy
Meredith's -
Meredith's -
5100000 (part)
[unclear]*

Marshal is closest to Meredith should go to him immediately and shield him from any surrounding crowd. If there are any further attempts to strike, kick or trample Meredith, the Marshal must take fire action, including the drawing of his gun, and advise the crowd that the security of Meredith is his responsibility and he means to protect him by any means that are necessary. Other Marshals in the vicinity should immediately assemble around Meredith and the Marshal who is in contact with the Army MP squad should signal them to leave their jeeps and come to the scene.

- B. Attempt made to spill coffee on Meredith at the cafeteria.
- C. Fire in the dormitory.
- D. Riot in the dormitory.
- E. Missile thrown through dormitory window.

H. Contacts

A. Meredith's Teachers

- 1. Fortenberry - This man is a good man, reliable and sound.
- 2. Morgan - Young instructor from Kosciusko, anxious to help Meredith.
- 3. Marquette - A slight older professor from Wisconsin, mild and thoughtful. Probably is representative of the typical faculty member.

B. Other Faculty Members

- 1. Mrs. Al Morston: Wife of Assistant U.S.A. A real jewel, young, has close contacts with student body. Has good sense. Morston's younger brother is a student employee in cafeteria.

2. Dr. Silver: Very liberal History Professor. Probably not respected by average Mississippian. Appears to be good man. Wants to help.
3. Russell Barrett: Good source of information on faculty activities.
4. Dr. Webb: Head of English Department. Conscientious. Concerned about Meredith's welfare. Determined English Department will be run normally.

C. Students

1. Cleary (FNU) This boy is from Kosciusko. He was first student who talked to Meredith in cafeteria. Has real courage. If he can be contacted and his opinion obtained on attitude of conservative school male students it would be helpful. Father is a lawyer.

D. Administration

1. Mr. Davison: Treasurer and Comptroller. Head of cafeteria. Good man. Willing to discuss problems. Go to him about cafeteria problems and for discussion as to cafeteria problems from his point of view.
2. Mr. Hayward: Provost. Good man. Alert. Conscientious.
3. Dean Lovv: I do not know Dean Lovv.
4. Mr. Clegg: Influential, strongminded. Has strong views on newspaper people.

E. Others

1. Al Norton: Assistant U.S.A.
2. Les Pritchard: Assistant U.S.A.

October 26, 1962

TO: Residents of Baxter Hall
FROM: Director of Men's Housing
SUBJECT: Hall Meeting

Dr. L. L. Love, Dean, Division of Student Personnel, wishes to have an opportunity to speak with you for a few minutes, Monday night, October 29, 1962

Meetings will be held on the stairs between second and third floors, East end of Baxter. Residents of rooms 1-26 are invited to meet at 10:00 P M. Residents of rooms 27-46 are invited to meet at 10:30 P M