

Handwritten initials

Director
Federal Bureau of Investigation

November 21, 1962

BM:JF:lvw 11,201
144-10-254

Suche Marshall
Assistant Attorney General
Civil Rights Division

Oxford, Mississippi, 1101

This will refer to your memorandum of November 19, 1962 on William James Simmons. In the memorandum you refer to a documentary tape program suitable for radio entitled, "Tragedy in Oxford." Apparently this tape is referred to in the Columbus, Mississippi, Commercial Dispatch of November 16. A copy of the clipping is enclosed.

Please obtain a copy of this tape as well as the unedited news reports, speeches or radio tapes from which it was made so that we will be able to compare the unedited version of the speeches with the edited tape.

cc: United States Attorney
Oxford, Mississippi
Records
Chrono
Dear ✓
Trial File (Room 1140)
Greene

Memorandum

TO : St. John Barrett

DATE: October 9, 1962

FROM : *JM* Burke Marshall

SUBJECT:

Sam Lumpkin of Tupelo, Mississippi, a lawyer and former lieutenant governor of the state, has given me the following names of persons from Tupelo who attended the Sunday night riot at Oxford:

Mr. and Mrs. Dale Walton, who operate a grocery store in Tupelo. Mr. Walton is a colonel on Governor Barnett's staff. Mr. Lumpkin is informed that he and his wife both actively participated in the riot and were seen throwing Molotov cocktails.

A Mr. (FNU) Dakus, who runs a patent drug medicine business in Tupelo. He is also a colonel on Barnett's staff. He is also reported to have actively participated.

A Mr. Rubel Bell. Mr. Lumpkin had no information as to whether or not he actively participated in the fighting.

All of these persons are leaders in the local citizens' council.

Will you please see that this information is furnished to the appropriate people.

*10/16/62 Copy sent to Tim Horman P
William, Executive Assistant
Economic Division, Room 2111.*

Memorandum

TO : Director
Federal Bureau of Investigation

DATE:

FROM : Burke Marshall
Assistant Attorney General
Civil Rights Division

BM:JD:lw 144-40-254
11,801

SUBJECT: Desegregation of University of
Mississippi

On Sunday, February 10, a thirty-four pound package arrived at the bus station at Oxford, Mississippi, consigned to a man named Ragland. It was shipped from Jackson, Mississippi. The name of the shipper was Bill Smith, Jackson, Mississippi. We have reason to believe that this package contained a number of the attached copies of the "Rebel Underground". Please conduct an investigation to determine the author and publisher and financial source of this "Rebel Underground".

The purpose of this investigation is to determine whether the people responsible for this are covered by the injunctions of the District Court and the Circuit Court of Appeals in the case of Meredith v. Fair which enjoins a number of individuals, state officials and all persons acting in concert with them from interfering or obstructing in any way with Meredith's right to attend the University of Mississippi.

A second purpose of this investigation is to determine whether the source of this copy of the "Rebel Underground" is the same source as has engaged in other tactics of obstruction and interference of the District and Court of Appeals injunctions in Meredith v. Fair.

Tax Division
Assistant
Attorney General



July 18, 1963

The Attorney General

Attached is a suggested summary of the proposed legislation which we are sending to Bob Knight for use by him in preparing his memo for the members of the Business Council.

LFO

cc: DAG
AAG Marshall ✓
AAG Schlei



Department of Justice

STATEMENT BY ATTORNEY GENERAL ROBERT F. KENNEDY - JANUARY 7, 1963

Of course, the situation at the University of Mississippi has been very difficult for Mr. Meredith.

Many members of the faculty have made an effort in the highest traditions of their profession to obey the Court's orders and assist Mr. Meredith in getting an education. But it is true that a number of officials charged with the administration of the University have not met their responsibilities. It is incumbent upon them and state law enforcement officials to make it possible for Mr. Meredith to continue his education without interruption. I would hope that they will take appropriate steps now to do so.

Mr. Meredith is as free to leave the school as he was to enter it. I would hope that in making a final decision on this, Mr. Meredith will consider that he chose to go to the University of Mississippi and the energies and hopes of many of his fellow citizens have been involved in his admission and continued attendance.

Should Mr. Meredith feel obliged to leave the University because of extreme racial intolerance which has focused hostility on him, it would be a reflection on the University of Mississippi and the State of Mississippi. That this could occur anywhere in the United States is a reflection on all of us.

CONVERSATIONS BETWEEN U.S. GOVERNMENT
AND STATE OF MISSISSIPPI

9/15

2:15 p.m.

Attorney General called on 9/14 and Barnett returning call. Attorney General says most important. No violence. Barnett -- I promise you no violence. Attorney General says he has heard reports. Barnett says no anticipation of violence. Attorney General says Meredith will come with a couple of marshals. Says "of course he will be refused." Barnett -- that is probably correct. Attorney General said then he would take it to court and court would order Meredith to be registered. Barnett says it will take a year. [Burke has note that Attorney General said Barnett greatly overestimated time that would be taken in litigation.]

9/17 7:00 p.m.

Memorandum by Attorney General. Barnett recommended that Meredith register at Jackson. Attorney General said he would cooperate but procedure unusual and it was Meredith's decision. Attorney General asked if Board would register Meredith. Barnett said decision not yet made -- suspected that would be result. Barnett pressed for Jackson and Attorney General said he would let him know. Barnett said this would avoid possibility of difficulty. Said Board not meeting and he would let them know.

ATTORNEY GENERAL TO BARNETT

9/18 12:30

Attorney General says Meredith wants to register at Oxford. Barnett suggests Monday. Attorney General says Meredith wants to register on Thursday. But will check.

6:05

BARNETT TO BURKE MARSHALL

Burke Marshall called by Barnett. Barnett said Board met yesterday and entered order to effect that Meredith come to Jackson to register. Burke Marshall says Meredith wants to go to Oxford. Barnett says Trustees have entered order. Burke Marshall says we will call you back. Barnett says Board's action in response to Meredith's telegram. Burke Marshall says -- are they going to register him? Barnett -- "They have not taken a vote on it yet."

9/19 1:30

Attorney General -- If he goes to Jackson will he be registered. Barnett -- It's up to the Trustees. They will make mistake if they go to Oxford. Attorney General says if he goes to Oxford, will you take responsibility for his safety. Attorney General says how many other students have you had to come to Jackson. Barnett says he knows of one.

4:00 p.m.

PATTERSON & BURKE MARSHALL (Attorney General, McShane, Geoghegan) Birdsong.

Burke tells Patterson Meredith coming tomorrow p.m. in afternoon. Suggests 3:00 p.m. Agreed. Route agreed upon. Marshall says he doesn't know how long he will have to be at University. Patterson guarantees safe passage. Arrangements made.

9/20 9:50

PATTERSON TO BURKE MARSHALL

Patterson says he can't guarantee safe passage. Warrant out for arrest -- arrest by sheriff or deputy.

BURKE MARSHALL TO WATKINS

Watkins says arrest not his plan; he would talk to Governor.

12:30

ATTORNEY GENERAL TO PATTERSON

Burke says Cox and Mize will issue restraining order prohibiting arrest of Meredith. So we are going to proceed. Patterson says Watkins there. Says Governor's office directed there be no arrest. Problem is that Governor is at funeral. 11:20 a.m. Burke says matter of escort is in your hands.

1:50

ATTORNEY GENERAL TO PATTERSON

No news.

WATKINS TO BURKE MARSHALL

Meredith will not be arrested.

3:15

PATTERSON TO ATTORNEY GENERAL

He has contacted District Attorney at Oxford and told him to respect Mize's order. Barnett

Cont. 9/20 3:15

told other sheriffs the same. Patterson says if registrar denies admission then I assume they will have accomplished their mission. Attorney General -- "That's correct."

4:15

FBI report.

4:40

ATTORNEY GENERAL TO PATTERSON

Bureau says District Attorney to arrest Meredith. Patterson says Barnett's Chief Assistant says to the contrary. Attorney General says an arrest would cause a direct problem for all of us. Attorney General says he will call Barnett.

4:50

ATTORNEY GENERAL TO BARNETT

Barnett says we won't arrest him.

4:53

BARNETT AND ATTORNEY GENERAL

Tells Barnett that Federal court has issued an order prohibiting arrest. Barnett says Patterson agreed to no arrest. We will agree to it.

5:10 -

ATTORNEY GENERAL TO PATTERSON

Says he talked to Barnett. Barnett says Attorney General had been given assurance he wouldn't be arrested. Patterson says he talked to Barnett too and told him to tell sheriffs not to arrest him.

8:28

Attorney General calls Patterson and thanks him for help.

9/24 9:50 p.m.

ATTORNEY GENERAL AND BARNETT

Attorney General tells Barnett of decision of Circuit Court of Appeals and agreement of Board. Barnett shocked. "They changed their minds mighty quick." Attorney General says there's a great problem here. If we don't follow order of federal court we don't have anything in United States. Feelings not important. Court has acted. Meredith will be back tomorrow. Attorney General asks if Barnett will guarantee his safety. Barnett says Meredith under two Mississippi injunctions. Attorney General says that court is going to enjoin arrests. Barnett says "in contempt of court -- They don't pay attention to Mississippi courts. That's getting pretty rough. Striking down what our chancery courts do without a hearing. That won't work." Barnett says he doesn't know what he will do. Attorney General says he has got to see that Meredith is protected. Barnett says people distressed with federal courts. Attorney General says Meredith will arrive and attempt to register. Only question is who is going to protect Meredith -- you or I. Barnett says he will have to confer. Attorney General says he will call tomorrow. Attorney General -- I have to protect him. But I don't want to send in a lot of extra people. Attorney General says he won't do it if Barnett guarantees his protection. Barnett says call in the morning. Attorney General tells Barnett he is a citizen of the Union. "To prolong this any further -- we are all on the brink of a very dangerous situation." Barnett says he will let him know.

9/25

BURKE MARSHALL TO WATKINS

Watkins said if there was any integration in Mississippi, it would have to be done forcibly.

12:20

BARNETT AND ATTORNEY GENERAL

Barnett said he had sent telegram advising/that you we were exercising every diligence to prevent violence. Kennedy says Meredith is coming to Jackson. Barnett says do it at 2 P.M. Barnett can't promise nothing will be done to interfere physically. But says it will be done peacefully. There will be no violence. Barnett says no one will hurt him in response to question whether anyone will stop him physically. Also won't arrest him. Kennedy -- when he comes and says I want to go in, will someone stop him? Barnett said "He may be faced with that". Barnett says I will tell him. Barnett -- "The same procedure as we did the last time. Then we go to court, again. There won't be any physical violence." Barnett said if he breaks through the line, I don't know what will happen. Kennedy -- "He is going through it". Kennedy says he has a court order permitting him to register." Barnett says we have an injunction saying he can't register. Kennedy says he wouldn't send army without telling you about it. Barnett says he wants to test who has right to run Ole Miss -- state or federal court. Says this is like a dictatorship to force him physically into Ole Miss. "I am not going to let that boy get to Ole Miss. I will never agree to that. I would rather spend the rest of my life in a penitentiary than do that". Kennedy said orders of the court are going to be upheld.

12:20 -

3:25

BURKE MARSHALL discusses matters with attorneys for Board. Agreed that Ellis would go to the Federal Building.

3:25

ATTORNEY GENERAL-TO BARNETT

Says Meredith will be leaving New Orleans in one-half hour. Will go to USA's office. Not sure when he will register. No physical violence -- but does not respond to question -- there will be no interference.

Cont. 9/25 after 3:25 p.m. Burke Marshall told by Clark that Ellis physically prevented from leaving State House. Subpeena. Tubb said that when he got to Jackson Governor and his people had completely taken over office of Board. Clark also said that if Meredith didn't get there by 2:00 pm he would have to go to Oxford. Burke Marshall called Judge Tuttle and got an extension -- So it was decided that Meredith should go to State House to see what happened.

6:00

ATTORNEY GENERAL AND BARNETT

Meredith is at United States Attorney's office. Says he is coming to register and arrange a room. Barnett says there will be a room. Attorney General says clear crowd. Arrival big circus. Barnett says not many people around -- 15 to 18 people, high class people. Barnett says he will have them under control. Barnett says registrar was there. Attorney General -- I hope this is all concluded with dignity of the United States and Governor of the State of Mississippi.

6:25

ATTORNEY GENERAL TO BARNETT

They are on their way over. Sending three men with him.

7:25

ATTORNEY GENERAL TO BARNETT

Barnett says everything went along smoothly. No overt acts whatsoever. Lots of cheering and booing. He didn't get registered. Barnett said he read proclamation. Attorney General says Meredith will show up classes tomorrow. Attorney General says they will accept him. Barnett -- "I don't know what we will do. I didn't dream of a thing like that. I appreciate your telling me that." Barnett, there was no bloodshed today -- tomorrow or any other day I can't guarantee it. But says he will try. Barnett says NAACP stirring them up. Communist front.

9/25 7:35 p.m.

ATTORNEY GENERAL TO BARNETT

Attorney General says he has been thinking about your statement about going to Oxford -- So asks how about 9:00 or 10:00 a.m. Attorney General says he is enforcing the court order. Discussion of Barnett not wanting Negro in University. Discussion of role of court. Finally Attorney General says he will be there at 10:00 a.m. Same people.

9/26 morning

BURKE MARSHALL TO WATKINS

Told to make effort to change direction of Governor. Watkins agreed matter had gone too far. Suggested force -- use mild force. So Burke Marshall told us to use force -- unsuccessful.

9/27

ATTORNEY GENERAL AND TOM WATKINS

Watkins said if they come down and draw guns, Barnett would step aside. Attorney General says he wanted to be sure Meredith got in and that law and order would be preserved. Attorney General said for Watkins to tell Governor. Later he called and said everything set. Watkins said everyone had to draw guns. Later Attorney General talked to Barnett who insisted that all draw guns.

2:50 p.m.

ATTORNEY GENERAL AND BARNETT

Attorney General said attempt will be made at 5:00 p.m. Attorney General says head marshal will pull gun. Barnett says we have a big crowd - all have got to pull guns, otherwise embarrassing. "Isn't it possible to have them all pull their guns?" Insists on it. Johnson also says all must draw their guns. Sending hotheads home. Attorney General says what about them afterwards. Attorney General said, "As I understand from Mr. Watkins and from you, law and order will be preserved by the local people. I don't anticipate a great problem but I don't want an angry crowd descending on Oxford this evening." Barnett says he will step aside if they draw their guns.

3:50 p.m.

BARNETT TO ATTORNEY GENERAL

Barnett said should wait. People need to subside. Attorney General says in court tomorrow. "That's why your lawyer wanted it done today." Barnett says pass case. Barnett says people will find it out. Kennedy - "Your lawyer advised you on this." Barnett keeps saying that one man said - you're compromising this thing. Kennedy

9/27

3:50 p.m.

BARNETT TO ATTORNEY GENERAL

says it is better with marshals than with troops. Lt. Governor said, "We have got some hotheads here, sheriffs and deputies. We can't assure you that people won't start shooting. Kennedy says he won't send marshals in. Lt. Governor says we need time. Kennedy says tomorrow too late. Lt. Governor says it can't be done. Kennedy said Court is mad at both. Big problem to move right. Kennedy says get Meredith in and that will help. Barnett says then that he will do his best. There are two or three I'm worried about. I will see them personally.

4:20 p.m.

ATTORNEY GENERAL TO BARNETT

Barnett will try to control violence. Kennedy says he will take no chances. Barnett said he worked on the couple of fellows he was worried about. We know them so well we will get them straightened out. Kennedy said I am taking a helluva chance to rely on you that there will be no violence. Barnett says there is no agreement. We aren't compromising.

9/27 5:35 p.m.

ATTORNEY GENERAL TO BARNETT

Attorney General says Meredith on way; arrive 5:30. Says that FBI says you say that once Meredith gets into University it is responsibility of Marshals to maintain order. Barnett -- After he gets in you don't expect him to guard him all the time. We will do our best. Attorney General says state must maintain law and order. Barnett says he can't guarantee anything after he gets in -- Law and order must be maintained. Long debate as to whether law and order will be maintained. Barnett says he can't watch him all the time.

6:35

BARNETT TO ATTORNEY GENERAL

Barnett worried. Lots of people. Don't know them. Liable be 100 killed. Dozen of trucks loaded with people. Attorney General says he will send them back. Barnett says please do. I just have to take the consequences tomorrow. Attorney General agrees to announce it.

9/28

1:35

ATTORNEY GENERAL TO BARNETT

Barnett says keep good relations going. Attorney General says it was so unsuccessful yesterday. Telling you seems to stir up problem. Barnett said he had no idea as to number of people. Attorney General suggested putting Oxford situation in Birdson's hands and limiting crowd to 3 or 5. Barnett says it won't work. Barnett says we have quite a number of colored people who are going to school in other colleges, preparing themselves as doctors and lawyers.

9/28

4:00 p.m.

ATTORNEY GENERAL TO BARNETT

Barnett compliments Attorney General on cooperation. Attorney General talked to Watkins. Suggests Barnett call him. Says if you send troops don't send Negro marshals. Attorney General says he won't do that.

IN THE SUPREME COURT
OF THE UNITED STATES

UNITED STATES OF AMERICA,

Plaintiff

v.

NO. _____

ROSS R. BARNETT, Governor of the
State of Mississippi, and
PAUL B. JOHNSON, JR., Lieutenant
Governor of the State of Mississippi,

Defendants

NOTICE TO ADVANCE CAUSE ON THE CALENDAR
AND GRANT SPECIAL SETTING IN VACATION

COME NOW, Ross R. Barnett, Governor of the State of Mississippi, and Paul B. Johnson, Jr., Lieutenant Governor of the State of Mississippi, Defendants in the criminal contempt proceedings pending in the U. S. Court of Appeals for the Fifth Circuit, and move this Honorable Court to advance the hearing and argument of this cause on the calendar of this Court and grant a special setting in vacation for such hearing and argument and, in support of this motion, would show:

I.

Pursuant to the directions of this Court after preliminary examination, the Court has ordered the case set down for argument. Pursuant to the provisions of Rule 29 of the Revised Rules of this Honorable Court, the Clerk of the Court has notified counsel for

the above named parties that this cause cannot be heard until some date after the convening of the regular October, 1963 term of this Honorable Court. Vital and pressing reasons exist for the earliest possible determination of the certified question.

II.

Before this Court stand the highest executive officers of a sovereign state of this union, charged by direction of the Court of Appeals with the criminal offense of contumacious violation of its injunctive order. Never before has such a charge been brought by or in a Court of Appeals against any person since the establishment of such courts by the Congress in the year 1891. This unprecedented order involves the most delicate relationships between the state and federal governments and the federal judiciary. The crucial nature of these relationships in a situation such as this has been detailed by this Court in the case of In Re Hoozle, 135 U.S. 1.

III.

The acts charged to have constituted the criminal contempt are acts which the Governor and the Lieutenant Governor performed, and could only perform, in their official capacities. That which Movants each did as Governor and Lieutenant Governor was that which Movants understood to be required as such officers, in strict accordance with the laws of the State of Mississippi, which laws they had sworn to support. There was, therefore, no willful disobedience by either of them of the restraining order issued by the Court of Appeals. Their terms of office expire

in January of 1964. If the determination of this cause should occur after their terms of office have expired and their successors have been elected and qualified, Movants submit, with deference, the cause must be revived against such successors (cf. Rule 48 of the Revised Rules of this Court, Rule 25(d) of the Federal Rules of Civil Procedure, and Rule 19(4) of the Rules of the Court of Appeals for the Fifth Circuit), or be amended and continued against Movants as individuals who did not and could not commit the alleged contemptuous acts, or in the alternative be dismissed. Any such course except the last would be manifestly unjust to the parties defendant, especially in the light of the Court of Appeals' order requiring this litigation to be instituted so as to afford "maximum procedural protection".

Respectfully submitted,

ROSS R. BARNETT, Governor of the
State of Mississippi, and
PAUL B. JOHNSON, JR., Lieutenant
Governor of the State of Mississippi

BY: JOE T. PATTERSON, Attorney General
State of Mississippi
BUEAS SHANES, Assistant Attorney
General, State of Mississippi

Melvin B. Montgomery
Garner W. Green
M. M. Roberts
Fred B. Smith

By


CHARLES CLARK

SPECIAL ASSISTANT ATTORNEY GENERAL
OF THE STATE OF MISSISSIPPI

PROOF OF SERVICE

I, CHARLES CLARK, one of the Attorneys for Defendants, Ross R. Barnett, Governor of the State of Mississippi, and Paul B. Johnson, Jr., Lieutenant Governor of the State of Mississippi, and a member of the bar of the Supreme Court of the United States, hereby certify that on this date I served copies of the foregoing motion to advance cause on the calendar and to grant special setting in vacation on the United States of America, Plaintiff, as follows: By mailing true copies thereof in a duly addressed envelope with airmail postage prepaid to, Burke Marshall, Esquire and John Doar, Esquire, Department of Justice, Washington 25, D. C.; and to Leon Jaworski, Esquire, c/o Fulbright, Crooker, Freeman, Bates & Jaworski, 8th Floor, Bank of the Southwest Building, Houston 2, Texas, being the Attorneys of Record who represented the United States in the U. S. Court of Appeals; and also by similarly mailing a true copy thereof to the Solicitor General, Department of Justice, Washington 25, D. C.

DATED this 1st day of May, 1963.

CHARLES CLARK

Attorney for Governor Ross R. Barnett and
Lieutenant Governor Paul B. Johnson, Jr.

Address: P. O. Box 1046
1741 Deposit Guaranty Bank Building
Jackson, Mississippi

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

No. 20,240

UNITED STATES OF AMERICA,

VERSUS

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

ORDER

Counsel are formally directed to comply with the Court's requests outlined in the Clerk's letter to counsel dated January 7, 1963, the body of which reads as follows:

". . . the Court has signed a show cause order in the above matter to be heard in the courtroom of the Court of Appeals in New Orleans at 9:30 A.M., February 8, 1963. The Court has directed that I notify counsel that all preliminary matters appropriate to be considered by the Court prior to the actual taking of testimony be presented to the Court at this hearing. This includes all dilatory pleas, any motions attacking jurisdiction of the Court, any motions touching on the nature of the proceedings and the manner and place of a trial, if one is to be had, as well as any challenge to the sufficiency of the notice of the charges. The Court has also directed that I request counsel to confer, if possible, and exchange memoranda touching on any of the points to be raised at the hearing, and to file motions or pleas that are to be made in writing on or before February 1st, accompanied by such memorandum as may be deemed appropriate.

"The Court also requests that the parties stipulate as to any formal matters as to which there is no real contest, and that the parties be prepared to state to the Court at the time of the hearing what issues remain for consideration thereafter."

Compliance by counsel for the defendants with such requests or directions, or any attempted compliance therewith,

shall not operate as a waiver of any rights possessed or claimed by the defendants or either of them, and will not hereafter be so construed by the Court.

Enter for the Court.

/s/ Richard T. Rives
Richard T. Rives
United States Circuit Judge
Acting Chief Judge

Dated this 24th day of January 1963

JUDGE CAMERON DISSENTS.

(ORIGINAL FILED JANUARY 25, 1963.)

United States Court of Appeals
FIFTH CIRCUIT

EDWARD W. WADSWORTH

OFFICE OF THE CLERK

POST OFFICE BOX 20120
NEW ORLEANS 20, LA.

January 7, 1963

Hon. Burke Marshall
Assistant Attorney General
Department of Justice
Washington, D. C.

Mr. John Satterfield
Attorney at Law
P. O. Box 466
Yazoo City, Mississippi

Hon. Joe T. Patterson
Attorney General
State of Mississippi
Jackson, Mississippi

Mr. Charles Clark
Attorney at Law
P. O. Box 1046
Jackson, Mississippi

Re: No. 20240 - United States of America -vs- Ross
B. Barnett and Paul B. Johnson, Jr.

Gentlemen:

Confirming my previous advice by telephone, I am directed by the Court to advise counsel that the Court has signed a show cause order in the above matter to be heard in the courtroom of the Court of Appeals in New Orleans at 9:30 A. M., February 8, 1963. The Court has directed that I notify counsel that all preliminary matters appropriate to be considered by the Court prior to the actual taking of testimony be presented to the Court at this hearing. This includes all dilatory pleas, any motions attacking jurisdiction of the Court, any motions touching on the nature of the proceedings and the time and place of a trial, if one is to be had, as well as any challenge to the sufficiency of the notice of the charges. The Court has also directed that I request counsel to confer, if possible, and exchange memoranda touching on any of the points to be raised at the hearing, and to file motions or pleas that are to be made in writing on or before February 1st, accompanied by such memorandum as may be deemed appropriate.

The Court also requests that the parties stipulate as to any formal matters as to which there is no real contest, and that the parties be prepared to state to the Court at the time of the hearing what issues remain for consideration thereafter.

Very truly yours,

E. W. Wadsworth
EDWARD W. WADSWORTH,
Clerk

cc's on attached page.

*Copy sent to
Mr. Barnett &
Mr. Johnson*

United States Court of Appeals

FIFTH CIRCUIT

EDWARD W. WADSWORTH
CLERK

OFFICE OF THE CLERK

POST OFFICE BOX 20120
NEW ORLEANS 20, LA.

Page 2

January 7, 1963

cc: Mr. Dugas Shands
Assistant Attorney General
Jackson, Mississippi

Mr. Thomas H. Watkins
Attorney at Law
Jackson, Mississippi

Mr. Gardner W. Green, Sr.
Attorney at Law
Jackson, Mississippi

Mr. John Doar
Assistant Attorney General
Washington, D. C.

Mr. Walter Sutton
Attorney at Law
New Orleans, Louisiana

Mr. Francis T. Zachary
Attorney at Law
Hattiesburg, Mississippi

Mr. Charles L. Sullivan
Attorney at Law
Clarksdale, Mississippi

Mr. [redacted] Brown
Attorney at Law
Vicksburg, Mississippi

Mr. J. D. Doty
Attorney at Law
Pontotoc, Mississippi

Mr. W. H. Barbour
Attorney at Law
Yazoo City, Mississippi

Mr. Chester H. Curtis
Attorney at Law
Clarksdale, Mississippi

Mr. Will A. Hickman
Attorney at Law
Oxford, Mississippi

Mr. M. B. Montgomery
Attorney at Law
Jackson, Mississippi

Mr. Edward L. Cates
Attorney at Law
Jackson, Mississippi

Mr. Orna R. Smith
Attorney at Law
Corinth, Mississippi

Mr. J. P. Coleman
Attorney at Law
Jackson, Mississippi

Mr. Ben H. Walley
Attorney at Law
Jackson, Mississippi

Mr. Fred B. Smith
Attorney at Law
Ripley, Mississippi

Mrs. C. B. Motley
Attorney at Law
New York, New York

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)

Appellate

No. 19,475

UNITED STATES OF AMERICA

Plaintiff

v.

ROSS R. BARNETT,
Governor of the State of Mississippi,
AND
PAUL B. JOHNSON, JR.,
Lt. Governor of the State of Mississippi

Defendants

ORIGINAL

CIVIL ACTION

No. 20,240

MOTION AND PLEA OF
THE STATE OF MISSISSIPPI

COMES NOW the Sovereign State of Mississippi, one of the states comprising the United States of America, acting by and through its duly elected Attorney General, and by way of plea as to all matters, facts and things done or alleged to be done by its duly elected Governor and/or Lieutenant Governor, in its behalf acting, pleads that it waives nothing and claims the full benefits of all rights inuring to it and its people under and by virtue of the 11th Amendment to the Constitution of the United States of America, and would further state and

show unto this court by way of plea and motion that by virtue of the proceedings had, done and taken in each and both of the above styled and numbered causes, a modicum of its sovereignty as a State of the United States of America, which need not now be precisely defined, has been attacked without constitutional right or prerogative; and on behalf of its executive, legislative and judicial branches and acting for and on behalf of its inhabitants, said State alleges and avers that all actions now complained of were the actions of its duly qualified and elected Governor and Lieutenant Governor taken in its sovereign behalf and not as individuals, and were in full compliance with the valid laws of the State of Mississippi, and an attack upon such actions or any of them is no less than an impermissible attack upon the sovereignty of this State in contravention of the 10th and 11th Amendments to the Constitution of the United States of America.

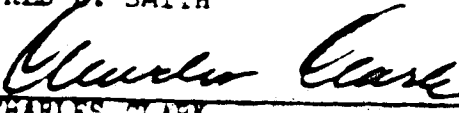
WHEREFORE PREMISES CONSIDERED, nowant, The State of Mississippi, prays that this Honorable Court will enter an order dismissing all proceedings presently pending in appellate cause No. 19,475 and in original action No. 20,240, as above styled.

Respectfully submitted,

THE STATE OF MISSISSIPPI

BY: JOE T. PATTERSON, Attorney General
of the State of Mississippi
DUGAS SHANDS, Assistant Attorney
General of the State of Mississippi

MALCOLM B. MONTGOMERY
GARNER W. GREEN
M. M. ROBERTS
FRED B. SMITH


CHARLES CLARK
Special Assistant Attorneys General
of the State of Mississippi


Address of Each:
New Capitol Building
Jackson, Mississippi

NOTICE OF MOTION

TO: Burke Marshall, Esq.
Leon Jaworski, Esq.

ATTORNEYS FOR PLAINTIFF

Please take notice, that the undersigned will bring the above motion on for hearing before this Court in the Courtroom of the United States Court of Appeals for the Fifth Circuit at New Orleans, Louisiana, on the 8th day of February, 1963 at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard.


ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I, CHARLES CLARK, of counsel for movant, certify that I have served true copies of the foregoing motion upon Burke Marshall, Esq. and Leon Jaworski, Esq., by United States mail.

THIS 31st DAY OF January, 1963.


CHARLES CLARK

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))
-----)

APPELLATE
NO. 19,475

UNITED STATES OF AMERICA)
Plaintiff)
v.)
ROSS R. BARNETT,)
Governor of the State of Mississippi,)
AND)
PAUL B. JOHNSON, JR.)
Lt. Governor of the State of Mississippi)
Defendants)

ORIGINAL
CIVIL ACTION
NO. 20,240

MOTION OF GOVERNOR ROSS R. BARNETT
TO DISMISS ALL PROCEEDINGS IN
ORIGINAL ACTION NO. 20,240 FOR
LACK OF PROCESS

COMES NOW Ross R. Barnett, Governor of the Sovereign State of Mississippi, appearing specially for the purpose of this motion along, and moves this Honorable Court to dismiss all proceedings in Original Action No. 20,240 and, in support hereof, would show the following matters, facts and things:

I.

No valid service of the temporary restraining order issued on September 25, 1962 in Appellate Cause No. 19,475 had ever been made on movant at the time of the occurrence of

the matters, facts or things set out in Counts One through Four, inclusive, of the application of the Attorney General of the United States in Cause No. 19,475, on which the Show Cause Order against movant in Original Action No. 20,240 is based.

II.

No valid service of process in new and original proceeding No. 20,240 in this court has ever been made upon movant.

III.

Movant reserves all rights to object and does object to the complete lack of territorial jurisdiction of this Honorable Court to serve any process in original actions and across boundary lines of Sovereign States.

IV.


Movant claims all of the privileges and immunities from process of the Judiciary inuring to the Chief Executive Officer of a Sovereign State of the United States of America under the Constitution of the United States of America and particularly under the 10th and 11th Amendments thereto, as to actions had, done, or taken in his said capacity as Governor.

Respectfully submitted,

ROSS R. BARNETT, Governor of the
State of Mississippi

BY: JOE T. PATTERSON, Attorney General
of the State of Mississippi
DUGAS SHANDS, Assistant Attorney General
of the State of Mississippi

MALCOLM B. MONTGOMERY
GARNER W. GREEN
M. M. ROBERTS
FRED B. SMITH

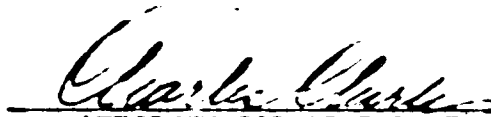

CHARLES CLARK
Special Assistant Attorneys General
of the State of Mississippi

NOTICE OF MOTION

TO: Burke Marshall, Esq.
Leon Jaworski, Esq.

ATTORNEYS FOR PLAINTIFF

Please take notice, that the undersigned will bring the above motion on for hearing before this Court in the Courtroom of the United States Court of Appeals for the Fifth Circuit at New Orleans, Louisiana, on the 8th day of February, 1963 at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard.


ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I, CHARLES CLARK, of counsel for movant, certify that I have served true copies of the foregoing motion upon Burke Marshall, Esq. and Leon Jaworski, Esq., by United States mail.

THIS 31st DAY OF January, 1963.


CHARLES CLARK

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))

APPELLATE
NO. 19,475

UNITED STATES OF AMERICA,)
Plaintiff)
v.)
ROSS R. BARNETT,)
Governor of the State of Mississippi)
AND)
PAUL B. JOHNSON, JR.,)
Lt. Governor of the State of Mississippi,)
Defendants)

ORIGINAL
CIVIL ACTION
NO. 20,240

MOTION OF LIEUTENANT GOVERNOR
PAUL B. JOHNSON, JR. TO DIS-
MISS ALL PROCEEDINGS IN ORIGINAL
ACTION NO. 20,240 FOR LACK OF
PROCESS.

COMES NOW Paul B. Johnson, Jr., Lieutenant Governor of
the Sovereign State of Mississippi, and moves this Honorable
Court to dismiss all proceedings in Original Action No. 20,240
and, in support hereof, would show the following matters, facts
and things:

I.

No valid service of the temporary restraining order
issued on September 25, 1962 in Appellate Cause No. 19,475
has ever been made on movant at the time of the occurrence of

the matters, facts or things set out in Counts Two and Three, inclusive, of the application of the Attorney General of the United States in Cause No. 19,475, on which the Show Cause Order against movant in Original Action No. 20,240 is based.

II.

No valid service of process in new and original proceeding No. 20,240 in this court has ever been made upon movant.

III.

Movant reserves all rights to object and does object to the complete lack of territorial jurisdiction of this Honorable Court to serve any process in original actions and across boundary lines of Sovereign States.

IV.

Movant claims all of the privileges and immunities from process of the judiciary inuring to Movant as Lt. Governor, an executive officer of the State of Mississippi and as the President of the Senate of the Sovereign State of Mississippi under the Constitution of the United States of America and particularly under the 10th and 11th Amendments thereto, as to actions had, done or taken in his said official capacities.

Respectfully submitted,

PALL B. JOHNSON, JR., Lt. Governor of
the State of Mississippi

BY: JOE T. PATTERSON, Attorney General
of the State of Mississippi

DUGAS SHANDS, Assistant Attorney Gene
of the State of Mississippi

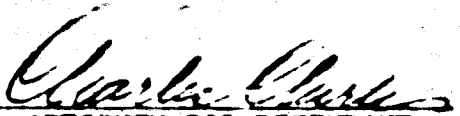
MALCOLM B. MONTGOMERY
GARNER W. GREEN
M. M. ROBERTS
FRED B. SMITH

NOTICE OF MOTION

TO: Burke Marshall, Esq.
Leon Jaworski, Esq.

ATTORNEYS FOR PLAINTIFF

Please take notice, that the undersigned will bring the above motion on for hearing before this Court in the Courtroom of the United States Court of Appeals for the Fifth Circuit at New Orleans, Louisiana, on the 8th day of February, 1963 at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard.


ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I, CHARLES CLARK, of counsel for movant, certify that I have served true copies of the foregoing motion upon Burke Marshall, Esq. and Leon Jaworski, Esq., by United States mail.

THIS 31st DAY OF January, 1963.


CHARLES CLARK

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

JAMES H. MEREDITH,)
Appellant)
v.) APPELLATE
CHARLES DICKSON FAIR, Et Al.,) NO. 19,475
Appellees)
(UNITED STATES OF AMERICA, Amicus Curiae))

UNITED STATES OF AMERICA,)
Plaintiff)
v.) ORIGINAL
ROSS R. BARNETT,) CIVIL ACTION
Governor of the State of Mississippi.) No. 20,240
AND)
PAUL B. JOHNSON, JR.,)
Lt. Governor of the State of Mississippi.)
Defendants)

FIRST ALTERNATIVE MOTION OF GOVERNOR
ROSS R. BARNETT TO DISMISS ORIGINAL
PROCEEDINGS IN CAUSE NO. 20,240 AND
ALL PENDING CONTEMPT PROCEEDINGS IN
CAUSE NO. 19,475 BASED ON AN IMPROPER
AND INSUFFICIENT APPLICATION

COMES NOW Ross R. Barnett, Governor of the State of
Mississippi and moves this Honorable Court to dismiss all
proceedings in original cause No. 20,240 and all contempt
proceedings in appellate cause No. 19,475 and, in support hereof,
would show the following matters, facts and things, to-wit:

I.

All proceedings in Cause No. 20,240, an original action
commenced in this court by an order of this court dated the 4th

day of January, 1953, are based upon an unsworn application filed by the Attorney General of the United States in appellate cause No. 19,475.

II.

Said application is insufficient and improper as a basis for support of any proceedings in criminal contempt in this court, for the reason that it is unverified and for the further reason that it was commenced in a civil appellate action.

III.

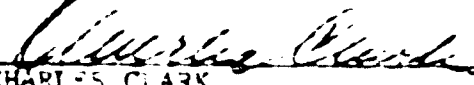
No further remedial step can be secured by the entry of any further civil order in cause No. 19,475.

Respectfully submitted,

ROSS R. PARNETT, Governor of the
State of Mississippi

BY: JOE T. PATTERSON, Attorney General
of the State of Mississippi
DUGAS SHANDS, Assistant Attorney
General of the State of Mississippi

MALCOLM B. MONTGOMERY
GARNER W. GREEN
M. M. ROBERTS
FRED B. SMITH


CHARLES CLARK
Special Assistant Attorneys General
of the State of Mississippi


Addresses of each:
New Capitol Building
Jackson, Mississippi

NOTICE OF MOTION

TO: Burke Marshall, Esq.
Leon Jaworski, Esq.

ATTORNEYS FOR PLAINTIFF

Please take notice, that the undersigned will bring the above motion on for hearing before this Court in the Courtroom of the United States Court of Appeals for the Fifth Circuit at New Orleans, Louisiana, on the 8th day of February, 1963 at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard.


ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I, CHARLES CLARK, of counsel for movant, certify that I have served true copies of the foregoing motion upon Burke Marshall, Esq. and Leon Jaworski, Esq., by United States mail.

THIS 31st DAY OF January, 1963.


CHARLES CLARK