

IN THE UNITED STATES DISTRICT COURT FOR THE

MIDDLE DISTRICT OF ALABAMA

NORTHERN DIVISION

FILED

AUG 3 1961

M. C. DOBSON
Clerk

By.....
Deputy Clerk

UNITED STATES OF AMERICA,

Plaintiff,

v.

GEORGE PENTON, MRS. SAMUELLA P.
WILLIS, REGISTRARS OF VOTERS OF
MONTGOMERY COUNTY, ALABAMA;
and STATE OF ALABAMA,

Defendants.

CIVIL ACTION NO. 1741-N

COMPLAINT

Plaintiff, United States of America, alleges that:

1. This action is instituted by the Attorney General in the name of the United States pursuant to the provisions of Part IV of the Civil Rights Act of 1957 (42 U.S.C. 1971, 71 Stat. 637), as amended by the Civil Rights Act of 1960 (74 Stat. 90).
2. This Court has jurisdiction of this action under 42 U.S.C. 1971(d) and 28 U.S.C. 1345.
3. The State of Alabama is joined as a party defendant pursuant to Section 601(b) of the Civil Rights Act of 1960.

4. Crum Dinkins was, until his death in July 1961, a member and Chairman of the Board of Registrars of Montgomery County, Alabama (hereafter referred to as the Board), an agency of the State of Alabama consisting of three members.

5. George Penton and Mrs. Samuella P. Willis are members of the Board and each resides in Montgomery, Alabama. These defendants are hereafter referred to as the defendant Board members.

6. Under Alabama law registration is a prerequisite to voting in any election.

7. Defendant Board members, as Registrars of Voters of Montgomery County and as agents of defendant State, receive and pass upon applications for registration to vote and determine whether or not each applicant is qualified to register to vote.

8. In Montgomery County, Alabama, there are approximately 33,056 Negroes and 62,911 white persons of voting age. Of these, approximately 2,885 Negroes and 29,615 white persons are registered to vote.

9. The defendant Board members and previous members of the Board, in conducting registration for voting in Montgomery County, Alabama, have engaged in racially discriminatory acts and practices which include, but are not limited to, the following:

- (a) Applying different and more stringent registration procedures and standards to Negro applicants than to white applicants for registration in determining

- whether or not such applicants are qualified to register and to vote;
- (b) Unreasonably delaying the registration of Negroes;
 - (c) Refusing to register qualified Negro applicants;
 - (d) Failing to notify Negro applicants of the rejection of their applications and the reasons for such rejection.

10. The acts and practices described in paragraph 9 of this Complaint have deprived Negro citizens in Montgomery County, Alabama, of their right to register to vote without distinction of race or color.

11. The deprivations referred to in paragraph 10 of this Complaint have been and are pursuant to a pattern and practice.

12. The defendants will, unless restrained by order of this Court, continue to engage in the acts and practices described in this Complaint.

WHEREFORE, plaintiff prays:

1. That this Court make a finding that the acts and practices of the defendants as described in this Complaint were and are racially discriminatory and constitute deprivations of the right secured by 42 U.S.C. 1971(a), and that such deprivations were and are pursuant to a pattern and practice.

2. That this Court issue a preliminary and permanent injunction enjoining the defendants, their agents, employees and successors, and all persons acting in concert with them,

- (a) Engaging in any act which would deprive any citizen in Montgomery County, Alabama, of the right to register and to vote without distinction of race or color;
- (b) Engaging in any act which would delay, prevent, hinder or discourage Negro citizens in Montgomery County, Alabama, on account of their race or color, from applying for, and becoming, registered voters;
- (c) Applying different and more stringent registration procedures and standards to Negro applicants for registration than those applied to white applicants for registration in determining whether or not such applicants are qualified to register and to vote in Montgomery County, Alabama.

3. That this Court order the defendants to place upon the current voter registration rolls in Montgomery County, Alabama, and otherwise register, all Negroes who have applied for registration since January 1, 1956, and who possessed at the time of their applications the qualifications of the least qualified white person who applied and was registered during that period.

4. That this Court grant such additional orders as will insure the fair, equal, and non-discriminatory administration of registration procedures and standards in Montgomery County, Alabama.

5. That this Court grant such additional relief as justice may require together with the costs and disbursements of this action.

13/ Robert F. Kennedy

ROBERT F. KENNEDY
Attorney General of the United States

13/ Burke Marshall

BURKE MARSHALL
Assistant Attorney General

HARTWELL DAVIS
United States Attorney

13/ John Doar

JOHN DOAR, Attorney
Department of Justice
Washington, D. C.

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

GEORGE PENTON, MRS. SAMUELLA P.
WILLIS, REGISTRARS OF VOTERS OF
MONTGOMERY COUNTY, ALABAMA;
and STATE OF ALABAMA,

Defendants.

CIVIL ACTION NO. 1741-N

A N S W E R

Defendants George Penton and Mrs. Samuella P. Willis,
as members of the Board of Registrars of Montgomery County,
Alabama, for answer to the Complaint, say:

1. Defendant Board Members deny that there has been
any person engaged in, or that any person is about to engage
in, any act or practice under color of any constitutional
provision, statute, custom, usage or regulation of the State
of Alabama, or any subdivision thereof, which deprived or would
deprive any other person in Montgomery County, Alabama, the
right to vote, based upon race, color or previous condition
of servitude, who was otherwise qualified by law to vote,
and therefore deny that this action arises under Part IV of
the Civil Rights Act of 1957 (42 U.S.C 1971, 71 Stat. 637),
as amended by the Civil Rights Act of 1960 (74 Stat. 90).

2. Answering paragraph 2 of the Complaint, Defendant
Board Members adopt the same answer given for paragraph 1.

3. Defendant Board Members deny that the State of
Alabama is a proper party defendant under 42 U.S.C. 1971(c)
and under (Section 601(b) Civil Rights Act of 1960).

4. Defendant Board Members admit paragraph 4. of the

5. Defendant Board Members admit paragraph 5. of the Complaint.

6. Defendant Board Members admit paragraph 6. of the Complaint and aver the Alabama statutes making registration a prerequisite to voting in any election are Title 17, Section 12, Code of Alabama 1940, as amended 1953, and Title 17, Section 31, Code of Alabama 1940, as amended 1959.

7. Defendant Board Members admit paragraph 7. of the Complaint.

8. Defendant Board Members neither admit nor deny paragraph 8. of the Complaint and aver they are without knowledge or information sufficient to form a belief of the allegations contained therein as of the date of this answer.

9. Defendant Board Members deny that they and previous members of the Board, conducting registration for voting in Montgomery County, Alabama, have engaged in racially discriminatory acts and practices and, further answering paragraph 9. of the Complaint, Defendant Board Members:

- (a) Deny they apply different and more stringent registration procedures and standards to Negro applicants than to white applicants for registration in determining whether or not such applicants are qualified to register and to vote;
- (b) Deny they in any manner delay the registration of Negroes;
- (c) Deny they refuse to register qualified Negro applicants;
- (d) Admit that they do not notify Negro applicants of the rejection of their applications and the reasons for such rejection. Defendant Board Members further aver that they do not notify either white or Negro applicants of the rejection

rejection. Defendant Board Members further aver that all persons, white or Negro, are treated precisely the same in regard to notification of the rejection of applications to register to vote and the reasons for such rejection.


Further answering paragraph 9. of the Complaint, Defendant Board Members aver the rejection of any application to register as an elector in this State is subject to administrative review under the provisions of Title 17, Section 34, Code of Alabama 1940, and judicial review under the provisions of Title 17, Section 35, Code of Alabama 1940, and that no such judicial determination in the Circuit Court of Montgomery County, Alabama, has been requested within the past ten years.

10. Defendant Board Members deny the allegations contained in paragraph 10. of the Complaint.

11. Defendant Board Members deny the allegations contained in paragraph 11. of the Complaint.


12. Defendant Board Members deny the allegations contained in paragraph 12. of the Complaint.

WHEREFORE, the Defendant Board Members deny that the Plaintiff is entitled to the relief asked and pray to be dismissed with their costs sustained in this behalf.


WILLIAM F. THETFORD,
Circuit Solicitor, 15th Judicial
Circuit of Alabama, as Attorney
for Defendant Board Members,
Room 303 Montgomery County Court House,
Montgomery, Alabama.

I certify that a copy of the foregoing Answer was served upon Robert F. Kennedy, Esq., Attorney General of the United

John Dear, Esq., Attorney, Department of Justice, and -
MacDonald Gallion, Esq., Attorney General of Alabama, by
depositing a copy thereof in the United States Mail, postage
prepaid, properly addressed, to their respective offices,
on the 16 day of August, 1961.


WILLIAM F. THETFORD
Attorney for Defendant
Board Members.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

NORTHERN DIVISION

FILED
AUG 27 1961

R. C. DOBSON
Clerk

By.....
Deputy Clerk

UNITED STATES OF AMERICA,)
) No. 1741-A
Plaintiff,)
) NOTICE OF MOTION AND
)
v.) MOTION FOR PRODUCTION
)
) OF RECORDS, DOCUMENTS
GEORGE PENTON, ET AL.,)
) AND PAPERS UNDER RULE 34
Defendants.)
_____)

To: STATE OF ALABAMA AND McDONALD GALLION, ATTORNEY
GENERAL OF THE STATE OF ALABAMA, MONTGOMERY,
ALABAMA

GEORGE PENTON
MRS. SAMUEL P. WILLIS

PLEASE TAKE NOTICE that on August 28,
1961, at 9 o'clock A.M. or as soon thereafter as
counsel may be heard, at the courtroom of the Federal
District Court, at the Post Office Building, City of
Montgomery, Alabama, plaintiff will move the above
court for an order requiring defendants to produce and
permit plaintiff's attorneys and agents to inspect and
copy or photograph the following records, documents,
and papers in the possession, custody or control of

1. All applications for registration, questionnaires and oaths received by, or filed with, the Board of Registrars of Montgomery County, Alabama, or any member thereof, since October 4, 1960.

2. All applications for registration, questionnaires and oaths of white applicants for registration to vote approved by the Board of Registrars of Montgomery County, Alabama, or any member thereof, since January 1, 1956.

3. Copies of all rules or regulations adopted or used by the Board of Registrars of Montgomery County, Alabama, or any member thereof, since January 1, 1956.

4. All lists of qualified electors of Montgomery County, Alabama, which were compiled after October 18, 1960.

5. Any Official list of qualified electors of Montgomery County, Alabama, compiled or published during 1956.

6. All records in the possession of the Board of Registrars, or any member thereof, showing criminal indictments, charges or convictions of persons in Montgomery County, Alabama.

7. All registration books and other documents maintained by the Board of Registrars, or any member thereof, containing the names and race of persons who have applied for registration in Montgomery County, Alabama, since January 1, 1956.

Said motion will be based upon this notice of motion and on the affidavit of John Dear, marked "Exhibit A" which is attached hereto and filed concurrently herewith, and upon all of the papers and records on file herein.

131 Hartwell Davis
HARTWELL DAVIS
United States Attorney

131 John Dear
JOHN DEAR
Attorney
Department of Justice

EXHIBIT A

DISTRICT OF COLUMBIA) SS

I, John Dear, having been duly sworn, says:

I am an attorney of record for the United States of America in the instant case of United States v. George Penton, et al. I am familiar with the Complaint in this case and with the facts upon which it is based. I am informed and believe and on such information and belief state as follows:

1. Defendants George Penton and Mrs. Samuelia P. Willis are members of the Board of Registrars of Montgomery County, Alabama. As registrars, they have possession, custody, or control of the records, documents and papers described in plaintiff's motion.

2. In Montgomery County, Alabama, less than ten percent of the Negro citizens of voting age are registered to vote.

3. In Montgomery County, Alabama, citizens desiring to become registered to vote are required to file with the Board of Registrars a written application entitled "Application for Registration, Questionnaire and Oath." Based upon the applications filed with it, the Montgomery County Board of Registrars determines whether the applicants are qualified to register to vote.

4. Between October 4 and October 7, 1960, agents of the United States, acting under the authority of

Title III of the Civil Rights Act of 1960 and by order of this Court, photographed a representative sample of applications for registration which had been filed with the Board of Registrars in Montgomery County between January 1, 1956, and October 4, 1960. The records thus photographed included (a) all rejected applications; (b) all accepted applications filed by Negro citizens, and an equal number plus about 500 accepted applications filed by white citizens; (c) an official list of qualified voters in Montgomery County as of October 18, 1960.

5. The records thus photographed, together with other information in the possession of the United States, reveal acts and practices by the Board of Registrars of Montgomery County which form the basis of this action filed under 42 U.S.C. 1971(a).

6. The applications for registration which have been filed with the Montgomery County Board of Registrars do not contain information showing the race of the applicants. The following records, documents and papers described in the plaintiff's motion will reveal the race of the applicants for registration in Montgomery County:

(a) Lists of qualified electors of Montgomery County. (Paragraphs 4 and 5 of the motion)

(b) Registration books maintained by the Board. (Paragraph 7 of the motion)

7. The Complaint in this action alleges certain racially discriminatory acts and practices by the defendants. The following records, documents and papers described in the plaintiff's motion will reveal the procedures, standards and practices employed by the defendants:

- (a) Applications for registration filed with the Board of Registrars since January 1, 1956, not previously photographed by the United States. (Paragraphs 1 and 2 of the motion)
- (b) Rules and regulations adopted by the Board. (Paragraph 3 of the motion)
- (c) Records showing criminal indictments, charges or convictions. (Paragraph 6 of the motion)

8. The records, documents and papers described in the plaintiff's motion constitute or contain evidence material and relevant to this action. The inspection and copying or photographing of such records, documents and papers are necessary to enable the plaintiff effectively to prepare this case for trial.

15/ John Roar
JOHN ROAR

Subscribed and sworn to before me on this 16th day of August, 1961.

STATE OF ALABAMA)
)
MONTGOMERY COUNTY)

I hereby certify that I have this day served three copies of the foregoing Notice of Motion and Motion for Production of Records, Documents and Papers Under Rule 34, upon Honorable Gordon Madison, Assistant Attorney General for the State of Alabama, Montgomery, Alabama, and one copy upon Honorable William F. Thatford, Circuit Solicitor, Montgomery County Courthouse, Montgomery, Alabama, by placing same in the United States Mail, postage prepaid, properly addressed, on this the 17th day of August, 1961.

/s/ John Dear

JOHN DEAR
Attorney
U. S. Department of Justice

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT
OF ALABAMA
NORTHERN DIVISION

RECEIVED

AUG 20 1961

UNITED STATES ATTORNEY
MIDDLE DISTRICT
OF ALABAMA

UNITED STATES OF AMERICA,

PLAINTIFF

VS.

CIVIL ACTION

NO. 1741-N

GEORGE PENTON, MRS. SAMUEL P.
WILLIS, REGISTRARS OF VOTERS OF
MONTGOMERY COUNTY, ALABAMA;

AND

STATE OF ALABAMA,

DEFENDANTS

*Filed 8-18-61
R.C. Gibson, Clerk*

MOTION TO QUASH SERVICE

The Defendant, State of Alabama, appearing specially for the purpose of this Motion only, moves to quash service of the summons and complaint purportedly served in this case on the following separate and several grounds:

1. Service upon the Attorney General of Alabama is not legal service upon the State of Alabama.

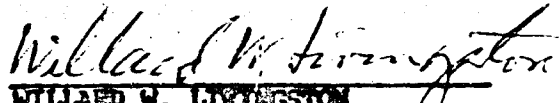
2. Service upon the Governor of Alabama is not legal service upon the State of Alabama.

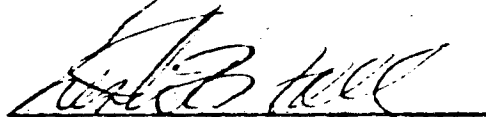
3. Service upon the Attorney General of Alabama and the Governor of Alabama is not legal service upon the State of Alabama.

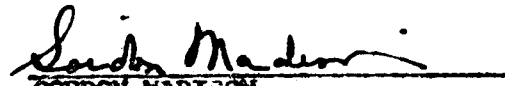
4. The powers of the Government of the State of Alabama are legislative, judicial and executive, so that service upon the Attorney General of Alabama and the Governor of Alabama, one or both, does not constitute legal service upon the State of Alabama.

*See Federal Rules - provides
for service on
chief executive.*

MacDonald Gallion
RICHARD GALLION
ATTORNEY GENERAL



WILLARD W. LIVINGSTON
ASSISTANT ATTORNEY GENERAL
STATE OF ALABAMA


LESLIE HALL
ASSISTANT ATTORNEY GENERAL
STATE OF ALABAMA


GORDON MADISON
ASSISTANT ATTORNEY GENERAL
STATE OF ALABAMA

CERTIFICATE OF SERVICE

I hereby certify that I have mailed, properly stamped and addressed, three copies of the foregoing Motion to Quash Service to Honorable Hartwell Davis, United States Attorney, Federal Building, Montgomery, Alabama, and one copy of the foregoing Motion to Quash Service to Honorable William Thetford, Circuit Solicitor, Montgomery County, Montgomery, Alabama, on this 18th day of August, 1961.


GORDON MADISON
ASSISTANT ATTORNEY GENERAL
STATE OF ALABAMA

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT
OF ALABAMA
NORTHERN DIVISION

pleading - Montgomery

RECEIVED

AUG 20 1961

UNITED STATES ATTORNEY
MIDDLE DISTRICT
OF ALABAMA

UNITED STATES OF AMERICA,

PLAINTIFF

VS.

CIVIL ACTION

NO. 1741-N

GEORGE PENTON, MRS. SAMUELLA P.
WILLIS, REGISTRARS OF VOTERS OF
MONTGOMERY COUNTY, ALABAMA;

AND

STATE OF ALABAMA,

DEFENDANTS

*Filed 8-18-61
D.C. Tolson, Clerk*

ANSWER OF STATE OF ALABAMA

The Defendant, State of Alabama, without waiving its motion to quash, for answer to the Complaint, says:

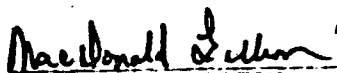
1. That the Complaint fails to state a cause of action upon which relief can be granted as against this Defendant.
2. That Paragraphs 4, 5, and 6 of the Complaint are admitted.
3. That as to Paragraph 7 of the Complaint, although it is admitted that the Defendant Board Members, as Registrars of Voters of Montgomery County, Alabama, receive and pass upon applications for registration to vote and determine whether or not each applicant is qualified to register to vote, the State of Alabama specifically denies that it may constitutionally be made liable by Congress for the alleged acts of the Boards of Registrars which are set forth in the Complaint.
4. That each and every other allegation and paragraph of the Complaint is denied.

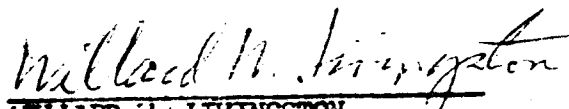
Further answering, this Defendant is informed and believes, and on such information and belief avers that the Defendant Board of Registrars have conducted the registration of voters during their term of office in accordance with the Constitution and laws of the State of

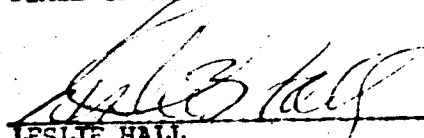
Alabama and have made no distinction in the registration of voters on account of race or color.

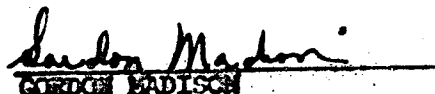
Further answering, this Defendant avers that the only legal basis for the registration of voters in the State of Alabama or in Montgomery County, Alabama, other than registration by boards of registrars, is that method which is set forth in the Civil Rights Act of 1960. Wherefore, this Defendant says that in this suit Plaintiff's Prayer No. 3 is unauthorized.

Further answering, this Defendant avers it conceives the issue in this case to be whether or not the Boards of Registrars of Montgomery County, Alabama, have in the registration of voters made discriminations or distinctions on the basis of race or color, and to confound and to confuse this issue with what could be four or five hundred separate issues as to whether or not certain individuals were entitled to be registered at the time of their applications is improper and unauthorized.


MACDONALD GALLION
ATTORNEY GENERAL
STATE OF ALABAMA

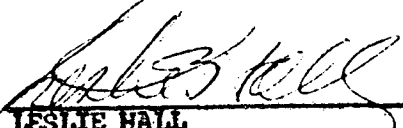

WILLARD W. LIVINGSTON
ASSISTANT ATTORNEY GENERAL
STATE OF ALABAMA


LESLIE HALL
ASSISTANT ATTORNEY GENERAL
STATE OF ALABAMA


GORDON MADISON
ASSISTANT ATTORNEY GENERAL
STATE OF ALABAMA

CERTIFICATE OF SERVICE

I hereby certify that I have mailed, properly stamped and addressed, three copies of the foregoing Answer of State of Alabama to Honorable Hartwell Davis, United States Attorney, Federal Building, Montgomery, Alabama, and one copy of the foregoing Answer of State of Alabama to Honorable William Thetford, Circuit Solicitor, Montgomery County, Montgomery, Alabama, on this 18th day of August, 1961.



LESLIE HALL
ASSISTANT ATTORNEY GENERAL
STATE OF ALABAMA

United States District Court.

MIDDLE DISTRICT OF ALABAMA
OFFICE OF THE CLERK
MONTGOMERY 1, ALABAMA

R. C. DOBSON
CLERK

Pleaded
DOCKETED

AUG 28 1961

#A-1043
#1045

August 21, 1961

Mr. John Doar ✓
First Assistant
Civil Rights Division
U. S. Department of Justice
Washington, D. C.

Mr. George Penton
Office of Board of Registrars
Montgomery County Courthouse
Montgomery, Alabama

Mr. Hartwell Davis
United States Attorney
Montgomery, Alabama

Mrs. Samuella P. Willis
Office of Board of Registrars
Montgomery County Courthouse
Montgomery, Alabama

Mr. MacDonald Gallion
Attorney General
State of Alabama
Montgomery, Alabama

Re: United States of America v.
George Penton, et al., Registrars
of Voters of Montgomery County,
Alabama; State of Alabama
CA No. 4741-N

Mr. William F. Thetford
Circuit Solicitor
Montgomery County Courthouse
Montgomery, Alabama

Dear Sirs:

Pursuant to the rules of this court, please take notice that at 9 a.m.
on Monday the 28th day of August, 1961, in the
Federal Building at Montgomery, Alabama, all pending motions heretofore
filed in the above-styled case will be deemed submitted to the court, both
on the law, and on the facts, involved therein, and may then, or at any time
thereafter, be decided by the court.

You are accordingly advised that on or before said date you may file in
this office for submission to the court any brief, argument, list of author-
ities, or other statement which you may desire to submit or make to the
court in support of your motion, together with your certificate that you have
mailed a copy thereof to each attorney of record for all adverse parties.

If an oral argument or hearing on the above date is desired, written
notice of your intention to argue the motion orally or to adduce oral
testimony upon the hearing thereof must be filed forthwith in this office
and a copy thereof mailed to each attorney of record for all adverse
parties.

Yours truly,

72-2-19

R. C. Dobson

R. C. DOBSON, CLERK. AUG 24 1961
UNITED STATES DISTRICT COURT.

CIV. RIGHTS DIV.
Vol & Elect Sec.

RECEIVED

AUG 24 1961

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES ATTORNEY
MIDDLE DISTRICT
OF ALABAMA

UNITED STATES OF AMERICA,
Plaintiff,

v.

GEORGE PENTON, ET AL.,
Defendants.

Filed 8-23-61
R. C. Johnson, Clerk
No. 1741-N

ANSWER OF GEORGE PENTON AND
MRS. SAMUELLA P. WILLIS ON
GOVERNMENT'S MOTION FOR
PRODUCTION OF RECORDS,
DOCUMENTS AND PAPERS

Comes George Penton and Mrs. Samuella P. Willis,
Members of the Board of Registrars of Montgomery County,
Alabama, and in answer to the motion made by plaintiff for
the production of certain documents and papers in order that
the plaintiff's attorneys and agents may inspect, copy or
photograph such records, they say:

1. Neither the Board of Registrars of Montgomery
County, Alabama, nor any member thereof, retains applications
for registration, questionnaires and oaths of successful
applicants. The only applications for registration,
questionnaires and oaths in the possession, custody or
control of the Board of Registrars, or any member thereof,
since October 4, 1960, are those of unsuccessful applicants.

2. Neither the Board of Registrars of Montgomery
County, Alabama, nor any member thereof, has in its or their
possession, custody or control any applications for
registration, questionnaires or oaths of white applicants for
registration to vote which have been approved by the Board
of Registrars of Montgomery County, Alabama, or any member
thereof, since January 1, 1956.


regulations governing its actions and procedure.

4. Neither the Board of Registrars of Montgomery County, Alabama, nor any member thereof, has in its or their possession, custody or control any list of qualified electors of Montgomery County, Alabama which were compiled after October 18, 1960.

5. Neither the Board of Registrars of Montgomery County, Alabama, nor any member thereof, has in its or their possession, custody or control any official list of qualified electors of Montgomery County, Alabama, compiled or published during 1956.

6. The Board of Registrars of Montgomery County, Alabama has in its possession certain records showing criminal indictments, charges or convictions of persons in Montgomery County, Alabama.

7. Neither the Board of Registrars of Montgomery County, Alabama, nor any member thereof, maintains any registration books or other documents containing the names and races of persons who have applied for registration in Montgomery County, Alabama; nor has the Board of Registrars maintained any registration book or other documents at any time since January 1, 1956 which would show the name and race of applicants for registration.


WILLIAM F. THETFORD,
Attorney for Defendant
Board Members.

STATE OF ALABAMA)
)
MONTGOMERY COUNTY)

I, Mrs. Samuella P. Willis, having been duly sworn say: I have knowledge of the facts contained in the answer of George Penton and Mrs. Samuella P. Willis, as

Members of the Board of Registrars of Montgomery County,
Alabama, and the facts as stated therein are true and
correct.

Mrs. Samuella P. Willis

Subscribed and sworn to before
me this 23rd day of August, 1961.

Betty Gibson
Notary Public, Montgomery County

My Commission expires May 27, 1963

CERTIFICATE OF SERVICE

STATE OF ALABAMA)
MONTGOMERY COUNTY)

I hereby certify that I have this day served three copies of the foregoing answer to the motion for production of records, documents and papers on the Honorable Hartwell Davis, United States Attorney, Federal Building, Montgomery, Alabama; and one copy on the Honorable MacDonald Gallion, Attorney General for the State of Alabama, Montgomery, Alabama, by placing same in the United States mail, postage prepaid, properly addressed on this the 23 day of August, 1961.

William F. McLeod

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT
OF ALABAMA, NORTHERN DIVISION

FILED

AUG 26 1961

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GEORGE PENTON, MRS. SAMUELLA
P. WILLIS, REGISTRARS OF VOTERS
OF MONTGOMERY, ALABAMA; and
STATE OF ALABAMA,

Defendants.

M. C. DOBSON
Clerk

By.....
Deputy Clerk

CIVIL ACTION NO. 1741-N

O R D E R

This cause is now submitted upon the motion of the defendant State of Alabama, seeking to have this Court quash service of the process of the summons and complaint in this case. The court records reflect that service was made upon John Patterson as Governor of the State of Alabama on the 11th day of August, 1961, and also upon MacDonald Gallion, Attorney General for the State of Alabama, on the 7th day of August, 1961. Since this action was commenced in this Court pursuant to specific statutory authorization [42 U.S.C.A. 1971(c)], federal rules governing service of process control. The rule applicable in this instance is Rule 4(d)(6), Federal Rules of Civil Procedure, which provides as follows:

"(6) Upon a state or municipal corporation or other governmental organization thereof subject to suit, by delivering a copy of the summons and of the complaint to the chief executive officer thereof or by serving the summons and complaint in the manner prescribed by the law of the state for the service of summons or other like process upon any such defendant."

This rule is clear that service upon the Governor of Alabama in this particular case is valid service. No discussion, therefore, is necessary concerning any further service and, specifically, concerning the question as to whether or not service upon the Attorney General of the State of Alabama is valid. The motion to quash service is due to be denied.

In accordance with the foregoing and for good cause, it is the ORDER, JUDGMENT and DECREE of this Court that the motion of the State of Alabama filed with this Court on August 13, 1961, seeking to have this Court quash service of the summons and complaint, be and the same is hereby denied.

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE

DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CIVIL ACTION NO. 1741-N

GEORGE PENTON, MRS. SANUELLA
P. WILLIS, Registrars of Voters
of Montgomery, Alabama; and
STATE OF ALABAMA,

Defendants.

FILED

RECEIVED

AUG 28 1961

AUG 31 1961

R. C. DOBSON
Clerk

By.....
Deputy Clerk

ORDER

A 1045

This cause is now submitted upon the motion of the United States of America, to which is attached the affidavit of John Doar as one of the attorneys for the United States, wherein the United States seeks to require the defendants to produce and permit plaintiff's attorneys and agents to inspect and copy or photograph certain designated records, documents, and papers alleged to be in the possession, custody or control of the defendants.

Upon consideration of said motion, the affidavit in support thereof, and the answer of the members of the Board of Registrars filed herein on August 23, 1961, to said motion, and for good cause, it is the ORDER, JUDGMENT and DECREE of this Court that said motion be and the same is hereby granted.

It is the further ORDER, JUDGMENT and DECREE of this Court that the defendants on or before the 5th of September, 1961, and during the regular business hours thereof and from day to day thereafter until said inspection, copying or photographing by the plaintiff is completed, produce for inspection, copying or photographing by the plaintiff, pursuant to Rule 34, Federal Rules of Civil Procedure, each of the following designated documents that may be in defendants' custody, control or possession:

1. All applications for registration, questionnaires and oaths received by, or filed with, the Board of Registrars of Montgomery County, Alabama, or any member thereof, since October 4, 1960.

2. All applications for registration, questionnaires and oaths of white applicants for registration to vote approved by the Board of Registrars of Montgomery County, Alabama, or any member thereof, since January 1, 1956.

[72-2-19]

3. Copies of all rules or regulations adopted or used by the Board of Registrars of Montgomery County, Alabama, or any member thereof, since January 1, 1956.

4. All lists of qualified electors of Montgomery County, Alabama, which were compiled after October 18, 1960.

5. Any Official List of Qualified Electors of Montgomery County, Alabama, compiled or published during 1956.

6. All records in the possession of the Board of Registrars, or any member thereof, showing criminal indictments, charges or convictions of persons in Montgomery County, Alabama.

7. All registration books and other documents maintained by the Board of Registrars, or any member thereof, containing the names and races of persons who have applied for registration in Montgomery County, Alabama, since January 1, 1956.

Done, this the 28th day of August, 1961.

FRANK M. JOHNSON, JR.

UNITED STATES DISTRICT JUDGE

RECEIVED

UNITED STATES DISTRICT COURT OF
THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

AUG 31 1961

UNITED STATES ATTORNEY
MIDDLE DISTRICT
OF ALABAMA

UNITED STATES OF AMERICA,)

Plaintiff)

VS.)

CIVIL ACTION NO. 1741-N

STATE OF ALABAMA, GEORGE)

PENTON, MRS. SAMUELLA P.)

WILLIS, Registrars of)

Voters of Montgomery,)

Alabama)

Defendants)

DEFENDANT BOARD OF REGISTRARS

INTERROGATORIES TO PLAINTIFF

Now comes the defendant, Members of the Board of Registrars of Montgomery County, Alabama, and propound to plaintiff the following interrogatories pursuant to the Federal Rules of Civil Procedure.

1. Please state briefly, under separate heading, each and every racially discriminatory act which the Montgomery County, Alabama Board of Registrars practice or has practiced in applying different and more stringent registration procedures and standards to Negro applicants than to white applicants.

- (a) List the name and address of each person who has been allegedly discriminated against by the use of different and more stringent registration procedures and standards in attempting to register to vote in Montgomery County, Alabama.
- (b) Give the date when each of the persons listed in your answer to Interrogatory No. 1 (a) was discriminated against by the use of different and more stringent registration procedures and standards.
- (c) List the name and address of each person having knowledge of the relevant facts which constitute each act of discrimination by the use of different and more stringent registration procedures and standards.

(d) List the name and address of each person contained in your answer to Interrogatory No. 1 (c) who has given a written statement of the relevant facts constituting such discrimination, and state the name and address of the person who took such statement and the date when same was taken.

(e) State whether any person listed in your answer to Interrogatory No. 1 (c) has given an oral statement of the relevant facts showing the Montgomery County, Alabama Board of Registrars has used different and more stringent registration procedures and standards to Negro applicants than to white applicants.

(f) If your answer to Interrogatory No. 1 (e) is affirmative, state the name and address of each person who has made an oral statement of relevant facts, together with the name and address of the person to whom such statement was made, and the date of such oral statement.

(g) State concisely the text of any such oral statement.

2. State specifically and in detail what registration procedures and standards are applied to Negro applicants by the defendant board members.

3. State specifically and in detail what registration procedures and standards are applied to white applicants by the defendant board members.

4. Does plaintiff rely on any record, paper or document in the possession of the defendant board members which you have heretofore inspected, copied or photographed, as evidence that the defendant board members apply, or have applied, different or more stringent registration procedures and practices to Negro applicants than to white applicants.

(a) If so, please identify each such record, paper or document.

5. Does plaintiff rely on any record, paper or document in the possession of the Judge of Probate of Montgomery County, Alabama, which you have heretofore inspected, copied or photographed, as evidence that defendant board members

apply, or have applied, different or more stringent registration procedures and practices to Negro applicants than to white applicants.

- (a) If so, please identify each such record, paper or document.

6. Does plaintiff rely on any record, paper or document kept by any other person or official as evidence that defendant board members apply or have applied different or more stringent registration procedures and practices to Negro applicants than to white applicants.

- (a) If so, please identify each such record, paper or document, and state who has the possession, custody or control thereof.

7. List the name and address of each Negro applicant who was unreasonably delayed by the defendant board members in registering to vote in Montgomery County, Alabama.

- (a) State the relevant facts concerning each particular delay.
- (b) State the time and date of each particular delay.
- (c) List the name and address of each person having knowledge of the relevant facts pertaining to each particular delay.
- (d) State whether or not such person or persons have given written statements of the relevant facts pertaining to each particular delay.
- (e) State the name and address of the person or persons who took any such written statements and state the name and address of the person now in possession of such written statements.
- (f) State whether or not any person named in your answer to Interrogatory No. 7 (c) has given any oral statement of relevant facts pertaining to each particular delay.
- (g) If your answer is affirmative, state the name and address of each person or persons to whom such oral statements were given.

- (h) State concisely the text of each such oral statement.

8. Does plaintiff rely on any record, paper or document kept by the defendant board members which you have heretofore inspected, copied or photographed as evidence that defendant board members are unreasonably delaying Negro applicants for registration, solely because of their race or color.

- (a) If so, please identify each such record, paper or document.

9. Does plaintiff rely on any record, paper or document kept by the Judge of Probate of Montgomery County, Alabama, which you have heretofore inspected, copied or photographed as evidence that defendant board members are unreasonably delaying Negro applicants for registration, solely because of their race or color.

- (a) If so, please identify each such record, paper or document.

10. Does plaintiff rely on any record, paper or document kept by any other person or official as evidence that defendant board members are unreasonably delaying Negro applicants for registration, solely because of their race or color.

- (a) If so, please identify each such record, paper or document, and state who has the possession, custody or control thereof.

11. State whether or not you have evidence showing differences based on race as to the time required to register white and Negro applicants.

- (a) List the name and address of each person having knowledge of the relevant facts showing a difference based on race, as to the time required to register white and Negro applicants.

- (b) State whether or not such person or persons have given any written statements of the relevant facts showing a difference in time required to register white and Negro

- (c) State the name and address of the person or persons who took such written statements and state the name and address of the person who is in possession of such statement.
- (d) State whether or not persons having knowledge of the relevant facts pertaining to a difference based on race as to the time required to register white and Negro applicants have given oral statements.
- (e) State the name and address of each person or persons to whom such oral statements were given.
- (f) State concisely the text of each such oral statement.

12. List the name and address of each Negro applicant who is qualified to be registered as an elector under the Constitution and Laws of the State of Alabama and who has been denied registration, solely because of his or her color or race.

- (a) List the date said person applied for registration.
- (b) State whether or not such person has given a written statement of the relevant facts pertaining to his or her being denied the right to register as a voter because of race or color.
- (c) State the name and address of any person or persons who took such written statements.
- (d) State the name and address of any person or persons who is in possession of such statements.
- (e) State whether or not any person who has been denied registration solely because of his or her race or color, and who is listed above in answer to Question No. 12 (a), has given an oral statement.
- (f) State the name and address of any person or persons to whom any such oral statements were given.
- (g) State concisely the text of such oral statements.

13. Does plaintiff rely on any record, paper or document kept by the defendant board members, which you have

-6-

that the defendant board has denied registration to Negroes who were qualified to be registered solely because of their race or color.

(a) If so, please identify each such record, paper or document.

14. Does plaintiff rely on any record, paper or document in the possession of the Judge of Probate of Montgomery County, Alabama, which you have heretofore inspected, copied or photographed, as evidence that the defendant board has denied registration to Negroes who were qualified to be registered, solely because of their race or color.

(a) If so, please identify each such record, paper or document.

15. Does plaintiff rely on any record, paper or document in the possession of any other person or official as evidence that the defendant board has denied registration to Negroes who were qualified to be registered, solely because of their race or color?

(a) If so, please identify each such record, paper or document and state who has the possession, custody or control thereof.

16. List the name and address of any white applicant to register as a qualified elector in Montgomery County, Alabama who was notified of the rejection of his or her application and the reasons for such rejection.

17. List the name and address of each person, who has been refused registration, whom you are requesting the Court to order registered, showing the date such persons applied for registration.

18. Does plaintiff rely on any record, paper or document kept by the defendant board members which you have heretofore copied, inspected or photographed as evidence that persons listed in your answer to Interrogatory No. 17 should be ordered registered by the Court?

- (a) If so, please identify each such record, paper or document.

19. Does plaintiff rely on any record, paper or document kept by the Judge of Probate of Montgomery County, Alabama, which you have heretofore copied, inspected or photographed, as evidence that persons listed in your answer to Interrogatory No. 17 should be ordered registered by the Court?

- (a) If so, please identify each such record, paper or document.

20. Does plaintiff rely on any record, paper or document kept by any other person or official as evidence that persons listed in your answer to Interrogatory No. 17 should be ordered registered by the Court?

- (a) If so, please identify each record, paper or document and state who has the possession, custody or control thereof.

21. In proving a pattern or practice of discrimination, does plaintiff rely on other racially discriminatory acts or practices by the Montgomery County, Alabama Board of Registrars which are not mentioned in Plaintiff's complaint and which does not include:

- (a) Applying different and more stringent registration procedures and standards to Negro applicants than to white applicants for registration in determining whether or not such applicants are qualified to register to vote;
- (b) Unreasonably delaying the registration of Negroes;
- (c) Refusing to register qualified Negro applicants;
- (d) Failing to notify Negro applicants of the rejection of their applications and the reasons for such rejection.

22. If your answer to Interrogatory No. 21 is affirmative, state separately each other or different act of discrimination, including the person discriminated against;

the facts constituting the act of discrimination, and the time and place of such discrimination.

- (a) List the name and address of each person having knowledge of the relevant facts which constitute each act of discrimination, other than that mentioned in your complaint.
- (b) List the name and address of each person contained in your answer to Interrogatory No. 22 (a) who has given a written statement of the relevant facts constituting such other discrimination, not shown in your complaint.
- (c) State the name and address of any person or persons who took such written statements and state the name and address of any person or persons who are in possession of such written statements.
- (d) State whether or not any person who has knowledge of the relevant facts which constitute each act of discrimination, other than that mentioned in your complaint, and who is listed above in answer to Question No. 22 (a), has given an oral statement.
- (e) State the name and address of any person or persons to whom any such oral statements were given.
- (f) State concisely the text of such oral statements.

23. Does plaintiff rely on any record, paper or document in the possession of defendant board members which you have heretofore inspected, copied or photographed as evidence that defendant board members practice or have applied different registration procedures or have practiced racial discrimination, other than such discrimination as is set forth specifically in your complaint?

- (a) If so, please identify each record, paper or document.


24. Does plaintiff rely on any record, paper or document in the possession of the Judge of Probate of Montgomery County, Alabama, which you have heretofore

inspected, copied or photographed as evidence that defendant board members practice or have applied different registration procedures, or have practiced racial discrimination, other than such discrimination as is set forth specifically in your complaint?

(a) If so, please identify each such record, paper or document.

25. Does plaintiff rely on any record, paper or document in the possession of any other person or official as evidence that defendant board members practice or have applied different registration procedures, or have practiced racial discrimination, other than such discrimination as is set forth specifically in your complaint?

(a) If so, please identify each such record, paper or document and state who has the possession, custody or control thereof.

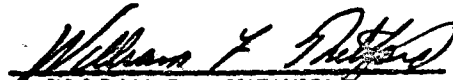

WILLIAM F. THETFORD,
Attorney for Defendant
Board Members.

STATE OF ALABAMA)
MONTGOMERY COUNTY)

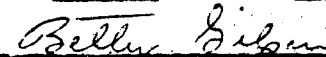
I, William F. Thetford, having been duly sworn, say:

1. I am an attorney of record for Defendant Board Members, George Jenton and Mrs. Samuella P. Willis, and that I am familiar with the pleadings filed in this cause;

2. That the answers to the attached Interrogatories constitute evidence material and relevant to the proper defense of the allegations of the original bill of complaint, and are necessary to properly defend this cause.


WILLIAM F. THETFORD
Attorney for Defendant
Board Members.

Subscribed and sworn to before me
this 31st day of August, 1961.



Betty Gibson
Notary Public, Montgomery County

My Commission expires May 27, 1963

CERTIFICATE OF SERVICE

STATE OF ALABAMA)
)
MONTGOMERY COUNTY)

I hereby certify that I have this day served three copies of the foregoing Interrogatories on the Honorable Hartwell Davis, United States Attorney, Federal Building, Montgomery, Alabama; and one copy on the Honorable MacDonald Gallion, Attorney General for the State of Alabama, Montgomery, Alabama, by placing same in the United States mail, postage prepaid, properly addressed on this the 31 day of August, 1961.


WILLIAM F. THETFORD
Attorney for Defendant
Board Members.

3227

"A subpoena may be served by the marshal, by his deputy or by any other person who is not a party and who is not less than 18 years of age. Service of a subpoena shall be made by delivering a copy thereof to the person named and by tendering to him the fee for 1 day's attendance and the mileage allowed by law." (Federal Rules of Civil Procedure USC.)

UNITED STATES District Court
FOR THE
MIDDLE DISTRICT OF ALABAMA

CIVIL ACTION FILE NO. 1741-N

UNITED STATES OF AMERICA

vs.
George Penton, Mrs. Samuella P. Willis, Registrars of Voters of Montgomery County, Alabama; and State of Alabama

TO
Mr. Spencer H. Robb
2881 Colonial Drive
Montgomery, Alabama

YOU ARE COMMANDED to appear at the Circuit Solicitor's Office, Montgomery County Courthouse in the city of Montgomery, Ala. on the 13th day September, 1961, at Two o'clock P. M. to testify on behalf of the defendant, Members of the Board of Registrars of Montgomery County, Alabama, at the taking of a deposition in the above entitled action pending in the United States District Court for the Middle District of Alabama and bring with you the complete file pertaining to each of your investigations of alleged racially discriminatory acts and practices applied to Negro applicants for voter registration in Montgomery County by the Board of Registrars of Montgomery County, Alabama, since January 1, 1956, including, but not limited to, all statements of witnesses and other persons having knowledge of the relevant facts of each discriminatory act; all memoranda of conversations of any and all persons having knowledge of relevant facts of each discriminatory act; and all reports relating to each such investigation.

Dated Sept. 1, 1961

William F. Thetford
Attorney for

Defendant Board Members
Address Courthouse, Montgomery

R. C. Dobson

Clerk.
By Annice Schooley
Deputy Clerk.

1. Strike the words "and bring with you" unless the subpoena is to require the production of documents or tangible things, in which case the documents and things should be designated in the blank space provided for that purpose.

RETURN ON SERVICE

Received this subpoena at _____ on _____
and on _____ at _____
served it on the within named _____
by delivering a copy to him and tendering to him the fee for one day's attendance and the mileage allowed by law.

Dated: _____, 19____

Service Fees
Travel \$ _____
Services _____

By _____

Total \$ _____

UNITED STATES DISTRICT COURT OF
THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff

VS.

STATE OF ALABAMA, GEORGE
PENTON, MRS. SAMUELLA P.
WILLIS, Registrars of
Veterans of Montgomery,
Alabama

Defendants

CIVIL ACTION NO. 1741-N


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SEP 5 1961

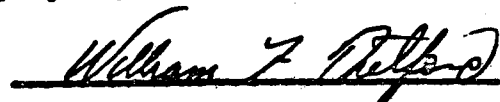
UNITED STATES ATTORNEY,
MIDDLE DISTRICT
OF ALABAMA

Mr. Hartwell Davis
United States Attorney
Federal Building
Montgomery, Alabama

Please take notice that pursuant to the Federal
Rules of Civil Procedure, defendant board members will take
the oral deposition of Spencer Robb, 2881 Colonial Drive,
Montgomery, Alabama, at 2:00 P. M., September 13, 1961, in
the Solicitor's Office of the Montgomery County Court House,
Montgomery, Alabama.


WILLIAM F. THEYARD
Attorney for Defendant
Board Members.

I hereby certify that I have this day served three
copies of the foregoing notice of the taking of oral deposition
on the Honorable Hartwell Davis, United States Attorney, Federal
Building, Montgomery, Alabama, by placing same in the United
States Mail, postage prepaid, properly addressed on this the
1 day of September, 1961.



IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)

Plaintiff)

vs.)

CIVIL ACTION NO. 1741-N)

STATE OF ALABAMA, GEORGE)
PENTON, MRS. SAMUELLA P.)
WILLIS, Registrars of)
Voters of Montgomery,)
Alabama)

Defendants)

STIPULATION

It is stipulated and agreed between the parties to the above action that the taking of the depositions of Messrs. Spencer H. Robb and John C. McCluney, Special Agents, Federal Bureau of Investigation, fixed by subpoenas served on September 1, 1961, and September 7, 1961, respectively, are adjourned to a future date to be set by the parties or as ordered by the Court.

Done, this the 12 day of September, 1961.


Paul A. Renne
Attorney, Department of Justice


William F. Thetford
Circuit Solicitor

UNITED STATES OF AMERICA)
)
MIDDLE DISTRICT OF ALABAMA)

Paul A. Renne, Attorney for the Plaintiff, says and deposes that on the 13th day of September, 1961, your deponent served upon William F. Thetford, Circuit Solicitor, Attorney for Defendants, Board of Registrars, at his usual place of business, Room 303 County Courthouse Building, Montgomery, Alabama, copies of the above motion and notice of motion.

Paul A. Renne
Attorney, Department of Justice

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff

vs.

STATE OF ALABAMA, GEORGE
PENTON, MRS. SAMUELLA P.
WILLIS, Registrars of
Voters of Montgomery,
Alabama

Defendants

CIVIL ACTION NO. 1741-N

MOTION TO MODIFY SUBPOENAS

Comes now the United States, by its attorney, and
moves the Court to modify the subpoenas heretofore served upon
Messrs. Spencer H. Robb and John C. McCluney, Special Agents
of the Federal Bureau of Investigation, on September 1, 1961,
and September 7, 1961, respectively, so as to eliminate the
requirement that they bring with them to the taking of their
depositions

. . . the complete file pertaining to each
of (their) investigations of allegedly racially
discriminatory acts and practices applied to
Negro applicants for voter registration in
Montgomery County by the Board of Registrars
of Montgomery County, Alabama, since January
1, 1956, including, but not limited to, all
statements of witnesses and other persons
having knowledge of the relevant facts of
each discriminatory act; all memoranda of
conversations of any and all persons having
knowledge of relevant facts of each discrimi-
natory act; and all reports relating to
each such investigation.

on the grounds that the defendants have failed to show good cause
as required by the Federal Rules of Civil Procedure for the pro-
duction of documents which are within the possession, custody, or
control of the plaintiffs.

Done, this the 12th day of September, 1961.

Paul A. Renne

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff)

vs.)

CIVIL ACTION NO. 1741-N

STATE OF ALABAMA, GEORGE)
PENTON, MRS. SAMUELLA P.)
WILLIS, Registrars of)
Voters of Montgomery,)
Alabama)

Defendants)

NOTICE OF MOTION

SEP 13 1961

R. C. DOBSON
Clerk

TO: William F. Thetford
Attorney for Defendant
Circuit Solicitor
Room 303
County Courthouse
Montgomery, Alabama

By.....
Deputy Clerk

Please take notice that the undersigned will bring the
above motion on for hearing before this Court, United States
Court House, Montgomery, Alabama, on the 13th day of September,
1961, at 2:00 o'clock in the afternoon of that day or as soon
thereafter as counsel can be heard.


Paul A. Renne, Attorney
United States Department of Justice

*Service of the within papers made on me
this the 13 day of Sept 1961*

William F. Thetford

UNITED STATES OF AMERICA)
)
MIDDLE DISTRICT OF ALABAMA)

Paul A. Renne, Attorney for the Plaintiff, says and deposes that on the 13th day of September, 1961, your deponent served upon William F. Thetford, Circuit Solicitor, Attorney for Defendants, Board of Registrars, at his usual place of business, Room 303 County Courthouse Building, Montgomery, Alabama, copies of the above motion and notice of motion.


Paul A. Renne
Attorney, Department of Justice

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff)
vs.)
STATE OF ALABAMA, GEORGE)
PENTON, MRS. SAMUELLA P.)
WILLIS, Registrars of)
Voters of Montgomery,)
Alabama)
Defendants)

CIVIL ACTION NO. 1741-N

MOTION TO LIMIT EXAMINATION
PURSUANT TO FED. R. CIV. P. 30(b)

Comes now the United States, by its attorney, and moves this Court, pursuant to Rule 30 (b) of the Federal Rules of Civil Procedure, for an order that defendant be not allowed, on the taking of the depositions of Messrs. Spencer H. Robb and John C. McCluney, Special Agents, Federal Bureau of Investigation, pursuant to subpoenas served by defendants on September 1, 1961, and September 7, 1961, respectively, to make inquiries which would reveal the identity of individuals who have given statements, either oral or written, concerning racially discriminatory acts and practices in voter registration in Montgomery County, Alabama, on the ground that such inquiry would reveal the identity of informants of the Federal Bureau of Investigation and would constitute an intrusion into the "work product" of plaintiff's attorneys, or to make inquiry as to the contents of any statements, reports, or memoranda on the ground that such inquiry would circumvent the requirement of Rule 34 of the Fed. R. Civ. P. that good cause must be shown for the production of documents in the possession, custody, or control of the plaintiff, and would constitute an intrusion into the "work product" of the plaintiff's attorneys.

Done, this the 13th day of September, 1961.


Paul A. Renne

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff)

vs.)

CIVIL NO. 1741-N)

STATE OF ALABAMA, GEORGE)
PENTON, MRS. SAMUELLA F.)
WILLIS, Registrars of)
Voters of Montgomery,)
Alabama)
Defendants)

NOTICE OF MOTION

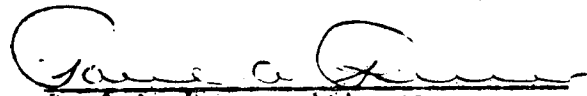
SEP 13 1961

R. C. DODSON
Clerk

TO: William F. Thetford
Attorney for Defendant
Circuit Solicitor
Room 303
County Courthouse
Montgomery, Alabama

By:
Docket Clerk

Please take notice that the undersigned will bring the
above motion on for hearing before this Court, United States
Court House, Montgomery, Alabama, on the 13th day of September,
1961, at 2:00 o'clock in the afternoon of that day or as soon
thereafter as counsel can be heard.



Paul A. Kenne, Attorney
United States Department of Justice

*Service of the within papers made on me this
the 13 day of Sept 1961*

William F. Thetford

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE
DISTRICT OF ALABAMA, NORTHERN DIVISION

FILED

SEP 11 1961

UNITED STATES OF AMERICA,

Plaintiff,

vs.

STATE OF ALABAMA, GEORGE
PENTON, MRS. SAMUELLA P.
WILLIS, Registrars of Voters
of Montgomery, Alabama,

Defendants.

R. C. DOBSON
Clerk

By.....
Deputy Clerk

CIVIL ACTION NO. 1741-N

O R D E R

This cause is now submitted upon the motion of the plaintiff United States filed herein on September 13, 1961, wherein the United States seeks to have this Court modify the subpoenas heretofore served upon Spencer H. Robb and John C. McCluney, Special Agents of the Federal Bureau of Investigation, so as to eliminate the requirement that they produce at the taking of their depositions their complete investigative files and all memoranda of conversations they may have had during the course of their investigation in this case with persons having knowledge of relevant facts, and all reports relating to each such investigation.

This cause is also submitted upon the motion of the plaintiff United States made pursuant to Rule 30(b) of the Federal Rules of Civil Procedure, seeking to have this Court limit the scope of the examination by deposition of Spencer H. Robb and John C. McCluney, Special Agents of the Federal Bureau of Investigation, which examination is to be made pursuant to the subpoenas served by the defendants on said agents on September 1 and September 7, 1961. Specifically, the United States seeks to limit the examination of these witnesses so as to prevent inquiries which would reveal the identity of individuals who may have given statements, either oral or written, concerning the matter involved in this case on the ground that such inquiry would reveal the identity of informants and would constitute an intrusion into the "work product" of plaintiff's attorneys.

Upon consideration of said motions, this Court is of the opinion that each is well taken and due to be granted. See Hickman v. Taylor, 329 U.S. 495; Burger v. Chicago, Rock Island & Pacific Railroad Co., CCA 7, 1954, 216 F. 2d 501; Alltmont v. United States, CCA 3, 1950, 177 F. 2d 971; Mitchell v. Roma, CCA 3, 1959, 265 F. 2d 633; and Mitchell v. Hoxz (M.D. Ala., 1959). 2 F.R. Serv. 2d 33.333.

In consideration of the foregoing and for good cause, it is therefore the ORDER, JUDGMENT and DECREE of this Court that the motion of the United States seeking to have this Court modify the subpoenas heretofore served upon Spencer H. Robb and John C. McCluney, Special Agents of the Federal Bureau of Investigation, on September 1 and September 7, 1961, respectively, be and the same is hereby granted to the extent that neither of said agents shall be required to produce or carry with them to the taking of their depositions

. . . the complete file pertaining to each of (their) investigations of allegedly racially discriminatory acts and practices applied to Negro applicants for voter registration in Montgomery County by the Board of Registrars of Montgomery County, Alabama, since January 1, 1956, including, but not limited to, all statements of witnesses and other persons having knowledge of the relevant facts of each discriminatory act; all memoranda of conversations of any and all persons having knowledge of relevant facts of each discriminatory act; and all reports relating to each such investigation.

It is the further ORDER, JUDGMENT and DECREE of this Court that the motion of the United States made pursuant to Rule 30(b), Federal Rules of Civil Procedure, seeking to have this Court limit the scope of inquiry by deposition of Spencer H. Robb and John C. McCluney, Special Agents of the Federal Bureau of Investigation, be and the same is hereby granted to the extent that upon said inquiry said agents shall not be required to reveal the identity of the individuals who have given statements, either oral or written, concerning racially discriminatory acts and practices in voter registration in Montgomery County, Alabama, or to be required to respond to questions relating to the contents of any statement, report, or memorandum, that may have been obtained or made by either of said agents during the course of their investigations in this matter.

Done, this the 14th day of September, 1961.

ROBERT A. JOHNSON, JR.
UNITED STATES DISTRICT JUDGE