

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

before 9/20

NO. 19475

JAMES H. MEREDITH,

Appellant,

v.

CHARLES DICKSON FAIR, et al.,

Appellees.

APPLICATION OF THE UNITED STATES
FOR AN ORDER DESIGNATING IT AS
AMICUS CURIAE

The United States respectfully applies to the Court for an order authorizing it to appear and participate in this action as amicus curiae in this Court, and in the United States District Court for the Southern District of Mississippi, for the purpose of preserving and maintaining the due administration of justice and the integrity of the judicial processes of the United States.

The United States asks that it be designated as amicus curiae upon the following grounds:

1. James H. Meredith, plaintiff in this action in the court below, appealed from a judgment rendered by the United States District Court for the Southern District of Mississippi on February 5, 1962, finding that the defendant officials of the State of Mississippi had not denied Meredith's application for enrollment in the University of Mississippi upon the basis of his race and color, and dismissing his complaint for injunctive relief.

2. On June 25, 1962, this Court reversed the judgment of the United States District Court for the Southern District of Mississippi and directed the district court to issue an injunction as prayed for in the plaintiff's complaint.

3. On July 28, 1962, this Court, in implementing its mandate to the district court, issued an injunctive order requiring that, pending the implementation of an order by the district court as required by the mandate, the defendants, their servants, agents, employees, successors, assigns, and all persons acting in concert with them, admit James H. Meredith to the University of Mississippi, refrain from any active discrimination relating to his admission and continued attendance, and promptly evaluate and approve his credits without discrimination.

4. On September 13, 1962, the United States District Court for the Southern District of Mississippi entered an order in accordance with the mandate of this court.

5. The injunctive order of this Court of July 28, 1962, and the order of the District Court of September 13, 1962, require the defendants in this action, each of whom is an official in the executive branch of the government of the State of Mississippi, to admit James H. Meredith, a Negro, as a student in the University of Mississippi, in accordance with his rights under the Fourteenth Amendment to the Constitution as declared in the case of Brown v. Board of Education, 347 U.S. 483, 349 U.S. 294.

6. The registration of students for the fall semester in the University of Mississippi will be held on September 20, 1962. Classes are scheduled to commence on September 21, 1962.

7. On February 29, 1956, the Mississippi Legislature adopted Senate Concurrent Resolution No. 125 declaring that the decisions of the Supreme Court of the United States of May 17, 1954 and May 31, 1955 in the case of Brown v. Board of Education, 347 U.S. 483 and 349 U.S. 294, are unconstitutional and of no lawful effect within the territorial limits of the State of Mississippi. A copy of the Resolution is attached to this application as Appendix A.

8. Section 4065.3 of the Mississippi Code (Title 17, Chapter 10) provides that the entire executive branch of the government of the State of Mississippi and all persons within the executive branch of the state and local governments in the State of Mississippi shall, in their official capacity, give full force and effect to Senate Concurrent Resolution No. 125, and directs that they shall "prohibit, by any lawful, peaceful and constitutional means, the implementation of or the compliance with the integration decisions of the United States Supreme Court of May 17, 1954 . . . and of May 31, 1955 . . ., and . . . prohibit by any lawful, peaceful, and constitutional means, the causing of a mixing or integration of the white and Negro races in public schools . . . by any branch of the federal government" The text of the Resolution is attached to this application as Appendix B.

9. On September 13, 1962, Ross R. Barnett, Governor of the State of Mississippi, appeared on a state-wide radio and television broadcast and declared that the State of Mississippi had invoked the doctrine of interposition as set forth in Senate Concurrent Resolution No. 125 to prevent the racial desegregation of any schools. He stated:

Therefore, in obedience to legislative and constitutional sanction, I interpose the rights of the sovereign state of Mississippi to enforce its laws and to regulate its internal affairs without interference on the part of the Federal Government or its officers, and in my official capacity as Governor of the State of Mississippi, I hereby make this proclamation: Whereas, the United States of America consists of fifty sovereign states bound together basically for their common welfare, and whereas, the Constitution of the United States of America provides that each state is sovereign with respect to certain rights and powers, and whereas, pursuant to the Tenth Amendment of the Constitution of the United States, the powers not specifically delegated to the Federal Government are reserved to the several states, and whereas, the operation of the public school system is one of the powers which was not delegated to the Federal Government, but which was reserved to the respective states pursuant to the terms of the Tenth Amendment, and whereas, we are now face to face with the direct usurpation of this power by the Federal Government through the illegal use of judicial decree: Now, therefore, I, Ross R. Barnett as Governor of the Sovereign State of Mississippi, by the authority invested in me, do hereby proclaim that the operation of the public schools, the universities and colleges of the State of Mississippi is vested in the duly elected and appointed officials of the state, and I hereby direct each of said officials to uphold and enforce the laws duly and legally enacted by the Legislature of the State of Mississippi, regardless of this unwarranted and illegal and arbitrary usurpation of power, and to interpose the state sovereignty and themselves between the people of the state and any body-politic seeking to usurp such power.

10. The Supreme Court has heretofore specifically held, in the case of Bush v. Orleans Parish School Board, 364 U.S. 500:

The conclusion is clear that interposition is not a constitutional doctrine. If taken seriously, it is illegal defiance of constitutional authority.

11. Enforcement by the State of Mississippi and its officers of the provisions of Senate Concurrent Resolution No. 125 and Section 4065.3 of the Mississippi Code would unlawfully obstruct and interfere with the carrying out of the mandates and orders of this Court of June 25 and July 28, 1962.

12. The United States has an interest in the orderly administration of its judicial processes and in the due observance and implementation of the orders and mandates of this Court. This interest cannot be adequately represented by the plaintiff in this proceeding.

UNITED STATES OF AMERICA

By:

BURKE MARSHALL
Assistant Attorney General

ROBERT E. HAUBERG
United States Attorney

ST. JOHN BARRETT, Attorney
Department of Justice

HAROLD H. GREENE, Attorney
Department of Justice

SENATE CONCURRENT RESOLUTION NO. 125

A concurrent resolution condemning and protesting the usurpation and encroachment on the reserved powers of the States by the Supreme Court of the United States and declaring that its decisions of May 17, 1954, and May 31, 1955, and all similar decisions are in violation of the Constitutions of the United States and the State of Mississippi, and are therefore unconstitutional and of no lawful effect within the territorial limits of the State of Mississippi; declaring that a contest of powers has arisen between the State of Mississippi and said Supreme Court and invoking the historic doctrine of interposition to protect the sovereignty of this and the other States of the Union; and calling on our sister States and the Congress for redress of grievances as provided by law; and for other purposes.

BE IT RESOLVED BY THE SENATE OF THE STATE OF MISSISSIPPI, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN, That the Legislature of Mississippi unequivocally expresses a firm determination to maintain and defend the Constitution of the United States, and the Constitution of this State, against every attempt, whether foreign or domestic, to undermine and destroy the fundamental principles embodied in our basic law by which this government was established, and by which the liberty of the people and the sovereignty of the States, in their proper spheres, have been long protected and guaranteed;

That the Legislature of Mississippi explicitly and peremptorily declares and maintains that the powers of the Federal Government emanate solely from the compact, to which the States are principals, as limited by the plain sense and long recognized intention of the instrument creating that compact;

That the Legislature of Mississippi firmly asserts that the powers of the Federal Government are limited, and valid only to the extent that these powers have been conferred as enumerated in the compact to which the various states assented originally and to which the states have consented in subsequent amendments validly ratified;

That the inherent nature of this basic compact, apparent upon its face, is that the ratifying states, parties thereto, have agreed voluntarily to confer certain of their sovereign rights, but only specific sovereign rights, to a Federal Government thus constituted; and that all powers not delegated to the United States by the Constitution, nor prohibited by it to the states, have been reserved to the states respectively, or to the people;

That the State of Mississippi has at no time, through the Fourteenth Amendment to the Constitution of the United States, or in any manner whatsoever, delegated to the Federal Government its right to educate and nurture its

youth and its power and right of control over its schools, colleges, educational and other public institutions and facilities, and to prescribe the rules, regulations and conditions under which they shall be conducted;

That the aggrandizement of powers by the Federal Government has grown far beyond that ever conceived by the authors of our Constitution, that the seizure and concentration therein of powers not granted by the compact under which the several states entered this Union, and particularly that by which Mississippi entered the Union on December 10, 1817, threaten to reduce these sovereign states to mere satellites, and to subject us to the tyranny of centralized government, so rightfully abhorred by the founders, and for the prevention of which they exercised their finest genius;

That in late years the encroachment upon the reserved rights of the States and of the people has grown apace, and the proponents of the acts of encroachment have grown so emboldened that not one of the sister states and its people have escaped the oppressive hand thereof: In the destruction of their vested property rights; abridgements of their liberties; control of their institutions, habits, manners and morals by centralized bureaucratic instrumentalities; and in fact by various wrongful and obtrusive acts, too numerous to be here documented, but so consistently characterized by an oppressive course of action so as to seriously threaten to completely destroy our constitutional processes and substitute in lieu thereof ideologies foreign to the soil of our beloved land;

That one of the noblest characteristics of our people is the reverent respect for and obedience to the courts of law and justice, and that which more than any other has ennobled our institutions of government, and ought to be challenged only with the most dreadful reluctance, still it should be solemnly and firmly declared that the hand of tyranny ought to be stayed from whatsoever source it might strike;

That we profess an undying attachment to and a warm regard and respect for the sister states, and for this Union, which, through unwarranted and unconstitutional action of the Supreme Court, is fastly being dissolved by usurpation of powers reserved to the states and transferring them to an all-powerful centralized government which, unless halted, will reduce the states to impotent vassals, sheared of all rights and powers except those received at the sufferance of the Federal Government;

That a question of contested power has arisen; the Supreme Court of the United States asserts, for its part, that the states did in fact prohibit unto themselves the power to maintain racially separate public institutions, and the State of Mississippi, for its part, asserts that it and its sister states have never delegated such rights;

That the flagrant assertion upon the part of the Supreme Court of the United States, accompanied by threats of coercion and compulsion against the sovereign states of this Union, constitutes a deliberate, palpable, and dangerous attempt by the court to usurp the exercise of powers not granted to it;

That the Legislature of Mississippi asserts that whenever the Federal Government attempts to engage in the deliberate, palpable and dangerous exercise of powers not granted to it, the states who are parties to the compact have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights and liberties appertaining to them;

That failure on the part of this state thus to assert its clear rights would be construed as acquiescence in the surrender thereof, and that such submissive acquiescence to the seizure of one right would in the end lead to the surrender of all rights, and inevitably to the consolidation of the states into one sovereignty, contrary to the sacred compact by which this Union of States was created;

That the question of contested power asserted in this resolution is not within the province of the court to determine because the court itself seeks to usurp the powers which have been reserved to the states, and, therefore, under these circumstances, the judgment of all of the parties to the compact must be sought to resolve the question; that the Supreme Court is not a party to this compact, but a creature of the compact, and the question of contested power cannot be settled by the creature seeking to usurp the power, but by the parties to the compact who are the people of the respective states in whom ultimate sovereignty finally reposes.

BE IT FURTHER RESOLVED THAT:

In order that relief be obtained and the wrongs and injuries inflicted be alleviated, we invite all of our sister states to join in taking such steps as are necessary to settle the grave question of contested sovereignty herein raised; the State of Mississippi declares that the Congress has the duty and authority to protect the rights of the states from the unwarranted encroachment upon their reserved powers to govern the internal and domestic affairs of the states; the State of Mississippi further asserts that the Congress has, on many occasions in the past, curbed the attempted encroachment by the judiciary upon the legislative and executive branches of government, and it is the responsibility of the Congress likewise to protect the states when their constitutional rights and privileges are endangered;

The State of Mississippi declares emphatically that the sovereign states of the Nation have never surrendered their rights and powers to control their public schools, colleges and other public institutions; therefore, when an attempt is made to usurp these powers, the people of Mississippi object and refuse to be so deprived, reminding

the Congress that the preservation of this Union of States, as the compact intended it should be, depends upon the preservation of the sovereignty of the states;

The compact intended ours to be a government of the people, for the people and, above all, a government by the people; if the right to govern and control the local affairs to decide questions of public health, morals, education and safety are taken from the states, then a fatal blow has been dealt state sovereignty and the states are nothing more than vassal provinces, subject to a central government;

The State of Mississippi declares that it is the duty and privilege of the state to object to the aforesaid invasion of its rights and does hereby interpose its sovereignty to protect these rights; it is the duty of the Congress to halt such practices and save these rights; and if such cannot be obtained other than by amendment to the Federal Constitution, we appeal to the Congress, in the exercise of the power granted under Article 5 of the Constitution, to initiate and submit an appropriate amendment direct to the forty-eight states for ratification by three fourths (3/4) of the Legislatures thereof, declaring that the states have never surrendered their rights and powers to control their public schools, colleges and other public institutions and facilities to the Federal Government, or any department or agency thereof, but such powers are reserved to the states; and until such time as these wrongs are righted, we do hereby declare the decisions and order of the Supreme Court of the United States of May 17, 1954, and May 31, 1955, to be a usurpation of power reserved to the several states and do declare, as a matter of right, that said decisions are in violation of the Constitutions of the United States and the State of Mississippi, and therefore, are considered unconstitutional, invalid and of no lawful effect within the confines of the State of Mississippi;

We declare, further, our firm intention to take all appropriate measures honorably and constitutionally available to us, to void this illegal encroachment upon our rights, and we do hereby urge our sister states to take prompt and deliberate action to check further encroachment by the Federal Government, through judicial legislation, upon the reserved powers of all states.

The Governor of Mississippi is respectfully requested to transmit a copy of this resolution to the President of the United States, the Governor of each of the other states, and to the members of Congress and the Supreme Court of the United States.

[Senate Concurrent Resolution No. 125 of the 1956 Regular Session of the Mississippi Legislature, adopted February 29, 1956.]

Section 4065.3 of the Mississippi Code

Compliance with the principles of segregation of the races.

1. That the entire executive branch of the government of the State of Mississippi, and of its subdivisions, and all persons responsible thereto, including the governor, the lieutenant governor, the heads of state departments, sheriffs, boards of supervisors, constables, mayors, boards of aldermen and other governing officials of municipalities by whatever name known, chiefs of police, policemen, highway patrolmen, all boards of county superintendents of education, and all other persons falling within the executive branch of said state and local government in the State of Mississippi, whether specifically named herein or not, as opposed and distinguished from members of the legislature and judicial branches of the government of said state, be and they and each of them, in their official capacity are hereby required, and they and each of them shall give full force and effect in the performance of their official and political duties, to the Resolution of Interposition, Senate Concurrent Resolution No. 125, adopted by the Legislature of the State of Mississippi on the 29th day of February, 1956, which Resolution of Interposition was adopted by virtue of and under authority of the reserved rights of the State of Mississippi, as guaranteed by the Tenth Amendment to the Constitution of the United States; and all of said members of the executive branch be and they are hereby directed to comply fully with the Constitution of the State of Mississippi, the Statutes of the State of Mississippi, and said Resolution of Interposition, and are further directed and required to prohibit, by any lawful, peaceful and constitutional means, the implementation of or the compliance with the Integration Decisions of the United States Supreme Court of May 17, 1954 (347 US 483, 74 S Ct 686, 98 L ed 873) and of May 31, 1955 (349 US 294, 75 S Ct 753, 99 L ed 1083), and to prohibit by any lawful, peaceful, and constitutional means, the causing of a mixing or integration of the white and Negro races in public schools, public parks, public waiting rooms, public places of amusement, recreation or assembly in this state, by any branch of the federal government, any person employed by the federal government, any commission, board or agency of the federal government, or any subdivision of the federal government, and to prohibit, by any lawful, peaceful and constitutional means, the implementation of any orders, rules or regulations of any board, commission or agency of the federal government, based on the supposed authority of said Integration Decisions, to cause a mixing or integration of the white and Negro races in public schools, public parks, public waiting rooms, public places of amusement, recreation or assembly in this state.

2. The prohibitions and mandates of this act are directed to the aforesaid executive branch of the government of the State of Mississippi, all aforesaid subdivisions, boards, and all individuals thereof in their official capacity only. Compliance with said prohibitions and mandates of this act by all of aforesaid executive officials shall be and is a full and complete defense to any suit whatsoever in law or equity, or of a civil or criminal nature which may hereafter be brought against the aforesaid executive officers, officials, agents or employees of the executive branch of State Government of Mississippi by any person, real or corporate, the State of Mississippi or any other state or by the federal government of the United States, any commission, agency, subdivision or employee thereof.

[Laws of Mississippi, 1956, ch. 254, §§ 1, 2.]

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1962

No. 347

JAMES H. MEREDITH,

PETITIONER,

v.

CHARLES DICKSON FAIR, ET AL.

O R D E R

UPON CONSIDERATION of the application of counsel for the movant and of the opposition of the respondents thereto,

IT IS ORDERED that the orders of Circuit Judge Ben F. Cameron of the United States Court of Appeals for the Fifth Circuit of July 18, 1962, July 28, 1962, July 31, 1962, and August 6, 1962, purporting to stay the effectiveness of the mandates of the United States Court of Appeals for the Fifth Circuit be, and the same are hereby, vacated and that the judgment and mandate of said Court shall be effective immediately.

IT IS FURTHER ORDERED that the respondents be, and they are hereby, enjoined from taking any steps to prevent enforcement of the United States Court of Appeals' judgment and mandate pending final action by this Court on the petition for writ of certiorari now on the docket.

/s/ HUGO L. BLACK

Associate Justice of the
Supreme Court of the United States

Dated this 10th

T

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19,475

JAMES H. MEREDITH,
Appellant,

v.

CHARLES DICKSON FAIR, et al.,
Appellees.

ORDER DESIGNATING UNITED STATES OF AMERICA
AS AMICUS CURIAE

It appearing from the application of the United States, filed this day, that the interest of the United States in the due administration of justice and the integrity of the processes of its courts should be represented in these proceedings,

IT IS ORDERED that the United States be designated and authorized to appear and participate as amicus curiae in all proceedings in this action before this Court and by reason of the mandates and orders of this Court of July 27, 28, 1962, and subsequently thereto, before the District Court for the Southern District of Mississippi to accord each court the benefit of its views and recommendations, with the right to submit pleadings, evidence, arguments and briefs and to initiate such further proceedings, including proceedings for injunctive relief and proceedings for contempt of court, as may be appropriate in order to maintain and preserve the due administration of justice and the integrity of the judicial processes of the United States.

The marshal is directed to serve a copy of this order upon each of the parties to this action through their attorneys.

September _____, 1962.

/s/ JOHN R. BROWN
JOHN R. BROWN,
Circuit Judge.

/s/ JOHN MINOR WISDOM
JOHN MINOR WISDOM,
Circuit Judge.

/s/ GRIFFIN B. BELL
GRIFFIN B. BELL,
Judge.

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

JAMES H. MEREDITH,)
)
 Appellant,)
)
 v.)
)
 CHARLES DICKSON FAIR, et al.,)
)
 Appellees)

No. 19475

ORDER

Upon consideration of the ex parte application of amicus United States of America for an order restraining and enjoining Joe W. Ford, Sheriff of Lafayette County, Mississippi, and all other state, county and municipal law enforcement officers of Mississippi from arresting James H. Meredith or persons accompanying him for the purpose or with the effect of interfering with his enrollment and registration at the University of Mississippi on September 20, 1962; and for an order restraining the enforcement and application of legislation adopted by the State of Mississippi on September 20, 1962 to the effect that it shall be a criminal offense for persons charged with certain felonies, including said Meredith, to enroll or register in Mississippi Institutions of Higher Learning, this Court is of the opinion that the threatening arrests of Meredith conflict with and are a derogation of this Court's presently outstanding order in the principal case and in conflict with and in derogation of the orders of the United States Court of Appeals for the Fifth Circuit in this case, and that said arrests ought to be enjoined.

This Court is of the further opinion that the application and enforcement of legislation adopted by the State of Mississippi on September 20, 1962 relating to the enrollment of persons at its Institutions of Higher Learning ought not to be restrained without notice and hearing.

Therefore on the basis of the application of amicus which recites that Meredith and others are threatened with arrest by the Sheriff of Lafayette County and others and pursuant to Rule 65 of

the Federal Rules of Civil Procedure and 28 U.S.C. 1651

IT IS ORDERED, ADJUDGED AND DECREED that:

1. Joe W. Ford, Sheriff of Lafayette County, Mississippi, his deputies, agents and all persons acting in concert with him including all other law enforcement officers of Mississippi, its counties and municipalities are enjoined and restrained from arresting, molesting or hindering in any way James Meredith and persons accompanying him for the purpose of with the effect of interfering with the enrollment and registration of Meredith at the University of Mississippi on September 20, 1962;

2. The application for an order restraining the enforcement with respect to James Meredith of State legislation adopted on September 20, 1962 is deferred pending further hearing except that as specified in Paragraph 1 above neither Meredith nor persons accompanying him shall be arrested on the ground that he or they have violated such legislation.

The application for an injunction against the legislation referred to in Paragraph 2 above will be heard by this Court after notice to the appropriate officials of the State of Mississippi on Monday, September 24, 1962 at 1:30 p.m.

This order shall be effective immediately.

ORDERED this 20th day of September, 1962.

/s/ S. C. Mize
S. C. MIZE
UNITED STATES DISTRICT JUDGE

/s/ Harold Cox
Harold Cox
U. S. DISTRICT JUDGE

7/13/62

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

JAMES HOWARD MEREDITH, On Behalf Of Himself
And Others Similarly Situated

V.

No. 3130

CHARLES DICKSON FAIR, President of the Board
of Trustees of the State Institutions of Higher
Learning, ET AL

ORDER GRANTING PERMANENT INJUNCTION

This matter is now before this Court by virtue of the
Mandate of the United States Court of Appeals for the Fifth
Circuit and the Mandate of Mr. Justice Black of September 10,
1962 setting aside all stays granted by Judge Ben F. Cameron
and putting into effect the mandates of the Court of Appeals
for the Fifth Circuit enjoining the Trustees and officials
of the University of Mississippi from taking any steps to
prevent enforcement of the mandates of the Court of Appeals
for the Fifth Circuit, and this Court having now considered
the mandates of the Court of Appeals for the Fifth Circuit
of July 17, 1962, July 27, 1962 and its final order of
August 4, 1962, and this Court having considered the mandate
of July 17, 1962 wherein the Court of Appeals reversed the
judgment of the District Court with directions to this Court
to issue an injunction as prayed for in the complaint and by
its mandate of July 27, 1962 ordered that the judgment of that
Court issued as and for the mandate of July 17, 1962, be
recalled and amended by making explicit the meaning that was

implicit as expressed in its opinion dated June 25, 1962 and ordering that this Court "forthwith grant all relief prayed for by the plaintiff and to issue forthwith a permanent injunction against each and all of the defendants-appellees, their servants, agents, employees, successors and assigns, and all persons acting in concert with them, as well as any and all persons having knowledge of the decree, enjoining and compelling each and all of them to admit the plaintiff-appellant, James H. Meredith, to the University of Mississippi under his applications heretofore filed, which are declared by us to be continuing applications. Such injunction shall in terms prevent and prohibit said defendants-appellees, or any of the classes of persons referred to from excluding the plaintiff-appellant from admission to continued attendance at the University of Mississippi."

And by its mandate of August 4, 1962 the Court of Appeals reaffirmed its orders of July 17, 1962 and July 27, 1962 in the following language: "All of our orders of July 17, July 27 and this date, therefore continue in full force and effect and require full and immediate obedience and compliance."

Now, therefore, it is here ordered, adjudged and decreed that the plaintiff, James Howard Meredith, be and he is hereby granted all the relief that is prayed for by him in his complaint and that the defendants, Charles Dickson Fair, President of the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, Louisville, Mississippi; Euclid Ray Jobe, Executive Secretary of the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, Jackson, Mississippi; Edgar Ray IZard, Hazlehurst,

Mississippi; Leon Lowrey, Olive Branch, Mississippi; Ira Lamar Morgan, Oxford, Mississippi; Malcolm Mette Roberts, Hattiesburg, Mississippi; William Orlando Stone, Jackson, Mississippi; S. R. Evans, Greenwood, Mississippi; Verner Smith Holmes, McComb, Mississippi; James Napoleon Lipscomb, Macon, Mississippi; Tally D. Riddell, Quitman, Mississippi; Harry Gordon Carpenter, Rolling Fork, Mississippi; Robert Bruce Smith, II, Ripley, Mississippi, and Thomas Jefferson Tubb, West Point, Mississippi, Members of the Board of Trustees of State Institutions of Higher Learning; James Davis Williams, Chancellor of the University of Mississippi, Oxford, Mississippi; Arthur Beverly Lewis, Dean of the College of Liberal Arts of the University of Mississippi, Oxford, Mississippi, and Robert Byron Ellis, Registrar of the University of Mississippi, Oxford, Mississippi, and each of them, their agents, servants, employees, successors, attorneys and all persons in active concert and participation with them be and they hereby are permanently restrained and enjoined from:

(1) Refusing to admit plaintiff, James Howard Meredith immediately to the University of Mississippi and that they shall each of them be, and they are hereby required to admit him to the University of Mississippi upon the same terms and conditions as applicable to white students;

(2) From interfering in any manner with the right of plaintiff, James Howard Meredith to matriculate in, or attend the University of Mississippi;

(3) From taking any action or doing any act or being guilty of any conduct which will impair, frustrate or defeat his right to enter the University of Mississippi;

(4) Refusing to admit the plaintiff, James Howard Meredith to the University of Mississippi upon his applications heretofore filed, all of which are continuing applications.

It is further ordered that said defendants, or any of the classes of persons referred to, are prohibited and enjoined from excluding the said James Howard Meredith from admission to continued attendance at the University of Mississippi.

It is further ordered that the defendants, their servants, agents, employees, successors and assigns, and all persons acting in concert with them, are enjoined to admit the plaintiff, James Howard Meredith, to the University of Mississippi upon his applications heretofore filed and they are enjoined from excluding the said James Howard Meredith from admission to continued attendance at the University of Mississippi or discrimination against him in any way whatsoever because of his race.

It is further ordered that a copy of this order and injunction be served by the United States Marshal on each of the defendants herein.

ORDERED, this the 13th day of September, 1962.

UNITED STATES DISTRICT JUDGE

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

A. L. MEADORS, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 JAMES MEREDITH, et al.,)
)
 Defendants.)

CIVIL ACTION NO. _____

PETITION FOR REMOVAL

Robert F. Kennedy, Robert E. Hauberg, Jack T. Stuart, Joe Bennett, William T. Robertson, Loryce E. Wharton, Robert E. Lee, H. Warren Tool, Samuel Virden, Sam H. Allen, Tom Hopkins, and Robin Patton, defendants in the above captioned case now pending in the Chancery Court for the Second Judicial District of Jones County, Mississippi, numbered in said Chancery Court as No. 19365, petition for removal of said case to this court and as grounds for such removal state:

1. Robert F. Kennedy is Attorney General of the United States.
2. Robert E. Hauberg is United States Attorney for the Southern District of Mississippi.
3. Jack T. Stuart is United States Marshal for the Southern District of Mississippi.
4. Joe Bennett is United States Marshal for the Northern District of Mississippi.
5. William T. Robertson is Clerk of the United States District Court for the Northern District of Mississippi.
6. Loryce E. Wharton is Clerk of the United States District Court for the Southern District of Mississippi.
7. Robert E. Lee, H. Warren Tool, Samuel Virden, Sam H. Allen, Tom Hopkins and Robin Patton, are Special Agents

8. On September 19, 1962, A. L. Meadows, Sr. and certain others filed a bill of complaint in the Chancery Court of the Second Judicial District of Jones County, Mississippi styled A. L. Meadows, Sr. v. James Meredith, et al. No. 19365, naming Robert F. Kennedy, Robert E. Hauberg, Jack T. Stuart, Joe Bennett, William T. Robertson, Loryce E. Wharton, Robert E. Lee, H. Warren Tool, Samuel Virden, Sam H. Allen, Tom Hopkins, and Robin Patton, and others, as defendants. Petitioner is informed and believes that the bill of complaint alleges that James H. Meredith threatens to enroll in the University of Mississippi at Oxford, Mississippi with the commencement of the fall term, 1962 pursuant to orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit and the United States Supreme Court, and that said orders are unconstitutional and ultra vires and that it further alleges that the enrollment of James H. Meredith will violate certain laws of the State of Mississippi relating to segregation of the races in institutions of learning. In the bill of complaint the plaintiffs pray that the defendants be restrained from taking any action to enroll and register James H. Meredith as a student in the University of Mississippi and that an order be issued without notice or hearing so restraining the defendants.

9. Petitioners are informed and believe that on September 19, 1962, L. B. Porter, Judge of the Chancery Court of the Second Judicial District of Jones County, Mississippi, issued a fiat directing the Chancery Clerk of Jones County, Mississippi, to issue an order of injunction as prayed for in the Bill of Complaint described in the preceding paragraph, and that the Chancery Clerk did issue on the same day such an order of injunction. Petitioners are informed and believe that the text of the order of injunction is substantially as set forth in the Appendix to this petition.

10. Counsel for the above defendants does not and has not possessed a copy of the order of injunction or other process issued by the Chancery Court and therefore he is unable presently to attach hereto a copy of such order of injunction or other process. Every effort is being made to obtain immediately such order of injunction or other process for attachment and filing as soon as possible.

11. All of the acts and conduct of Robert F. Kennedy, Thomas R. Ethridge, Robert E. Hauberg, William T. Robertson, Loryce E. Wharton, Jack T. Stuart, Joe Bennett, Robert E. Lee, H. Warren Tool, Samuel Virden, Sam H. Allen, Tom Hopkins, and Robin Patton, set forth in the Bill of Complaint referred to in paragraph 8 above have been and are to be performed by said defendants under color of their respective offices and under the authority of the laws of the United States providing for those offices. The order of injunction described in paragraph 9 purports to restrain each of said defendants from performing the duties of their respective offices.

Robert E. Hauberg
United States Attorney

St. John Barrett
Attorney, Department of Justice

J. Harold Flannery
Attorney, Department of Justice

VERIFICATION

County of Lauderdale,)
State of Mississippi.) SS

St. John Barrett, being first duly sworn, deposes that

he is an attorney with the United States Department of Justice, is one of the counsel for the defendants who join in this petition, that he has read all of the allegations of fact set forth in the petition, and all of those facts are true to his knowledge, information and belief.

St. John Barrett

Subscribed and sworn to before me
this _____ day of September, 1962.

Notary Public
Clerk of the United States District Court

IN THE CHANCERY COURT OF SECOND JUDICIAL DISTRICT
JONES COUNTY, MISSISSIPPI, IN VACATION 1962

A. L. MEADORS, et al.,

Complainant,

No. 19,365

v.

JAMES MEREDITH, et al.,

Defendant.

WRIT OF INJUNCTION

To James Meredith, a resident of either Attala
or Hinds County, Mississippi; John D. Williams, a resident
of Lafayette County, Mississippi; Robert B. Ellis, a resident
of Lafayette County, Mississippi; Harry G. Carpenter,
a resident of Sharkie County, Mississippi; S. R. Evans, a
resident of LeFlore County, Mississippi; Charles Fair, a
resident of Winston County, Mississippi; Veron S. Holmes,
a resident of Pike County, Mississippi; E. Ray Izzard, a
resident of Copiah County, Mississippi; J. M. Lipscomb, a
resident of Noxubee County, Mississippi; Leon Lowery, a
resident of DeSoto County, Mississippi; Ira L. Morgan, a
resident of Lafayette County, Mississippi; Tally D. Riddell,
a resident of Clarke County, Mississippi; M. M. Roberts,
a resident citizen of Forrest County, Mississippi;
R. B. Smith, Jr., a resident of Tippah County, Mississippi;

W. O. Stone, a resident of Hinds County, Mississippi;

Thomas J. Tubb, a resident of Clay County, Mississippi;

Robert E. Lee, a resident of Jones County, Mississippi;

Warren H. Tool, a resident of Harrison County, Mississippi;

Samuel Verdon, a resident of Hinds County, Mississippi;

Sam H. Allen, a resident of Lee County, Mississippi;

Robin Patton, a resident of Lafayette County, Mississippi;

Tom Hopkins, a resident of Lauderdale County, Mississippi;

Joe Bennett, a resident of Monroe County, Mississippi;

Jack Stewart, a resident of Hinds County, Mississippi;

Robert F. Kennedy, a non-resident of the State of Mississippi;
believed to be a resident of either the District of Columbia
or of the State of Massachusetts; Thomas R. Ethridge, a
resident of Lafayette County, Mississippi; Robert Hauberg,
a resident of Hinds County, Mississippi; William T.
Robertson, a resident of Lafayette County, Mississippi;

Loryce E. Horton, a resident of Hinds County, Mississippi;

Until further order of this Court, you are enjoined, restrained and prohibited, as well as the employees, agents and representatives of the Board of Trustees of Institutions of Higher Learning; of the University of Mississippi; of the United States Department of Justice; including but not limited to the employees, agents and representatives of the Federal Bureau of Investigation; of the office of the Attorney General of the United States; all the United States Marshals and Deputy United States Marshals within the State of Mississippi or who come within the State of Mississippi from doing anything or performing any act the execution of which is intended to enroll and register the Negro, James Meredith, as a student in the University of Mississippi; or to do any other thing contrary to the laws and the statutes of the State of Mississippi which would aid or abet the integration of any university, college or common school within the State of Mississippi.

You are cited to appear before the Chancery Court of Jones County, Mississippi, on the 22nd day of October, 1962, to show cause, if you have, why the injunction rendered

against you herein should not be made permanent.

This the 19th day of September, 1962.

/s/
Winston T. Shows, Chancery Clerk,
Jones County, Mississippi

(Seal)

/s/
Harvey H. Hutchins
Solicitor for Complainants

Harvey H. Hutchins, Attorney at Law
508 Jeff Davis Avenue
Long Beach, Mississippi

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

A. I. MEADORS, et al.,
Plaintiffs,
v.
JAMES MEREDITH, et al.,
Defendants.

CIVIL ACTION NO. _____

MOOTION TO VACATE ORDER OF INJUNCTION

Robert F. Kennedy, Robert E. Hauberg, Jack T.
Stuart, Joe Bennett, William T. Robertson, Loryce E.
Wharton, Robert E. Lec, H. Warren Tool, Samuel Virden,
Sam H. Allen, Tom Hopkins, and Robin Cotten, defendants
in the above captioned case removed from the Chancery
Court for the Second Judicial District of Jones County,
Mississippi, move this Court for an order vacating the
order of injunction entered by the Chancery Court on
September 19, 1962, upon the grounds that said order
of injunction was improvidently entered and is null
and void on its face.

The order of injunction should be summarily
vacated for the following reasons:

1. On September 13, 1962, this Court entered its order in James H. Meredith v. Charles Dickson Fair, et al., Civil Action No. 3130, pursuant to the orders and mandates of the United States Court of Appeals for the Fifth Circuit and the United States Supreme Court, permanently enjoining the defendants in that action from discriminating against James H. Meredith with respect to his enrollment at the University of Mississippi and requiring them to register and enroll him for the semester commencing September 21, 1962.

2. On September 19, 1962, the plaintiffs in the above captioned action filed their bill of complaint in the Chancery Court for the Second Judicial District of Jones County, Mississippi, alleging that the orders of this Court, the Court of Appeals for the Fifth Circuit, and the Supreme Court requiring the enrollment of James H. Meredith at the University of Mississippi were unconstitutional, and praying that the defendants above-named who are officials of the United States be restrained in their official capacities from performing their duties in implementation of the orders of this Court, the Court of Appeals for the Fifth Circuit and the Supreme Court. Upon the filing of the bill of complaint the Chancellor of the Chancery Court of the Second Judicial District of Jones County, Mississippi, without notice or hearing, issued his fiat requiring the Chancery Clerk to issue an order of injunction, which was forthwith

issued, restraining the defendants from implementing the orders of the said courts of the United States.

3. The Chancery Court of the Second Judicial District of Jones County, Mississippi, had no jurisdiction in this action over the persons of the defendants who join in this motion.

4. The Chancery Court of the Second Judicial District of Jones County, Mississippi, had no jurisdiction over the subject matter of this action.

5. The order of injunction issued by the Chancery Clerk unlawfully and unconstitutionally interferes with and obstructs the carrying out of the orders of this Court, of the Court of Appeals for the Fifth Circuit and the Supreme Court in the case of James H. Meredith v. Charles Dickson Fair, et al.

ROBERT E. HAUBERG
United States Attorney

St. JOHN BARRETT

J. HAROLD FLANNERY

Attorneys for defendants
Robert F. Kennedy, Robert E.
Hauberg, Jack T. Stuart, Joe
Bennett, William T. Robertson,
Loryce E. Wharton, Robert E. Lee,
H. Warren Tool, Samuel Virden,
Sam H. Allen, Tom Hopkins and
Robin Cotten.

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

A. L. MEADORS, et al.,
Plaintiffs

v.

JAMES MEREDITH, et al.,
Defendants.

Civil Action No. 1141

ORDER

On September 19, 1962, the Chancery Court for the Second Judicial District of Jones County, Mississippi, issued a fiat directing the Chancery Clerk of Jones County, Mississippi, to enjoin the petitioners and certain other persons, without notice of hearing, from taking any action to enroll and register James H. Meredith as a student in the University of Mississippi.

On September 20, 1962, petitioners asked the removal of that cause from the Chancery Court to this Court.

The petitioners now move this Court to vacate the injunction of the Chancery Court of Jones County, Mississippi.

Upon consideration of the motion, this Court is of the opinion that, in the absence of an emergency, the motion ought not to be granted forthwith and without notice of hearing to the plaintiffs in the Chancery Court's action. Therefore, it is ordered,

adjuaged, and decreed that decision on this motion
is withheld pending a hearing on it on Monday,
September 24, 1962, at 1:30 p.m., at the United
States District Courtroom, Federal Building, Meridian,
Mississippi, after notice to the original plaintiffs.
So ordered, September 20, 1962.

/s/ Sidney C. Mize
SIDNEY C. MIZE
Judge, U. S. District Court

/s/ Harold Cox
U. S. Dist. Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
Jackson Division

JAMES HOWARD MEREDITH, et al.,
Plaintiffs,

v.

CHARLES DICKSON FAIR, et al.,
Defendants

UNITED STATES OF AMERICA, as
Amicus Curiae and Petitioner,

v.

JAMES DAVIS WILLIAMS, ARTHUR BEVERLY
LEWIS, AND ROBERT BYRON ELLIS,
Respondents.

No. 3130

ORDER TO SHOW CAUSE WHY
A FINDING OF CIVIL
CONTEMPT SHOULD NOT BE
ENTERED

It appearing from the verified petition of the United States of America attached hereto that James David Williams, Chancellor of the University of Mississippi, Oxford, Mississippi, Arthur Beverly Lewis, Dean of the College of Liberal Arts of the University of Mississippi, Oxford, Mississippi, and Robert Byron Ellis, Registrar of the University of Mississippi, Oxford, Mississippi, have failed and refused, and are now failing and refusing to discontinue their policy, practices, customs, and usages of excluding Negro students from the University of Mississippi solely because of their race and color, and specifically that they have failed and refused to register and admit the plaintiff in the case of Meredith v. Fair, No. 3130,

all in disobedience of the injunction issued by this Court on September 13, 1962, in the above case:

IT IS ORDERED that James Davis Williams, Chancellor of the University of Mississippi, Arthur Beverly Lewis, Dean of the College of Liberal Arts of the University of Mississippi, and Robert Byron Ellis, Registrar of the University of Mississippi, show cause, if any they have, on September 21, 1962, at 1:30 P. _____ m., o'clock in the United States District Courtroom at the Courthouse in the Federal Building in Meridian, Mississippi, why each of them should not be held in civil contempt by reason of his failure and refusal to obey the injunction of this Court of September 13, 1962.

This order shall be effective immediately.

/s/ Sidney C. Mize
SIDNEY C. MIZE
United States District Judge

September 20, 1962