

FOR THE NORTHERN DISTRICT OF ALABAMA

SOUTHERN DIVISION

LINDA STOUT, by her father and next friend, Blevin Stout,

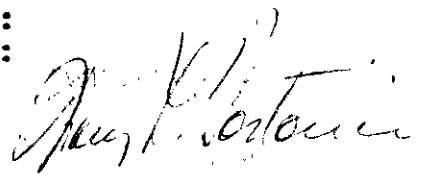
Plaintiff,

vs.

JEFFERSON COUNTY BOARD OF EDUCATION; DR. KERMIT JOHNSON, as Superintendent of the Jefferson County Board of Education, C. R. BOTTENFIELD, as President of the Jefferson County Board of Education, GEORGE ROGERS, as Vice-President of the Jefferson County Board of Education, ROBERT L. ELLIS, JR., O. G. GRESHAM, and MRS. ROBERT GWIN as members of the Jefferson County Board of Education, and their successors in office,

Defendants.

CIVIL ACTION NO. 12



COMPLAINT

This is a proceeding for a preliminary and permanent injunction enjoining the Jefferson County Board of Education and its members and the Superintendent of the Jefferson County Board of Education from continuing their policy, practice, custom and usage of discriminating against the plaintiff and others similarly situated by operating a compulsory biracial school system in Jefferson County, Alabama in violation of rights secured to the minor plaintiff by the Constitution and Laws of the United States of America, as hereinafter more fully appears.

I.

Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sec. 1343 (3), this being a suit in equity authorized by law, 42 U.S.C. Sec. 1983, to be commenced by any citizen of the United States or other persons within the jurisdiction thereof, to redress the deprivation, under color of State law, statute, ordinance regulation, custom or usage of rights, privileges and immunities secured by the Constitution of the United States of America, specifically the Fourteenth Amendment, and by 42 U.S.C. Sec. 1981 providing for the equal rights of citizens and all persons within the jurisdiction of the United States.

(2)

Jurisdiction is further invoked under Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d.

II.

This is a class action brought by the adult plaintiff for the minor plaintiff pursuant to Rule 17(c) of the Federal Rules of Civil Procedure on behalf of themselves and other adults and minors similarly situated, pursuant to the provisions of Rule 23 (a) (3) of the Federal Rules of Civil Procedure. The members of the class are adult Negro citizens and their minor children residing in Jefferson County, Alabama. The members of the class on behalf of whom plaintiff sues are so numerous as to make it impracticable to bring them all individually before this court, but there are common questions of law and fact involved, common grievances arising out of common wrongs and common relief is sought for the plaintiff and each member of the class. The plaintiff adequately represents the interests of the class.

III.

The plaintiff is: Linda Stout, by her father and next friend, Blevin Stout. The plaintiff is a member of the Negro race and is a citizen of the United States residing at Hueytown, Alabama. The minor plaintiff and other Negro citizens similarly situated are attending the public schools of Jefferson County, Alabama, which are under the jurisdiction, management and control of the Defendant Board.

IV.

Defendant Jefferson County Board of Education maintains, operates, and supervises the public schools of Jefferson County, under color of the authority vested in it by the Constitution and laws of the State of Alabama. Defendant C. R. Bottenfield is President of the Jefferson County Board of Education; Defendant Dr. Kermit Johnson is Superintendent of the Jefferson County Board of Education and the Defendant George Rogers is the Vice-President of the Jefferson County Board of Education, and the Defendants

Robert L. Ellis, Jr., O. G. Gresham, and Mrs. Robert Gwin are members of the Jefferson County Board of Education. The Defendant Dr. Kermit Johnson, among other duties executes the policies of the Defendant Jefferson County Board of Education.

V.

The Defendant Board, acting under color of the authority vested in it by the laws of the State of Alabama, has pursued and is presently pursuing a policy, custom, practice and usage of operating a dual public school system in Jefferson County, Alabama on a basis that discriminates against plaintiff and other Negroes similarly situated because of race and color, in that:

(a) One system of schools is constructed, operated and maintained exclusively for white pupils.

(b) All Negro students under the jurisdiction of the Jefferson County School Board are initially assigned to schools limited exclusively to Negro students --- all white students under the jurisdiction of the Jefferson County Board of Education are assigned to schools limited exclusively to white students.

(c) Teachers, principals, and other professional personnel are assigned to schools by the defendant Board on the basis of race, with Negro personnel assigned only to Negro schools and white personnel assigned only to white schools.

(d) A dual scheme or pattern of school zone lines or school attendance area lines based upon race and color is maintained by defendant Board.

(e) Extra-curricular school activities are limited to participation by Negro students only or by white students only.

(f) Defendant Board has in the past and is presently planning and undertaking construction of new school facilities, formulation of new school budgets, and disbursement of school funds on a racially segregated basis and with the purpose and effect of maintaining a biracial school system in Jefferson County, Alabama.

VI.

Acting under color of the Alabama School Placement Law, Ala-

abama Code, Title 52, Sections 61 (1) - (12), defendant Board has continued to maintain and operate a system of assigning school children in Jefferson County, Alabama, on the basis of race, and has used the provisions of the statute to deny admission of Negro children to schools which they would attend if they were white.

Defendant Board has not employed the Alabama School Placement Law as a means of abolishing state imposed racial distinctions nor has it offered to the plaintiff and other Negro children by means of the School Placement Law, a genuine method for securing attendance at non-segregated public schools.

VII.

The actions of the defendants herein alleged, are in violation of the plaintiff's rights and of the rights of other Negroes similarly situated which rights are secured by the due process and equal protection clauses of the Fourteenth Amendment to the United States Constitution, 42 U.S.C. Sec. 1981 and the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000.

VIII.

The plaintiff, and those similarly situated, suffer and are continuing to suffer irreparable injury by reason of the acts and practices complained of herein. They have no plain, adequate, or complete remedy to redress these wrongs other than this suit for injunctive relief. Any other remedy would be attended by such uncertainties and delays as to deny substantial relief, involve a multiplicity of suits, cause further irreparable injury and occasion damage, vexation and inconvenience to the plaintiff and those similarly situated.

WHEREFORE, plaintiff respectfully prays that this court advance this cause on the docket and order a speedy hearing of this action according to law, and, after such hearing, enter a preliminary and permanent decree enjoining the defendants, their agents, employees, successors and all persons in active concert and participation with them:

(1) From refusing to permit the plaintiff and members of the class to transfer during the first semester of the 1965-66

school year to schools which they would attend if they were white.

(2) From operating a biracial school system in Jefferson County, Alabama.

(3) From assigning students to schools of Jefferson County, Alabama on a basis of race and color.

(4) From subjecting Negro children seeking assignment, transfer, or admission to criteria, requirements and prerequisites not required of white pupils seeking assignment, transfer, or admission to the schools of Jefferson County, Alabama.

(5) From assigning teachers, principals, and other professional school personnel to the schools of Jefferson County, Alabama on the basis of race and color.

(6) From programming and supporting extra-curricular school activities which are limited solely to members of one race or the other.

(7) From undertaking any new construction, planning and approving school budgets, and disbursing funds on racial basis.

In the alternative, plaintiff prays that this court enter a decree directing the defendant Board to present a complete plan for the reorganization of the school system of Jefferson County, Alabama into a unitary, non-racial system by the creation of single non-racial geographic zones or attendance areas for all grades in the system pursuant to which children, both Negro and white would be assigned to the school closest to their residence as a matter of right, including a plan for the assignment of pupils on a non-racial basis, the assignment of teachers, principals, and other school personnel on a non-racial basis, and the elimination of any other discrimination in the operation of the school system based solely on race and color.

Plaintiff prays that this Court will order and decree complete desegregation of all grades in all public schools in the Jefferson County School System immediately and forthwith, including pupils, teachers, professional personnel, and all other areas of activity in the public school system of Jefferson County, Alabama.

Plaintiff prays that should this Court direct the defendants

to produce a plan for desegregation of the Jefferson County School System, that this Court will retain jurisdiction of this case pending approval and full implementation of defendants' plan.

Plaintiff prays that this Court will allow her her costs herein, reasonable counsel fees, and grant such other, further, additional or alternative relief as may appear to the Court to be equitable and just.

~~OSCAR W. ADAMS, JR.~~
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ATTORNEYS FOR PLAINTIFF

STATE OF ALABAMA)

JEFFERSON COUNTY)

Before me the undersigned authority in and for said State and County personally appeared, Blevin Stout, the father of Linda Stout, who being by me duly sworn, deposes and says that the facts set out in the within complaint are true and correct to the best of his knowledge, information, and belief and said facts were given by him voluntarily.

Blevin Stout

Sworn to and subscribed before me this the 3rd day of June, 1965.

Osborn W. Adams Jr
NOTARY PUBLIC