

Williams v Wallace

SELMA

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CIVIL DOCKET
UNITED STATES DISTRICT COURT

Jury demand date:

D. C. Form No. 106A Rev.

TITLE OF CASE	ATTORNEYS
Civil Action No. 2181-N HOSEA WILLIAMS, JOHN LEWIS and AMELIA BOYNTON, on behalf of themselves and others similarly situated, Plaintiffs, UNITED STATES OF AMERICA, Plaintiff-Intervenor, vs. HONORABLE GEORGE C. WALLACE, as GOVERNOR of the State of Alabama; AL LINGO, as Director of Public Safety for the State of Alabama; and JAMES G. CLARK, as Sheriff of Dallas County, Alabama, Defendants.	For plaintiff: Peter A. Hall 1630 4th Avenue N Birmingham, Alabama Gray & Seay 34 N. Perry St. Montgomery, Alabama Jack Greenberg Norman Amaker Charles H. Jones, Jr. 10 Columbus Circle New York 19, New York For defendant: Goodwyn & Smith Bell Bldg., Montgomery, Ala. (for Governor Wallace) John P. Kohn, Bell Bldg., Montgomery, Ala. (for Lingo) Pitts & Pitts Wilkinson, Wilkinson & Russell T. G. Gayle, all of Selma, Ala., (for Sheriff Clark)

STATISTICAL RECORD	COSTS	DATE 1965	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed	Clerk	3/8	Fred Gray	15 00	
		3-11	C/D-T-46		15 00
		3-18	Goodwyn & Smith	5 00	
		3-24	65 C/D-T-46		5 00
J.S. 6 mailed	Marshal				
7/5/68					
Basis of Action: Civil	Docket fee				
rights - Preliminary and	Witness fees				
permanent injunctions	Depositions				
asked to restrain defendants from					
interfering with non-					
Action arose at:					
violent effort in voter					
registration in Ala. and					
in exercise of constitutional					
right to walk along highways					

Civil Action No. 2181-N

DATE	PROCEEDINGS	Date Order or Judgment Noted
3/8/65	Complaint filed and summons issued.	
"	Plaintiffs' motion for preliminary injunction.	
"	" " " temporary restraining order.	
3/9/65	ORDER denying motion for temporary restraining order, temporary restraining order, and setting cause for hearing on motion for preliminary injunction on Thursday, March 11, 1965, at 9 a.m. (Plaintiffs temporarily restrained from exercising "what they claim to be a constitutional right to march, until the matter can be judicially determined at an early hearing.")	
3/9/65	ORDER appointing U.S. as party to cause.	
"	Plaintiffs' motion to dissolve temporary restraining order.	
"	ORDER setting motion to dissolve temporary restraining order for hearing on Thursday, March 11, 1965, at 9 a.m.	
3/10/65	Complaint in intervention of U.S.	
3/10/65	ORDER directing that complaint in intervention be filed, served upon each of the defendants and upon attorneys for the plaintiffs and set for hearing at 9 a.m. on Thursday, March 11, 1965.	
3/11/65	Defendant James G. Clark's petition for order for Rev. Martin Luther King, et al., to show cause why they should not be held in contempt.	
3/11/65	Defendant Clark's motion to make injunction permanent.	
3/11/65	Defendant George C. Wallace's motion for order permanently enjoining plaintiffs from conducting any march or mass demonstration along U.S. Highway 80 between Selma and Montgomery, Alabama, or along or upon any other public highway in State.	
3/11/65	Marshal's returns on order of 3/10/65 and complaint in intervention (with certificate of U.S. Atty. Gen. attached). Personal service on Fred Gray and Charles H. Jones, Jr., attorneys for plaintiffs, on 3/10/65.	
3/12/65	Marshal's returns on order of 3/9/65 denying motion for temporary restraining order, temporary restraining order, and setting cause for hearing. Personal service on Amelia Boynton, Hosea Williams, and Rev. Martin Luther King on 3/9/65 at Selma, Ala. Personal service on Fred Gray at Montgomery and John Lewis at Selma on 3/9/65.	
3/13/65	ORDER denying motion of James G. Clark, filed on 3/11/65, asking Court to enlarge into a permanent injunction the temporary restraining order of 3/9/65.	3/9/65.
3/15/65	Marshal's returns on summons and complaint, motions for preliminary injunction and for temporary restraining order, and order of 3/9/65 denying motion for temporary restraining order, temporary restraining order, and setting cause for hearing. Personal service on Honorable George C. Wallace as Governor of the State of Alabama, James G. Clark as Sheriff of Dallas County, Alabama, and Al Lingo, Director of Public Safety for State of Alabama, on 3/9/65.	
3/15/65	Marshal's returns on order allowing U.S. to file complaint in intervention and complaint in intervention. Personal service on Al Lingo and James G. Clark on 3/10/65.	

DATE	PROCEEDINGS	Date Order Judgment No
3/16/65	Plaintiffs' proposed plan for march from Selma, Alabama, to Montgomery, Alabama.	
"	Objections of defendants Lingo and Clark to proposed plan.	
"	Objections of defendant Wallace to proposed plan.	
3/17/65	Marshal's additional return on order denying motion for temporary restraining order, etc., of 3/9/65. Personal service on Peter Hall on 3/10/65.	
"	Marshal's additional return on order of 3/9/65 denying motion for temporary restraining order, etc. Personal service on Fred Gray on 3/9/65.	
3/17/65	Memorandum opinion.	
"	Preliminary injunction. Defendants enjoined from arresting, etc., or interfering with march of plaintiffs and members of their class in their march along U.S. Highway 80 from Selma, Alabama, to Montgomery, Alabama, said march, as presently approved by the Court to commence not earlier than Friday, March 19, 1965, and not later than Monday, March 22, 1965, and from otherwise obstructing, etc., plaintiffs' efforts to assemble and march along U.S. Highway 80 from Selma, Alabama, to Montgomery, Alabama, as proposed in plaintiffs' plan as approved by the Court; defendants further restrained and enjoined from failing to provide police protection for the march. Motion of defendant Wallace for preliminary injunction denied; motion of plaintiff-intervenor, U.S., for relief in addition to that specifically granted in this order denied, and motion of plaintiffs for relief in addition to that specifically granted denied. Jurisdiction of all matters involved specifically retained.	
3/17/65	Writ of injunction issued.	
3/18/65	Notice of defendant Wallace of appeal from preliminary injunction. Copies mailed by Clerk to Attorneys Fred D. Gray, Jack Greenberg, John P. Kohn, Pitts & Pitts, Wilkinson, Wilkinson & Russell, T. G. Gayle, and to John Doar, Acting Assistant Attorney General, Civil Rights Division of Department of Justice.	
"	Deposit of \$250 by defendant Wallace as security for costs on appeal.	
"	Motion of defendant Wallace for stay of preliminary injunction pending appeal.	
3/19/65	ORDER setting motion for stay for hearing at 11 a.m. on 3/19/65.	
"	Plaintiffs' opposition to motion for stay pending appeal.	
"	ORDER denying defendants' motion for stay pending appeal.	
"	File and exhibits delivered to John Doar, Acting Assistant Attorney General, Civil Rights Division, Dept. of Justice, for transmittal to Court of Appeals.	
"	Court reporter's transcript of the testimony of Al Lingo on March 13, 1965, during the hearing of this case on March 11-16, 1965.	
"	Court reporter's excerpt transcript of testimony of Al Lingo on March 12, 1965, during said hearing.	

DATE	PROCEEDINGS	Date Order or Judgment Noted
3/22/65	ORDER of Court of Appeals (entered by three-judge panel of that court) on 3/19/65) denying stay during pendency of appeal.	
3/22/65	Marshal's returns on writ of injunction, memorandum opinion, and preliminary injunction. Personal service on McLean Pitts, Attorney for Dallas County, Alabama, on 3/18/65. Personal service on Sheriff James G. Clark, Plaintiffs' attorney Fred D. Gray, John Doar, Attorney for Government, Al Lingo, John P. Kohn, Jr., Hugh Maddox, and Governor George C. Wallace on 3/17/65. Maury D. Smith, attorney, served on 3/17/65 by handing copy to John S. Bowman, attorney.	
3/29/65	Court reporter's excerpt transcript containing the testimony of John Cloud, witness in rebuttal for the U.S. in hearing in this case March 11, 12, 13, 15, 16, said testimony having been adduced on March 16, 1965.	
3/30/65	Court reporter's excerpt transcript containing testimony of Asbury Middlebrooks, witness for defendant James G. Clark in hearing in this case March 11, 12, 13, 15, 16, said testimony having been adduced on March 15, 1965.	
4/1/65	Court reporter's excerpt transcript containing testimony of James A. Hare, witness for James G. Clark in hearing March 11, 12, 13, 15, 16; this testimony having been adduced on March 15, 1965.	
4/2/65	Motion of defendant James G. Clark to dismiss complaint and complaint in intervention.	
"	Court reporter's excerpt transcript containing testimony of Leatha Mae Stover, witness for the United States, in hearing in this case March 11, 12, 13, 15, 16, said testimony having been adduced on March 13, 1965.	
"	Court reporter's excerpt transcript containing testimony of Sallie Bett Rodgers, witness for the United States, in hearing in this case March 11, 12, 13, 15, 16, said testimony having been adduced on March 13, 1965.	
"	Court reporter's excerpt transcript containing testimony of Frederick Douglas Reese, witness for the United States, in hearing in this case March 11, 12, 13, 15, 16, said testimony having been adduced on March 13, 1965.	
4/17/65	Defendants' notice of withdrawal of notice of appeal.	
4/3/65	Court reporter's transcript of proceedings before Judge Johnson at Montgomery, Alabama on March 11, 12, 13, 15, 16, 1965. (Three volumes)	
4/23/67	Court reporter's excerpt transcript of testimony of James Michael Barko.	
6/17/68	ORDER closing this case for record purposes. Injunction not dissolved; jurisdiction not relinquished.	

FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

FILED

HOSEA WILLIAMS, JOHN LEWIS and
AMELIA BOYNTON, on behalf of
themselves and others similarly
situated,

Plaintiffs,

V.

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, Jr., as
Sheriff of Dallas County, Alabama,

Defendants.

CIVIL ACTION

NO. 2181-N

COMPLAINT

This court has jurisdiction pursuant to 28 U.S.C. §1343(3) and (4). The action is authorized by 42 U.S.C. §1971(a) and (b) as amended and 42 U.S.C. §§1981 and 1983. This action seeks relief from the denial of equal protection of the laws under the Fourteenth Amendment to the Constitution on account of race or color and to redress deprivation of rights, privileges and immunities guaranteed by the First, Fourteenth and Fifteenth Amendments to the Constitution of the United States as implemented by the aforesaid Congressional Statutes.

II

The named plaintiffs bring this action on behalf of themselves and all other persons similarly situated pursuant to

represented by plaintiffs are so numerous as to make it impracticable to bring individually before this court all the persons whose rights, privileges and immunities have been violated by defendants' actions as hereafter set forth. However, there are common questions of law and fact affecting the rights, privileges and immunities of the named plaintiffs and the members of the classes. The named plaintiffs adequately represent the interest of the classes.

III

Plaintiff Hosea Williams is over the age of 21 years, and is a resident of the State of Georgia and of the United States. Plaintiff John Lewis is over the age of 21 years, and is a native of the State of Alabama, presently residing in Atlanta, Georgia, and of the United States. Plaintiff Amelia Boynton is over the age of 21 years, and is a resident of the State of Alabama, and of the United States. Each of said named plaintiffs belongs to that class or race of persons commonly designated and referred to as Negroes.

Defendant Honorable George C. Wallace is the duly elected Governor of the State of Alabama. As such, defendant Honorable George C. Wallace is the chief executive officer of the State of Alabama, with offices in the State Capitol, Montgomery, Alabama. Defendant Al Lingo is the Director of Public Safety for the State of Alabama, having been appointed pursuant to state statute, by the Governor of the State of Alabama. As such director of Public Safety, defendant Al Lingo is empowered, inter alia, to enforce all laws pertaining to roads and highways

Plaintiffs and members of the class they represent, have been working in Dallas County, Alabama and other adjacent counties since 1963, in an effort to encourage and assist Negroes to register and become voters and to persuade local Boards of Registrars to register such people and allow them to vote. Pursuant to this objective, they have participated in mass meetings and peaceful demonstrations. Demonstrations have been forcibly broken up and demonstrators arrested. In addition, plaintiffs and members of the class represented by them, have been harassed and beaten by State and local police officers. For the last seven weeks, their efforts have been intensified inspite of intimidation and brutality on the part of State and local police. Because of such intimidation and brutality, plaintiffs announced their intention to make a peaceful, non-violent march on, to-wit; March 7, 1965, from Selma, Alabama to Montgomery, Alabama, for the purpose of soliciting the assistance of the defendant Honorable George C. Wallace, Governor of the State of Alabama, in removing impediments to voter registration of Negroes in Alabama.

That on or about to-wit, March 6, 1965, the defendant Honorable George C. Wallace announced to the press and on T. V. that, "such march cannot and will not be tolerated. . ." and that "there will be no march between Selma, Alabama and Montgomery, Alabama, and I have so instructed the Department of Public Safety." A copy of said announcement is hereto attached, marked Exhibit 1, and made a part hereof just as if fully set out herein.

Pursuant to their announced plans, on Sunday, March 7,

Church located on Sylvan Street in Selma, Dallas County, Alabama. They proceeded to walk through the City of Selma to Broad Street where they turned left on Highway 80-East. At this point they lined up in columns of two's and walking three feet apart. They crossed the Pettus Bridge on their way to Montgomery, Alabama, walking along the shoulders of the highway. Said marchers were led by plaintiffs John Lewis and Hosea Williams. Apparently, pursuant to the orders of Governor George C. Wallace that there would be no such march, State Troopers, standing shoulder to shoulder across the highway, stopped the march after they had gotten across the bridge. As the marchers approached within 50 feet of the troopers, they were told over a public address system that that was as far as they could go. They were informed that the march created a traffic hazard and was forbidden by the Governor of Alabama. Plaintiff Hosea Williams requested permission to speak to the officer apparently in charge, but was told that there would be no talking and they had two minutes to disperse and go back to the Church. The marchers stood silently and after a very short time, the State Troopers advanced on them and began beating and jabbing the marchers with their billy clubs. The State Troopers, joined at a point by Dallas County Sheriff James Clark's possemen mounted on horses, who began beating, jabbing and riding the marchers down. Many of the marchers were bloody and some were unconscious. State Troopers then put on gas masks and fired tear gas bombs in the midst of the marchers. The marchers tried to retreat back across the bridge to Selma. The mounted possemen pursued the screaming and running marchers,

THEY HAD RE-CROSSED THE BRIDGE. THE MARCHERS WERE BEATEN AND TERRORIZED BY TROOPERS AND POSSEMEN ALL THE WAY BACK TO THE CHURCH. MANY OF THE MARCHERS, INCLUDING TWO OF THE PLAINTIFFS JOHN LEWIS AND AMELIA BOYNTON WERE INJURED BY BLOWS AND TEAR GAS AND REQUIRED HOSPITALIZATION AND MEDICAL ATTENTION. AN ACCOUNT OF THE MARCH WAS CARRIED IN THE MARCH 8, 1965 EDITION OF THE BIRMINGHAM NEWS, A COPY OF WHICH IS ATTACHED, MARKED EXHIBIT 2, AND MADE A PART HEREOF JUST AS IF FULLY SET OUT HEREIN.

V

THE ACTS OF DEFENDANTS AS AFORESAID WERE A CONTINUATION OF THEIR EFFORTS TO FRUSTRATE THE ACTIVITIES OF PLAINTIFFS AND OTHER MEMBERS OF THE CLASS THEY REPRESENT TO GET NEGROES IN DALLAS COUNTY AND NEIGHBORING COUNTIES REGISTERED.

LESS THAN THREE (3%) PER CENT OF THE POTENTIAL NEGRO VOTERS IN DALLAS COUNTY ARE REGISTERED. A SIMILARLY NEGLIGIBLE NUMBER OF NEGROES IS REGISTERED IN NEIGHBORING PERRY COUNTY. IN THE NEIGHBORING COUNTIES OF LOWDNE AND WILCOX, NO NEGROES ARE REGISTERED AS VOTERS.

PLAINTIFFS ALLEGE AND AVER, THAT THE ACTS OF THE DEFENDANTS COMPLAINED OF HEREIN, IS A DENIAL TO PLAINTIFFS, AND MEMBERS OF THE CLASS THEY REPRESENT, OF EQUAL PROTECTION OF THE LAW GUARANTEED UNDER THE FOURTEENTH AMENDMENT TO THE CONSTITUTION ON ACCOUNT OF RACE OR COLOR; OF THE RIGHT TO VOTE AND THE RIGHT TO FREE SPEECH AND FREEDOM TO PEACEFULLY ASSEMBLE TO PETITION FOR REDRESS OF GRIEVANCES.

VI

PLAINTIFFS DESIRE TO CONTINUE THEIR PEACEFUL NON-VIOLENT EFFORT IN BEHALF OF NEGRO VOTER REGISTRATION IN ALABAMA, INCLUDING THE RIGHT TO REDRESS THEIR GRIEVANCES BY WALKING PEACEFULLY ALONG THE PUBLIC HIGHWAY OF THE STATE OF ALABAMA, BETWEEN SELMA AND MONTGOMERY AND OTHER PLACES WITHIN SAID STATE, AND TO EXERCISE OTHER CONSTITUTIONAL RIGHTS AS HEREINABOVE ALLEDGED.

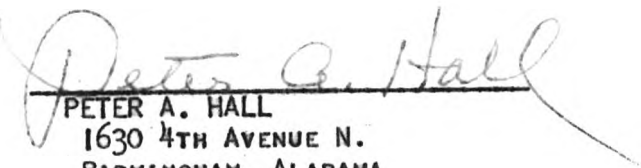
IRREPARABLE INJURY TO PLAINTIFFS AND THOSE SIMILARLY SITUATED HAS OCCURRED AND THE THREAT OF CONTINUING AND FUTURE IRREPARABLE INJURY AND HARM IS IMMINENT UNLESS DEFENDANTS ARE ENJOINED AND RESTRAINED BY THIS COURT FROM DEPRIVING PLAINTIFFS AND THOSE SIMILARLY SITUATED OF THEIR CONSTITUTIONAL RIGHTS SECURED

THE FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES. PLAINTIFFS
HAVE NO OTHER ADEQUATE OR COMPLETE REMEDY OTHER THAN THIS SUIT FOR INJUNCTIVE
RELIEF.

1. THAT THIS COURT ENTER A PRELIMINARY AND PERMANENT INJUNCTION, RESTRAINING AND ENJOINING DEFENDANTS THEIR SERVANTS, AGENTS, SUCCESSORS AND ALL PERSONS IN ACTIVE CONCERT AND PARTICIPATION WITH THEM FROM ARRESTING, HARRASSING, THREATENING OR IN ANYWAY INTERFERING WITH OF PEACEFUL NON-VIOLENT EFFORT IN BEHALF OF NEGRO VOTER REGISTRATION IN ALA. AND PLAINTIFFS CONSTITUTIONALLY PROTECTED RIGHT/TO WALK ALONGSIDE THE PUBLIC HIGHWAYS OF THE STATE OF ALABAMA.

2. THAT THIS COURT ENTER A PRELIMINARY AND PERMANENT INJUNCTION, RESTRAINING AND ENJOINING DEFENDANTS THEIR SERVANT, AGENTS, SUCCESSORS AND ALL PERSONS IN ACTIVE CONCERT AND PARTICIPATION WITH THEM FROM FAILING AND REFUSING TO PROVIDE PROTECTION FOR PLAINTIFFS AND OTHER MEMBERS OF THE CLASS THEY REPRESENT, IN EXERCISE OF THEIR CONSTITUTIONALLY PROTECTED RIGHT TO WALK ALONGSIDE THE PUBLIC HIGHWAY OF THE STATE OF ALABAMA.

3. THAT THIS COURT GRANT TO PLAINTIFFS SUCH OTHER FURTHER AND GENERAL RELIEF TO WHICH PLAINTIFFS MAY BE ENTITLED, INCLUDING THEIR COSTS AND REASONABLE ATTORNEYS FEES.


PETER A. HALL
1630 4TH AVENUE N.
BIRMINGHAM, ALABAMA

GRAY & SEAY
34 NORTH PERRY STREET
MONTGOMERY, ALABAMA

JACK GREENBERG
NORMAN AMAKER
CHARLES H. JONES, JR.
10 COLUMBUS CIRCLE
NEW YORK 19, N. Y.

ATTORNEYS FOR PLAINTIFFS

HOSEA WILLIAMS, JOHN LEWIS AND
AMELIA BOYNTON, ON BEHALF OF
THEMSELVES AND OTHERS SIMILARLY
SITUATED,

PLAINTIFFS,

VS.

HONORABLE GEORGE E. C. WALLACE, AS
GOVERNOR OF THE STATE OF ALABAMA;
AL LINGO, AS DIRECTOR OF PUBLIC
SAFETY FOR THE STATE OF ALABAMA;
AND JAMES G. CLARK, AS SHERIFF OF
DALLAS COUNTY, ALABAMA,

DEFENDANTS.

CIVIL ACTION

NO. 2181-N

MOTION FOR PRELIMINARY INJUNCTION

PLAINTIFFS, UPON THEIR VERIFIED COMPLAINT FILED HEREIN MOVE THE COURT
TO GRANT A PRELIMINARY INJUNCTION HEREIN AGAINST DEFENDANTS AND ALL OTHER PERSONS
UNDER THEIR DIRECTION AND AUTHORITY, INCLUDING AGENTS, SUBORDINATES, EMPLOYEES,
ATTORNEYS, SUCCESSORS AND ALL PERSONS ACTING IN CONCERT WITH THEM PENDING THE
FINAL DETERMINATION OF THIS ACTION AND UNTIL THE FINAL ORDER OF THIS COURT,
ENJOINING THEM FROM TAKING ANY ACTION TO INTERFERE WITH THE PLAINTIFFS'
OF PEACEFUL NON-VIOLENT EFFORT IN BEHALF OF NEGRO-VOTER REGISTRATION IN ALABAMA AND
CONSTITUTIONALLY PROTECTED RIGHT/TO PEACEFULLY WALK ALONG THE PUBLIC HIGHWAYS OF
THE STATE OF ALABAMA AND TO TAKE APPROPRIATE MEASURES TO PROTECT AND GUARANTEE
PLAINTIFFS' AFORESAID CONSTITUTIONAL RIGHTS ON THE GROUND THAT UNLESS RESTRAINED
BY THIS COURT, DEFENDANTS WILL CONTINUE TO DEPRIVE PLAINTIFFS OF THEIR CONSTITU-
TIONAL RIGHTS WITH RESULTANT IMMEDIATE IRREPARABLE INJURY, LOSS AND DAMAGE TO
PLAINTIFFS AND MEMBERS OF THE CLASS THEY REPRESENT DURING THE PENDENCY OF THIS
ACTION AS MORE FULLY APPEARS FROM THE COMPLAINT HEREIN.

RESPECTFULLY SUBMITTED

[Handwritten signature]

STATE OF ALABAMA)
 : S S
COUNTY OF MONTGOMERY)

BEFORE ME, THE UNDERSIGNED AUTHORITY IN AND FOR THE COUNTY
OF MONTGOMERY, STATE OF ALABAMA, PERSONSLLY APPEARED HOSEA WILLIAMS,
WHO AFTER BEING FIRST DULY SWORN, DEPOSES AND SAYS THAT HER HAS
READ THE FOREGOING COMPLAINT AND THAT THE CONTENTS THEREOF ARE TRUE
AND CORRECT TO THE BEST OF HIS KNOWLEDGE AND BELIEF.

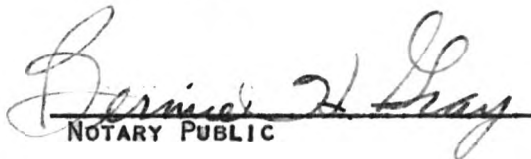


HOSEA WILLIAMS

SWORN TO AND SUBSCRIBED

BEFORE ME THIS 8TH DAY OF

MARCH, 1965.



NOTARY PUBLIC

HOSEA WILLIAMS, JOHN LEWIS,
and AMELIA BOYNTON, on behalf
of themselves and all others
similarly situated,

*

*

Plaintiffs,

*

V.

CIVIL ACTION

HONORABLE GEORGE C. WALLACE,
as Governor of the State of
Alabama; AL LINGO, as Director
of PUBLIC SAFETY of the State
of Alabama; and JAMES G. CLARK,
JR., as Sheriff of Dallas County,
Alabama,

*

*

*

Defendants.

*

NO. 2181-N

MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiffs, and members of the class they represent, based on the allegations contained in their verified complaint attached hereto, respectfully move this court for a temporary restraining order, without notice, enjoining defendants, their agents, employees successors, and those in active concert and participation with them, from enforcing and giving effect to defendants' stated intentions of preventing plaintiffs from exercising their constitutionally protected right to peacefully walk along the public highways of the State of Alabama, by harassing, beating, terrorizing, or otherwise interfering with plaintiffs in the exercise of their aforesaid constitutionally protected right.

Plaintiffs and other members of the class which they represent, are planning to attempt another march on Tuesday, March 9, 1965, from Selma, Alabama, to Montgomery, Alabama for the purpose of soliciting the aid and assistance of the

the State of Alabama, in their efforts to get qualified Negroes in Alabama registered to vote.

Plaintiffs, on behalf of themselves and other members of the class they represent, further show unto the Court that unless immediately restrained by this Court, defendants will continue the acts and practices complained of in the verified complaint attached hereto, and irreparable injury will result before notice can be served and a hearing can be had.

WHEREFORE, plaintiffs, on their behalf and on behalf of others similarly situated, respectfully pray that the court issue a temporary restraining order without notice restraining defendants, their agents, servants, employees, successors and those in active concert and participation with of peaceful non-violent effort in behalf of Negro registration and them from interfering in any way with plaintiffs' right/to peacefully walk along the highways of the State of Alabama, and from failing and refusing to provide protection for plaintiffs and members of the class they represent, in the exercise of their constitutionally protected right to walk alongside the public highways of the State of Alabama.

Respectfully Submitted,

Peter A. Hall
1630 - 4th Ave N.
Birmingham, Ala.

FILED

HOSEA WILLIAMS, JOHN LEWIS
and AMELIA BOYNTON, on behalf of
themselves and others similarly
situated,

Plaintiffs,

MAR 9 - 1965

R. C. DOBSON
Clerk

By
Deputy Clerk

CIVIL ACTION NO. 2131-N

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff of
Dallas County, Alabama,

Defendants.

ORDER DENYING MOTION FOR TEMPORARY RESTRAINING ORDER, TEMPORARY RESTRAINING
ORDER, AND SETTING CAUSE FOR HEARING ON MOTION FOR PRELIMINARY INJUNCTION

This cause is now submitted on the verified complaint, together with the exhibits thereto, filed with the Clerk of this Court on March 8, 1965, which complaint and exhibits thereto are advanced in support of plaintiffs' motion for a temporary restraining order. The temporary restraining order is requested without a hearing and without formal notice to the defendants on the ground that "irreparable injury will result before notice can be served and a hearing can be had."

An examination of the complaint, together with the exhibits, reflects that the plaintiffs and the members of the class they represent, in an effort to encourage and assist Negroes to register and become voters and to persuade local boards of registrars in the State of Alabama to register Negroes and allow them to vote, attempted a march along the public highway on March 7, 1965, from Selma, Alabama, to Montgomery, Alabama; that said march was for the purpose of soliciting the assistance of the Honorable George C. Wallace, Governor of the State of Alabama in removing impediments to voter registration of Negroes in the State of Alabama; that said planned march was halted under the instructions of the Governor, through the use of excessive force by the Alabama State Troopers and the Dallas County sheriff together with his deputies and possemen. Plaintiffs say that they desire to resume their right to redress their grievances by walking along the public highway of the State of Alabama between Selma, Alabama and Montgomery, Alabama.

tion for issuing a temporary restraining order without notice to the defendants and without a hearing. There will be no irreparable harm if the plaintiffs will await a judicial determination of the matters involved.

In order to afford the parties to this litigation an opportunity to present their evidence upon the motion for a preliminary injunction that was filed with the Clerk of this Court at 4:30 p.m. on March 8, 1965, this Court is of the opinion that there should be an early hearing upon said motion.

In consideration of the foregoing and for good cause, it is the ORDER, JUDGMENT and DECREE of this Court that the motion of the plaintiffs filed herein for a temporary restraining order be and the same is hereby denied.

In order to protect the integrity of this Court and to prevent the judicial processes from being frustrated by the plaintiffs and other members of their class continuing to attempt to enforce the rights they seek to have judicially determined in this Court, it appears that it will be to the best interest of all concerned and will work no irreparable injury or harm to plaintiffs, or members of their class, if they are ordered to refrain from attempting to exercise what they claim to be a constitutional right to march, until the matter can be judicially determined at an early hearing.

It is the further ORDER, JUDGMENT and DECREE of this Court that the plaintiffs and other members of their class, and those acting in concert with them, be and each is hereby enjoined and restrained from attempting to march from Selma, Alabama, to Montgomery, Alabama, until this Court can have a reasonable opportunity to make a judicial determination as to the respective rights of the parties to this case.

It is the further ORDER, JUDGMENT and DECREE of this Court that the motion of the plaintiffs for a preliminary injunction be and the same is hereby set for a hearing to commence at 9 a.m., Thursday, March 11, 1965.

Done, this the 9th day of March, 1965.


UNITED STATES DISTRICT JUDGE

FILED

ROSEA WILLIAMS, JOHN LEWIS
and AMELIA BRYNEN, on behalf of
themselves and others similarly
situated,

Plaintiffs,

vs.

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff of
Dallas County, Alabama,

Defendants.

By R. C. DOBSON, CLERK

Deputy Clerk

CIVIL ACTION NO. 2181-N

ORDER DENYING MOTION FOR TEMPORARY RESTRAINING ORDER, TEMPORARY RESTRAIN
ORDER, AND SETTING CAUSE FOR HEARING ON MOTION FOR PRELIMINARY INJUNCTION

This cause is now submitted on the verified complaint, together with the exhibits thereto, filed with the Clerk of this Court on March 8, 1965, which complaint and exhibits thereto are advanced in support of plaintiffs' motion for a temporary restraining order. The temporary restraining order is requested without a hearing and without formal notice to the defendants on the theory that "irreparable injury will result before notice can be served and a hearing can be had."

An examination of the complaint, together with the exhibits, reflects that the plaintiffs and the members of the class they represent, in an effort to encourage and assist Negroes to register and become voters and to persuade local boards of registrars in the State of Alabama to register Negroes and allow them to vote, attempted a march along the public highway on March 7, 1965, from Selma, Alabama, to Montgomery, Alabama; that said march was for the purpose of soliciting the assistance of the Honorable George C. Wallace, Governor of the State of Alabama, in removing impediments to voter registration of Negroes in the State of Alabama; that said planned march was halted under the instructions of the Governor, through the use of excessive force by the Alabama State Troopers and the Dallas County sheriff, together with his deputies and possumen. Plaintiffs say that they desire to resume their right to redress their grievances by walking along the public

tion for issuing a temporary restraining order without notice to the defendants and without a hearing. There will be no irreparable harm if the plaintiffs will await a judicial determination of the matters involved.

In order to afford the parties to this litigation an opportunity to present their evidence upon the motion for a preliminary injunction that was filed with the Clerk of this Court at 4:30 p.m. on March 8, 1965, this Court is of the opinion that there should be an early hearing upon said motion.

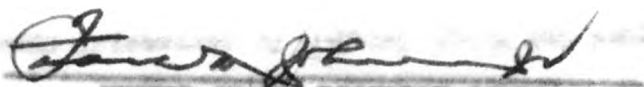
In consideration of the foregoing and for good cause, it is the ORDER, JUDGMENT and DECREE of this Court that the motion of the plaintiffs filed herein for a temporary restraining order be and the same is hereby denied.

In order to protect the integrity of this Court and to prevent the judicial processes from being frustrated by the plaintiffs and other members of their class continuing to attempt to enforce the rights they seek to have judicially determined in this Court, it appears that it will be to the best interest of all concerned and will work no irreparable injury or harm to plaintiffs, or members of their class, if they are ordered to refrain from attempting to exercise what they claim to be a constitutional right to march, until the matter can be judicially determined at an early hearing.

It is the further ORDER, JUDGMENT and DECREE of this Court that the plaintiffs and other members of their class, and those acting in concert with them, be and each is hereby enjoined and restrained from attempting to march from Selma, Alabama, to Montgomery, Alabama, until this Court can have a reasonable opportunity to make a judicial determination as to the respective rights of the parties to this case.

It is the further ORDER, JUDGMENT and DECREE of this Court that the motion of the plaintiffs for a preliminary injunction be and the same is hereby set for a hearing to commence at 9 a.m., Thursday, March 11, 1965.

Done, this the 9th day of March, 1965.


UNITED STATES DISTRICT JUDGE

RETURN ON SERVICE OF WRIT

United States of America,
MIDDLE DISTRICT OF ALABAMA } ss: Hosea Williams et al
vs C-2181-N
Hon. George C. Wallace et al

I hereby certify and return that I served the annexed TEMPORARY RESTRAINING ORDER
(Writ)
on the therein-named Atty. Fred D. Gray
(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with him, Fred D. Gray,
(Individual or agent of company, corporation, etc.)

personally at Dean Drugstore on Monroe at Lawrence Streets
(Address—Street number, apartment number,
rural route, etc.)

at Montgomery, Alabama in the said District
(City) (State)
at 12:45 XXXX p. m., on the 9th day of March, 1965

Marshal's fees \$ 3.00 William M. Parker Jr
United States Marshal.

Mileage _____ By Arthur G. Murphy
Deputy.

RETURNED AND FILED

R. C. DOBSON
CLERK

RETURN ON SERVICE OF WRIT

United States of America,
Middle DISTRICT OF Alabama } ss: Hosea Williams et al,
vs CA-2181-N
Honorable George C. Wallace et al

I hereby certify and return that I served the annexed Restraining Order
(Writ)
on the therein-named John Lewis
(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with him, John Lewis
(Individual or agent of company, corporation, etc.)

personally at Brown Chapel Church
(Address—Street number, apartment number,
rural route, etc.)

at Selma, Alabama in the said District
(City) (State)
at 4:40 ~~a.m.~~ XXXX p. m., on the 9th day of March, 19 65

Marshal's fees \$ 3.00 William M. Parker Jr.
United States Marshal.

Mileage 12.60 By Arthur B. Spethy
Deputy.

RETURNED TO SENDER

R. C. NELSON

MAR 9 - 1965

R. C. DOBSON
ClerkBy James H. ...
Deputy ClerkHOSEA WILLIAMS, JOHN LEWIS
and AMELIA BOYNTON, on behalf of
themselves and others similarly
situated,

Plaintiffs,

vs.

CIVIL ACTION NO. 2181-N

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff of
Dallas County, Alabama,

Defendants.

ORDER

It appears to the Court that this case has been filed as of March 8, 1965, with the Clerk of this Court, by the plaintiffs acting through their attorneys; and it further appears that the said plaintiffs ask this Court for temporary and permanent injunctive relief against the Governor of the State of Alabama, the Director of Public Safety for the State of Alabama, and others; and it further appears that these plaintiffs and members of the class they represent seek to have this Court declare their constitutional right to march along certain public highways of the State of Alabama for the purpose of demonstrating against certain impediments to voter registration of Negroes in the State of Alabama. These plaintiffs ask this Court to make and enter the necessary orders assuring their constitutional right and the constitutional right of other members of their class to protest said alleged discrimination by the named officials of the State of Alabama by marching along the public highways of this State.

Upon consideration of the foregoing, this Court is of the opinion that the public interest in the administration of justice, of law and order, and of protecting the authority and integrity of the lawfully constituted courts of the United States should be represented in these proceedings. To this end, this Court is of the opinion that it is now appropriate and necessary that the United States be designated to appear and participate in all proceedings in this action before this Court, to accord this Court the benefit of its views and recommendations, with the right to submit pleadings, evidence, arguments and briefs, and

and preserve the due administration of justice and the integrity of the judicial authority of the United States of America. Faubus v. United States, 8th Cir., 1958, 254 F. 2d 797; cert. denied 358 U.S. 829; Bush, et al. v. Orleans Parish School Board, et al., 188 F. Supp. 916, aff'd 365 U.S. 569; Bush, et al. v. Orleans Parish School Board, et al., 190 F. Supp. 861, aff'd 366 U.S. 212; United States v. Barnett, 5th Cir. 1962 (unreported but discussed in 330 F. 2d 369).

In accordance with the foregoing and for good cause, it is the ORDER, JUDGMENT and DECREE of this Court that the United States of America be and it is hereby designated to appear and participate in all proceedings in this action before this Court as a party thereto. It is the further ORDER, JUDGMENT and DECREE of this Court that the Attorney General of the United States, and such attorneys in the Department of Justice as he may designate, be and he is hereby appointed to appear and participate in behalf of the United States in this action before this Court.

Done, this the 9th day of March, 1965.

FRANK M. JOHNSON, JR.
UNITED STATES DISTRICT JUDGE

MIDDLE DISTRICT OF ALABAMA

NORTHERN DIVISION

HOSEA WILLIAMS, JOHN LEWIS *
and AMELIA BOYNTON, on behalf *
of themselves and others *
similarly situated, *

Plaintiffs, *

vs. *

CIVIL ACTION NO. 2181-N

HONORABLE GEORGE C. WALLACE, *
as Governor of the State of *
Alabama; AL LINGO, as Director *
of Public Safety for the State *
of Alabama; and JAMES G. CLARK, *
as Sheriff of Dallas County, *

Defendants. *

MOTION TO DISSOLVE TEMPORARY RESTRAINING ORDER

Now come the plaintiffs in the above entitled cause by and through their Attorneys of Record, and move the court to dissolve the Temporary Restraining Order heretofore filed in this cause whereby the plaintiffs and other members of their class were enjoined and restrained from attempting to march from Selma, Alabama to Montgomery, Alabama; and as grounds for said motion assign the following:

1. That this court lacked jurisdiction to enter said order.

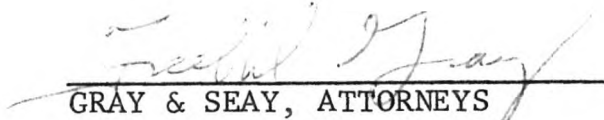
2. That said order violates plaintiffs right to freedom of speech, freedom of assembly to petition the government for redress of grievances, and other rights secured by the First

Constitution of the United States of America with respect to the plaintiffs efforts to march, in that there is no case or controversy and no such relief had been requested by the defendants.

4. That said Temporary Restraining Order violates the rights of the plaintiffs and the class which they represent to due process of law as provided by the Fifth Amendment to the United States Constitution.

WHEREFORE plaintiffs pray that said Temporary Restraining Order be dissolved.

Respectfully submitted,



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Montgomery, Alabama

PETER A. HALL
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Birmingham, Alabama

JACK GREENBERG
NORMAN AMAKER
CHARLES H. JONES, JR.
10 Columbus Circle
New York 19, New York

Attorneys for Plaintiffs

HOSEA WILLIAMS, JOHN LEWIS
and AMELIA BOYNTON, on behalf of
themselves and others similarly
situated,

Plaintiffs,

vs.

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff of
Dallas County, Alabama,

Defendants.

MAR 9 - 1965

R. C. DOBSON
Clerk

By _____
Deputy Clerk

CIVIL ACTION NO. 2181-N

ORDER

It is ORDERED that the motion to dissolve the temporary restrain-
ing order of this Court, said motion having been filed with this Court at 2:30
p.m. on this date, be and the same is hereby set for submission at 9 a.m.,
Thursday, March 11, 1965.

Done, this the 9th day of March, 1965.

THOMAS M. JOHNSON, JR.

UNITED STATES DISTRICT JUDGE

FOR THE MIDDLE DISTRICT OF ALABAMA

NORTHERN DISTRICT

HOSEA WILLIAMS, JOHN LEWIS, AMELIA BOYNTON,
on behalf of themselves and others similarly
situated,

Plaintiffs,

v.

CIVIL ACTION
NO. 2181-N

HONORABLE GEORGE C. WALLACE, as Governor
of the State of Alabama, AL LINGO, as
Director of Public Safety for the State
of Alabama and JAMES G. CLARK, as Sheriff
of Dallas County, Alabama,

Defendants.

PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION AND MOTION
TO DISSOLVE TEMPORARY RESTRAINING ORDER AGAINST PLAINTIFFS

I.

The Court Is Without Power Or Jurisdiction To Grant Or
Continue The Temporary Restraining Order Issued Against
Plaintiffs.

A. The Court has no jurisdiction to grant the relief against
plaintiffs because there is no claim for relief against them pre-
sented a justiciable case or controversy within the meaning of
Article III of the Constitution of the United States.

1. No party to the action has asserted a claim for an
injunction against plaintiffs, thus an essential element of a case
or controversy is absent.

a. Hayburn's Case, 2 Dall. 409, 1 L.ed. 436 (1792).

b. Fong Yue Ting v. United States, 149 U.S. 698,
729 (1893).

(The elements of a civil case include, at
least, "a complainant, a defendant, and
a judge--actor, reus, et iudex.")

statutes upon which this suit is based to grant relief against private persons who are not subject to the Fourteenth Amendment.

- a. Congress Of Racial Equality v. Clemmons, 323 F.2d 54 (5th Cir. 1963). (Held Federal Court had no jurisdiction over suit by city officials against civil rights demonstrators.)
- b. Kelly v. Page, 335 F.2d 114, 117 (5th Cir. 1964). (Chief Judge Tuttle dissolved Temporary Restraining Order obtained by city against civil rights demonstrators for lack of jurisdiction, on motion for stay. Full panel of Court did not reach the question of jurisdiction because trial judge entered no further injunction against civil rights group.)
- c. Cf. Congress Of Racial Equality v. Douglas, 318 F.2d 95 (5th Cir. 1963). (Held that injunction against Freedom Riders was denial of First Amendment rights.)

3. There is no power to issue a Temporary Restraining Order against plaintiffs on the theory that it involves a matter ancillary to their claim or to protect the Court's jurisdiction over the subject matter. There was no claim that plaintiffs were threatening to do any act which would oust the Court of jurisdiction over plaintiffs' pending claim.

- a. Briggs v. United States Shoe Machinery Co., 239 U.S. 48, 50 (1915). (General equity powers can only be asserted in cases within the jurisdiction of the Federal Courts as defined by the Congress.)
- b. See, Fontain v. Ravenel, 17 How. (US) 369, 15 L.ed. 80 (1855).
- c. See also, Indiana Mfg. Co. v. Koehne, 188 U.S. 681, 690, 47 L.ed. 651, 656, 23 S.Ct. 452 (1903).

4. There has been no pleading or motion by any party asserting a claim against plaintiffs, or requesting that the relief be granted as required by the Federal Rules of Civil Procedure.

Federal Rules of Civil Procedure, Rule 65(b).
(The Rule forbids Temporary Restraining Orders without notice and hearing unless specific facts are shown by "affidavit or verified complaint" demonstrating immediate and irreparable injury, loss, or damage to "the applicant" before notice can be served and a hearing had thereon.)

Peaceful March From Selma To Montgomery,
Alabama.

A. A peaceful march to protest deprivation of constitutional rights, and to urge the State Government to correct such deprivation is protected under the First Amendment of the Constitution, as an exercise of freedom of speech, assembly and petition for redress of grievances. Edwards v. South Carolina, 372 U.S. 229; Cox v. Louisiana, ____ U.S. ____, 33 L.W. 4099 (January 18, 1965).

Plaintiffs here have at all times wished to conduct a peaceful, non-violent march to the Capitol of the State of Alabama in order to protest the deprivation of Negro citizens of their right to vote. They began such a march on Sunday March 7, 1965; the marchers were entirely peaceful, and the only violence that occurred was at the hands of State law enforcement officials. It is clear that such a demonstration is protected under the First Amendment to the Constitution. The recent case of Cox v. Louisiana, supra, involved a march on the Louisiana State Capitol Building by approximately 2,000 persons protesting segregation and discrimination against Negroes. The Supreme Court held that the arrest of demonstrators was a violation of the First Amendment of the Constitution as incorporated in the Fourteenth Amendment. Similarly a federal court should not enjoin the conducting of such a peaceful demonstration Kelly v. Page, 335 F.2d 114 (1964).

B. The right of citizens of the United States to move freely within the country is an attribute of liberty protected by the Fifth Amendment to the United States Constitution. See, Kent v. Dulles, 357 U.S. 116, 125-127; Edwards v. California, 314 U.S. 160, 181 (Douglas, J. concurring); Slaughter House Cases, 83 U.S. 36, 78-80. As a protected right, it should not be interfered with except under extraordinary circumstances. Kent v. Dulles, supra.

violence or other public disturbance against persons seeking to exercise peacefully a constitutionally protected right is not a ground for interfering with them. Cox v. Louisiana, supra, 33 L.W. 4102-4103. If violence is threatened, the proper remedy is to restrain or move against those threatening the violence. Cooper v. Aaron, 358 U.S. 1; Aaron v. Cooper, 257 F.2d 33 (8th Cir. 1958).

III.

This Court Should Exercise Its Power
To Grant Plaintiffs And Members Of
Their Class The Injunctive Relief
Prayed For.

A. This Court Has Jurisdiction To
Enjoin The Defendants Herein

Jurisdiction of this Court is based upon 28 U.S.C.
§1343, which provides:

§1343. Civil rights and elective franchise.

The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

* * * * *

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States.

(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.

This suit in equity is "authorized" by 42 U.S.C. §1983, which provides:

§1983. Civil action for deprivation of rights.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or

proceeding for redress.

B. There Exists Ample Precedent For Federal Injunctive Relief Against Denials Of Federal Constitutional Rights By State Law Enforcement Officers.

In Kelly v. Page, 335 F.2d 114 (5th Cir. 1964), the United States Court of Appeals for the Fifth Circuit was confronted with a somewhat similar fact situation: a dispute had broken out between Negroes protesting denials of their federal constitutional rights and the city administration of the city of Albany, Georgia; demonstrations had been held to protest these denials of constitutional rights; the demonstrators sued in federal court for an injunction against interferences with their demonstrations by the city officials; the city officials cross-claimed to enjoin the demonstrators from continuing their protests; the district court denied all injunctive relief; the Court of Appeals, however, held that the district court should determine the rights of the parties, saying:

First, as to the rights of plaintiffs, those espousing civil rights through the Movement, it has long been settled, indeed from the beginning, that a citizen or group of citizens may assemble and petition for redress of their grievances. First Amendment, U.S. Const. . . . Edwards v. South Carolina, 1963, 372 U.S. 229. . . A march to the City Hall in an orderly fashion, and a prayer session within the confines of what plaintiffs seek would appear, without more, to be implicit in this right.

. . . And these rights to picket and to march and to assemble are not to be abridged by arrest or other interference so long as asserted within the limits of not unreasonably interfering with the right of others to use the sidewalks and streets, to have access to store entrances, and where conducted in such manner as not to deprive the public of police and fire protection.

. . . In short, those engaged in the Albany Movement have definite well defined constitutional rights. They must be accorded where claimed, but in a manner that will accommodate rights of other citizens to the end that the rights of all may be preserved.

from, inter alia:

[D]enying to Negro citizens the right to peacefully protest against state enforced racial segregation in the City of Albany, Georgia by peacefully walking two abreast upon the public sidewalks of the City of Albany, observing all traffic signals, walking close to the building line or close to the curb so as not to interfere with or obstruct other pedestrian traffic on the sidewalk and peacefully assembling in front of the City Hall and peacefully speaking out against said segregation for a reasonable period of time when traffic to and from places of business or employment is not at its peak, and in such circumstances as will not unduly disrupt the public peace and conducted in such manner as not to deprive the public of adequate police and fire protection.

[P]rohibiting or preventing the activities described [above] . . . by arrests, threats of arrest, harassment or intimidation.

In Boynton v. Clark, United States District Court, S.D. Ala., No. 3559-65, United States District Judge Thomas, guaranteed the right of plaintiffs herein to protest against denials of voting rights, saying, in an order entered January 23, 1965:

Those interested in encouraging others to register to vote have the right peaceably to assemble outside the court house, but shall not do so in such a way as to interfere with lawful business expected to be transacted in the court house. Such persons also have a right to peaceably assemble without molestation, and will be permitted to do so; but violence, either by those so assembled or officers entitled to surveillance over such assemblages, or on the part of outsiders, will not be tolerated at such assemblage.

Not only are such assemblages entitled to occur, but those so assembled are entitled to have lawful protection in such assemblage.

This order in nowise is intended to interfere with the legal enforcement of the laws of the State of Alabama, Dallas County, or the City of Selma. But under the guise of enforcement there shall be no intimidation, harassment or the like, of the citizens of Dallas County legitimately attempting to register to vote, nor of those legally attempting to aid others in registering to vote or encouraging them to register to vote.

In Zellner v. Lingo, 218 F. Supp. 513 (M.D. Ala. 1963) aff'd. 334 F.2d 620 (5th Cir. 1964), this Court had before it facts which bear a striking superficial similarity to the facts of the instant case. There, the plaintiffs had planned a "freedom march" through the State of Alabama as a memorial to one William Moore, who was shot and killed on a similar walk.

this Court against Director of Public Safety Lingo, seeking an injunction against interference with the exercise of their First and Fourteenth Amendment rights to walk peacefully through the State. Subsequent to the time the suit was filed, but prior to decision by this Court, plaintiffs were arrested for breach of the peace by defendant Lingo and those acting under his direction and control.

Preliminarily, this Court found that it had jurisdiction under 28 U.S.C. §1343 (218 F.Supp at 515). However, this Court refused to grant injunctive relief against the arrest and prosecution of the plaintiffs, because it found that the plaintiffs, under the doctrine of Douglas v. Jeannette, 319 U.S. 157 (1943), could protect their rights in the state court system.^{1/} However, this Court noted (218 F.Supp. at 518):

The action now being taken by this Court in refusing to enjoin the criminal prosecution of these plaintiffs by officers acting under color of law for the State of Alabama must not be construed as an approval of the action taken by these officers in arresting and prosecuting these plaintiffs under the guise of maintaining and preserving the peace and tranquility of the State of Alabama. (emphasis supplied).

There is a crucial difference between the facts of this case and those in Zellner: Here, there is no possibility of plaintiffs' protecting their rights in the state court system; the purpose of defendants, as evidenced by their actions of March 7th and by their published statements,^{2/} is not to punish plaintiffs consistent with due process of law, but to punish them summarily with the club and the whip.

^{1/} See, to the same effect, State of Alabama v. Shine, 233 F. Supp. 371 (M.D. Ala. 1964).

^{2/} Defendant Lingo was quoted by correspondent John Herbers in the New York Times of March 9, 1965, p. 23, as saying, "We don't believe in making arrests . . . It is better to break them up."

a denial of due process of law and, considering the nature of the protest, a denial of equal protection of the laws, but also constitutes infliction of cruel and unusual punishment, in violation of the Eighth and Fourteenth Amendments. Robinson v. California, 370 U.S. 660 (1962).

C. Plaintiffs' right to demonstrate peacefully cannot be abridged by a proclamation that is overbroadly drawn. This case does not involve the validity of narrowly drawn statutory traffic regulations that impose reasonable limitations on the holding of marches. Edwards v. South Carolina, 372 U.S. 229, 236. Rather, here there is a proclamation by the Governor that bans completely all marches without regard to manner, time, or number of marchers. It is clear that the right to march and petition for a redress of grievances is protected by the First and Fourteenth Amendments, Cox v. Louisiana, ____ U.S. ____, 33 U.S. L.W. 4099 (January 18, 1965).

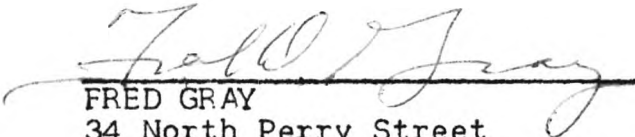
Cox also reaffirmed that demonstrations may not be banned by the exercise of a discretion unbridled by standards or procedures, for "the lodging of such broad discretion in a public official allows him to determine which expressions of view will be permitted and which will not. This thus sanctions a device for the suppression of the communication of ideas and permits the official to act as a censor." 33 U.S.L.W. at 4105. See also, Garner v. Louisiana, 368 U.S. 157, 202 (Harlan, J. concurring).

D. Plaintiffs' Peaceful March Cannot
Be Outlawed Because of the Hostile
Reaction It Would Engender

It is well settled that persons acting in the exercise of the constitutionally protected rights of free speech, assembly, and petition cannot be punished or interfered with because of the acts of hostile onlookers. The United States Supreme Court said in Wright v. Georgia, 373 U.S. 284 (1963):

the possibility of disorder by others cannot justify exclusion of persons from a place if they otherwise have a constitutional right (founded upon the Equal Protection Clause) to be present. Taylor v. Louisiana, 370 US 154, 8 L ed 2d 395, 82 S Ct 1188; Garner v Louisiana, 368 US 157, 174, 7 L ed 2d 207, 219, 82 S Ct 248; see also Buchanan v Warley, 245 US 60, 80, 81, 62 L ed 149, 163, 38 S Ct 16, LRA 1918C210, 3/

Respectfully submitted,


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Montgomery, Alabama

PETER HALL
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JAMES M. NABRIT, III
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MELVYN ZARR
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Attorneys for Plaintiffs

3/ See also, Barr v. City of Columbia, 378 U.S. 146, 150 (1964); Cox v. Louisiana, 33 U.S. L.W. 4099, 4102-4103 (January 18, 1965).

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

HOSEA WILLIAMS, JOHN LEWIS, AMELIA BOYNTON,
on behalf of themselves and others similarly
situated,

Plaintiffs,

v.

CIVIL ACTION
NO. 2181-N

HONORABLE GEORGE C. WALLACE, as Governor
of the State of Alabama, AL LINGO, as
Director of Public Safety for the State
of Alabama and JAMES G. CLARK, as Sheriff
of Dallas County, Alabama,

Defendants.

PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION AND MOTION
TO DISSOLVE TEMPORARY RESTRAINING ORDER AGAINST PLAINTIFFS

I.

The Court Is Without Power Or Jurisdiction To Grant Or
Continue The Temporary Restraining Order Issued Against
Plaintiffs.

A. The Court has no jurisdiction to grant the relief against
plaintiffs because there is no claim for relief against them pre-
sented a justiciable case or controversy within the meaning of
Article III of the Constitution of the United States.

1. No party to the action has asserted a claim for an
injunction against plaintiffs, thus an essential element of a case
or controversy is absent.

- a. Hayburn's Case, 2 Dall. 409, 1 L.ed. 436 (1792).
- b. Fong Yue Ting v. United States, 149 U.S. 693,
729 (1893).
(The elements of a civil case include, at
least, "a complainant, a defendant, and
a judge--actor, reus, et iudex.")
- c. Osborn v. Bank of the United States, 9 Wheat. 738,
819 (1824).
(Requirement of adverse parties asserting rights
is pre-requisite to the exercise of judicial
power.)

2. The Court has no jurisdiction under the Civil Rights statutes upon which this suit is based to grant relief against private persons who are not subject to the Fourteenth Amendment.

- a. Congress Of Racial Equality v. Clemmons, 323 F.2d 54 (5th Cir. 1963). (Held Federal Court had no jurisdiction over suit by city officials against civil rights demonstrators.)
- b. Kelly v. Page, 335 F.2d 114, 117 (5th Cir. 1964). (Chief Judge Tuttle dissolved Temporary Restraining Order obtained by city against civil rights demonstrators for lack of jurisdiction, on motion for stay. Full panel of Court did not reach the question of jurisdiction because trial judge entered no further injunction against civil rights group.)
- c. Cf. Congress Of Racial Equality v. Douglas, 318 F.2d 95 (5th Cir. 1963). (Held that injunction against Freedom Riders was denial of First Amendment rights.)

3. There is no power to issue a Temporary Restraining Order against plaintiffs on the theory that it involves a matter ancillary to their claim or to protect the Court's jurisdiction over the subject matter. There was no claim that plaintiffs were threatening to do any act which would oust the Court of jurisdiction over plaintiffs' pending claim.

- a. Briggs v. United States Shoe Machinery Co., 239 U.S. 48, 50 (1915). (General equity powers can only be asserted in cases within the jurisdiction of the Federal Courts as defined by the Congress.)
- b. See, Fontain v. Ravenel, 17 How. (US) 369, 15 L.ed. 80 (1855).
- c. See also, Indiana Mfg. Co. v. Koehne, 188 U.S. 681, 690, 47 L.ed. 651, 656, 23 S.Ct. 452 (1903).

4. There has been no pleading or motion by any party asserting a claim against plaintiffs, or requesting that the relief be granted as required by the Federal Rules of Civil Procedure.

Federal Rules of Civil Procedure, Rule 65(b).
(The Rule forbids Temporary Restraining Orders without notice and hearing unless specific facts are shown by "affidavit or verified complaint" demonstrating immediate and irreparable injury, loss, or damage to "the applicant" before notice can be served and a hearing had thereon.)

II.

This Court Should Not Continue Its Order
Restraining Plaintiffs From Conducting A
Peaceful March From Selma To Montgomery,
Alabama.

A. A peaceful march to protest deprivation of constitutional rights, and to urge the State Government to correct such deprivation is protected under the First Amendment of the Constitution, as an exercise of freedom of speech, assembly and petition for redress of grievances. Edwards v. South Carolina, 372 U.S. 229; Cox v. Louisiana, ____ U.S. ____, 33 L.W. 4099 (January 18, 1965).

Plaintiffs here have at all times wished to conduct a peaceful, non-violent march to the Capitol of the State of Alabama in order to protest the deprivation of Negro citizens of their right to vote. They began such a march on Sunday March 7, 1965; the marchers were entirely peaceful, and the only violence that occurred was at the hands of State law enforcement officials. It is clear that such a demonstration is protected under the First Amendment to the Constitution. The recent case of Cox v. Louisiana, supra, involved a march on the Louisiana State Capitol Building by approximately 2,000 persons protesting segregation and discrimination against Negroes. The Supreme Court held that the arrest of demonstrators was a violation of the First Amendment of the Constitution as incorporated in the Fourteenth Amendment. Similarly a federal court should not enjoin the conducting of such a peaceful demonstration Kelly v. Page, 335 F.2d 114 (1964).

B. The right of citizens of the United States to move freely within the country is an attribute of liberty protected by the Fifth Amendment to the United States Constitution. See, Kent v. Dulles, 357 U.S. 116, 125-127; Edwards v. California, 314 U.S. 160, 181 (Douglas, J. concurring); Slaughter House Cases, 83 U.S. 36, 78-80. As a protected right, it should not be interfered with except under extraordinary circumstances. Kent v. Dulles, supra.

C. There is no showing here that the enjoining of plaintiffs was necessary. It is clear that the threat of violence or other public disturbance against persons seeking to exercise peacefully a constitutionally protected right is not a ground for interfering with them. Cox v. Louisiana, supra, 33 L.W. 4102-4103. If violence is threatened, the proper remedy is to restrain or move against those threatening the violence. Cooper v. Aaron, 358 U.S. 1; Aaron v. Cooper, 257 F.2d 33 (8th Cir. 1958).

III.

This Court Should Exercise Its Power
To Grant Plaintiffs And Members Of
Their Class The Injunctive Relief
Prayed For.

A. This Court Has Jurisdiction To
Enjoin The Defendants Herein

Jurisdiction of this Court is based upon 28 U.S.C.

§1343, which provides:

§1343. Civil rights and elective franchise.

The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

* * * * *

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States.

(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.

This suit in equity is "authorized" by 42 U.S.C. §1983, which provides:

§1983. Civil action for deprivation of rights.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or

immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

B. There Exists Ample Precedent For Federal Injunctive Relief Against Denials Of Federal Constitutional Rights By State Law Enforcement Officers.

In Kelly v. Page, 335 F.2d 114 (5th Cir. 1964), the United States Court of Appeals for the Fifth Circuit was confronted with a somewhat similar fact situation: a dispute had broken out between Negroes protesting denials of their federal constitutional rights and the city administration of the city of Albany, Georgia; demonstrations had been held to protest these denials of constitutional rights; the demonstrators sued in federal court for an injunction against interferences with their demonstrations by the city officials; the city officials cross-claimed to enjoin the demonstrators from continuing their protests; the district court denied all injunctive relief; the Court of Appeals, however, held that the district court should determine the rights of the parties, saying:

First, as to the rights of plaintiffs, those espousing civil rights through the Movement, it has long been settled, indeed from the beginning, that a citizen or group of citizens may assemble and petition for redress of their grievances. First Amendment, U.S. Const. . . . Edwards v. South Carolina, 1963, 372 U.S. 229. . . . A march to the City Hall in an orderly fashion, and a prayer session within the confines of what plaintiffs seek would appear, without more, to be implicit in this right.

. . . And these rights to picket and to march and to assemble are not to be abridged by arrest or other interference so long as asserted within the limits of not unreasonably interfering with the right of others to use the sidewalks and streets, to have access to store entrances, and where conducted in such manner as not to deprive the public of police and fire protection.

. . . In short, those engaged in the Albany Movement have definite well defined constitutional rights. They must be accorded where claimed, but in a manner that will accommodate rights of other citizens to the end that the rights of all may be preserved.

On remand, the District Judge enjoined the city officials from, inter alia:

[D]enying to Negro citizens the right to peacefully protest against state enforced racial segregation in the City of Albany, Georgia by peacefully walking two abreast upon the public sidewalks of the City of Albany, observing all traffic signals, walking close to the building line or close to the curb so as not to interfere with or obstruct other pedestrian traffic on the sidewalk and peacefully assembling in front of the City Hall and peacefully speaking out against said segregation for a reasonable period of time when traffic to and from places of business or employment is not at its peak, and in such circumstances as will not unduly disrupt the public peace and conducted in such manner as not to deprive the public of adequate police and fire protection.

[P]rohibiting or preventing the activities described [above] . . . by arrests, threats of arrest, harassment or intimidation.

In Boynton v. Clark, United States District Court, S.D. Ala., No. 3559-65, United States District Judge Thomas, guaranteed the right of plaintiffs herein to protest against denials of voting rights, saying, in an order entered January 23, 1965:

Those interested in encouraging others to register to vote have the right peaceably to assemble outside the court house, but shall not do so in such a way as to interfere with lawful business expected to be transacted in the court house. Such persons also have a right to peaceably assemble without molestation, and will be permitted to do so; but violence, either by those so assembled or officers entitled to surveillance over such assemblages, or on the part of outsiders, will not be tolerated at such assemblage.

Not only are such assemblages entitled to occur, but those so assembled are entitled to have lawful protection in such assemblage.

This order in nowise is intended to interfere with the legal enforcement of the laws of the State of Alabama, Dallas County, or the City of Selma. But under the guise of enforcement there shall be no intimidation, harassment or the like, of the citizens of Dallas County legitimately attempting to register to vote, nor of those legally attempting to aid others in registering to vote or encouraging them to register to vote.

In Zellner v. Lingo, 218 F. Supp. 513 (M.D. Ala. 1963) aff'd. 334 F.2d 620 (5th Cir. 1964), this Court had before it facts which bear a striking superficial similarity to the facts of the instant case. There, the plaintiffs had planned a "freedom march" through the State of Alabama as a memorial to one William Moore, who was shot and killed on a similar walk.

Prior to their entry into the state, plaintiffs filed suit in this Court against Director of Public Safety Lingo, seeking an injunction against interference with the exercise of their First and Fourteenth Amendment rights to walk peacefully through the State. Subsequent to the time the suit was filed, but prior to decision by this Court, plaintiffs were arrested for breach of the peace by defendant Lingo and those acting under his direction and control.

Preliminarily, this Court found that it had jurisdiction under 28 U.S.C. §1343 (218 F.Supp at 515). However, this Court refused to grant injunctive relief against the arrest and prosecution of the plaintiffs, because it found that the plaintiffs, under the doctrine of Douglas v. Jeannette, 319 U.S. 157 (1943), could protect their rights in the state court system.^{1/} However, this Court noted (218 F.Supp. at 518):

The action now being taken by this Court in refusing to enjoin the criminal prosecution of these plaintiffs by officers acting under color of law for the State of Alabama must not be construed as an approval of the action taken by these officers in arresting and prosecuting these plaintiffs under the guise of maintaining and preserving the peace and tranquility of the State of Alabama. (emphasis supplied).

There is a crucial difference between the facts of this case and those in Zellner: Here, there is no possibility of plaintiffs' protecting their rights in the state court system; the purpose of defendants, as evidenced by their actions of March 7th and by their published statements,^{2/} is not to punish plaintiffs consistent with due process of law, but to punish them summarily with the club and the whip.

^{1/} See, to the same effect, State of Alabama v. Shine, 233 F. Supp. 371 (M.D. Ala. 1964).

^{2/} Defendant Lingo was quoted by correspondent John Herbers in the New York Times of March 9, 1965, p. 23, as saying, "We don't believe in making arrests . . . It is better to break them up."

The infliction of summary punishment not only constitutes a denial of due process of law and, considering the nature of the protest, a denial of equal protection of the laws, but also constitutes infliction of cruel and unusual punishment, in violation of the Eighth and Fourteenth Amendments. Robinson v. California, 370 U.S. 660 (1962).

C. Plaintiffs' right to demonstrate peacefully cannot be abridged by a proclamation that is overbroadly drawn. This case does not involve the validity of narrowly drawn statutory traffic regulations that impose reasonable limitations on the holding of marches. Edwards v. South Carolina, 372 U.S. 229, 236. Rather, here there is a proclamation by the Governor that bans completely all marches without regard to manner, time, or number of marchers. It is clear that the right to march and petition for a redress of grievances is protected by the First and Fourteenth Amendments, Cox v. Louisiana, ____ U.S. ____, 33 U.S. L.W. 4099 (January 18, 1965).

Cox also reaffirmed that demonstrations may not be banned by the exercise of a discretion unbridled by standards or procedures, for "the lodging of such broad discretion in a public official allows him to determine which expressions of view will be permitted and which will not. This thus sanctions a device for the suppression of the communication of ideas and permits the official to act as a censor." 33 U.S.L.W. at 4105. See also, Garner v. Louisiana, 368 U.S. 157, 202 (Harlan, J. concurring).

D. Plaintiffs' Peaceful March Cannot
Be Outlawed Because of the Hostile
Reaction It Would Engender

It is well settled that persons acting in the exercise of the constitutionally protected rights of free speech, assembly, and petition cannot be punished or interfered with because of the acts of hostile onlookers. The United States Supreme Court said in Wright v. Georgia, 373 U.S. 284 (1963):

[T]he possibility of disorder by others cannot justify exclusion of persons from a place if they otherwise have a constitutional right (founded upon the Equal Protection Clause) to be present. Taylor v. Louisiana, 370 US 154, 8 L ed 2d 395, 82 S Ct 1188; Garner v Louisiana, 368 US 157, 174, 7 L ed 2d 207, 219, 82 S Ct 248; see also Buchanan v Warley, 245 US 60, 80, 81, 62 L ed 149, 163, 38 S Ct 16, LRA 1918C210. 3/

Respectfully submitted,

FRED GRAY
34 North Perry Street
Montgomery, Alabama

PETER HALL
1630 Fourth Avenue North
Birmingham, Alabama

JACK GREENBERG
JAMES M. NABRIT, III
NORMAN C. AMAKER
CHARLES H. JONES, JR.
MELVYN ZARR
CHARLES STEPHEN RALSTON

Attorneys for Plaintiffs

3/ See also, Barr v. City of Columbia, 378 U.S. 146, 150 (1964); Cox v. Louisiana, 33 U.S. L.W. 4099, 4102-4103 (January 18, 1965).

ROSEA WILLIAMS, JOHN LEWIS
and AMELIA BOWYER, on behalf
of themselves and others
similarly situated,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

vs.

HONORABLE GEORGE C. WALLACE, as Governor of the State of Alabama; AL LINGO, as Director of Public Safety for the State of Alabama; and JAMES G. CLARK, as Sheriff of Dallas County, Alabama,

Defendants.

CIVIL ACTION NO. 2181-W

□ □ □ □ □

The motion of the United States, presented to this Court on this date, seeking to intervene as a plaintiff, is now submitted. Upon consideration of the complaint in intervention as filed by the United States in this cause, it appears that the issues presently for determination between the plaintiffs and the defendants are not enlarged or substantially changed by the complaint in intervention of the United States, and there does not appear to be any reason why the complaint in intervention should not be filed and a hearing heard thereon at the same time as the hearing originally scheduled in this case commencing at 9 a.m., March 11, 1965.

In consideration of the foregoing and for good cause, it is the ORDER, JUDGMENT and DECREE of this Court that the motion of the United States seeking leave to intervene in this cause be and the same is hereby granted. It is the further ORDER, JUDGMENT and DECREE of this Court that the hearing upon the issues involved in the complaint in intervention be set commencing at 9 a.m., March 11, 1965.

It is further ORDERED that the United States Marshal for this district serve upon the defendants copies of the complaint in intervention as filed herein, together with a copy of this order.

It is further ORDERED that copies of the complaint be transmitted to

Done, this the 10th day of March, 1965.

FRANK M. JOHNSON, JR.

UNITED STATES DISTRICT JUDGE

ATTEST: A True Copy
Certified to March 10, 1965

P. C. Dobson,
Clerk, U. S. District Court,
Middle District of Alabama.

By Jane P. Gordon Deputy Clerk

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

HOSEA WILLIAMS, ET AL.,	)	
	)	
Plaintiffs,	)	
	)	
UNITED STATES OF AMERICA,	)	
	)	CIVIL ACTION NO. 2181-N
Plaintiff-Intervenor,	)	
	)	
v.	)	
	)	
GEORGE C. WALLACE, ET AL.,	)	<u>COMPLAINT IN</u>
	)	<u>INTERVENTION</u>
Defendants.	)	
	)	

The United States of America, intervenor herein,
alleges as a claim against the defendants:

1. This is a complaint in intervention filed
by the Attorney General pursuant to the order of this
Court designating the United States as a party and
pursuant to the provisions of Section 902 of the
Civil Rights Act of 1964.

2. On March 8, 1965, the plaintiffs filed
their complaint in this case under 28 U.S.C. 1343(3)

and (4), for relief against alleged conduct of the defendants George C. Wallace, Albert J. Lingo, and James G. Clark, Jr., in violation of 42 U.S.C. 1971(a) and (b), 42 U.S.C. 1981, and 42 U.S.C. 1983.

3. The Attorney General has certified that this case is of general public importance and his certificate is attached to this complaint in intervention.

4. George C. Wallace is the Governor and Chief Executive Officer of the State of Alabama; in such capacity he is charged with the faithful execution of the laws of the State of Alabama; in such capacity he controls and supervises the defendant Albert J. Lingo, Director of the Department of Public Safety; and in such capacity he controls and directs the activities of the Alabama Highway Patrol. He resides in Montgomery, Alabama.

5. Albert J. Lingo is the Director of the Department of Public Safety of the State of Alabama. As such, he is the head of the Alabama Highway Patrol. He resides in Montgomery, Alabama, and has been Director of the Department of Public Safety at all times referred to in this complaint.

6. James G. Clark, Jr., is the Sheriff of Dallas County, Alabama, and, as such, is authorized

to enforce the laws of Alabama within Dallas County. He resides in Dallas County. He has been Sheriff of Dallas County since November 1955. The law enforcement officers (hereinafter referred to as officers) under Clark's command are his deputies and the Dallas County Sheriff's Posse. The deputies are full-time, trained law enforcement officers and the posse members are part-time volunteers.

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

8. In several counties in central Alabama, including Dallas and Perry Counties, fewer than 10% of the Negroes of voting age are registered to vote. For the purpose of obtaining better political representation for Negroes in these counties the Negro communities, through local and national organizations, have conducted voter registration drives in recent years. The voter registration drives in Dallas, Perry, and other central Alabama counties have been intensified during 1965.

9. Public demonstrations have been held in connection with the voter registration drives referred to in the preceding paragraph. The purpose of the demonstrations has been to encourage Negroes to attempt to register to vote and to protest discriminatory voter registration practices in Alabama. The demonstrations have been peaceful.

10. On February 10, 1965, at about 2:30 p.m., approximately 160 Negro youths lined up in a quiet and orderly fashion on two sides of the Dallas County Courthouse in Selma, Alabama. They had assembled to protest against the discriminatory treatment of Negroes attempting to register to vote, and to urge qualified Negro adults to attempt to register. They carried signs to express their purpose.

11. At about 2:45 p.m. on February 10, 1965, the defendant Clark, knowing of the purpose of the demonstration described in the preceding paragraph, forced the demonstrators to march through the City of Selma and out into the countryside. Deputies and members of the Sheriff's posse, accompanying the line of march on foot and in Sheriff's Department automobiles moving behind, alongside, and in front of the group, forced the youths to move at a rapid and frequently running pace. The officers used electric shocking devices and night sticks to prod the demonstrators. After the demonstrators had been forced to march over two miles, the children broke away and ran towards farmhouses and into the fields off to the side of the road. Some of the Sheriff's men pursued the children and attempted to force them to resume the march. After a short time all the Sheriff's men

leaving the children scattered in the fields and around the farmhouses.

12. On February 18, 1965, approximately 300 Negroes met at the Zion Methodist Church in Marion, Alabama. At about 9:30 p.m., the Negroes began leaving the church in an orderly and peaceful manner and proceeded toward the Perry County Jail and the Perry County Courthouse for the purpose of publicly protesting racially discriminatory voter registration practices in Perry County and the recent arrest of a Negro participant in the voter registration drive. When the Negroes had gone about half a block they were ordered to stop by local law enforcement officials. The Negroes stopped. They were then ordered to disperse.

13. Knowing of the purpose of the demonstration referred to in the preceding paragraph, State Troopers under the command of defendant Lingo, without lawful justification, pushed, prodded, struck, beat and knocked down members of the group of Negroes described in the preceding paragraph when the group failed to disperse immediately. The action of the State Troopers resulted in the injury of approximately twenty Negroes.

14. During the events described in the preceding paragraph, newsmen were observing and recording the activities of the State Troopers. Certain white

individuals assaulted and beat the newsmen and destroyed some of their equipment. State Troopers under the command of defendant Lingo were in a position to protect the newsmen and to arrest their assailants, but they wilfully failed to do so.

15. On March 7, 1965, approximately 500 Negroes left a church in Selma, Alabama, for the purpose of walking to Montgomery, Alabama, to present to defendant Wallace grievances concerning the voter registration process and restrictions on public demonstrations. The Negroes proceeded in an orderly and peaceful fashion to a bridge near the south edge of the City of Selma on the highway that leads to Montgomery. They proceeded on a sidewalk across the bridge, then continued walking on a grassy strip alongside the highway to Montgomery until confronted by a detachment of State Troopers at a point approximately 200 yards from the bridge. The Negroes had observed all traffic laws and other pertinent regulations and had not interfered with traffic in any manner. They were orderly and quiet.

16. Upon the failure of the Negroes to disperse, as described in the preceding paragraph, State Troopers and members of the Dallas County posse moved against the Negroes. The State Troopers and posse members at

this time were acting under the direction and control of the defendants, who then knew of the plans and purpose of the Negroes in seeking to walk to Montgomery. Troopers equipped with tear gas and gas masks, as well as night sticks, advanced on the Negroes. Posse members mounted on horseback supported the Troopers. Approximately twenty cannisters of tear gas were fired at the Negroes by the Troopers. Troopers and posse members then prodded, struck, beat and knocked down members of the group of Negroes. Approximately sixty of the Negroes were injured.

17. The acts and conduct of the defendants, as herein described, have not been directed toward enforcing any valid law of the State of Alabama, or to furthering any legitimate policy of the State or of its political subdivisions, but have been for the purpose, and have had the effect, of preventing and discouraging Negroes from exercising their full rights of citizenship.

18. By their acts and conduct herein described, the defendants have intimidated, threatened, coerced, and have attempted to intimidate, threaten and coerce, Negro citizens of Alabama for the purpose of interfering with the right of such citizens to vote for candidates in any election held in Alabama.

19. The acts and conduct of the defendants and of their officers and agents, as herein described, deny Negro citizens of Alabama the equal protection of the laws under the Fourteenth Amendment to the Constitution on account of their race and color, and violate sections 1971(a) and 1971(b) of Title 42 of the United States Code.

WHEREFORE, the plaintiff-intervenor prays that this Court enter an order enjoining George C. Wallace, Albert Lingo, and James Clark, together with their agents, employees, successors in office, and all those in active concert or participation with them from:

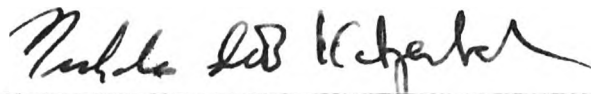
- (a) Intimidating, threatening, or coercing or attempting to intimidate, threaten, or coerce any other person for the purpose of interfering with his right to register to vote;
- (b) Interfering with lawful, peaceable demonstrations on behalf of the rights of Negroes by attempting forceably to disperse the demonstrators or seeking to impose unreasonable conditions on the demonstrators;
- (c) Using unreasonable force or threatening without just cause to use any force, in

the performance of law enforcement

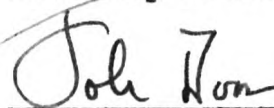
functions, against persons known to
the defendants to be exercising, seeking
to exercise or to have exercised the right
to vote or to be demonstrating or seeking
to demonstrate on behalf of the rights
of Negroes;

- (d) Summarily punishing, by striking, beating,
tear gassing or other means, any person
for his participation in a demonstration
on behalf of the rights of Negroes.
- (e) Failing to provide ordinary police pro-
tection to persons attempting to exercise
the right to vote or to demonstrate law-
fully on behalf of the rights of Negroes.

Plaintiff further prays for its cost of suit
and for such other relief as the interest of justice
may require.



NICHOLAS DeB. KATZENBACH
Attorney General



JOHN DOAR
Acting Assistant Attorney General



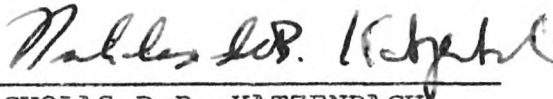
BEN HARDEMAN
United States Attorney

CERTIFICATE OF THE ATTORNEY GENERAL
OF THE UNITED STATES

NICHOLAS DeB. KATZENBACH, Attorney General of the United States, certifies that, in his judgment, the case of Hosea Williams, et al. v. George C. Wallace, et al., Civil Action Number 2181-N, which has been commenced in the United States District Court for the Middle District of Alabama, Northern Division, seeking relief from alleged denials of equal protection of the laws under the Fourteenth Amendment to the Constitution on account of race and color, is of general public importance.

This certification is made pursuant to the provisions of Section 902 of the Civil Rights Act of 1964.

Signed this 9th day of March, 1965.



NICHOLAS DeB. KATZENBACH
Attorney General

RETURN ON SERVICE OF WRIT

United States of America,

Middle DISTRICT OF Alabama

ss:

Hosea Williams, John Lewis and Amelia
Boynton, on behalf of themselves and others
similarly situated, Plaintiffs,
vs.Hon. Geo. C. Wallace, as governor of Ala.
et al

I hereby certify and return that I served the annexed ORDER, Complaint in Intervention,
Certificate of Attorney Gen. of U.S.
on the therein-named Al Lingo, as Director of Public Safety for the State of Alabama
(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with Al Lingo

(Individual or agent of company, corporation, etc.)

personally at Highway Department Building

(Address—Street number, apartment number,

rural route, etc.)

at Montgomery, Alabama.

(City)

(State)

in the said District

at 2:30 a.m.—p. m., on the 10th day of March, 19 65Marshal's fees \$3.00

Mileage _____

WILLIAM M. PARKER, JR.

United States Marshal.

By Jack S. Johnson

Deputy.

U.S. GOVERNMENT PRINTING OFFICE: 1963—O-673716

RECEIVED FILED

MAR 18 1965

R. C. DOBSON

RECEIVED

1965 MAR 10 AM 11 13

UNITED STATES MARSHAL
FORT GIBSON, ALABAMA

RETURN ON SERVICE OF WRIT

United States of America,

Middle DISTRICT OF Alabama

ss:

Hosea Williams, John Lewis and Amelia
Boynton, on behalf of themselves and others
similarly situated, Plaintiffs,

vs

Hon. Geo. C. Wallace, as governor of Ala.
et al

ORDER, Complaint in Intervention,
Certificate of Attorney Gen. of U.S.
(Writ)

I hereby certify and return that I served the annexed

on the therein-named James C. Clark

(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with James C. Clark

(Individual or agent of company, corporation, etc.)

personally at County Courthouse

(Address—Street number, apartment number,

rural route, etc.)

at Selma, Alabama in the said District
(City) (State)

at 215 ~~acok~~ p. m., on the 10th day of March, 1965.

Marshal's fees \$³9.00
~~XXXXXX~~

Mileage 39.60

Total - \$42.60

George M. Stuart

~~XXXXXXXXXXXXXXXXXXXX~~

United States Marshal.
Sou Dist of Ala

By

Deputy.

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1965 MAR 12 AM 7 32

1965 MAR 10 AM 11 13

UNITED STATES MARSHAL
MONTGOMERY, ALABAMA

UNITED STATES MARSHAL
MONTGOMERY, ALABAMA

THE MIDDLE DISTRICT OF ALABAMA,

NORTHERN DIVISION.

HOSEA WILLIAMS, JOHN
LEWIS and AMELIA BOYNTON,
on behalf of themselves and others
similarly situated,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

vs.

HONORABLE GEORGE C. WALLACE,
as Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff of
Dallas County, Alabama,

Defendants.

CIVIL ACTION

NO. 2181-N.

PETITION TO SHOW CAUSE WHY MARTIN LUTHER
KING, JR., et al, SHOULD NOT BE PUNISHED
FOR CONTEMPT

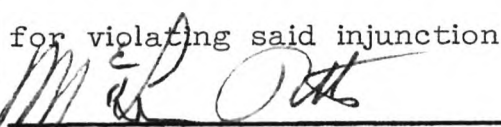
Now comes James G. Clark, as Sheriff of Dallas County,
Alabama, one of the Defendants in the above styled cause, and
respectfully represents and shows unto the Court, as follows:

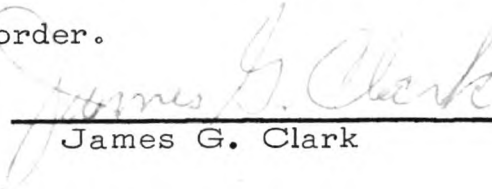
1. Petitioner is one of the Defendants in the above
entitled cause.
2. A preliminary injunction was issued in the above entitled
cause on, to-wit: March 9, 1965, and your Petitioner does not
know the date that said order was served upon any of the parties
herein set forth, but your petitioner is informed, believes and
therefore states, that said order was personally served upon Hosea
Williams, John Lewis, Amelia Boynton, on, to-wit: March 9, 1965,
and your Petitioner avers that if he is mistaken in his allegation
of service on the above named persons, he does aver that the said

Hosea Williams, John Lewis and Amelia Boynton had personal knowledge of the issuance of said injunction order; further, your Petitioner avers that on, to-wit: March 9, 1965, at approximately 2:30 P. M. said order was read by Deputy U. S. Marshal Stanley Fountain at the north end of the Edmund W. Pettus Bridge across the Alabama River where the same intersects Water Avenue and just on the edge of the corporate limits of the City of Selma, to the demonstrators who were marching, or attempting to march, from Selma, Alabama, to Montgomery, Alabama, under the guidance, leadership and direction of Martin Luther King, Jr. and Ralph Abernathy, who were then personally present and heard said injunction order read and there was also personally present at the time of the reading of said order Hosea Williams, John Lewis, C. T. Vivian, Andrew Young, James Bevel, John Love, James Orange, L. L. Anderson, A. D. King, Amelia Boynton, Frank Soracco; that in the event any of said above named persons were not present in the front of said demonstration line at the time they were stopped by the U. S. Deputy Marshal and said order was read, that said persons had personal knowledge of the fact that said temporary injunction order had been issued by this Honorable Court; that in disobedience of said preliminary injunction order after the U. S. Deputy Marshal had read said order, said persons led said demonstrators onto United States Highway No. 80 across the Alabama River Bridge and for approximately one-quarter of a mile south of said river bridge, thereby blocking said highway for the use of other persons who were lawfully traveling said highway and causing a serious traffic jam on both sides of the Alabama River Bridge leading into Selma; Petitioner further avers that this is the

bridge and is the route of an interstate highway, to-wit: United States Highway No. 80; further, that said highway is used by employees of Craig Air Force Base and businesses situated south of the Alabama River and that said demonstration seriously interfered with the normal flow of traffic on said highway; that attached hereto, marked Exhibit "A" and made a part hereof, is a copy of said order that was read by said U. S. Deputy Marshal to said persons at the time and place above stated, and attached hereto, marked Exhibit "B" and made a part hereof, is an affidavit or affidavits setting forth said facts.

WHEREFORE, Petitioner prays that this Court issue a rule upon Martin Luther King, Jr., Hosea Williams, John Lewis, Amelia Boynton, C. T. Vivian, Andrew Young, James Bevel, John Love, James Orange, L. L. Anderson, A. D. King, and Frank Soracco, separately and severally, ordering or directing each of said named persons, separately and severally, to appear before this Court on a day to be set by this Court, separately and severally to show cause, if any they have, why they should not be punished for violating said injunction or order.


Of Counsel for James G.
Clark


James G. Clark

STATE OF ALABAMA I
:
COUNTY OF DALLAS I

Before me, the undersigned authority, in and for said State and County, personally appeared James G. Clark, who, being by me first duly sworn, on oath, deposes and says:

The affiant is one of the Defendants in the above styled cause and the facts set forth in the foregoing petition are true

James G. Clark
James G. Clark

SWORN TO AND SUBSCRIBED before me on this 11

day of March, A. D., 1965.

M. L. B.
Notary Public, Dallas County, Alabama.

My Commission Expires: 3/2/66

W. McLEAN PITTS
PHILIP HENRY PITTS
PITTS & PITTS
Attorneys at Law
Selma, Alabama

J. E. WILKINSON, JR.
WILKINSON, WILKINSON & RUSSELL
Attorneys at Law
Selma, Alabama

T. G. GAYLE
Attorney at Law
Selma, Alabama

ATTORNEYS FOR DEFENDANT
JAMES G. CLARK

ROSA WILLIAMS, JOHN LEWIS
and AMELIA DOWNTON, on behalf of
themselves and others similarly
situated,

Plaintiffs.

vs.

CIVIL ACTION NO. 1918

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama,
AL LIPCO, as Director of Public
Safety for the State of Alabama,
and JAMES G. CLARK, as Sheriff of
Dallas County, Alabama,

Defendants.

ORDER DENYING MOTION FOR TEMPORARY RESTRAINING ORDER, AND SETTING CAUSE FOR HEARING ON MOTION FOR PRELIMINARY INJUNCTION

This cause is now submitted on the verified complaint, together with the exhibits thereto, filed with the Clerk of this Court on March 7, 1955. The complaint and exhibits thereto are advanced in support of plaintiffs' motion for a temporary restraining order. The temporary restraining order is requested without a hearing and without formal notice to the defendants on the theory that irreparable injury will result before notice can be served and a hearing can be had.

An examination of the complaint, together with the exhibits, reflects that the plaintiffs and the members of the class they represent, in an effort to encourage and assist Negroes to register and become voters and to persuade local boards of registrars in the State of Alabama to register Negroes and allow them to vote, attempted a march along the public highway on March 1, 1955, from Selma, Alabama, to Montgomery, Alabama; that said march was for the purpose of obtaining the assistance of the Honorable George C. Wallace, Governor of the State of Alabama, in removing impediments to voter registration of Negroes in the State of Alabama; that said planned march was halted under the instructions of the Governor, through the use of excessive force by the Alabama State Troopers and the Dallas County sheriff, together with his deputies and possemen. Plaintiffs say that they desire to resume their right to redress their grievances by walking along the public highway of the State of Alabama between Selma, Alabama, and Montgomery, Alabama,

tion for issuing a temporary restraining order without notice to the defendants and without a hearing. There will be no irreparable harm if the plaintiffs will await a judicial determination of the matters involved.

In order to afford the parties to this litigation an opportunity to present their evidence upon the motion for a preliminary injunction that was filed with the Clerk of this Court at 4:30 p.m. on March 8, 1963, this Court is of the opinion that there should be an early hearing upon said motion.

In consideration of the foregoing and for good cause, it is the ORDER, JUDGMENT and DECREE of this Court that the motion of the plaintiffs filed herein for a temporary restraining order be and the same is hereby denied.

In order to protect the integrity of this Court and to prevent the judicial processes from being frustrated by the plaintiffs and other members of their class continuing to attempt to enforce the rights they seek to have judicially determined in this Court, it appears that it will be to the best interest of all concerned and will work no irreparable injury or harm to plaintiffs, or members of their class, if they are ordered to refrain from attempting to exercise what they claim to be a constitutional right to march, until the matter can be judicially determined at an early hearing.

It is the further ORDER, JUDGMENT and DECREE of this Court that the plaintiffs and other members of their class, and those acting in concert with them, be and each is hereby enjoined and restrained from attempting to march from Selma, Alabama, to Montgomery, Alabama, until this Court has had a reasonable opportunity to make a judicial determination as to the prospective rights of the parties to this case.

It is the further ORDER, JUDGMENT and DECREE of this Court that the motion of the plaintiffs for a preliminary injunction be and the same is hereby set for a hearing to commence at 9 a.m., Thursday, March 11, 1963.

Done, this the 9th day of March, 1963.


UNITED STATES DISTRICT JUDGE

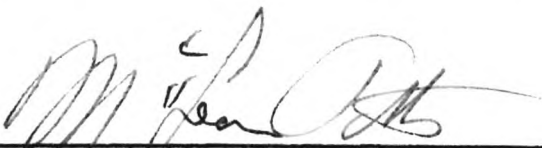
STATE OF ALABAMA I
COUNTY OF DALLAS I

Before me, the undersigned authority, in and for said State and County, personally appeared N. B. Chambers, T. L. Pyron, J. E. Crowder, ~~Robert Melton~~, Charlie Jones and C. E. Goodwin, each of whom being by me first duly sworn, on oath, depose and say:

Each of the affiants are police officers of the City of Selma, Alabama; each of said affiants were present at the intersection of Water Avenue and Broad Street near the north end of the Edmund Pettus Bridge across the Alabama River on March 9, 1965, at about 2:30 P. M.; each of the affiants were engaged in their official duties as police officers of the City of Selma and were present when a line of marchers led by Martin Luther King, Jr., Ralph Abernathy, et al, arrived at said intersection and each of said affiants saw Stanley Fountain, Deputy U. S. Marshal, read an order to said leaders of said march at said time and place. That after said order was read to said persons they proceeded onto the Edmund Pettus Bridge and proceeded in the direction of Montgomery on United States Highway No. 80; that said marchers in the streets of the City of Selma seriously interfered with the normal flow of traffic causing traffic congestion and for a period of time no automobiles could proceed towards Montgomery across said bridge and no traffic could proceed in the direction of Selma across said bridge.

NB Chambers
J E Crowder
Charlie Jones
T L Pyron

SWORN TO AND SUBSCRIBED before me on this 10
day of March, A. D., 1965.



Notary Public, Dallas County, Alabama.

My Commission Expires: 3/12/66

THE MIDDLE DISTRICT OF ALABAMA,

NORTHERN DIVISION.

HOSEA WILLIAMS, JOHN
LEWIS, and AMELIA BOYNTON,
on behalf of themselves and others
similarly situated,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

vs.

HONORABLE GEORGE C. WALLACE,
as Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama; and
JAMES G. CLARK, as Sheriff of
Dallas County, Alabama,

Defendants.

CIVIL ACTION

NO. 2181-N.

MOTION TO MAKE INJUNCTION PERMANENT

Now comes James G. Clark, one of the Defendants in the
above styled cause, and respectfully represents and shows unto
the Court as follows:

1. Movant is one of the Defendants in the above entitled
cause.
2. A preliminary injunction or restraining order was issued
by this Honorable Court in the above entitled cause on, to-wit:
March 9, 1965, enjoining or restraining the plaintiffs herein and
other members of their class, and those acting in concert with them,
from attempting to march from Selma, Alabama, to Montgomery,
Alabama, until this Honorable Court could have a reasonable
opportunity to make a judicial determination as to the prospective
rights of the parties in this cause.
3. That said plaintiffs and members of their class and

Jr., Hosea Williams, John Lewis, Amelia Boynton, C. T. Vivian, Andrew Young, James Bevel, John Love, James Orange, L. L. Anderson, A. D. King and Frank Soracco, violated said temporary restraining order or temporary injunction on, to-wit: March 9, 1965, by marching on U. S. Highway 80 from the corporate limits of the City of Selma, Alabama, to where said U. S. Highway 80 is intersected by Old Montgomery Road in Dallas County, Alabama, and said persons by their actions displayed at said time and by their actions since said date, will attempt to march from Selma, Alabama, to Montgomery, Alabama, along said U. S. Highway, which is a heavily traveled highway and is four laned from Selma to the Lowndes County line and through Lowndes County said highway is single lane and is a narrow highway with many hills and curves; that the marching of a large number of persons on foot on said highway would seriously interrupt and interfere with travelers along said highway, including interstate travelers, and would seriously interfere with the rights of other citizens to peaceably drive along said highway for pleasure or business reasons; that a large number of persons on said highway as proposed by said plaintiffs would also endanger the lives of said persons on foot on said highway and would probably result in some of said persons being run over or struck by motor vehicles traveling along said highway; that said highway at no point has any sidewalks along the same and under Alabama Law said persons traveling along said highway would be required to walk along the shoulder of said highway which are not of sufficient width to accomodate large numbers of persons and which said shoulders do not cross streams where there are bridges; that it is within the police power of the State of Alabama and its lawfully constituted authorities to prevent any such demonstration along said

WHEREFORE, Defendant, James G. Clark, moves that the temporary restraining order or injunction issued by this Court under date of March 9, 1965, at 9:00 A. M. be made permanent.

W. McLean Pitts
Of Counsel for James G.
Clark

James G. Clark
James G. Clark

STATE OF ALABAMA :
COUNTY OF DALLAS :

Before me, the undersigned authority, in and for said State and County, personally appeared James G. Clark, who, being by me first duly sworn, on oath, deposes and says:

The affiant is one of the Defendants in the above styled cause and the facts set forth in the foregoing petition are true to the best of his information, knowledge and belief.

James G. Clark
James G. Clark

SWORN TO AND SUBSCRIBED before me on this 11
day of March, A. D., 1965.

W. McLean Pitts
Notary Public, Dallas County, Alabama.

My Commission Expires: 3/12/66

W. McLEAN PITTS
PHILIP HENRY PITTS
Pitts & Pitts
Attorneys at Law
Selma, Alabama

J. E. WILKINSON, JR.
Wilkinson, Wilkinson & Russell
Attorneys at Law
Selma, Alabama

T. G. GAYLE
Attorney at Law
Selma, Alabama

ATTORNEYS FOR DEFENDANT

WHEREFORE, Derendant, James G. Clark, moves that the temporary restraining order or injunction issued by this Court under date of March 9, 1965, at 9:00 A. M. be made permanent.

W. McLean Pitts
Of Counsel for James G.
Clark

James G. Clark
James G. Clark

STATE OF ALABAMA I
:
COUNTY OF DALLAS I

Before me, the undersigned authority, in and for said State and County, personally appeared James G. Clark, who, being by me first duly sworn, on oath, deposes and says:

The affiant is one of the Defendants in the above styled cause and the facts set forth in the foregoing petition are true to the best of his information, knowledge and belief.

James G. Clark
James G. Clark

SWORN TO AND SUBSCRIBED before me on this 11
day of March, A. D., 1965.

W. McLean Pitts
Notary Public, Dallas County, Alabama.

My Commission Expires: 3/12/66

W. McLEAN PITTS
PHILIP HENRY PITTS
Pitts & Pitts
Attorneys at Law
Selma, Alabama

J. E. WILKINSON, JR.
Wilkinson, Wilkinson & Russell
Attorneys at Law
Selma, Alabama

T. G. GAYLE
Attorney at Law
Selma, Alabama

ATTORNEYS FOR DEFENDANT

FOR THE MIDDLE DISTRICT OF ALABAMA

NORTHERN DIVISION

FILED

HOSEA WILLIAMS, ET AL,
Plaintiffs,
UNITED STATES OF AMERICA,
Plaintiff-Intervenor,
v.
GEORGE C. WALLACE, ET AL,
Defendants

CIVIL ACTION NO. 2181-N

Now comes George C. Wallace, as Governor of the State of Alabama, and Al Lingo, as Director of the Department of Public Safety for the State of Alabama, parties defendant in the above styled cause, and show to the Court as follows:

1. Over the past several weeks preceding the filing of the Complaint in this cause, Plaintiffs acting in concert with numerous other persons under the guise and pretense of attempting to obtain for themselves and others similarly situated voting rights guaranteed under the laws and Constitution of the United States of America, have conducted a series of mass demonstrations, marches and rallies participated in by large numbers of persons in and around the cities of Selma and Montgomery, Alabama. These activities, which purport to be peaceful and non violent, have in each instance resulted in breaches of the peace, traffic congestion and have generally disrupted the maintenance of peace and order in the cities affected.

2. There is presently pending in the United States District Court for the Middle District of Alabama a civil action which seeks to obtain in behalf of Negro citizens voting rights in Montgomery County, Alabama, wherein the City

heretofore assumed jurisdiction of this cause and issued an injunction against the Montgomery County Board of Registrars, enjoining them, their successors in office, and all persons acting in concert therewith from discriminating in any manner against Negro citizens seeking to register and become qualified voters.

3. There is presently pending in the United States District Court for the Southern District of Alabama, Northern Division, a civil action which seeks to obtain in behalf of Negro citizens voting rights in Dallas County, Alabama, wherein the City of Selma is situated, and that Court has heretofore assumed jurisdiction of said cause and issued an injunction against the Dallas County Board of Registrars, enjoining them, their successors in office, and all persons acting in concert therewith, from discriminating in any manner against Negro citizens seeking to register and become qualified voters.

4. There is also presently pending in the United States District Court for the Middle District of Alabama, Northern Division, Civil Action No. 2159-N, wherein the United States Justice Department seeks to enjoin the Secretary of State of Alabama and other officials of the State of Alabama from using certain questionnaires in the voter registration procedures throughout the State of Alabama on the alleged ground that such tests violate the voting rights and privileges of Negro citizens.

5. The Plaintiffs in this cause and other persons acting in concert with them, on March 7, 1965, announced their intention to organize and conduct a mass demonstration along U. S. Highway 80 E from a point in Selma, Alabama, to the State Capitol in Montgomery, Alabama, for the alleged purpose of soliciting the assistance of the Governor of Alabama

6. Hereafter, on March 8, 1965, Plaintiffs filed this action seeking to have this Court declare their Constitutional right to march along the public highways of the State of Alabama for the purpose of demonstrating against certain alleged impediments to voter registration of Negroes in the State of Alabama. On March 9, 1965, this Honorable Court decreed that the United States of America be designated to appear and participate in all proceedings in this action and directed that the Attorney General of the United States, and such attorneys in the Department of Justice as he may designate, be appointed to appear and participate in behalf of the United States in this action.

7. On March 9, 1965, this Honorable Court made and entered an order in this cause denying Plaintiffs' motion for a temporary restraining order, set the cause for hearing on motion for preliminary injunction, and ordered that the Plaintiffs and other members of their class, and all persons acting in concert with them, be enjoined and restrained from attempting to march from Selma, Alabama, to Montgomery, Alabama, until this Court can have a reasonable opportunity to make a judicial determination as to the respective rights of the parties to this case.

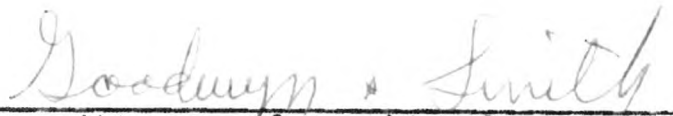
8. On March 9, 1965, after a copy of this Court's injunction order had been personally served upon each of the Plaintiffs to this action, and upon others acting in concert with them, including Martin Luther King, the said Plaintiffs in this action and numerous others acting in concert therewith, commenced a march demonstration along U. S. Highway 80 in Selma, Alabama, in violation of the previous order of this Court.

9. The said U. S. Highway 80, between Selma, Alabama, and Montgomery, Alabama, is a heavily travelled public thoroughfare which contains numerous narrow bridges and embankments.

Immediately adjacent to this highway, there are several swamps and heavily wooded areas, and a mass of people attempting to walk along this public highway would constitute a serious threat to the safety of the motoring public and the proposed marchers themselves.

10. In view of the numerous pending actions referred to herein which seek to secure for these Plaintiffs and the class which they represent voting rights under the Laws and Constitution of the United States, the Defendants allege that there can be no legitimate or proper motive for continued mass meetings, demonstrations, and rallies upon the public highways of this State. This Court, rather than the streets, is the proper forum for the redress of such alleged grievances.

WHEREFORE, the Defendants herein pray that this Court enter an order permanently enjoining and restraining the plaintiffs herein and all other members of their class, as well as those persons acting in concert with them, from conducting any march or mass demonstration along or upon U. S. Highway 80 between Selma, Alabama and Montgomery, Alabama, or along or upon any other public highway within the State of Alabama, and Defendants pray for such other relief as may be just and proper in the premises and its reasonable costs, including attorneys fees.


Attorneys for said Defendants

Goodwyn & Smith
325 Bell Building
Montgomery, Alabama

RETURN ON SERVICE OF WRIT

United States of America,

Middle DISTRICT OF Alabama

ss:

Hosea Williams, John Lewis and Amelia
Boynton, on behalf of themselves and
others similarly situated, plaintiffs.

vs

Honorable George C. Wallace, as Gov. of Ala
et alORDER, Complaint in Intervention,
Certificate of Attorney General of US
(Writ)I hereby certify and return that I served the annexed
on the therein-named Charles H. Jones, Jr.
(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with HIM

(Individual or agent of company, corporation, etc.)

personally at ELYNE 34 North Perry St.

(Address—Street number, apartment number,
rural route, etc.)at Montgomery, Alabama in the said District
(City) (State)

at 11:55 a. m.—p. m., on the 10th day of March, 19 65

Marshal's fees \$3.00

WILLIAM M. PARKER, JR.

United States Marshal.

Mileage

By

Floyd E. Marshall
Deputy.

RETURN ON SERVICE OF WRIT

United States of America,
Middle DISTRICT OF Alabama

ss:

Hosea Williams, John Lewis and Amelia
Boynton, on behalf of themselves and
others similarly situated, plaintiffs.

vs

Honorable George C. Wallace, as Gov. of Ala
et al.

I hereby certify and return that I served the annexed Order, Complaint in Intervention,
Certificate of Attorney General of US
(Writ)

on the therein-named Fred Gray
(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with HIM
(Individual or agent of company, corporation, etc.)

personally at 34 No. Perry
(Address—Street number, apartment number,
rural route, etc.)

at Montgomery, Alabama in the said District
(City) (State)
at 11:55 a. m.—p. m., on the 10th day of March, 19 65.

Marshal's fees \$3.00

Mileage _____

WILLIAM M. PARKER, JR.

United States Marshal.

By

Floyd E. Marshall

Deputy.

RECEIVED

1965 MAR 10 AM 11 19

UNITED STATES MARSHAL
POWERS, ALABAMA

RECEIVED

66 MAR 10 11 11 14

UNITED STATES MARSHAL
TOM WELCH, ALABAMA

RETURN ON SERVICE OF WRIT

Williams vs Wallaxe CA-2181-N

United States of America,

Middle DISTRICT OF Alabama

ss:

Order Denying Motion for Temporary
Restraining Order, Temporary Rest.
Order & Setting cause for hearing
(Writ)

I hereby certify and return that I served the annexed

on the therein-named Amelia Boynton

(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with Amelia Boynton

(Individual or agent of company, corporation, etc.)

personally at Baptist Church

(Address—Street number, apartment number,

rural route, etc.)

at Selma, Alabama
(City)

(State)

in the said District

at 2:15 a.m.—p. m., on the 9th day of March, 19 65

Marshal's fees \$3.00

WILLIAM M. PARKER, JR.

United States Marshal.

Mileage

By

Deputy.

U.S. GOVERNMENT PRINTING OFFICE: 1963—O-673716

RETURNED AND FILED

MAR 10 1965

R. G. BOBSON

CLERK

RETURN ON SERVICE OF WRIT

Williams vs. Wallace

CA-2181-N

United States of America,

Middle DISTRICT OF Alabama

ss:

Order Denying Motion for Temporary
Restraining Order, Temporary Rest.
Order and Setting Cause for
Hearing.

(Writ)

I hereby certify and return that I served the annexed
on the therein-named Hosea Williams

(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with Hosea Williams

(Individual or agent of company, corporation, etc.)

personally at 1416 Lapsley St.

(Address—Street number, apartment number,
rural route, etc.)

at Selma, Alabama in the said District
(City) (State)

at 11:10 a. m.—p. m., on the 9th day of March, 19 65

Marshal's fees \$3.00

Mileage

WILLIAM M. PARKER, JR.

United States Marshal.

By

Deputy.

RETURNED AND FILED

1965

R. C. EDSON

RETURN ON SERVICE OF WRIT

Williams vs. Wallace

CA-2181-N

United States of America,

Middle

DISTRICT OF Alabama

ss:

Order denying Motion for Temporary
Restraining Order, Temporary Rest.
~~Order & Setting Cause for hearing~~

I hereby certify and return that I served the annexed
on the therein-named

Rev. Martin Luther King

(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with Rev. Martin Luther King

(Individual or agent of company, corporation, etc.)

personally at 1416 Lapsley St.

(Address—Street number, apartment number,

rural route, etc.)

at Selma, Alabama

(City)

(State)

in the said District

at 11:10 a. m.—p. m., on the 9th day of March, 1965

Marshal's fees \$3.00

WILLIAM M. PARKER, JR.

United States Marshal.

Mileage

By

Deputy.

HOSEA WILLIAMS, JOHN LEWIS
and AMELIA BOYNTON, on behalf
of themselves and others
similarly situated,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

vs.

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff of
Dallas County, Alabama,

Defendants.

FILED

MAR 13 1965

K. C. DOBSON

Clerk

By _____
Deputy Clerk

CIVIL ACTION NO. 2181-N

O R D E R

The defendant James G. Clark, by and through his attorneys of record, filed with this Court on March 11, 1965, a motion to make permanent the temporary restraining order of this Court, said order having been entered on March 9, 1965. The temporary restraining order as issued by this Court on March 9, 1965, was for a specified and limited purpose, that is, to protect the integrity of this Court, to preserve this Court's jurisdiction, and to prevent the judicial processes from being frustrated by the plaintiffs and other members of their class continuing to attempt to enforce the rights they seek to have judicially determined in this case; thus, by the terms of the restraining order itself, when these rights have been judicially determined, the order will have served its purpose. Therefore, a motion by one of the defendants to enlarge this restraining order and to make it into a permanent injunction against the plaintiffs and other members of their class, is not proper.

In this connection, this Court notes that the defendants George C. Wallace as Governor of the State of Alabama and Al Lingo as Director of Public Safety for the State of Alabama, by and through their attorneys on March 11, 1965, in submitting to the jurisdiction of this Court in this case, pray for an injunction against the plaintiffs and other members of their class from continuing any march or demonstrations along or upon U. S. Highway 80 between Selma, Alabama, and

ORDER, JUDGMENT and DECREE of this Court that the motion of James G. Clark filed herein on March 11, 1965, asking this Court to enlarge into a permanent injunction the temporary restraining order made and entered in this case on March 9, 1965, be and the same is hereby denied.

Done, this the 13th day of March, 1965.

FRANK M. JOHNSON, JR.
UNITED STATES DISTRICT JUDGE

MIDDLE DISTRICT OF ALABAMAUNITED STATES MARSHAL
MONTGOMERY, ALABAMA

CIVIL ACTION FILE NO. 2181-N

HOSEA WILLIAMS, JOHN LEWIS and
AMELIA BOYNTON, on behalf of
themselves and others similarly
situated,

Plaintiff

v.

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff of
Dallas County, Alabama,

Defendants

SUMMONS

To the above named Defendants :

You are hereby summoned and required to serve upon Peter A. Hall,

plaintiff's attorney , whose address is 1630 4th Avenue N, Birmingham, Alabama,

an answer to the complaint which is herewith served upon you, within twenty days after service
of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default
will be taken against you for the relief demanded in the complaint.

R. C. Dobson

Clerk of Court.

Jane P. Jordan

Deputy Clerk.

Date: March 8, 1965

[Seal of Court]

MIDDLE DISTRICT OF ALABAMAUNITED STATES MARSHAL
NORTHEASTERN ALABAMA

CIVIL ACTION FILE NO. 2181-N

HOSEA WILLIAMS, JOHN LEWIS and
AMELIA BOYNTON, on behalf of
themselves and others similarly
situated,

Plaintiff

v.

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff of
Dallas County, Alabama,

Defendants

SUMMONS

To the above named Defendants :

You are hereby summoned and required to serve upon Peter A. Hall,

plaintiff's attorney , whose address is 1630 4th Avenue N, Birmingham, Alabama,

an answer to the complaint which is herewith served upon you, within twenty days after service
of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default
will be taken against you for the relief demanded in the complaint.

R. C. Dobson

Clerk of Court.

Jane P. Gordon

Deputy Clerk.

Date: March 8, 1965

[Seal of Court]

RECEIVED

065 MAR 9 AM 9 15

UNITED STATES MARSHAL
SOUTHERN DISTRICT, ALABAMA

No. _____

United States District Court
FOR THE

v.

SUMMONS IN CIVIL ACTION

Returnable not later than _____ days
after service.

Attorney for Plaintiff.

FPI-LK-3-2-64-10M-3194

[SEAL]

day of _____

, 19 _____

Subscribed and sworn to before me, a

this _____

Service _____

Travel _____

MARSHAL'S FEES

\$ _____

By _____

Deputy United States Marshal.

United States Marshal.

Note.—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.

RETURN ON SERVICE OF WRIT

United States of America,
Middle DISTRICT OF Alabama } Hosea Williams, et al
vs. Civ. 2181-N
ss: Hon. George C. Wallace, et al

I hereby certify and return that I served the annexed Summons & Complaint, Motion for Preliminary Inj. & Motion for Temp. Restraining Order & Order
(Writ)

on the therein-named Honorable George C. Wallace, as Governor of the State
(Individual, company, corporation, etc.)
of Alabama

by handing to and leaving a true and correct copy thereof with Honorable George C. Wallace
(Individual or agent of company, corporation, etc.)

personally at his office, State Capitol Building,
(Address—Street number, apartment number,
rural route, etc.)

at Montgomery, Alabama in the said District
(City) (State)
at 9:45 a. m. — ~~p.m.~~, on the 9th day of March, 1965

Marshal's fees \$12.00
Mileage .24
\$12.24

WILLIAM M. PARKER, JR.

United States Marshal.

By

John D. Larrites
Chief Deputy.

RETURN ON SERVICE OF WRIT

Williams vs. Wallace CA-2181-N

United States of America,
Middle DISTRICT OF Alabama

ss:

Summons & Complaint, Motion for
Preliminary Inj. & Motion for Temp.
Restraining Order & Order

I hereby certify and return that I served the annexed

(Writ)

on the therein-named James G. Clark, as Sheriff of Dallas County, Alabama

(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with James G. Clark

(Individual or agent of company, corporation, etc.)

personally at Dallas County Courthouse

(Address—Street number, apartment number,

rural route, etc.)

at Selma, Alabama
(City)

(State)

in the said District

at 12:10 a/m.—p. m., on the 9th day of March, 1965

Marshal's fees \$2.00

WILLIAM M. PARKER, JR.

United States Marshal.

Mileage

By

Deputy.

RETURN ON SERVICE OF WRIT

Williams vs. Wallace CA-2181-N

United States of America,

Middle DISTRICT OF Alabama

ss:

Summons & Complaint, Motion for
Preliminary Inj. & Motion for Temp.
Restraining Order & Order

(Writ)

I hereby certify and return that I served the annexed
on the therein-named Al Lingo, Director of Public Safety for the State of Alabama
(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with Al Lingo

(Individual or agent of company, corporation, etc.)

personally at

(Address—Street number, apartment number,

rural route, etc.)

at Dallas County Courthouse, Selma, Ala. in the said District
(City) (State)

at 12:15 a. m.—p. m., on the 9th day of March, 19 65

Marshal's fees

12.00

WILLIAM M. PARKER, JR.

United States Marshal.

Mileage

By

Deputy.

HOSEA WILLIAMS, ET AL.

*

PLAINTIFFS,

*

VS.

*

CIVIL ACTION
NO. 2181-N

HONORABLE GEORGE C. WALLACE, AS
GOVERNOR OF THE STATE OF ALABAMA,
ET AL.

*

*

DEFENDANTS.

*

FILED

MAR 16 1965

R. C. DOBSON, CLERK

By J. S. D.
Deputy Clerk

PLAINTIFFS' PROPOSED PLAN FOR MARCH FROM
SELMA, ALABAMA TO MONTGOMERY, ALABAMA

1. THE MARCH WILL COMMENCE ON FRIDAY, MARCH 19, 1965 AT 10:30 A.M. OR ANY DAY THEREAFTER PROVIDED THAT PLAINTIFFS WILL PROVIDE AT LEAST 48 HOURS ADVANCE NOTICE OF THE MARCH TO DEFENDANTS, THE UNITED STATES, AND THE COURT.

2. THE NUMBER OF PERSONS MARCHING WILL BE AS FOLLOWS;

- A. THERE WILL BE NO LIMITATION ON THE NUMBER OF MARCHERS WITHIN THE CITIES OF SELMA AND MONTGOMERY AND ALONG THE 4-LANE PORTIONS OF ROUTE 80-EAST BETWEEN SELMA AND MONTGOMERY.
- B. THE NUMBER OF MARCHERS WILL NOT EXCEED 300 PERSONS ON THE 2-LANE PORTION OF ROUTE 80.

3. THE FOLLOWING ARE THE APPROXIMATE DISTANCES TO BE COVERED EACH DAY:

- A. FIRST DAY-MARCH APPROXIMATELY 11 MILES STOPPING AT A DESIGNATED PRIVATE FIELD WITH PERMISSION OF OWNER WHICH HAS ALREADY BEEN GRANTED;
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- E. FIFTH DAY-MARCH FROM WESTERN PART OF MONTGOMERY TO THE CAPITOL.
- F. LARGE TENTS WILL BE ERECTED AT THE CAMPSITES BY PROFESSIONALS. MEETINGS AND SONG FESTIVALS MAY BE HELD AT CAMPSITES.

4. ROUTE OF MARCH IN THE CITY OF SELMA: STARTING AT BROWN'S CHAPEL A.M.E. CHURCH ON SYLVAN STREET PROCEEDING SOUTH ON SYLVAN TO ALABAMA, THEN WEST ON ALABAMA TO BROAD (HIGHWAY 80-EAST), THEN SOUTH ON BROAD STREET ACROSS EDMUND

FOLLOWING ROUTE 80 UNTIL IT BECOMES FAIRVIEW AVENUE AND CONTINUE ON FAIRVIEW TO OAK STREET TURNING NORTH ON OAK STREET TO JEFF DAVIS AVENUE; THEN EAST ON JEFF DAVIS TO HOLT STREET; THEN NORTH ON HOLT TO MOBILE STREET; THEN ON MOBILE TO MONTGOMERY; THEN NORTHEAST ON MONTGOMERY TO COURT SQUARE THEN UP DEXTER AVENUE TO CAPITOL. THE MARCH IN THE CITY WILL BE IN THE STREETS.

6. ON THE HIGHWAY, THE MARCHERS WILL PROCEED ON SHOULDERS OF THE ROAD WALKING ON THE LEFT SIDE FACING AUTOMOBILE TRAFFIC. THEY WILL MARCH ALONG ROAD SHOULDERS TWO ABREAST AND EMPLOY SINGLE FILES AT PLACES WHERE THE SHOULDER IS NARROW AND ON BRIDGES WITHOUT SIDEWALKS. THE MARCHERS WILL BE ORGANIZED IN SEPARATE GROUPS OF APPROXIMATELY 50 PERSONS (OR LESS) AND EACH GROUP WILL BE UNDER THE SUPERVISION OF A DESIGNATED GROUP LEADER.

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- F. LINES OF COMMUNICATION AMONG THE MARCHERS AND LEADERS AND CERTAIN SUPPORTING SERVICES WILL BE ESTABLISHED BY WALKIE-TALKIE RADIOS AND OTHER MEANS.

8. LIASON WILL BE ESTABLISHED BETWEEN DESIGNATED LEADERS OF THE MARCH AND SUCH STATE AND LOCAL OFFICIALS AS THE AGENCIES CONCERNED SHALL DESIGNATE.

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A. NOT MORE THAN 20 PERSONS WILL ENTER THE CAPITOL BUILDING
PROCEED TO THE GOVERNOR'S OFFICE, SEEK AN AUDIENCE WITH
THE GOVERNOR AND PRESENT A PETITION.

B. TRANSPORTATION AWAY FROM THE CAPITOL GROUNDS WILL BE
PROVIDED BY LEADERS OF THE MARCH TO VARIOUS DESTINATIONS
INCLUDING TRANSPORTATION TERMINALS..

II. THE MARCH WILL BE ORDERLY AND PEACEFUL AND OTHERWISE OBSERVE
THE HIGHEST STANDARDS OF DIGNITY AND DECORUM.

RESPECTFULLY SUBMITTED,

Harold L. Williams

John Lewis
PLAINTIFFS

Peter A. Hall

PETER A. HALL
1630 4TH AVENUE N.
BIRMINGHAM, ALABAMA

GRAY & SEAY
34 NORTH PERRY STREET
MONTGOMERY, ALABAMA

Jack Greenberg
JACK GREENBERG
NORMAN AMAKER
CHARLES H. JONES, JR.
JAMES M. NABRIT, III
10 COLUMBUS CIRCLE
NEW YORK 19, N. Y.

ATTORNEYS FOR PLAINTIFF

NORTHERN DIVISION

HOSEA WILLIAMS, ET AL.

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PLAINTIFFS,

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FILED

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By R. G. DOBSON, CLERK
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RESPECTFULLY SUBMITTED,

PETER A. HALL
1630 4TH AVENUE N.
BIRMINGHAM, ALABAMA

PLAINTIFFS

GRAY & SEAY
34 NORTH PERRY STREET
MONTGOMERY, ALABAMA

JACK GREENBERG
NORMAN AMAKER
CHARLES H. JONES, JR.
JAMES M. NABRIT, III
10 COLUMBUS CIRCLE
NEW YORK 19, N. Y.

ATTORNEYS FOR PLAINTIFF

*Plaintiff's proposed plan is not acceptable or agreed too,
by the Defendant Lingo. Respectfully Submitted.
March - 16, 1965 John P. Glover
attorney for the Defendant Lingo*

*3/16/65.
Plaintiff's proposed plan is not acceptable or agreed
too by the defendant, Jim Clark, Respectfully
Submitted.*

*My wife with
letter for Mr. Clark.*

RG: 21

TAB #:

ENTRY: 740813

COPIES/PPS./CLASS.

BOX: 2

ACCESS RESTRICTED

The item identified below has been withdrawn from this file:

File Designation Civil Action 2181-N
Plaintiff's Proposed March Plan
Date 3pp
From Exhibit for High Museum
To May 7, 2008 - ~~May 9~~, April 14, 2009

In the review of this file this item was removed because access to it is restricted. Restrictions on records in the National Archives are stated in general and specific record group restriction statements which are available for examination. The item identified above has been withdrawn because it contains:

- ☐ Security-Classified Information
☒ Otherwise Restricted Information

Withdrawn for exhibit at
High Museum

Stored in Intrinsic Vault
Authority

03/05/08
Date

Withdrawn by RMR

WITHDRAWAL NOTICE

NORTHERN DIVISION

HOSEA WILLIAMS, ET AL.

PLAINTIFFS,

vs.

HONORABLE GEORGE C. WALLACE, AS
GOVERNOR OF THE STATE OF ALABAMA,
ET AL.

DEFENDANTS.

CIVIL ACTION
NO. 2181-N

FILED

MAR 16 1965

R. G. DOBSON, CLERK
By
Deputy Clerk

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RESPECTFULLY SUBMITTED,

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JAMES M. NABRIT, III
10 COLUMBUS CIRCLE
NEW YORK 19, N. Y.

ATTORNEYS FOR PLAINTIFF

11:15 AM
March 16, 1965
Defendant Governor Wallace objects
to the within proposed plan.

Respectfully submitted
Gordon Smith
Att'y for said Defendant

Hosea Williams, John Lewis
and Amelia Boynton, on behalf
of themselves and others
similarly situated,

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

vs

Honorable George C. Wallace, as
Governor of the State of Alabama;
Al Lingo, as Director of Public
Safety for the State of Alabama;
and James G. Clark, as Sheriff of
Dallas County, Alabama,

Defendants.

Civil Action

No. 2181-N.

(MEMORANDUM TRANSCRIPT: This memorandum transcript contains
interrogation by the Court of the witness, Martin Luther
King, Jr., at conclusion of cross-examination of said
witness by Mr. Maury D. Smith on behalf of his clients
during hearing held in above case before Hon. Frank M.
Johnson, Jr., Judge, at Montgomery, Alabama, March
11-12-13-15-16, 1965.)

THE COURT: Does that conclude your examination, Mr.
Smith?

MR. SMITH: Yes, sir.

THE COURT: All right. Dr. King, before we continue
with counsel examining you, along this last part of Mr. Smith's
examination let me ask you a few questions, please.

WITNESS: (Nodded to indicate affirmative reply)

THE COURT: On Tuesday when -- when you did march,
prior to the time you marched did you have any -- any conversation with
Governor Collins concerning the extent of your march, how far you
intended to march, and where you intended to march?

WITNESS: Yes, I said to him that we felt compelled,
as I said earlier, on the basis of conscience, to march, and I said to
him at that point that we were aware of the fact at that time that the

State Troopers were standing at a certain point across the bridge, and that they were there in large numbers, and that they would form a human wall, and I went on to say that we would not ever attempt, on the basis of the non-violent spirit and the non-violent movement, to break through a human wall that had been set up by a policeman. And when I said -- said that, I went on to say that I felt that at least we had to walk to the point where the brutality occurred Sunday, and not only walk to that point, but to be able to make some kind of witness, some kind of testimony, to have some prayers, because of the numerous religious leaders who had come in from all over the country.

THE COURT: Is it correct to say that when you started to march, and you went across the bridge, you knew that the State Troopers were approximately five hundred feet beyond it?

WITNESS: That's right; we did.

THE COURT: And you did not intend at that time to march past the Troopers; is that right?

WITNESS: That is correct; we --

THE COURT: Had you made any advance preparations for a march from Selma to Montgomery --

WITNESS: I think --

THE COURT: -- in the way of food for that day, in the way of food and trucks and things like that?

WITNESS: No, we didn't. The -- the predominant opinion was that we would not be able to get to Montgomery, so we didn't even prepare for it.

THE COURT: Now, it has been reported to me -- and let me ask you if this is correct -- that after you reached the State Troopers, and while you were there and confronted by the Troopers, that they were pulled away and that their automobiles were removed while you all were still there; is that correct?

WITNESS: That is correct.

THE COURT: And then did you go forward, or did you turn and go back to Montgomery -- I mean to Selma?

WITNESS: We turned around and went back to Selma.

THE COURT: After the State Troopers had been pulled back?

WITNESS: That's right.

THE COURT: And at that point there were no Troopers in front of you --

WITNESS: That is correct.

THE COURT: -- between -- on the highway between you all and Montgomery?

WITNESS: That is correct.

THE COURT: But you turned and went back to Selma; is that report to me that I have received from the Justice Department correct?

WITNESS: Yes, sir; that is correct.

THE COURT: You know why the State Troopers were pulled back at that point to leave the highway open for you?

WITNESS: No, we -- we don't know; we have been asking questions in my mind, in our minds, but we really don't know. It may be that after confronting them, and we felt that we had to have this moral confrontation with the State Troopers, and they said we couldn't move forward, I made the statement, "Do you mind, sir, if we have some prayers and sing one or two freedom songs?" and then I said -- I mean he said, "You can have the prayers and songs and go back to the church." This was a kind of tacit agreement --

THE COURT: Now, a tacit agreement between who, between what parties?

WITNESS: Right there with who -- I don't remember the name.

THE COURT: Was Governor Collins there?

WITNESS: No, I am not sure if he was on the scene or not. I am not sure, but I mean with the State Trooper who spoke over the --

THE COURT: All right.

WITNESS: -- system.

THE COURT: Along that same point, let me ask you if there was an agreement between you and -- and Governor Collins, who, as I understand it, was acting as a liaison between you and the State Troopers; is that correct; was he on that day carrying messages back and forth?

WITNESS: Well, when he came in, I think the sequence would be this: He came and said that for many reasons he wished that we wouldn't march, and he urged us not to, and I went through a long discussion, relatively long discussion, about the reasons why I felt that we had to march, and then at that point Reverend Fred Shuttlesworth, who was in the meeting, said to Governor Collins that, "The thing you should do, Governor, if you want to be helpful in this situation, is to go to the Troopers and urge them not to interfere with our activities today or not to be brutal in any manner."

THE COURT: Subsequent to that time, were you brought a route of march by Governor Collins?

WITNESS: Yes, he brought me a piece of paper with a route.

THE COURT: Before you marched?

WITNESS: Yes. As we --

THE COURT: And who did it purport to come from? According to Governor Collins, the route of march that you and this group were to take last Tuesday?

WITNESS: I am sorry, I really don't know, and I gave it immediately to Reverend Young.

THE COURT: Well, did you march according to the

--,--
route that Governor Collins brought you?

WITNESS: Yes, it was the same route that they used Sunday, according to Reverend Young; he looked at it immediately, and he said, "This is the same route, I am familiar with this."

MR. McLEAN PITTS: Now, we -- that is all right.

THE COURT: What were you informed with reference to that route, that it was permissible for you to march along that route or not?

WITNESS: Governor Collins said to me when he gave me the paper, he came and said very briefly, "Let me give you this, or this is the route that they would like for you to follow."

THE COURT: They who; did he say?

WITNESS: He didn't say who.

THE COURT: All right.

WITNESS: And he said, "I think things will work out all right," and that was all he said.

THE COURT: Did it have a point on there where the State Troopers were supposed to be?

WITNESS: I really don't think it did. As I recall, I looked at it very quickly and gave it to Reverend Young, but I don't recall --

THE COURT: All right.

WITNESS: -- it having where the State Troopers were to be, but it just gave around -- I don't remember the name of streets, but it led right on around to the bridge.

THE COURT: Then as I understand it, on one point did -- did you agree, and did you subsequently carry it out with Governor Collins, that you would stop on your march where the Troopers were?

WITNESS: Oh, yes; we made it very clear to Governor Collins in our talk with him that we --

THE COURT: All right.

WITNESS: -- would not break through the troops, we would have to stop at that point.

MR. GREENBERG: Please the court, we have -- one of the witnesses, I think, has that so called map. It is just a few scribbled lines; we are trying to get it so the court can see the whole thing. Here it is.

THE COURT: Let it be marked for identification.

THE CLERK: Plaintiff's Exhibit number 15 for identification.

THE COURT: I hand you Plaintiff's Exhibit 15 and ask you if that is the diagram that Governor Collins gave you on that morning before the march indicating where you could march?

WITNESS: Uh, huh; yes, sir; this is it.

THE COURT: Do you know whether he had been in touch with Sheriff Clark or Lingo or any of their representatives prior to that time?

WITNESS: I -- I don't know, but I assumed that he had been. When he came to me, at the end of our meeting, after we suggested that he -- after we suggested that something be done about curbing the brutality, he did say that they would immediately try to do something about it, and we didn't --

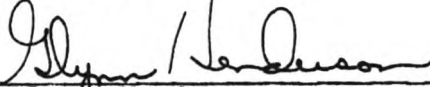
THE COURT: Were you informed by Governor Collins prior to the time you marched that if you stopped where the Troopers were there would be no brutality?

WITNESS: Well, when he came to me, he said simply that, "I think everything will be all right." That was his statement, as I recollect, and I assumed by that that he meant that we would be able to march at least to the point where the brutality occurred Sunday and would face the human wall, and that we would be permitted to have a brief period there and go back to the church.

THE COURT: We will take a ten minute recess.

(END OF MATTERS COVERED BY THIS MEMORANDUM
TRANSCRIPT)

I hereby certify that the foregoing is a
full, true, and correct transcript of
notes taken by me in above matter, or that
portion thereof indicated in caption on
page 1 thereof.



Glyn H. Henderson,
Official Court Reporter.

RETURN ON SERVICE OF WRIT

United States of America,
Middle DISTRICT OF Alabama

Hosea Williams, et al
vs. 2148-N
ss: Hon. George C. Wallace et al

Order Denying Motion for Temporary
Rest. Order, Temp. Rest. Order &
Setting Cause for Hearing on Motion
for Preliminary Inj.
(Writ)

I hereby certify and return that I served the annexed
on the therein-named Peter Hall, Attorney for Plaintiffs
(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with Peter Hall
(Individual or agent of company, corporation, etc.)

personally at U. S. District Court Room
(Address—Street number, apartment number,
rural route, etc.)

at Montgomery, Alabama in the said District
(City) (State)
at 9:00 a. m. — p. m., on the 11th day of March, 19 65.

Marshal's fees 3.00
WILLIAM M. PARKER, JR.
United States Marshal.

Mileage
By John B. Lassiter
Deputy.

U.S. GOVERNMENT PRINTING OFFICE: 1963—O-673716

RETURNED AND FILED

MAR 17 1965

R. C. DOBSON
CLERK

RETURN ON SERVICE OF WRIT

United States of America,
Middle DISTRICT OF Alabama
Hosea Williams, et al
vs.
ss: Hon. George Wallace, et al
Civ. 2181-N
Summons & Complaint
Motion for Preliminary Injunction,
Motion for Temporary Rest. Order,
and Order

I hereby certify and return that I served the annexed (Writ)
on the therein-named Fred Gray, Attorney for Plaintiffs
(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with him, Fred Gray,
(Individual or agent of company, corporation, etc.)

personally at Dean Drug Store on Monroe at Lawrence Streets
(Address—Street number, apartment number,
rural route, etc.)

at Montgomery, Alabama in the said District
(City) (State)
at 12:45 p. m., on the 9th day of March, 19 65

Marshal's fees \$12.00 William M. Parker Jr.
United States Marshal.

Mileage By Arthur G. Worthy
Deputy.

U.S. GOVERNMENT PRINTING OFFICE: 1963—O-673716

RETURNED AND FILED

MAR 17 1965

R. C. DOBSON
CLERK

FILED

MAR 17 1965

E. C. DODSON
Clerk

By
Deputy Clerk

HOSEA WILLIAMS, JOHN LEWIS
and AMELIA BOYNTON, on behalf
of themselves and others
similarly situated,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

vs.

CIVIL ACTION NO. 2181-N

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff of
Dallas County, Alabama,

Defendants.

MEMORANDUM OPINION

The plaintiffs as Negro citizens and the members of the class they represent filed with this Court on March 8, 1965, their complaint, motion for temporary restraining order and motion for a preliminary injunction. Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(3) and (4). This action, authorized by 42 U.S.C. § 1971(a) and (b) as amended and 42 U.S.C. §§ 1981 and 1983, seeks relief from the denial of the equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States and seeks redress of the deprivation of rights, privileges and immunities guaranteed by the First, Fourteenth and Fifteenth Amendments to the Constitution of the United States, as implemented by the above-identified Congressional enactments. On March 10, 1965, the United States of America, by leave of this Court, filed its complaint in intervention. This intervention complaint was filed pursuant to an order of this Court designating the United States as a party and pursuant to the provisions of § 902 of the Civil Rights Act of 1964 (Public Law 88-352, July 2, 1964). The Attorney General of the United States certifies that this case is of general importance, and his certificate is attached to the intervention complaint.

The defendant George C. Wallace is the Governor and chief executive

executive officer of the State of Alabama is charged with the faithful execution of the laws of the State of Alabama and of the United States of America; in such capacity, the Governor controls and supervises the defendant Albert J. Lingo, and through the defendant Lingo the Governor controls and directs the activities of the Alabama Highway Patrol, also known as the Alabama State Troopers. The defendant Lingo as director is in the active control of the Alabama Highway Patrol.

The plaintiffs seek to have this Court guarantee their right to assemble and demonstrate peaceably for the purpose of redressing their grievances concerning the right to register to vote in the State of Alabama without unlawful interference. Included in the rights plaintiffs seek and ask this Court to adjudicate is that of walking peaceably along the public highway in the State of Alabama between Selma and Montgomery. Plaintiffs also ask this Court to enjoin and restrain the defendants and all persons acting in concert with them from arresting, harassing, threatening, or in any way interfering with their peaceful, nonviolent march from Selma, Alabama, to Montgomery, Alabama, for the purpose of protesting injustices and petitioning their State government, particularly the chief executive officer--the Governor--for redress of grievances.

By order made and entered in this case on March 9, 1965, this Court denied the plaintiffs' application for a restraining order, which was sought without any notice to the defendants and without a hearing. At the same time, upon being informed that the plaintiffs intended to continue to attempt their mass marching along the public highway of the State of Alabama between Selma and Montgomery before this Court had had an opportunity to adjudicate the respective rights of the parties, this Court entered an order temporarily restraining any further attempts on the part of the plaintiffs to enforce the rights they ask this Court to judicially determine until the matter could be heard commencing Thursday, March 11, 1965. Plaintiffs were restrained by this Court pursuant to the authority of Title 28, § 1651, United States Code, with the purpose of the temporary restraining order being necessary and appropriate in aid of this Court's jurisdiction. ^{1/} Issue was joined by the defendants upon

Wallace, in addition to joining issue, asking this Court to enjoin and restrain the plaintiffs and other members of their class from continuing any march or mass demonstration along or upon U. S. Highway 80 between Selma, Alabama, and Montgomery, Alabama, or along or upon any other public highway within the State of Alabama.

This submission is upon the pleadings, the testimony of numerous witnesses taken over a period of four and one-half days, and the several exhibits offered and admitted in connection with that testimony. Upon this submission, this Court now proceeds in this memorandum opinion to make appropriate findings of fact and conclusions of law as required by Rule 52, Federal Rules of Civil Procedure.

Under Alabama law, registration is prerequisite to voting in any election. In several counties in central Alabama, including Dallas County wherein Selma, Alabama, is located, fewer than 10% of the Negroes of voting age are registered to vote.^{2/} For the purpose of obtaining better political representation for Negro citizens in these counties, the Negro communities, through local and national organizations, have conducted voter registration drives in recent years. These voter registration drives in Dallas and other central Alabama counties have been intensified since September, 1964. Public demonstrations have been held in these several counties, particularly in Dallas County, for the purpose of encouraging Negroes to attempt to register to vote and also for the purpose of protesting discriminatory voter registration practices in Alabama. The demonstrations have been peaceful. At the same time, cases have been filed in the United States District Courts in this district^{3/} and also in the Southern District of Alabama;^{4/} these cases are

^{1/} This temporary restraining order, being designed only to protect this Court's jurisdiction, pending a hearing and adjudication of the rights of the parties, has served its purpose with the filing of this order, and, therefore, expires.

^{2/} See Appendix "A" for registration statistics compiled for Dallas, Perry, Wilcox, Hale, Choctaw and Marengo Counties. As to Lowndes County, the evidence reflects that no Negroes are registered to vote although the Negro population in Lowndes County is considerably in excess of 50% of the total population of that county.

^{3/} United States v. Penton (for Montgomery County), 212 F. Supp. 193 (1962);

several central Alabama counties.

As reflected by Appendix "A" to this opinion, the efforts of these Negro citizens to secure this right to register to vote in some of these counties, have accomplished very little. For instance, in Dallas County, as of November, 1964, where Negro citizens of voting age outnumber white citizens of voting age, only 2.2% of the Negroes were registered to vote. In Perry County as of August, 1964, where the Negro citizens of voting age outnumber white citizens, only 7% of the Negroes were registered to vote. In Wilcox County as of December, 1963, where the Negro citizens of voting age outnumber white citizens over two to one, 0% of the Negro citizens were registered to vote as contrasted with the registration of 100% of the white citizens of voting age in this county. In Hale County, where Negro citizens of voting age outnumber white citizens, only 3.6% of these Negro citizens have been registered to vote. The evidence in this case reflects that, particularly as to Selma, Dallas County, Alabama, an almost continuous pattern of conduct has existed on the part of defendant Sheriff Clark, his deputies, and his auxiliary deputies known as "possemen" of harassment, intimidation, coercion, threatening conduct, and, sometimes, brutal mistreatment toward these plaintiffs and other members of their class who were engaged in their demonstrations for the purpose of encouraging Negroes to attempt to register to vote and to protest discriminatory voter registration practices in Alabama. This harassment, intimidation and brutal treatment has ranged from mass arrests without just cause to forced marches for several miles into the countryside, with the sheriff's deputies and members of his posse herding the Negro demonstrators at a rapid pace through the use of electrical shocking devices (designed for use on cattle) and night sticks to prod them along. The Alabama State Troopers, under the command of the defendant Lingo, have, upon several

3/ (Contd.) United States v. State of Alabama (for Macon County), 171 F. Supp. 720 (1959), 267 F. 2d 808, vacated and remanded 362 U.S. 602; United States v. State of Alabama (for Bullock County), Civil Action No. 1677-N, Sept. 3, 1961; United States v. Cartwright (for Elmore County), 230 F. Supp. 873 (1964).

4/ United States v. Atkins (concerning Dallas County), 210 F. Supp. 441, reversed, 5th Cir., 323 F. 2d 733, and United States v. Mayton (relating to Perry County), 335 F. 2d 153.

State troopers, along with Sheriff Clark as an "invited guest," have extended the harassment and intimidating activities into Perry County, where, on February 18, 1965, when approximately 300 Negroes were engaged in a peaceful demonstration by marching from a Negro church to the Perry County Courthouse for the purpose of publicly protesting racially discriminatory voter registration practices in Perry County, Alabama, the Negro demonstrators were stopped by the State troopers under the command of the defendant Lingo, and the Negro demonstrators were at that time pushed, prodded, struck, beaten and knocked down. This action resulted in the injury of several Negroes, one of whom was shot by an Alabama State Trooper and subsequently died.

In Dallas County, Alabama, the harassment and brutal treatment on the part of defendants Lingo and Clark, together with their troopers, deputies and "possemen," and while acting under instructions from Governor Wallace, reached a climax on Sunday, March 7, 1965. Upon this occasion approximately 650 Negroes left the church in Selma, Alabama, for the purpose of walking to Montgomery, Alabama, to present to the defendant Governor Wallace their grievances concerning the voter registration processes in these central Alabama counties and concerning the restrictions and the manner in which these restrictions had been imposed upon their public demonstrations. These Negroes proceeded in an orderly and peaceful manner to a bridge near the south edge of the City of Selma on U. S. Highway 80 that leads to Montgomery, Alabama, which is located approximately 45 miles east of Selma. They proceeded on a sidewalk across the bridge and then continued walking on the grassy portion of the highway toward Montgomery until confronted by a detachment of between 60 to 70 State troopers headed by the defendant Colonel Lingo, by a detachment of several Dallas County deputy sheriffs, and numerous Dallas County "possemen" on horses, who were headed by Sheriff Clark. Up to this point the Negroes had observed all traffic laws and regulations, had not interfered with traffic in any manner, and had proceeded in an orderly and peaceful manner to the point of confrontation. They were ordered to disperse and were given two minutes to do so by Major Cloud, who was in active command of the troopers and who was acting upon specific instructions from his

troopers and the members of the Dallas County sheriff's office and "possemen" moved against the Negroes. The general plan as followed by the State troopers in this instance had been discussed with and was known to Governor Wallace. The tactics employed by the State troopers, the deputies and "possemen" against these Negro demonstrators were similar to those recommended for use by the United States Army to quell armed rioters in occupied countries. The troopers, equipped with tear gas, nausea gas and canisters of smoke, as well as billy clubs, advanced on the Negroes. Approximately 20 canisters of tear gas, nausea gas, and canisters of smoke were rolled into the Negroes by these State officers. The Negroes were then prodded, struck, beaten and knocked down by members of the Alabama State Troopers. The mounted "possemen," supposedly acting as an auxiliary law enforcement unit of the Dallas County sheriff's office, then, on their horses, moved in and chased and beat the fleeing Negroes. Approximately 75 to 80 of the Negroes were injured, with a large number being hospitalized.

The acts and conduct of these defendants, together with the members of their respective enforcement agencies, as outlined above, have not been directed toward enforcing any valid law of the State of Alabama or furthering any legitimate policy of the State of Alabama, but have been for the purpose and have had the effect of preventing and discouraging Negro citizens from exercising their rights of citizenship, particularly the right to register to vote and the right to demonstrate peaceably for the purpose of protesting discriminatory practices in this area. By these actions and by this conduct, the defendants, together with other members of their enforcement agencies, have intimidated, threatened and coerced Negro citizens in this section of Alabama for the purpose of interfering with these citizens and preventing them from exercising certain of their basic constitutional rights-- i.e., the right to register to vote, peaceably assemble, remonstrate with governmental authorities and petition for redress of grievances. The attempted march alongside U.S. Highway 80 from Selma, Alabama, to Montgomery, Alabama, on March 7, 1965, involved nothing more than a peaceful effort on the part of Negro citizens to exercise a classic constitutional right; that is, the

453; Edwards v. South Carolina, 372 U.S. 229 (1963); Fields v. South Carolina, 375 U.S. 44 (1963) (reversing State v. Fields, 240 S.C. 366, 127 S.E. 2d 6 on the basis of Edwards v. South Carolina); Kelly v. Page, 335 F. 2d 114 (C.A. 5, 1964); Young v. Davis, 9 RRLR 590 (M.D. Fla. 1964), including the right to come to the capitol of the government against which the grievances exist, "to assert any claim . . . [one] may have upon that government," and "to seek its protection" (Crandall v. Nevada, 6 Wall. 35, 44 (1867)), and the right -- part of the "liberty" of which the citizen cannot be deprived without due process of law -- to travel freely within the country, Kent v. Dulles, 357 U.S. 116, 125-126 (1958); Edwards v. California, 314 U.S. 160, 177-181 (1941) (concurring opinion of Mr. Justice Douglas); Williams v. Fears, 179 U.S. 270, 274 (1900); Crandall v. Nevada, 6 Wall. 35, 44 (1867); Passenger Cases, 7 How. 282, 492 (1849).

The law is clear that the right to petition one's government for the redress of grievances may be exercised in large groups. Indeed, where, as here, minorities have been harassed, coerced and intimidated, group association may be the only realistic way of exercising such rights. For instance, in Edwards v. South Carolina, supra, the Supreme Court of the United States invalidated as an infringement of the rights of free speech, free assembly and freedom to petition, the convictions of 187 students who had peaceably assembled at the site of the state government for the purpose of petitioning their government for redress of grievances. In Fields v. South Carolina, supra, breach-of-peace convictions were struck down where students had protested by marching along the streets in three groups totaling approximately 1,000; this march was for the purpose of petitioning for the redress of grievances. And in the more recent case of Cox v. Louisiana, supra, the Supreme Court invalidated the breach-of-peace conviction against the leader of a march of some 1,500 to 2,000 students on the Louisiana State Capitol Building, the purpose of the march being to protest segregation and discrimination against Negro citizens.

This Court recognizes, of course, that government authorities have the duty and responsibility of keeping their streets and highways open and

people in the use of public streets and highways provided that the regulations are reasonable and designed to accomplish that end. As to any conflict that may arise in such areas, the Fifth Circuit Court of Appeals has stated in Kelly v. Page, 335 F. 2d 114 (July 1964), "there is room in our system of government for both, once the proper balance between them is drawn." As has been demonstrated above, the law in this country constitutionally guarantees that a citizen or group of citizens may assemble and petition their government, or their governmental authorities, for redress of their grievances even by mass demonstrations as long as the exercise of these rights is peaceful. These rights may also be exercised by marching, even along public highways, as long as it is done in an orderly and peaceful manner; and these rights to assemble, demonstrate and march are not to be abridged by arrest or other interference so long as the rights are asserted within the limits of not unreasonably interfering with the exercise of the rights by other citizens to use the sidewalks, streets and highways, and where the protesters and demonstrators are conducting their activities in such a manner as not to deprive the other citizenry of their police protection. As was stated in Kelly v. Page, supra, there must be in cases like the one now presented, a "constitutional boundary line" drawn between the competing interests of society. This Court has the duty and responsibility in this case of drawing the "constitutional boundary line." In doing so, it seems basic to our constitutional principles that the extent of the right to assemble, demonstrate and march peaceably along the highways and streets in an orderly manner should be commensurate with the enormity of the wrongs that are being protested and petitioned against. In this case, the wrongs are enormous. The extent of the right to demonstrate against these wrongs should be determined accordingly. This is true even though it is recognized that the right to exercise constitutional rights by marching alongside a public highway must be narrowed in the sense that such a right is subject to greater regulation and in the sense that greater abridgement of the right may, depending upon the circumstances, be warranted. This Court is, of course, concerned in this case only with the right to demonstrate and protest by

highway; it is a four-laned highway for approximately two-thirds of the distance between Selma and Montgomery, Alabama; it is a two-laned highway for the remaining distance. There is an average "shoulder" six feet wide on each side of the highway that is four-laned; there is an average three-foot "shoulder" along that portion of the highway that is two-laned. Cross-overs are regularly constructed or located along the portion that is four-laned. This highway, according to the law of the State of Alabama, is open for pedestrian traffic.^{5/} Thus, a reasonable use of the highways for the purpose of pedestrian marching is guaranteed not only by the Constitution of the United States according to the principles above set out, but is specifically authorized by the law of the State of Alabama. The proclamation as issued by the Governor of the State of Alabama on March 6, 1965, absolutely banning any march by any manner--regardless of how conducted--and stating that such a march will not be tolerated, constituted an unreasonable interference with the right of Negro citizens engaged in the march to use U. S. Highway 80 in the manner they were seeking to use it on Sunday, March 7, 1965. Such a proclamation by the Governor of the State of Alabama, as enforced by the Alabama State Troopers and deputies and "possemen" of Dallas County, Alabama, stepped across the "constitutional boundary line" that lies between the interests of the public to use the highway in general and the right of American citizens to use it for the purpose of marching to the seat of their State government--Montgomery, Alabama--for the purpose of protesting their grievances. This interference by the defendants and those acting under their control and in concert with them with the attempted march from Selma, Alabama, to Montgomery, Alabama, along U. S. Highway 80 on March 7, 1965, constituted an unconstitutional deprivation of these Negro citizens' right of assembly and free movement within the State of Alabama along a public highway located therein and their right to petition their State government, and particularly their Governor, for redress of their grievances.

^{5/} Code of Alabama, Title 36, § 58(19) (b): "Where sidewalks are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may

constitutional right to march along U. S. Highway 80 for their intended purposes is not an unrestricted right, but, to the contrary, must be exercised, if exercised at all, within this "constitutional boundary," have filed with this Court as a part of the evidence in this case a proposed plan for a march from Selma, Alabama, to Montgomery, Alabama, along U. S. Highway 80. These plaintiffs propose that the march will commence on Friday, March 19, 1965, at 10:30 a.m., or any day thereafter provided that plaintiffs give at least 48 hours' advance notice of the intended march to the defendants, to the United States, and to this Court. The plaintiffs propose that there be no limitation on the number of marchers along that portion of U. S. Highway 80 that is four-laned; the plaintiffs further propose that, along that portion of the highway that is only two-laned, the number of marchers will not at any time exceed 300 persons. The plaintiffs further propose that the marchers will proceed on the shoulders of the highway on the left side facing traffic; they will proceed two abreast, but will employ a single file at places along the highway where the shoulder is narrow and at bridges without sidewalks. The marchers will, according to the proposed plan, be organized in separate groups of approximately 50 persons; each of these groups will be under the supervision of a designated leader. Supporting services will be provided, such as food, washing and toilet facilities, litter and garbage pickup by trucks along the route and at campsites, and ambulance and first aid service. The proposed march, according to plaintiffs' plan, will proceed approximately 11 miles on the first day, stopping at a designated private field with permission of the owner, which has already been granted; approximately 11 miles on the second day, stopping at a designated field with permission of the owner, which has already been granted; approximately 17 miles the third day, stopping at a designated building and adjacent field with permission of the owners, which has already been granted, and, on the fourth day, approximately 8 miles to the western part of Montgomery, Alabama. The fifth day's march, as proposed by the plaintiffs, will be from the western part of Montgomery, Alabama, to the State Capitol. According to the plaintiffs' plan, large tents will be erected at the camp-

tiffs' plan, in much greater detail, is attached hereto as Appendix "B".

This Court finds the plaintiffs' proposed plan to the extent that it relates to a march along U.S. Highway 80 from Selma to Montgomery, Alabama, to be a reasonable one to be used and followed in the exercise of a constitutional right of assembly and free movement within the State of Alabama for the purpose of petitioning their State government for redress of their grievances. It is recognized that the plan as proposed and as allowed reaches, under the particular circumstances of this case, to the outer limits of what is constitutionally allowed. However, the wrongs and injustices inflicted upon these plaintiffs and the members of their class (part of which have been herein documented) have clearly exceeded--and continue to exceed--the outer limits of what is constitutionally permissible. As stated earlier in this opinion, the extent of a group's constitutional right to protest peaceably and petition one's government for redress of grievances must be, if our American Constitution is to be a flexible and "living" document, found and held to be commensurate with the enormity of the wrongs being protested and petitioned against. This is particularly true when the usual, basic and constitutionally-provided means of protesting in our American way--voting--have been deprived.^{6/} It must never be forgotten that our Constitution is "intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs."^{7/} With an application of these principles to the facts of this case, plaintiffs' proposed plan of march from Selma to Montgomery, Alabama, for its intended purposes, is clearly a reasonable exercise of a right guaranteed by the Constitution of the United States provided the march commences not earlier than March 19, 1965, and not later than March 22, 1965.

It is appropriate to note here that the defendants, having been

6/ Examples as to the systematic and very effective deprivations of voting rights to Negro citizens in this area are demonstrated by Appendix "A" to this opinion. As to the methods used to accomplish this, see this Court's findings in United States v. State of Alabama, 171 F. Supp. 720, and United States v. Penton, 212 F. Supp. 193. The Courts have recognized that in the field of racial discrimination statistics such as those set out in Appendix "A" tell the basic story. United States v. State of Mississippi, 229 F. Supp. 925; State of Alabama v. United States (5th Cir. 1962), 304 F. 2d

some hostility to this march will not justify its denial. Watson v. City of Memphis (1963), 373 U.S. 526; Cox v. Louisiana, supra. Nor will the threat of violence constitute an excuse for its denial. Cooper v. Aaron (1958), 358 U.S. 1.

It is also appropriate to note that neither the defendant Governor Wallace nor the defendant Sheriff Clark testified in this case.

These plaintiffs and the members of the class they represent are entitled to police protection in the exercise of this constitutional right to march along U. S. Highway 80 from Selma to Montgomery, Alabama. Hague v. C.I.O. (1939), 307 U.S. 496; Kelly v. Page (5th Cir. 1964), 335 F. 2d 114; Downie v. Powers (10th Cir. 1951), 193 F. 2d 760; United States v. Klans (M.D. Ala., 1961), 194 F. Supp. 897. They are entitled to be protected by the law enforcement agencies of the State of Alabama against traffic and other hazards. This Court recognizes that, to afford the necessary protection for these marchers, there will be a considerable burden imposed upon the law enforcement agencies of the State of Alabama. Recognizing this, and recognizing the absolute necessity for providing this protection, this Court, after inquiry, has been informed by the attorneys representing the United States in this case that the United States Government stands ready, if requested by the Governor of the State of Alabama, to assist in providing police protection for this proposed march. This response to this Court's inquiry has been made with full recognition that the law imposes this duty upon the State of Alabama to provide this protection. This offer on the part of the United States to assist if requested is not--whether the offer is accepted or refused--to be construed as lessening the duty on the part of the State of Alabama law enforcement agencies to afford this protection.

What has been said in this opinion is not intended to declare or adjudicate the rights of citizens to assemble, petition, or protest within the City of Selma, Alabama, the City of Montgomery, Alabama, or any other municipal area since the exercise of such rights in each instance

In accordance with the foregoing, an injunction will be issued by this Court enjoining the Governor of the State of Alabama, George C. Wallace; the Director of Public Safety for the State of Alabama, Albert J. Lingo; and the Sheriff of Dallas County, Alabama, James G. Clark, Jr., together with their agents, employees, successors in office, and all those in active concert or participation with them, from intimidating, threatening, coercing or interfering with the proposed march by these plaintiffs and other members of their class along U. S. Highway 80 from Selma, Alabama, to Montgomery, Alabama. Said defendants will also be enjoined from failing to provide adequate police protection to these plaintiffs in their exercise of this constitutional right. The motion of the defendant Governor for an injunction restraining the march will be denied. All relief sought by the plaintiffs in their motions and the United States in its motions except as herein specifically referred to, will be denied.

Done, this the 17th day of March, 1965.

/s/ Frank M. Johnson, Jr.

UNITED STATES DISTRICT JUDGE

APPENDIX "A"

Dallas County, Alabama

Registration Statistics
(November 1964)

	<u>Persons of</u> <u>Voting Age</u>	<u>Persons</u> <u>Registered</u>	<u>Percent</u> <u>Registered</u>
White	14,400	9,542	66.3
Negro	15,115	335	2.2

1961		W	N		W	N		W	N		W	N
June	W N	12	13 12		10	2		2	11		16	84
July	W N	13	4		12	4		1	0		7.7	0
August	W N	9	12		8	7		1	5		11	41
Sept.	W N	10	19		9	11		1	8		10	42
Oct.	W N	30	19		28	14		2	5		7	27
Nov.	W N	45	29		43	18		2	11		4	38
Dec.	W N	15	4		13	3		2	1		13	25
1962												
Jan.	W N	158	5		144	4		14	1		9	20
Feb.	W N	128	3		115	2		13	1		10	33
March	W N	33	3		30	2		3	1		9	33
April	W N	15	4		13	3		2	1		13	25
May	W N	6	2		6	1		0	1		0	50.0
June	W N	3	2		3	1		0	1		0	50.0

July	W N	10	5	5	50.0
August	W N	11	2	0	100.0
Sept.	W N	9	0	1	11.1
Oct.	W N	16	0	0	0
Nov.	W N	14	3	2	7.1
Dec.	W N	5	2	0	40
1963					
Jan.	W N	73	3	1	19.2
Feb.	W N	21	14	7	42.8
March	W N	9	17	0	22.2
April	W N	5	17	0	60.0
May	W N	29	31	1	44.3
June	W N	45	41	6	31.1
July	W N	69	38	7	24.6

	N		64				57		89.0
Sept.	W	42		34		8		19.0	
	N		7		1		6		85.7
Oct.	W	296		219		77		26.0	
	N		215		11		204		94.9
Nov.	W	115		78		37		32.2	
	N		55		4		51		92.7
Dec.	W	46		42		4		8.7	
	N		20		3		17		85.0
1964									
Jan.	W	246		197		49		19.9	
	N		54		15		39		72.2
Feb.	W	22		16		6		27.3	
	N		27		1		26		96.3
March	W	31		26		5		161.	
	N		12		2		10		83.3
April	W	13		11		2		15.4	
	N		23		3		20		86.9
May	W	10		8		2		20.0	
	N		12		4		8		66.7
June	W	7		7		0		0	
	N		14		2		12		85.7
July	W	22		15		7		31.8	
	N		98		6		92		93.9
August	W	25		23		2		8.0	
	N		12		3		9		75.0

1964									
Sept.	W	13		12	2	1	3	7.7	80.0
	N		10						
Oct.	W	23		20	*	3	5	13.0	-
	N		*						
Nov.	W	7		7	1	0	6	0	85.7
	N		7						
Dec.	W	0		0	0	0	14	0	100
	N		14						
1965									
Jan.	W	52		24	12	28	100	53.8	89.3
	N		112						
Feb.	W	33		32		1		3.0	62.1
	N		95		36		59		
		1,828	1,148	1,465	214	363	939		

*/ Figures not obtained; the Board accepted applications on one day in October 1964.

Perry County, Alabama

Registration Statistics
(August 17, 1964)

	<u>Persons of</u> <u>Voting Age</u>	<u>Persons</u> <u>Registered</u>	<u>Percent</u> <u>Registered</u>
White	3441	3260	94.7
Negro	5202	365	7.0

Applications For Registration

<u>Year</u>		<u>Total Applied</u>		<u>Accepted</u>		<u>Rejected</u>		<u>Percent Rejected</u>	
1962		W	N	W	N	W	N	W	N
Nov.	W	1		1		0		0	
	N		5		1		4		80
Dec.	W	0		0		0		0	
	N		6		1		5		83.3
1963									
Jan.	W	3		3		0		0	
	N		8		0		8		100
Feb.	W	14		13		1		7.1	
	N		2		0		2		100
March	W	7		6		1		14.2	
	N		1		0		1		100
April	W	0		0		0		0	
	N		0		0		0		0
May	W	5		5		0		0	
	N		1		0		1		100

June	W	4		4		0		0	
	N		189		42		147		77.8
July	W	4		3		1		25	
	N		37		0		37		100
August	W	9		8		1		11.1	
	N		6		9		6		100
Sept.	W	6		6		0		0	
	N		0		0		0		0
Oct.	W	21		15		6		28.5	
	N		73		15		58		79.5
Nov.	W	51		45		6		11.7	
	N		65		4		61		93.8
Dec.	W	28		24		4		14.2	
	N		20		6		14		70
1964									
Jan.	W	48		34		14		29.2	
	N		62		8		54		88.9
Feb.	W	10		6		4		40	
	N		15		2		13		86.6
March	W	16		12		4		25	
	N		17		3		14		82.3
April	W	no report							
	N	no report							
May	W	16		13		3		18.7	
	N		25		10		15		60
June	W	3		2		1		33.3	
	N		16		3		13		81.2
to July									
20	W	6		6		0		0	
	N		24		8		16		66.6
to August									
17	W	8		2		6		75	
	N		21		5		16		76.1

Wilcox County, Alabama

Registration Statistics
December 1963

	<u>Persons of Voting Age</u>	<u>Persons Registered</u>	<u>Percent Registered</u>
White	2647	2959	100*
Negro	6085	0	0

Applications for Registration

<u>Year</u>		<u>Total Applied</u>		<u>Accepted</u>		<u>Rejected</u>		<u>Percent Rejected</u>	
		W	N	W	N	W	N	W	N
1959	W	47		47		0		0	
	N		0		0		0		-
1960	W	118		116		2		1.6	
	N		0		0		0		-
1961	W	62		62		0		0	
	N		0		0		0		-
1962	W	97		89		8		8.2	
	N		0		0		0		-
to Oct. 7, 1963	W	62		61		1		1.6	
	N		29		0		29		100
Totals	W	386		315		11*		2.9	
	N		29		0		29		100

*A total of 11 rejected applications filed with the Board are by persons believed to be white, 9 of them were rejected because the applicant did not possess the residency requirements to register to vote or they were not of proper age to register. One applicant was rejected for inability to complete the application and one form was marked "disqualified due to inability to complete application," but the applicant was registered to vote on the basis of this application.

Hale County, Alabama

Registration Statistics (December 1964)

	<u>Persons of Voting Age</u>	<u>Persons Registered</u>	<u>Percent Registered</u>
White	3594	3395	94.4
Negro	5999	218	3.6

Applications For Registration

<u>Month and Year</u>		<u>Total Applied</u>		<u>Accepted</u>		<u>Rejected</u>		<u>Percent Rejected</u>	
		W	N	W	N	W	N	W	N
1962				7	0			Between 1954 and August 1963, 134 undated applications were rejected by the Board of Registrars; of these 120 were filed by Negroes and 14 were filed by white applicants.	
Jan	W N								
Feb.	W N			69	3				
March	W N			20	2				
April	W N			19	1				
May	W N			2	0				
June	W N			2	5				
July	W N			4	1				
August	W N			2	3				
Sept.	W N			10	1				
Oct.	W N			6	0				
Nov.	W N			3	1				
Dec.	W			2					

Month and Year		Total Applied		Accepted		Rejected		Percent Rejected	
1963		W	N	W	N	W	N	W	N
Jan.	W			1					
	N				1				
Feb.	W			7					
	N				4				
March	W			8					
	N				3				
April	W			2					
	N				3				
May	W			1					
	N				2				
June	W			5					
	N				3				
July	W			3					
	N				1				
August	W			6					
	N				14				
Sept.	W			2					
	N				2				
Oct.	W			44					
	N				3				
Nov.	W			12					
	N				8				
Dec.	W			5					
	N				4				
1964									
Jan.	W			13					
	N				3				
Feb.	W			60		3	^{1/}		
	N				11			13	^{1/}

Between September 1963 and February 11, 1964, 143 applications for which the race of the applicant has not been determined have been filed with the Board of Registrars.

^{1/} Rejected figures are for applications filed after February 11, 1964.

MONTH and Year		Total Applied		Accepted		Rejected		Percent Rejected	
1964		W	N	W	N	W	N	W	N
March	W	16		14		2		12.5	
	N		18		2		16		88.8
April	W	44		43		1		2.3	
	N		8		4		4		50.0
May	W	11		11		0		0	
	N		7		2		5		71.4
June	W	2		2		0		0	
	N		3		0		3		100
July	W	11		11		0		0	
	N		29		8		21		72.4
August	W	6		6		0		0	
	N		14		8		6		42.8
Sept.	W	6		5		1		16.7	
	N		10		3		7		70.0
Oct.	W	10		9		1		10	
	N		12		3		9		75.0
Nov.	W	0		0		0		-	
	N		2		0		2		100
Dec.	W	0		0		0		-	
	N		3		1		2		66.7
Totals	W	106		101		5		4.7	
(Mar-	N		106		31		75		70.7
Dec.64)									

2/ In addition two forms filed by white persons and rejected by the Board are undated; and one form filed in February 1964 and one in March 1964 do not indicate race.

Choctaw County, Alabama

Registration Statistics
 February 1, 1965

	<u>Persons of Voting Age</u>	<u>Persons Registered</u>	<u>Percent Registered</u>
White	5192	4886	94.1
Negro	3982	284	7.1

Applications for Registration

<u>Year</u>		<u>Total Applied</u>		<u>Accepted</u>		<u>Rejected</u>		<u>Percent Rejected</u>	
		W	N	W	N	W	N	W	N
Nov. 9, 1959-Dec. 31, 1959	W	11		11		0		0	
	N		3		1		2		66.6
1960	W	232		232		0		0	
	N		20		1		19		95.0
1961	W	196		195		1		.5	
	N		115		17		98		85.2
1962	W	212		212		0		0	
	N		118		23		95		80.5
1963	W	32		32		0		0	
To Feb. 5	N		0		0		0		-
1959-1963 Dates Un- known	W	1		0		1		100	
	N		46		0		46		100
Feb. 5, 1963 -April 6, 1964	W	393		385		8		2.0	
	N		98		35		63		64.2
April 20, 1964 -Feb. 1, 1965	W	111		108		3		2.7	
	N		100		29		71		71.0
Totals	W	1188		1175		13		1.2	
	N		500		106		394		78.8

Marengo County, Alabama

Persons Registered To Vote

<u>Year</u>	<u>White</u>	<u>Negro</u>
Feb., 1954)		
1955)	392	98
1956	328	2
1957	118	0
1958	252	0
1959	214	1
1960	457	5
1961	57	10
Jan. and	103	1
Feb. 1962		
Totals	<u>1,921</u>	<u>117</u>

Applications for Registration

<u>Month and Year</u>		<u>Total Applied</u>		<u>Accepted</u>		<u>Rejected</u>		<u>Percent Rejected</u>	
		<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>
March, 1962	W	145		145		0		0	
-Dec. 1962	N		66		14		52		78.8
Jan. 1963	W	20		20		0		0	
	N		70		32		38		54.3
Feb. 1963	W	43		43		0		0	
-April 1963	N		27		13		14		51.8
May 1963	W	3		3		0		0	
	N		13		12		1		77.7
June 1963	W	5		5		0		0	
	N		32		24		8		25.0
July 1963	W	23		23		0		0	
	N		99		19		70		70.1
August 1963	W	4		4		0		0	
	N		48		43		5		10.4
Sept. 1963	W	21		21		0		0	
	N		16		13		3		18.7

		W	N	W	N	W	N	W	N
Oct. 1963	W	118		118					
	N		31		13		18		58.1
Nov. 1963	W	64		63				1.6	
	N		20		6		14		70.0
Dec. 1963	W	10		10		0		0	
	N		3		3		0		0
Jan. 1964	W	96		95		1		1.0	
	N		20		19		1		5.0
Feb. 1964	W	64		64		0		0	
	N		9		2		7		77.7
March 1964	W	22		21		1		4.5	
	N		1		1		0		0
April 1964	W	37		36		1		2.6	
	N		8		2		6		75.0
May 1964	W	0		0		0		-	
	N		0		0		0		-
June 1964	W	10		10		0		0	
	N		7		3		4		59.1
July 1964	W	12		12		0		0	
	N		111		65		46		45.5
August 1964	W	14		14		0		0	
	N		28		19		9		32.1
Sept. 1964	W	36		29		7		19.5	
	N		10		0		10		100
Oct. 1964	W	64		49		15		23.4	
	N		5		0		5		100
Nov. 1964	W	0		0		0		-	
	N		0		0		0		-
Dec. 1964	W	2		2		0		0	
	N		1		1		0		0
Jan. 1965	W	1		1		0		0	
	N		4		0		4		100
Feb. 1965	W	16		11		5		31.2	
	N		3		0		3		100
Totals	W	830		799		41		3.7	
	N		622		304		318		51.1

DISTRICT OF ALABAMA, NORTHERN DIVISION

HOSEA WILLIAMS, JOHN LEWIS and
AMELIA BOYNTON, on behalf of
themselves and others similarly
situated,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-
Intervenor,

vs.

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff
of Dallas County, Alabama,

Defendants.

FILED

MAR 17 1965

R. C. DOBSON
Clerk

By
Deputy Clerk

CIVIL ACTION NO. 2181-N

PRELIMINARY INJUNCTION

This cause coming on to be heard upon the motions of the plaintiffs and the plaintiff-intervenor, United States of America, for a preliminary injunction and also upon the motion of the defendant Governor Wallace for a preliminary injunction, and due notice having been given to all parties, and the Court having considered the testimony offered in support of and in opposition to said motions and being fully advised in the premises, and for the reasons set forth in the memorandum opinion of this Court entered on this date and pursuant thereto, it is

ORDERED, ADJUDGED and DECREED that, pending further order of this Court, George C. Wallace, as Governor of the State of Alabama, Albert J. Lingo, as Director of Public Safety for the State of Alabama, and James G. Clark, Jr., as Sheriff of Dallas County, Alabama, their successors in office, agents, representatives, employees, and other persons in active concert and participation with them be and each is hereby restrained and enjoined from:

who may join with them, along U.S. Highway 80 from Selma, Alabama, to Montgomery, Alabama, said march, as presently approved by this Court, to commence in Selma, Alabama, not earlier than Friday, March 19, 1965, and not later than Monday, March 22, 1965, and to terminate in Montgomery, Alabama; and

(2) Otherwise obstructing, impeding, or interfering with the peaceful, nonviolent efforts by said plaintiffs, members of their class, and others who may join with them, in protesting and demonstrating by assembling and by marching along U.S. Highway 80 from Selma, Alabama, to Montgomery, Alabama, as said march is proposed in plaintiffs' plan filed with this Court and served on the defendants on March 16, 1965, and to the extent that said plan is presently approved by this Court.

It is further ORDERED, ADJUDGED and DECREED that, pending further order of this Court, the defendants George C. Wallace, as Governor of the State of Alabama, Albert J. Lingo, as Director of Public Safety for the State of Alabama, and James G. Clark, Jr., as Sheriff of Dallas County, Alabama, their successors in office, agents, representatives, employees, and all others acting in concert with them, be and each is hereby restrained and enjoined from failing to provide police protection for the plaintiffs, members of their class, and others who may join with them, in their march, as presently scheduled and presently approved by this Court, to commence not earlier than Friday, March 19, 1965, and not later than Monday, March 22, 1965, along U.S. Highway 80 from Selma, Alabama, to Montgomery, Alabama.

It is further ORDERED, ADJUDGED and DECREED that the motion for preliminary injunction filed by the defendant Governor Wallace, the motion by the plaintiff-intervenor, United States of America, for relief in addition to that herein specifically granted, and the motion of the plaintiffs for relief in addition to that herein specifically granted be and each is hereby denied.

It is further ORDERED that jurisdiction of all matters herein involved be and the same is hereby specifically retained.

Done, this the 17th day of March, 1965.

DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES MARSHAL
MONTGOMERY, ALABAMA

HOSEA WILLIAMS, JOHN LEWIS and)
AMELIA BOYNTON, on behalf of)
themselves and others similarly)
situated,)

Plaintiffs,)

UNITED STATES OF AMERICA,)

Plaintiff-)
Intervenor,)

vs.)

CIVIL ACTION NO. 2181-N

HONORABLE GEORGE C. WALLACE, as)
Governor of the State of Alabama;)
AL LINGO, as Director of Public)
Safety for the State of Alabama;)
and JAMES G. CLARK, as Sheriff)
of Dallas County, Alabama,)

Defendants.)

WRIT OF INJUNCTION

To the above-named defendants and each of them:

TAKE NOTICE that you and each of you, your successors in office, agents, representatives, employees, and all other persons who are or may hereafter be in active concert and participation with you and who shall receive notice of this order, be and you are hereby enjoined as more particularly set out in the Memorandum Opinion and the Preliminary Injunction of this Court made and entered herein on this date, a copy of each of which is attached hereto.

This writ of injunction is issued pursuant to the Memorandum Opinion and the Preliminary Injunction of this Honorable Court made and filed with the Clerk of this Court on this the 17th day of March, 1965.

Done, this the 17th day of March, 1965.

R. C. Dobson
Clerk of the United States
District Court for the

DISTRICT OF ALABAMA, NORTHERN DIVISION

HOSEA WILLIAMS, JOHN LEWIS and
AMELIA BOYNTON, on behalf of
themselves and others similarly
situated,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-
Intervenor,

vs.

CIVIL ACTION NO. 2181-N

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff
of Dallas County, Alabama,

Defendants.

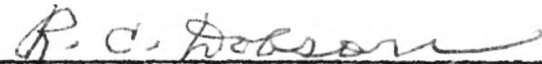
WRIT OF INJUNCTION

To the above-named defendants and each of them:

TAKE NOTICE that you and each of you, your successors
in office, agents, representatives, employees, and all other
persons who are or may hereafter be in active concert and partici-
pation with you and who shall receive notice of this order, be
and you are hereby enjoined as more particularly set out in the
Memorandum Opinion and the Preliminary Injunction of this Court
made and entered herein on this date, a copy of each of which
is attached hereto.

This writ of injunction is issued pursuant to the
Memorandum Opinion and the Preliminary Injunction of this
Honorable Court made and filed with the Clerk of this Court on
this the 17th day of March, 1965.

Done, this the 17th day of March, 1965.


Clerk of the United States
District Court for the

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

HOSEA WILLIAMS, JOHN LEWIS and
AMELIA BOYNTON, on behalf of
themselves and others similarly
situated,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-
Intervenor,

vs.

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff
of Dallas County, Alabama,

Defendants.

FILED
2:40 p.m.
MAR 18 1965
R. C. DOBSON, CLERK
By *JS* Clerk

CIVIL ACTION NO. 2181-N

NOTICE OF APPEAL

Notice is hereby given that George C. Wallace as Governor
of the State of Alabama, one of the defendants above-named, hereby
appeals to the United States Court of Appeals for the Fifth Circuit
from the preliminary injunction issued by the United States District
Court for the Middle District of Alabama, Northern Division, on
March 17, 1965.

Goodwyn & Smith
by Harry D. Smith

ATTORNEYS FOR SAID DEFENDANT

GOODWYN & SMITH
325 Bell Building
Montgomery, Alabama
Telephone Number 263-1033

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

HOSEA WILLIAMS, JOHN LEWIS and
AMELIA BOYNTON, on behalf of
themselves and others similarly
situated,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-
Intervenor,

vs.

CIVIL ACTION NO. 2181-N

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff
of Dallas County, Alabama,

Defendants.

This is to certify that on the 18th day of March, 1965,
the Honorable George C. Wallace as Governor of the State of Alabama
deposited with me the sum of Two Hundred Fifty Dollars (\$250.00) as
security for costs on appeal, in lieu of bond for costs on appeal,
in his appeal to the United States Court of Appeals for the Fifth
Circuit, from the judgment rendered in the above-entitled cause on
the 17th day of March, 1965.


Clerk of the United States District
for the Middle District of Alabama,
Northern Division

NORTHERN DIVISION

HOSEA WILLIAMS, JOHN LEWIS
and AMELIA BOYNTON, on behalf
of themselves and others
similarly situated,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

Vs.

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff
of Dallas County, Alabama,

Defendants.

CIVIL ACTION NO. 2181-N

FILED
4:42 p.m.
MAR 18 1965

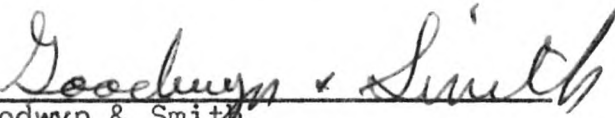
R. C. DOBSON, CLERK
By *des*

NOW COMES George C. Wallace as Governor of the State of Alabama, one of the Defendants in the above entitled cause, and moves the Court to stay enforcement of the preliminary injunction heretofore entered in this cause on March 17, 1965, pending the disposition of the Defendants' appeal to the United States Court of Appeals for the Fifth Circuit, filed this day, and as grounds therefor, states as follows:

Since Tuesday, March 16, 1965, the day upon which the taking of testimony in this cause was completed, there have occurred in and about the City of Montgomery, Alabama, several acts of violence on the part of allegedly peaceful demonstrators, and such incidents have resulted in property damage and personal injury to innocent by-standers, law enforcement officers and the demonstrators themselves. There have been gatherings and demonstrations on the part of white citizens in opposition to the proposed march from Selma to Montgomery. Maximum efforts are being made by law enforcement authorities of the State of Alabama to maintain order, but tension in the city is rising and there

preliminary injunction heretofore entered pending the
disposition of the Defendants' appeal filed this day.

Respectfully submitted,


Goodwyn & Smith

Attorneys for Defendant Wallace

Goodwyn & Smith
325 Bell Building
Montgomery, Alabama

HOSEA WILLIAMS, JOHN LEWIS
and AMELIA BOYNTON, on behalf
of themselves and others
similarly situated,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

vs.

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff of
Dallas County, Alabama,

Defendants.

FILED

MAR 19 1965

K. C. DOBSON
Clerk

By _____
Deputy Clerk

CIVIL ACTION NO. 2181-N

ORDER SETTING MOTION FOR STAY

The defendant George C. Wallace as Governor of the State of Alabama, by and through his attorneys, filed with the Clerk of this Court as of 4:42 p.m., on March 18, 1965, and presented to the undersigned Judge of this Court for consideration as of 8:40 a.m., on March 19, 1965, a motion to stay the order of this Court made and entered in this case on March 17, 1965.

Upon the representation of the attorneys for the defendant Governor that they are extremely anxious to have the United States Court of Appeals for the Fifth Circuit review this matter, at least upon a motion to stay the judgment of this Court, it is felt that the motion to stay as now presented should be heard at the earliest possible time. Counsel for the defendant Governor have been orally directed to inform all attorneys in this case that their motion to stay will be set for a hearing in open court on this date to commence at 11 a.m.

It is, therefore, the order of this Court that the motion of the defendant George C. Wallace as Governor of the State of Alabama, filed herein at 4:42 p.m., on March 18, 1965, wherein a stay is sought as to the execution of this Court's order of March 17, 1965, be and the same is hereby set for a hearing to commence this date at 11 a.m.

Done, this the 19th day of March, 1965.

HOSEA WILLIAMS, JOHN LEWIS and *
AMELIA BOYNTON, on behalf of
themselves and others similarly
situated, *

Plaintiffs,

UNITED STATES OF AMERICA, *

Plaintiff-
Intervenor, *

vs.

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama; *
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff
of Dallas County, Alabama, *

Defendants. *

FILED

MAR 19 1965

R. C. DOBSON, CLERK
By J. J. M.
Deputy Clerk

CIVIL ACTION NO. 2181-N

OPPOSITION TO MOTION FOR STAY PENDING APPEAL

Now come the plaintiffs in the above-entitled cause and in opposition to the motion of the defendant George C. Wallace, as Governor of the State of Alabama, to stay enforcement of the preliminary injunction pending appeal, and as grounds for said opposition assign the following:

1. That the motion of said defendant is not verified.
2. That no facts are alleged that would justify this Court granting the relief prayed for therein.
3. The Court considered the defendant's contention that there is some hostility to this march but that said hostility will not justify the denial of plaintiffs' constitutional right to march.

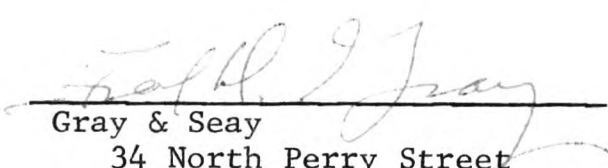
settled and there is very little likelihood that the Court of Appeals for the Fifth Circuit will reverse this Court.

5. To grant the stay in this case would work further delay and injury to the plaintiffs and the class they represent, while immediate enforcement of the judgment can do no appreciable harm to said defendant.

6. That the conditions as alleged in the defendants' motion are the results of unlawful conduct of the defendants and those working in concert with them and, therefore, the stay should be denied.

7. The Court in balancing the equities between the parties should deny said motion.

Respectfully submitted,



Gray & Seay
34 North Perry Street
Montgomery, Alabama

Peter A. Hall
1630 Fourth Avenue North
Birmingham, Alabama

Jack Greenberg
Norman Amaker
Charles H. Jones, Jr.
James M. Nabrit, III
10 Columbus Circle
New York 19, N. Y.

Attorneys for Plaintiffs

HOSEA WILLIAMS, JOHN LEWIS
and AMELIA BOYNTON, on behalf
of themselves and others
similarly situated,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

vs.

HONORABLE GEORGE C. WALLACE, as
Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff of
Dallas County, Alabama,

Defendants.

FILED

R. C. DODSON, CLERK

By

SPS

CIVIL ACTION NO. 2181-N

O R D E R

Pursuant to the order of this Court made and entered herein earlier on this date, the application of the defendant George C. Wallace as Governor of the State of Alabama, by and through his attorneys, filed with the Clerk of this Court as of 4:42 p.m., on March 18, 1965, and presented to the undersigned Judge of this court for consideration as of 8:40 a.m., on this date, was heard by this Court on this date commencing at 11 a.m.

Upon consideration of said application and the arguments of counsel in support of and in opposition thereto, this Court finds that there is nothing new presented and shown that will justify a stay of this Court's order made and entered in this case on March 17, 1965.

It is not alleged by the defendant Governor in the petition for stay as now presented that this Court's order of March 17, 1965, is contrary to the law; it is not alleged by the petition that the findings of fact are not supported by the evidence; no claim is made that these findings or conclusions are clearly erroneous. The only basis for the petition to stay is that if the order is not stayed there is danger of violence on the part of white citizens in opposition to the proposed march. Such a contention will not justify the stay of an otherwise uncontested court order. Cooper v.

During the hearing held in this cause that lasted for a period of four and one-half days, the defendant Governor and the other defendants had a full opportunity to offer any evidence they desired for the purpose of showing any undue burden that might be placed upon the State enforcement agencies of Alabama, or the costs that would be imposed upon the State of Alabama if this Court allowed the relief the plaintiffs sought. The defendants failed to offer any such evidence. This is true even after the defendants had a detailed copy of the plan as proposed by the plaintiffs.

This matter as now presented is not a question of the State of Alabama not having the resources and manpower to keep down disorder and violence since the United States stands ready and willing, if requested by the Governor of the State of Alabama, to assist in this regard. The only question that is now presented is whether the State of Alabama authorities are willing to employ their available resources and utilize the additional available resources of the United States Government to preserve peace and order in their compliance with this Court's order.

This Court, being desirous that the parties, particularly the Governor of the State of Alabama, have an adequate opportunity to have this denial of their petition to stay reviewed by a higher court, has determined that a panel of Judges, members of the United States Court of Appeals for the Fifth Circuit, stands ready and willing, upon proper application, to review immediately this Court's denial of the petition to stay. The defendants are hereby informed that said appellate panel stands ready either this afternoon or tomorrow, upon proper application to said Court and upon notice to opposing counsel, to hear their motion to stay.

If the defendant Governor of the State of Alabama desires to take advantage of the opportunity to present this matter immediately to the United States Court of Appeals for the Fifth Circuit in New Orleans, Louisiana, the Clerk of this Court is authorized and directed to make the court file and all exhibits available to the Honorable John Doar, attorney for the United States, who appears as amicus and as a party in this cause, so that said file and records may be transmitted directly to the United States Court of Appeals.

the State of Alabama, presented to this Court on this date, seeking to stay the order of this Court made and entered herein on March 17, 1965, be and the same is hereby denied.

Done, this the 19th day of March, 1965.

/s/ Frank M. Johnson, Jr.

UNITED STATES DISTRICT JUDGE

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

Hosea Williams, John Lewis
and Amelia Boynton, on behalf
of themselves and others
similarly situated,

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

vs

Honorable George C. Wallace, as
Governor of the State of Alabama;
Al Lingo, as Director of Public
Safety for the State of Alabama;
and James G. Clark, as Sheriff of
Dallas County, Alabama,

Defendants.

Filed at
4:45 p.m.
Civil Action

No. 2181-N.

FILED

MAR 18 1965

R. C. DOBSON, CLERK

JPS

Before Hon. Frank M. Johnson, Jr., Judge, at Montgomery,
Alabama, March 11-12-13-15-16, 1965.

(NOTE: This transcript is an excerpt transcript
containing the testimony of AL LINGO, a
Defendant, when called as witness by the
United States, in hearing in above case March
11-12-13-15-16, 1965, this testimony having
been adduced on March 12, 1965.)

Glynn Henderson,
Official Court Reporter.

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or

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

Hosea Williams, John Lewis
and Amelia Boynton, on behalf
of themselves and others
similarly situated,

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

vs

Honorable George C. Wallace, as
Governor of the State of Alabama;
Al Lingo, as Director of Public
Safety for the State of Alabama;
and James G. Clark, as Sheriff of
Dallas County, Alabama,

Defendants.

Civil Action

No. 2181-N.

Before Hon. Frank M. Johnson, Jr., Judge, at Montgomery,
Alabama, March 11-12-13-15-16, 1965.

A p p e a r a n c e s:

For the Plaintiffs:

Gray & Seay
(Fred D. Gray and
Solomon S. Seay, Jr.),
Peter A. Hall,
Jack Greenberg,
Norman Amaker,
Charles H. Jones, Jr.,
Oscar W. Adams,
Demetrius C. Newton,
James M. Nabrit, III,
Charles S. Ralston.

For the United States:

Ben Hardeman,
John Doar,
David Reuben.

A Correct, sir.

Q Well, then, let me just interrogate you further for a minute.

A Okay, sir.

Q First, you were asked to bring all State Troopers' radio logs for February 10, February 18, March 6 through 9, 1965; are they there, Colonel Lingo?

A Assume so, I gave that order to -- that they be here.

Q You were asked to bring all State Trooper daily assignment rosters for February 18 to March 7 and 9, 1965; are they there?

A I gave that order to send all that that was on the subpoena to this court; I haven't had a chance to look it over, I assume that they are there.

Q You were asked to bring all reports, memoranda, statements, correspondence, photographs, and other documents relating to the Negro demonstrations in Marion on February 18 and Selma on February 10 and March 7 and March 9; that is four days; your reports, memoranda, statements, and correspondence, and photographs; did you give that order?

A I did.

Q To your deputy to assemble that information?

A That is correct, sir.

Q You were asked to bring all arrest reports for those same four days; did you bring those?

A I gave that order, also.

Q Then you were asked to bring all investigative reports for tho

four days?

A Yes, sir; I gave that order.

MR. DOAR: Now, do you have an objection to those particular items?

MR. SMITH: Yes, sir. Your honor, we object under item three to producing all reports, memoranda, statements, and correspondence, and under item five to producing all investigative reports. We have no objection to the other matters called for in the subpoena.

THE COURT: All right. You wish to be heard in support of your objection?

MR. SMITH: Yes, sir. Your honor, it is our feeling that to require the Department of Public Safety, through Mr. Lingo, its Director, to produce all of its investigative reports would be to require them to produce certain information which would be privileged information. A department such as this Department receive information from informers, it receives information from persons who confidential -- a confidential basis. We feel that to be compelled under this subpoena to produce, as called for in the subpoena, all the investigative reports relating to this incident would seriously jeopardize the position of this Department in all future law enforcement matters which would properly come within its province to investigate. And I readdress myself to the point that --

THE COURT: All right, what you said up to this point, you claim privilege?

MR. SMITH: Yes, sir.

THE COURT: All right, what else you claim?

MR. SMITH: Nothing else.

THE COURT: All right, you want to be heard?

MR. DOAR: Just simply, your honor, that I know of no privilege in the law that would permit the defendants to claim that they are not required to produce investigative reports covering a particular incident. There may be a specific document that the defendants would want to call to the court's attention to look at in camera, and on the grounds that that particular document shouldn't be produced, but they haven't done that to you, to the court, done that for the court, and we don't believe that there is any basis for the claim of privilege.

THE COURT: Well, I have -- I have been faced with that same problem many times in the last ten years, and nearly every instance, in nearly every instance it is presented by the claim presented to the court by the United States asking that F.B.I. reports be privileged. And in each instance I have sustained your objection, and I never have required you to do it on the ground that it is a -- it is a work paper and a good cause showing under Hickman against Taylor is not sufficient, and that is the ruling of the court in this case as to items three and items five to the extent that they relate to investigative reports. Now, as far as the other portions of items three and five, and I have specific reference to photographs, they should be produced.

MR. SMITH: We are happy to produce them.

THE COURT: Anything in item three and item five, other than investigative reports, are to be produced.

MR. SMITH: (Nodded to indicate affirmative reply)

THE COURT: And items one, two, and four are to be produced.

MR. DOAR: Could I inquire of the court if there are investigative reports by law enforcement officers who are -- who are at the scene at that time, does the claim of privilege cover that?

THE COURT: Any investigative reports made by agency for the purpose of -- of submitting to their higher authority for the purpose of submitting to the prosecuting authorities to enable them to determine what action, if any, to take, I have consistently held, and I understand that the law is to that effect, that they are not -- they are not to be produced where there is an objection to them.

MR. SMITH: Your honor.

MR. DOAR: I respectfully feel, your honor, that --

MR. SMITH: Excuse me.

MR. DOAR: -- I don't understand that to be the law at all; I concede that --

THE COURT: We didn't open this for the purpose of arguing the law.

MR. DOAR: No, sir.

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

Hosea Williams, John Lewis
and Amelia Boynton, on behalf
of themselves and others
similarly situated,

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

vs

Honorable George C. Wallace, as
Governor of the State of Alabama;
Al Lingo, as Director of Public
Safety for the State of Alabama;
and James G. Clark, as Sheriff of
Dallas County, Alabama,

Defendants.

Civil Action

No. 2181-N.

FILED

MAR 11 1965

R. C. FORD, CLERK

JP8

Before Hon. Frank M. Johnson, Jr., Judge, at Montgomery,
Alabama, March 11-12-13-15-16, 1965.

(NOTE: This transcript is an excerpt transcript
containing the testimony of AL LINGO, a
Defendant, when called as witness in his
own behalf, in hearing in above case March
11-12-13-15-16, 1965, this testimony having
been adduced on March 13, 1965.)

Glynn Henderson,
Official Court
Reporter.

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

Hosea Williams, John Lewis
and Amelia Boynton, on behalf
of themselves and others
similarly situated,

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

vs

Honorable George C. Wallace, as
Governor of the State of Alabama;
Al Lingo, as Director of Public
Safety for the State of Alabama;
and James G. Clark, as Sheriff of
Dallas County, Alabama,

Defendants.

Civil Action

No. 2181-N.

.....

Before Hon. Frank M. Johnson, Jr., Judge, at Montgomery,
Alabama, March 11-12-13-15-16, 1965.

A p p e a r a n c e s:

For the Plaintiffs:

Gray & Seay
(Fred D. Gray and
Solomon S. Seay, Jr.),
Peter A. Hall,
Jack Greenberg,
Norman Amaker,
Charles H. Jones, Jr.,
Oscar W. Adams,
Demetrius C. Newton,
James M. Nabrit, III,
Charles S. Ralston.

For the United States:

Ben Hardeman,
John Doar,
David Reuben.

For George C. Wallace: Goodwyn & Smith
(and for Al Lingo (Maury D. Smith,
3/11-12) Charles M. Crook, and
John S. Bowman).

For Al Lingo: John P. Kohn, Jr.
(from 3/13)

For James G. Clark: McLean Pitts,
P. H. Pitts,
J. E. Wilkinson, Jr.,
T. G. Gayle.

(NOTE: This transcript is an excerpt transcript containing the testimony of AL LINGO, a Defendant, when called as witness in his own behalf, in hearing in above case March 11-12-13-15-16, 1965, this testimony having been adduced on March 13, 1965.)

Q Would you please state what instructions, if any, you gave to your subordinates, and name him or them, relative to their conduct on this occasion?

A I gave Major Cloud orders to disperse the crowd if possible.

THE COURT: This is for the 7th?

MR. KOHN: Yes, your honor.

THE COURT: March 7?

MR. KOHN: March 7, 1965.

THE COURT: Sunday, March 7; all right.

A To disperse the crowd if possible without too much force; if there was any resistance met to back off and to give them ample time and use tear gas.

Q Colonel Lingo, did you observe any member of the Department of Safety -- Public Safety or any State Trooper actually beating any human being on this occasion?

A I did not. Now, I didn't see it, I wasn't in a position, I was about approximately fifty yards away, and my vision was impaired by the Troopers and other people in front of me. Now, the reason there was no -- I was not up, because I was -- I had almost had pneumonia, that was my opinion, I almost had it.

Q Did you hear Major Cloud's direction to the assembled crowd there on this highway --

A I did.

Q -- immediately before the tear gas occurred?

A Yes, sir; I did.

Q Do you think you are in a position to have an opinion concerning the time that elapsed after Major Cloud gave his last order to that assembly or to that crowd before the tear gas occurred, whether it rolled out on the highway or was thrown?

A Yes, sir; I think they had ample time to disperse should they --

Q The question should have been and meant to be, and I will rephrase it, approximately how many minutes would you say?

A Well, now, that would be a guess, I would just have to estimate.

Q What is your opinion?

A Approximately two minutes; that is the best of my knowledge; I didn't --

Q Could it have been three minutes?

A I didn't -- it could have been; I didn't time it.

Q Now, Colonel Lingo, from where you were sitting or where you were during this time when this crowd was -- became dispersed, could you observe the crowd on both sides of the bridge or just one side of the bridge, the east side of the bridge or west side of the bridge, or where exactly?

A The position I was sitting in, so many people were in front of me I couldn't observe the ones on the right too well; I could on the left.

Q Now, when you say, "The left," would that be the Montgomery side

A That would be on the left going east to Selma.

Q Well, how many people would you say were there at this time and occasion?

A You mean white people or --

Q Just people?

A Just people; I would say approximately fifteen hundred people.

Q Fifteen hundred people?

A Yes, sir; now, that is Sunday, I am speaking of Sunday now.

Q Am I correct in construing what you said to mean -- when you say, "The left side," do you mean the Montgomery side of the bridge?

A Yes, sir; I mean the Montgomery side.

Q On the Montgomery side of the bridge?

A Right, sir.

Q You were -- were you in a position to know or observe the crowd on the Selma side of the bridge?

A No, sir; I did not go across on the Selma side.

Q Now, these people that you just testified, I believe you said fifteen hundred people --

A Approximately fifteen.

Q -- did that include law enforcement officers or just people in general?

A No, sir; that is just people in general.

Q People in general. Would you say -- or I will phrase it so it won't be objected to -- among that fifteen hundred people, what race did the majority of them belong to, in your opinion, on that side of the bridge?

A Now, you mean in the marchers?

Q The people were there, not the marchers; I believe you testified there were fifteen hundred people on the Montgomery side of the bridge?

A Right, sir.

Q Now, the question specifically is if you know were the majority of those people of what race?

A I would say it was about half and half.

Q Now, did you have anything to -- directly to do with any tear gas?

A No, sir.

Q Did you strike anybody?

A No, sir.

Q Did you hit anybody?

A No, sir.

Q Did you shove anybody?

A No, sir.

Q Did you curse anybody?

A No, sir.

MR. KOHN: Take the witness.

THE COURT: For the plaintiffs.

CROSS EXAMINATION:

BY MR. GRAY:

Q Mr. Lingo, how long have you held the position that you presently hold?

A Since January 14, that was at midnight, 1963. I was a former

Trooper for five years before I --

Q How many years have you had in law enforcement?

A About -- over seven years.

Q Are you familiar, sir, with a statement issued by Governor Wallace on February 20, 1965, concerning the banning of night marches; I show you a copy of Plaintiffs' Exhibit 13?

A I am familiar with that order; yes.

MR. KOHN: Objection.

THE COURT: Objection overruled.

Q You are familiar with it?

A Yes, I am.

Q Were you given any instructions by the Governor or anyone else on his staff pursuant to that press release that was made?

A No.

Q Were you given any orders with respect to prohibiting any marches in Marion on or about February 18?

A Now -- no, not at that time; no.

Q Were you at any time given any such order?

A I was given orders not to let them march from Selma to Montgomery

Q Now, were you given any -- any orders at all by the Governor with respect to prohibiting any night time marches?

A Only his order here.

Q You mean --

A I am familiar with his order here; he didn't give it to me direct, but I am familiar with his order.

Q And you did receive word from him to that effect?

A Right.

Q Now, pursuant to those orders, did you or did you send some of your Troopers or some of your subordinate officers to Marion, Alabama?

A That is correct; on request from the local officials there.

Q In your best judgment, approximately when were these persons sent to Marion?

A Well, I don't have the specific date written down. I can't give you the specific date.

Q Did you receive any orders from the Governor or from his staff dealing with demonstrations since February 1, 1965?

A Yes, only about this night time marching and the march from Selma to Montgomery.

Q I believe you were served with a subpoena requiring you to bring with you copies of all such orders?

A I have no written orders.

Q You -- during this period of time you received no written orders from the Governor?

A Right; it was all verbal.

Q And who gave you the verbal orders?

A The Governor.

Q The Governor, himself?

A Yes.

Q Now, do you -- in your best judgment, when did he give you the

verbal order pursuant to his press release of February 20 dealing with the night marches and with the Marion situation?

A I believe it was immediately after he came out with this release.

Q As best you recall what did the Governor tell you?

A That we would have no night marching, we would not allow any night marches, and to assist the local officials in maintaining law and order.

Q All right, so actually, I believe that night march was on or about February 20 -- I mean February 18, wasn't it, about that time?

A I don't have those dates, I didn't fix them in my mind, so I can't specifically say what date it was.

Q Now, did the Governor in that order to you indicate to stop a certain number of marchers, or was it his instructions to stop any march at night, regardless of the number?

A Any march; any demonstrations.

Q Any demonstrations?

A Right.

Q Did he define to you what he meant by demonstrations?

A No, he did not.

Q Did you understand what -- what did you understand the Governor to have meant when he said there would be no night demonstrations

MR. SMITH: Object to this, if the court please --

THE COURT: Overrule.

MR. SMITH: -- as to what he understood the Governor's

statements.

THE COURT: As to what he interpreted the order to mean, it is admissible, sure; not what the Governor thought, how he interpreted it is what the question is calling for.

MR. SMITH: (Nodded to indicate affirmative reply)

THE COURT: Go ahead.

A Any mass number of people out on the streets and highways demonstrating; that was my interpretations of his order.

Q All right, he -- did he in his order explain it didn't make any difference what the purpose of the demonstration was, but any demonstration --

A No, he didn't.

Q -- at night?

A He didn't go into that; no, sir; he didn't.

Q Now, did you -- pursuant to those oral orders from the Governor, did you go to Marion?

A I did.

Q On -- on or about when did you go to Marion?

A I did -- as I will repeat again, I do not have that date fixed in my mind.

Q Was that before the attempted march?

A That was the night that they did attempt to march at night, and the Sheriff -- I got there, the Sheriff had them stopped.

Q Approximately what time did you arrive?

A Approximately nine thirty.

Q Now, had you, prior to your arrival, issued any orders with reference to the Marion situation?

A I -- yes, I instructed my men to work with the local officials and to carry out their wishes.

Q Now, who specifically did you give those orders to?

A Major Cloud.

Q Major Cloud?

A Yes.

Q When did you give Major Cloud that order?

A That -- again, I don't have that date fixed in my mind.

Q Was it the same day that you went to Marion?

A No, it was before that.

Q In your best judgment, approximately how many days before?

A I would say two or three days before.

Q Did you give him any written order to that effect?

A No, I did not.

Q Did you give anyone other than Major Cloud any orders?

A No, I was -- no, that was direct to Major Cloud.

Q Now, will you tell us, sir, how many of your Troopers were dispatched to Marion on this occasion?

A Approximately forty, I believe.

Q Do you know approximately how many automobiles were dispatched?

A No, I do not.

Q Were you present -- were there any arrests made on that occasion?

A There was by the Sheriff and the City Police.

Q Were your men -- did your men assist the Sheriff and the City Police in making the arrest?

A They did. I say they did; I assume they did.

Q In your best judgment, how many persons were arrested on that occasion?

A I believe it was about five or six; it was a very small number.

Q When you arrived at the scene, I believe you testified that the Sheriff had already stopped them?

A That is correct.

Q What did you do upon your arrival?

A I went to the Sheriff, stood by his side, and he said -- he was telling them that a march would not be allowed and it was unlawful assembly, and he asked them to disperse or go back to the church, which they did not do.

Q Now, at that particular time, where did -- did you see Sheriff Clark on that night?

A Yes, I did see Sheriff Clark there.

Q Where was Sheriff Clark?

A He was out in the street when I saw him.

Q Was he along with the Sheriff of Perry County?

A I don't remember whether he was by his side or not, but I observed Sheriff Clark quite a bit that night; I know he was in civilian clothes, but I can't tell you what kind of hat he had on.

Q But he was assisting the other law enforcement officers?

A You say, "Assisting"; now, I don't quite follow you on that. He was not making any effort to participate in the dispersement of the crowd, if that is what you mean.

Q But he was present at the time?

A Oh, yes; he was present.

Q I think you testified that you saw him on several occasions during the evening?

A Right.

Q Now, where else did you see Sheriff Clark?

A That is the only place I saw him -- let's see, I believe I did see him over at the City Hall.

Q What was he doing there?

A Drinking coffee, I believe.

Q Are you familiar with the Dallas County Sheriff's Posse?

A Oh, yes.

Q What is it?

A Well, it's an auxiliary of the Sheriff's Department.

Q Is it under the supervision of Sheriff Clark?

A Yes.

Q Were any of the Dallas County Sheriff's Posse there on that night?

A I don't remember seeing any of the Posse there; I think I remember seeing a couple of the deputies there, the full time deputies, but I don't remember seeing any Posse members there.

Q Will you give us the names of the full time deputies of Dallas

County that were in Perry County on that evening?

A I cannot give you those names.

Q Can you give us the name of one of his deputies?

A No, I cannot, because I don't know their names; it is just too many men involved, I don't have the ability to remember all these names.

Q Now, did you receive any further orders from Governor Wallace after the Marion incident and prior to the March on Sunday?

A Yes, the order to not let them march from Montgomery -- from Selma to Montgomery on highway 80.

Q I show you Plaintiffs' Exhibit 14, which is a news release from the Governor's order -- office.

A Uh, huh; says such a march cannot and will not be tolerated, and I was carrying out those orders.

Q All right, now, everything that happened, as far as your Troopers are concerned, on Sunday were done pursuant to the orders of the Governor in stopping the proposed march; is that right?

A The Governor specifically said there would be no march from Selma to Montgomery --

Q Yes, sir.

A -- that is correct.

Q And did -- you were aware of that order --

A Yes, sir; yes.

Q -- prior to Sunday?

A Yes.

Q And what did you -- when did you receive notice of the Governor's words?

A That again, I don't remember the specific time nor date.

Q Did you get it directly from him?

A I talked to him about it, and he said that there would be no march.

Q And what did he instruct you to do?

A He did not instruct me; he just said that there would be no march.

Q And what did you interpret the Governor's statement to mean for you to do?

A To restrain them from marching from Selma to Montgomery.

Q Now, I believe in that press release there is --

THE COURT: Regardless -- just a minute; regardless of what it took to do it?

WITNESS: Well, I don't mean kill any of them, but use the means of least force as possible to restrain them from --

THE COURT: But whatever it took to do it?

WITNESS: Yes, sir.

THE COURT: Regardless of what that was?

WITNESS: No, sir; not regardless of what that was.

THE COURT: Where were you going to stop, Colonel?

WITNESS: Well, I -- the reason I did not want to use tear gas, I wanted to use a little resistance there to try to

break up the crowd, because I was in Oxford, Mississippi, and I observed Mr. McShane, the use of tear gas and what it caused, and that is the reason I did not want to use tear gas unless I absolutely had to.

THE COURT: Go ahead.

Q I believe, sir, there is a reference in Plaintiffs' Exhibit 14 to the effect that the Governor had met the night before with certain legislators; were you present with the meeting the Governor had that is referred to in that press release?

A I don't believe so; I don't remember any representatives being there at the time I was there.

Q Were you present at any time that there was a meeting between Governor Wallace and yourself and any other person with reference to stopping the proposed Sunday march?

A Oh, yes; it was several there, we discussed it quite a bit.

Q Will you tell me, when did this meeting take place?

A That again, I can't give you the specific time nor date.

Q What do you -- was it the Saturday before the march?

A Well, I -- again, I can't tell you exactly the date.

Q Was it two or three days before the march?

A Possibly so.

Q Now, who else was present at that meeting, other than you and the Governor?

A I believe Cecil Jackson was there, and I believe Bill Jones, his Press Secretary, and I believe Seymour Trammell was there,

and possibly some more.

Q Do you know whether or not the Governor's Legal Adviser was present?

A I believe he was; yes, I believe he was; yes.

Q Now, was there at that meeting any detailed discussion as to how far the State Highway Patrol would go in stopping the proposed march?

A There was not.

Q How long did this meeting last?

A We were there until approximately, I would say, twelve o'clock.

Q What time did it begin?

A Oh, around eight o'clock, I believe; I am not positive on those -- that time.

Q Who conducted the meeting?

A No individual, it was a discussion among the whole group.

Q Who started the discussion?

A Well, I believe the Governor possibly said the first few words.

Q And you were there for four hours?

A I believe that is correct.

Q Will you tell the court in your best judgment exactly what took place beginning when the meeting was opened?

A Well, it was two or three -- two or three things discussed, how best to handle it; should we let them march, or should they be stopped; and then as we -- as it kept on, we finally decided it would be better to stop for the safety of the marchers and the

traveling public. On account of the -- somebody may be struck by an automobile, it just wouldn't be safe for the marchers nor the traveling public.

Q Was any -- was any consideration given to the possibility of arrest?

A Yeah, I told the Governor that I did not believe in mass arrests, that I believed in arresting the leaders, and that would break up the -- the march.

Q So then it was your opinion at the meeting that the leadership be arrested, and that would break up the march?

A Right; that is correct.

Q Now, what else was -- what other alternative possibilities were discussed at this meeting?

A As I repeat again, the possibility of letting them march, but we decided that that would not be safe for the marchers nor the traveling public.

Q What else was discussed at the meeting, sir?

A Well, I believe that will just about cover all of it.

Q Were there any discussion at the meeting as to limiting a certain number of marchers?

A No.

Q I believe you testified earlier that you believed in -- in making arrests? Instead of mass arrests?

A That -- that is what we did in Marion, trying to break it up, which it didn't work. We have tried every method in the world

to keep from causing the least amount of trouble as possible, and that is what was done in Marion by the Sheriff, and we see it didn't work; so when it came to the march from Selma to Montgomery, the best method was to disperse the crowd.

Q All right, now, immediately after you left the Governor's -- where did this meeting take place?

A In the Governor's office.

Q In the Governor's office, and it was about midnight?

A When the -- approximately midnight.

Q Was that that Friday before the --

A Possibly so.

Q Now, did you do anything else that night in furtherance of the Governor's orders?

A I could have possibly gotten in touch with Major Cloud; I don't remember, I been working night and day, so I am a little bit confused on the dates.

Q All right, were you -- were you -- will you tell the court in chronological order as best you can exactly what you did after you left the Governor's office in furtherance of the Governor's orders after you left the meeting with the Governor?

A I got in touch with Major Cloud and told him to restrain the marchers, do not let them march, and to use as little a force as necessary to try to disperse the crowd, because I did not want to use tear gas unless it was absolutely necessary, because I saw what happened in Oxford, Mississippi, and I didn't want

that repeated in Selma.

Q Let me go back for just a moment; did the question of tear gas arise in the discussion with the Governor and his advisers?

A There is --

Q Did that question --

A -- a possibility it could have.

Q And was it the consensus of those who were present that if necessary tear gas would be used?

A As a possibility that could have been -- I have had so many meetings and discussions, to pin me down to one meeting, it's pretty hard.

Q Well, tell me what other meeting you had subsequent to the meeting with -- did you have more than one meeting with the Governor?

A Oh, I met with him quite a bit.

Q I mean with respect to stopping the march in Selma?

THE COURT: On the 7th?

MR. GRAY: On the 7th; yes, sir.

A Did I have another meeting?

Q Yes, sir?

A Other than the one, there is a possibility that I did discuss some things with him.

Q When was that meeting?

A Possibly the day before or day after the meeting; I don't remember.

Q And where did it take place?

A Probably -- possibly in the Governor's office.

Q And who were present at that time?

A That I do not remember.

Q Was anyone present other than you and the Governor?

A There is a possibility there was, people are coming in and out constantly.

Q Was his Legal Adviser present at that meeting?

A I don't remember.

Q Was his Press Secretary present at that meeting?

A That I don't remember; it is a possibility that they could have been there.

Q Was the Finance Director present at that meeting?

A That I don't remember.

Q You are familiar with the close advisers of the Governor, aren't you?

A Yes, I am familiar with them; yes.

Q And is it your testimony, sir, that out of -- you only recall no one present at this second meeting but you and the Governor?

A I said there is a possibility it was several in there, because people are constantly coming in and out.

Q In your best judgment, who else was present there?

A Well, it could have been the Legal Adviser there, and it could have been Cecil Jackson, his Press Secretary -- I mean his Executive Secretary.

Q All right, and what was discussed in that meeting?

A The stopping of the marchers from Selma to Montgomery.

Q Any new developments discussed which may have developed since the meeting the night before?

A I don't believe so; I don't think -- I don't remember any new developments.

Q Did you make a report to him in terms of what you had done in furtherance of his orders of the night before?

A No, he knows I carry out his orders, that I passed them on to my men in command.

Q Did you pass on to your men in command any written orders?

A No, they were verbal to Major Cloud.

Q Now, after this second meeting with you and the Governor and probably some others, did you have any other meeting with the Governor prior to the Sunday's march with respect to the Sunday's march?

A I don't believe so; I don't recall any.

Q Did you have any meeting with Major Cloud and any other of your subordinate officers with respect to plans to stop the march on Sunday?

A Well, I am constantly meeting with my men and discussing different problems and how they should carry their duties out.

Q Could you tell us, sir, the first meeting that you had with your men after your first conference with the Governor with respect to stopping the march in Selma?

A Well, it was -- I possibly called Major Cloud that night after I talked to the Governor, but I am sure it was the next day after that.

Q Now, where did that meeting take place?

A Possibly -- I believe it was in my office.

Q And who were present at that time?

A I believe my assistant, Colonel Russell, and possibly -- I am not sure he was there, but I think he was, and I believe Major Bill Jones, who is head of the Investigative Division, and possibly -- I believe that's all.

Q All right, now, did you give any specific orders to either of these men who were present?

A Yes.

Q What specific orders did you give to Colonel -- I think you said Rush?

A Russell.

Q Russell -- what was he to do?

A I told him -- I told him what our plans were.

Q And tell the court what was your plan again; what was the plan?

A To stop these people and tell them it was an unlawful assembly and to disperse, and I told Major Cloud to give them a reasonable length of time to disperse, then should they not disperse to use a minimum amount of force, to go in and try to disperse them, rather than to use tear gas, and I repeat again, I did not want to use tear gas, because I saw what it caused in Oxford,

Mississippi.

Q Now, did you tell any of your subordinate officers how they were to -- supposed to stop the marchers?

A Yes.

Q How?

A By using their sticks in the horizontal manner and to go in and to -- to push; I don't mean run over them, but to push and try to break up the crowd. Now, I do not, nor any of my men, give any orders to strike anybody; that is never given.

Q Now --

A Now, they have orders to defend themselves.

Q Did -- did you --

MR. McLEAN PITTS: We object; let him --

THE COURT: Just a minute; go ahead, complete your answer.

MR. McLEAN PITTS: Wait until Colonel Lingo completes his answer.

Q Go on, Colonel?

A They have orders -- we never give an order to strike anybody, we don't want to strike anybody if we can keep from it, but they do have orders to defend themselves, and in -- and then this march on Sunday you are talking about, here are the list of men that did meet resistance, one of them had to go to the hospital.

Q Now, my -- my question right now, sir, is directed toward the instructions that you gave your subordinate officers in your

office prior to the march, that is all I want to know about right now; did you give them any other instructions other than to use their clubs to try to push them back?

A That's right, and it was brought out that we want to use as minimum amount of force as possible and not to hurt anybody.

Q Now, did -- did you discuss in that meeting with them at what point if at all tear gas was to be used?

A When other means would not disperse the crowd.

Q Now, was there any discussion in this -- in this meeting about what type of equipment the Troopers should have?

A Only his sidearm and his helmet and tear gas grenades.

Q How long did --

A And his night stick.

Q How long did the meeting last?

A Well, I have so many meetings, you are trying to pin me down to -- to one specific meeting, and I would -- I would guess thirty minutes.

Q Now, did you have any discussion about or were these officers instructed to do any particular thing as far as carrying out the general plan; were any of these officers assigned to certain details?

A Now, Major Cloud assigned them; I only gave my orders to Major Cloud, and he passed it on down; it is too big a department for me to handle each individual --

Q Do you know -- do you know whether or not Major Cloud did make

certain assignments to certain other subordinate officers?

A I am sure he did; yes.

Q Do you know how many State Troopers were dispatched to Selma to be present on Sunday?

A On Sunday, approximately seventy.

Q Were all of these State Troopers in uniform?

A They were, but we also had investigators in plain clothes in Selma.

Q Approximately how many such investigators did you have in Selma?

A I say -- I would say about eight to ten.

Q And do you know where these eight to ten investigators were?

A They were scattered throughout the -- the city and county.

Q Now, did you or any of your subordinate officers make any contact with Sheriff Clark about the plan for Sunday?

A I believe I did discuss it with Sheriff Clark.

Q When did you discuss it with Sheriff Clark?

A I believe it was over the telephone, possibly Saturday night.

Q And what instruction or what information did you give him with reference to the plans of the State Highway Troopers?

A I gave him the same thing I have repeated several times, our method of dispersing the crowd, that there would be no march allowed.

Q Did he inform you that he would use his Poses and that they would be on hand?

A No, he did not.

Q Did you know they would be on hand?

A No, I did not.

Q Did you know his deputies would be on hand?

A Well, I felt sure that they would be.

Q You were familiar, I believe, with the fact that Sheriff Clark has a Posse?

A Oh, yes.

Q Did you inform him not to use his Posse?

A Now --

Q In this march, or the breakup?

A -- I asked Sheriff Clark about a month or two ago, and I think he will back me up in this, I asked him to screen his Posse, and that some should be removed, and which -- which he did remove those men that should not be in the Posse; I did ask him to screen them, and he complied with my request. That was not an order; I cannot give a Sheriff an order, that was a --

Q I am sorry; you asked Sheriff Clark to do what?

A I am talking as loud as I can.

Q I am sorry; I just didn't quite understand?

A I asked -- a month or two ago I asked Sheriff Clark to screen his Posse; he had some members in there that I felt should not be in there, that they may cause trouble, and he complied with my request in screening these bad men out.

Q All right. Do you recall approximately how many, using your words, bad men that Sheriff Clark had in his Posse?

A I feel like there were some in there that would -- possibly would shoot somebody.

Q Approximately how many such men, in your best judgment, was in his Posse who were bad men at that time?

A Well, that figure I cannot give you; I was just observing them from their appearance and their manner of speech and so forth. But Sheriff Clark agreed with me on the screening of this Posse, which he did.

Q And had you observed Sheriff Clark's deputies -- I mean Possemen working at other demonstrations?

A Only one -- no, I have not; no; no, I have not.

Q Do you know when Sheriff Clark organized his Posse?

A No, I do not.

Q Now, what time did you arrive in Selma on Sunday, Sunday of the march?

A Approximately one o'clock; like I stated, again, I had such a bad cold I felt like I almost had pneumonia, and I stayed in bed just as long as I could.

Q And where did you go immediately upon arriving in Selma?

A This -- on this side of the bridge.

Q And where on the Montgomery side of the bridge were you?

A I parked on the left side, that is going into Selma, approximately fifty yards from where the -- the confrontation took place.

Q Fifty yards to the rear?

A Yes.

Q Back toward Montgomery?

A Yes.

Q Now, upon your arrival in Selma -- excuse me -- and prior to the march, did you talk with any of your men?

A Prior to the arrival in Selma -- no, I did not talk to any of them.

Q After your arrival in Selma and before the marchers crossed the bridge, did you talk with any of your men?

A Well, some of them would come by the car, and I would speak to them; as far as giving any orders, and so forth, I -- I did not give any orders at that time.

Q Were you in touch with Major Cloud on that day, on Sunday?

A I talked --

Q Prior to the march?

A I talked to him once or twice on radio, but he did not stay in his car, so I did not have full time radio contact with him.

Q Was there any discussion at that time with him about the amount of force which should be necessary or any change of plans?

A No. No.

Q What were those conferences about?

A We were just merely talking about how large the crowd was, and we hoped it didn't get out of hand, and that is just about it.

Q Now, did you see Colonel Cloud -- Major Cloud before the march and after you had arrived in Selma?

A Yes, I believe I did.

Q Where did you see him?

A That is what I just explained to you, that I did talk to him before the march.

Q Oh, I am sorry, I thought you were telling me about a radio conversation?

A No, I told you I did see him.

Q Where did you see him?

A It was near the point of the confrontation.

Q Was it in -- on the street or in an automobile or where?

A I radioed to him to come to -- to walk over to my car, because I wasn't feeling well, I was mighty weak from this cold, and he walked over to my car.

Q Was there any discussion at that time about what plans or the execution of the plans?

A No, that had already been discussed; there was -- I don't believe there was any further discussion on that.

Q Did you receive any report, or what was the purpose for calling him to your car?

A Merely to ask him was everything working to our plans, number of men, and so forth.

Q And about how long was that before the marchers came over the bridge?

A Oh, I imagine possibly an hour before.

Q What else did you do after you arrived in Selma and before the marchers came over the bridge?

A I stayed in my car.

Q During this whole hour?

A Oh, yes; I stayed in my car, I had a driver with me.

Q Now, could you see the marchers as they approached?

A I could see them coming across the bridge, but after they approached down where they were confronted, my vision was blocked by the men.

Q Did you see or did you hear the conversation between Major Cloud and the leader of the march?

A No, I did not; I heard his statement to them over the P.A. system but I did not hear any exchanges of those conversations.

Q Could you actually see the confrontation when it occurred?

A No, I could not.

Q You could not?

A No, I could not see it.

Q Did you see or could you see any State Troopers when they had their masks on?

A Yes.

Q Their gas masks?

A I did see some with their gas masks on; yes.

Q Let me show you Plaintiffs' Exhibit 11.

MR. McLEAN PITTS: Has that been offered in evidence?

MR. GRAY: Yes, sir.

THE COURT: 11 been offered?

MR. GRAY: It has been identified.

THE COURT: It has been identified; it has not been offered.

MR. McLEAN PITTS: We object until it is offered.

MR. GRAY: It has not been offered; it has been identified.

A Let me tell you something else; I did get out of my car after they tried to disperse the crowd by moving into them with a stick; now, I did move, go down there, and Major Cloud asked me should we use gas at this time, and I told him no, to give them more time, and which he did give them more time.

Q Let me ask you a couple of questions about Plaintiffs' Exhibit 11 for identification; you know what -- what is that?

A These are State Troopers with tear gas masks on.

Q Does that adequately represent State Troopers as they appeared at the march --

A I would --

Q -- on Sunday?

A -- say so; yes.

MR. GRAY: We offer it.

THE COURT: Any objection to number 11, gentlemen?

MR. KOHN: No objection.

THE COURT: It will be admitted.

Q Now, you said, I believe, sir, that you got -- at what point did you get out of your automobile?

A After they had tried to disperse the crowd, I saw some objects

in the road that I thought may be human beings, and I put on a gas mask, myself, and walked down there and saw it; it was packs of blankets and so forth laying out in the road. I wanted those people removed if it should -- it had been people. Now, I saw some that were lying limp laying there with their eyes open and looking around, but we didn't bother those, in a few minutes they got up and left.

Q I show you Plaintiffs' Exhibit 10 for identification purposes --

A We thought --

Q -- will you tell us what that portrays?

A These are blankets and -- for camping along the side of the road, that is what I assume they are.

Q Now --

A Now, that is what I thought were -- may possibly could have been human beings, and I walked down there to see if it was, and I wanted to do something about it.

Q Does that fair and adequately depict the scene after the marchers had gone back across the bridge?

A Yes, sir; that is what tear gas will do for you; that is the reason I hes--- was hesitant in using it.

MR. GRAY: We offer --

MR. McLEAN PITTS: Let us see it.

MR. GRAY: It is right here.

MR. McLEAN PITTS: You want to see it, John?

MR. KOHN: No objection to that.

MR. McLEAN PITTS: No objection to it.

THE COURT: It will be admitted.

Q Now, I believe you testified, sir, that after they started to push the marchers back, I think you mentioned you got out of the car at some point after they were pushing the marchers back?

A Oh, it was after this.

Q Did you see your deputies -- I mean your Troopers as they pushed the marchers back on that occasion?

A Well, I tell you, my vision was pretty well blocked; I couldn't see what was going on; I did see a scuffle, but I couldn't determine exactly --

Q You could not identify these as being your Troopers?

A No, I couldn't.

Q All right. Look again, sir, at Plaintiffs' Exhibit 12 for identification purposes; can you identify those as your Troopers?

A I would say they are State Troopers; yes.

Q And tell us whether or not that appears to fair and adequately describe the front of that march as the Troopers were advancing?

A Well, I tell you, as I repeat time and time again, my vision was -- was blocked by the people, and I could not get a clear view of the situation.

Q All right. Now, how much time, in your best judgment, sir, elapsed between the time Major Cloud gave the order to disperse and the time he gave the order to advance?

A Well, now, this is merely a guess; as I said before, I would say

approximately two minutes; it could have been one minute or three minutes; it is merely a guess, because I did not time it.

Q And at what point did you get out of your car?

A After these -- I saw these objects in the road, and I was concerned that they were human beings, and I wanted to see about them, to get them taken care of should they be human beings.

Q Did you get out of your car before the tear gas was dispensed?

A Oh, yes; I did.

Q How long before the tear gas was dispensed?

A Oh, I imagine two or three minutes, or maybe more than that; it might have been ten minutes; Major Cloud asked me should we use tear gas at that time, and I told him no, should give them more time to disperse, and which he did.

Q Is it your testimony, then, that ten or fifteen minutes elapsed between the time that he gave the --

A I wouldn't specifically say how much time elapsed, because in the excitement of all this, I am a human being, the same as everybody else, and you are going to be excited a little bit, I don't care who you are or how tough you might think you are, you are going to be excited a little bit, and as far as pinning it down to the exact amount of time, I cannot pin it down.

Q Now, after -- after you gave him the orders not to use tear gas, what did you do?

A I believe I walked up the road a little bit and then came on back to the car.

Q In what direction of the road, toward Selma or toward Montgomery

A Toward Selma, yes, and he was going up and down the line telling these people to please disperse, if they didn't we would have to use tear gas; he was begging them to disperse, "Please go home or to your church, if not we will have to use tear gas."

Q Did you see the film that was shown in this court room yesterday afternoon?

A Yes, I did.

Q Did you see at that time several State Troopers hitting people?

A That was discussed today with a gentleman in the court room here and I did not see that; maybe my vision is not too good, but I did not see that, anybody striking, although I say that here is a list of men that met resistance.

THE COURT: Just answer his questions, Colonel.

WITNESS: Okay, sir.

Q Did you observe the actual tear gassing of these people?

A Part of it; not all of it.

Q Where were you at that time?

A I went back towards my car -- now, you say, "Tear gas"; now, there was smoke used, tear gas, and nausea gas. Now, nausea gas, all of them are saying some of them were seriously injured; nausea gas is a temporary nausea. Now, mostly smoke was used, very little bit of nausea and very little bit of tear gas, but smoke -- what we were trying to do is cover it and make them go on back.

Q All right, now, you are saying, then, there were three different types of gasses --

A That is correct.

Q -- that were used?

A No, I say there were two types of gasses.

Q Two types of gasses and then --

A Smoke.

Q -- smoke you say; just tell us about the smoke, Colonel, how does it happen?

A All it does is just come up, it is just a bluff, you might say, for the use of tear gas, it is try to bluff them, make them go on, thinking it is tear gas.

Q Now, how much smoke was used; how many cans?

A I believe --

Q Containers?

A -- Major Cloud told me it was about twelve canisters of that issued.

Q All right, now, what about tear gas?

A I believe he said it was approximately -- it can't be definite around that, around twenty to thirty canisters of tear gas.

Q And what was the third type -- the second type of gas?

A That was nausea, nausea gas.

Q And nausea gas, do you know the -- the name, anything better than just nausea gas?

A No, I do not; they have a chemical formula for it, but I don't

know it.

Q And how many canisters of that was used?

A I believe he said there were eight, there were eight canisters issued; now, how much was used I do not know.

Q Tell us the color of these various gasses and smoke?

A Well, the -- your smoke is white, your tear gas is white, your nausea is a kind of a greenish yellow color.

Q Did you see the various colors of smoke arise from your position?

A Yes, I could see it coming on up.

Q And did you see some of the demonstrators or marchers down on their knees at the time that this gas was used?

A Yes, I walked up there, as I told you before, I put my gas mask on, and I was afraid they might use it before I got there, and told them to hold off, to give them a little bit more time.

Q I show you Plaintiffs' Exhibit 6 for identification, and ask you whether or not that fair and adequately depicts the scene after the gas or smoke had been used?

A Well, that -- now, that was too far away, I could have no vision of that whatsoever.

Q You didn't see that?

A Well, that was too -- I was too far away from this; I was a quarter to a half a mile away from this scene; that is right at the edge of the bridge.

Q All right, I show you Plaintiffs' Exhibit 7 for identification purposes, and see whether or not you recollect that scene?

A It could have been one of the scenes; I don't deny it nor confirm it. I would more or less think that it was one of the scenes.

Q You think it fair and adequately depicts one of the scenes at that time?

A Yes, I believe so; I think most of this is smoke in here, because tear gas does not make that much smoke; it is very little bit of smoke in tear gas.

MR. GRAY: We offer it in evidence, this Plaintiffs' Exhibit 7. You have any objection to this other Exhibit going in.

MR. KOHN: No objection.

THE CLERK: 7.

THE COURT: It will be admitted; 7 is admitted.

MR. GRAY: Exhibit 6 is also offered.

THE COURT: 6 admitted.

Q Would you tell us, Colonel, in connection with the smoke, is it a pretty dense smoke?

A Yes, it is real heavy white smoke.

Q Would it be difficult to make a picture or to get a -- a film of something if that smoke is used?

A Oh, it definitely would be, yes; but that was not the purpose of using it.

Q Did you see any persons after tear gas had been used who were lying around and who needed some type of medical attention?

A No, I didn't go back up there; I wasn't in the physical condition

to be walking around up there, as I told you before, I -- I was feeling pretty rough.

Q Can you tell us whether or not the State Trooper automobiles are equipped with first aid equipment?

A No, they are not.

Q They have no first aid --

A No.

Q -- material in them at all?

A No. We have some first aid equipment at some of our posts, but not all of them.

Q Now, where did you go after -- did you -- at what point did you leave the scene?

A When all the marchers returned across the bridge, or maybe not all of them had returned, I went on back to Montgomery and went home and lay down for awhile, and that night I did -- I was concerned about some people might cause some trouble over there at night, and I was concerned, and I got up and rode back to Selma to check on the situation.

Q And what time was it that you returned?

A I imagine I got -- you mean back to Selma?

Q Yes?

A I imagine it was around, oh, eight or nine o'clock, something like that.

Q What type of firearms were issued to your Troopers that day?

A No special equipment, just their regular issue.

Q And the regular issue includes what?

A Their sidearms, which is a thirty-eight revolver, and the car is equipped with a sawed off shotgun, and some of them, also, the cars do have carbine rifles in them.

Q Some of them did have carbine rifles?

A Oh, yes; yes, I think you will find other states have the same issue.

Q I show you, sir, Plaintiff-Intervenor's Exhibit 3, picture number B-218, and ask you whether or not you can identify any of the law enforcement officers?

A Now, I have looked at this picture today, and I cannot tell whether that is a State Trooper or not. It looks like he -- it looks like he is not, but this patch here is not similar to our patch; I don't know whether it is a defect in the picture or what it is.

Q He does have on a gas mask, doesn't he?

A He does have on a gas mask here.

Q And isn't that gas mask similar to the gas masks of other State Troopers?

A Yes, it is similar.

Q Similar to --

A Yes.

Q I show you Plaintiffs' Exhibit 11 --

A If you will notice, this picture is distorted; it is not a true picture.

Q I see, but the gas mask is similar to those gas masks?

A That is correct, it is; well, the canister is similar, and the outline of the face here is similar --

Q Uh, huh.

A -- but the uniform, I couldn't tell whether it is a State Trooper or not.

Q I show you the person who is depicted in the far left; is that a State Trooper?

A Now, that is a State Trooper, I would say that is a State Trooper; now, the man, I cannot identify him, the picture is too distorted there.

Q And the next picture, is that a Sheriff's deputy?

A That I couldn't say; I see the man with the -- with the badge on, I couldn't tell whether he was a Sheriff or City or what not.

THE COURT: Was any City officers there, Colonel?

WITNESS: I don't believe so, sir; I think they were working the traffic on the west side of the bridge.

THE COURT: All right.

WITNESS: Now, I asked them to be there to assist us, and they said that they were tied up on the traffic.

Q Now, will you tell us, sir, why was the march broke up?

A Why was it broken up?

Q Yes, sir?

A Because -- due to the safety of the marchers, themselves, and the motoring public, we felt like that it shouldn't continue,

I think there would have been several people killed, and we are having too many people killed on our highways today, and we want to avoid any more fatalities than we possibly can.

Q Colonel, you were quoted in the New York Times on March 9, 1965, page twenty-three, as saying, "We don't believe in making arrests, it is better to break them up"; did you make that statement, that is an adequate quote?

A I don't recall making any such statement; now, I have been misquoted so many times in the newspaper until that doesn't concern me.

Q Now, you have had considerable amount of experience, have you not, in breaking up demonstrations?

A Quite a bit; yes.

Q Does a number involved have anything to do with whether you break them up or let them go on?

A The larger the crowd, the -- naturally the more concerned I am with it.

Q Now, the -- the -- the plan as used in Selma was a change in other plans that you and your State Troopers have used in other demonstrations; is that right?

A Well, this is the first time we have used tear gas, if that is what you are implying.

Q You recall the Freedom Walker incident, don't you, sir?

A Oh, yes; I recall it.

Q I think you made -- in that instance you arrested the walkers?

A Yes, that is true, and we have the pictures where the traffic was backed up for several miles by -- caused by those -- those walkers over in Georgia, and that is the reason we wouldn't let them into Alabama.

Q So in--- this time instead of arresting the persons, you disperse them with gas and other -- and used other force?

A That is correct; exactly.

Q Were these marchers ever told that they were under arrest?

A No, they -- they were told that that was an unlawful assembly and to disperse.

THE COURT: All right, anything further on cross from the plaintiffs?

MR. GRAY: That's -- that's all.

THE COURT: All right, before we get -- do you have cross examination, Mr. Doar?

MR. DOAR: I do, your honor.

THE COURT: We will take a ten minute recess prior to that.

(At which time, 2:52 p.m., a recess was had until 3:00 p.m., at which time the hearing continued)

THE COURT: Mr. Doar.

BY MR. DOAR:

Q Colonel Lingo, I assume that in this four hour conference with the Governor that you and the Governor and the other law enforcement officials considered the question of whether or not

to arrest the marchers, some of the marchers, that day?

A That was -- that is entirely left up to me who is to be arrested; that is law enforcement matter.

Q But you knew that you had the power to make arrests out there that day?

A Yes, sir; I did.

Q But you didn't believe in mass arrests?

A No, sir; I do not believe in mass arrests, because I think a lot of those people that are demonstrating, they don't realize what they are doing, and I just don't like to arrest them and put them in jail when they are ignorant of the situation.

Q But you do believe in using force to -- to break up a demonstration?

A Just the minimum amount of force to break it up.

Q Now --

A I don't believe in striking any of them; our men are instructed not to raise their club above their head, they are to use it in a horizontal manner or either in a pushing manner to disperse a crowd.

Q Now, using the minimum amount of force necessary to break up a crowd, what would that be?

A Well, I told Major Cloud to attempt to use a minimum amount of force to disperse the crowd, should there be any resistance to withdraw and give them time enough to disperse, if they wouldn't disperse then to use tear gas.

Q Now, as a law enforcement officer, would you say that the action of Major Cloud in sending those twenty or thirty Troopers against the front of that line was a minimum amount of force?

A Definitely; yes, sir.

Q A minimum?

A I don't believe it was about --

Q A minimum?

A A minimum amount of force.

Q Is that your definition of a minimum amount of force?

A Yes, sir; it is; it is.

Q All right.

A To push them and try to disperse them.

Q Are you drawing any distinction between using two Highway Patrolmen or four Highway Patrolmen or twenty Highway Patrolmen?

A It is according to number in the crowd how many you would use; I don't believe he used over fifteen or twenty at the most in that.

Q But he did use fifteen or twenty?

A I believe that's right.

Q You were --

A As I said before, my vision was obstructed by the people.

Q Well, as I understand it, after this initial encounter between the Troopers and the marchers, they drew back, and you then put on your gas mask and went down along the route of the march, the line of the march?

A Yes, sir; I would like to make it clear why I went down there; I saw objects in the road, and I thought they were human beings, and I did not want human beings being left out in the road, I wanted them to have the proper attention.

Q I see. Well, now, I'll just hold that for now. What instructions were given to the crowd then or the marchers then about dispersing?

A After Major Cloud -- he gave them instructions over the P.A. system to -- this was an unlawful assembly, and they were forbidden to march for their own safety and the motoring public, and he requested that they disperse and go back to the church or their home, which they did not do. They put their nose in the ground, because I heard at a later time that they said --

Q Well, just --

A Yes, sir.

Q -- not what you heard.

A Yes, sir.

Q They didn't disperse, and you walked down along the line; is that right?

A Right, sir.

Q And did I understand you correctly to say that then you were a quarter to a half a mile away when the tear gas went off?

A No, sir; I was not; I was walking.

Q Did you --

A Walking back toward Major Cloud where they were confronted when

the tear gas went off, and maybe not quite to him at that time.

Q Now --

A When I first went out there, he said, "Is it time to use gas?" and I said, "No, give them additional time to disperse."

Q I was under the assumption that you had a conference with Mr. Baker, chief law enforcement officer of the City --

A No, sir; that --

Q -- prior to -- prior to the march?

A That is not true.

Q That is not true, huh?

A I did not even go into Selma proper.

Q You know whether or not any of your officers had a conference with Mr. Baker?

A No, sir; I do not; now, I told him -- I told -- I don't remember who it was, but I requested some of the City Police to be over there to assist us, and they came back and said that they were -- all the men were tied up on traffic, and they would not be able to come across the bridge.

Q Now, did you take into consideration in using force to break up that crowd to send a Trooper or several Troopers up and arrest the leaders?

A Yes, sir; I tried that before, and it didn't work, so I --

Q Based upon -- based upon what you tried before, you concluded not to do that?

A Yes, sir.

Q Now, that time you tried that before was when?

A At Marion.

Q Now, at any other time?

A Now, I didn't try it, but the Sheriff and the Chief of Police tried it.

Q It isn't fair to say as -- you as head of the State Patrol your officers tried it?

A I was observer there with the Sheriff and the Chief of Police, were assisting the local authorities.

Q Uh, huh; now, then, there was no attempt then to arrest the leaders of the march?

A No, sir; there was not.

Q And there was no attempt to arrest any other persons in the march?

A No, sir.

Q And there were women and children in the march?

A That I don't know, I didn't see any; as I state -- as I have stated before, I was -- did not have a good view of the situation.

Q Well, I thought -- I thought that you walked along the line of the march and saw these people on the --

A I did, but they were all squatted down, had their nose in the ground.

Q And you weren't able to distinguish whether or not they were men, women, or children?

A Well, I was not trying to distinguish whether -- they were all

in a huddle, they were just -- just a mass is what it was.

Q You weren't making any attempt to distinguish then, Colonel, as a law enforcement officer what kind of people they were there that you were going to disperse?

A You said my -- you said what kind of people; do you mean women or children or what not?

Q I mean women or children or men or boys or persons with weapons or no weapons?

A No, sir.

Q You made no attempt to make that determination?

A No, sir; Major Cloud went up and down that line telling them, "Please disperse, please" -- he went the full length of the line, I believe, telling them, begging them, to disperse.

Q Could you and I agree that a law enforcement officer -- it might be reasonable to use a particular amount of force on a man and a different amount of force on a child?

A Absolutely, I would agree with you on that.

Q Could you and I agree that you might use a different amount of force if there was a -- in the day time or in the night time?

A Well, I don't think day time and night time would enter into it.

Q You don't think that would --

A The amount of force you would use.

Q I see, the amount of force that would be reasonable?

A Right; yes.

Q You knew that all you could use was reasonable force?

A Right, sir.

Q As a law enforcement officer?

A That is correct, sir.

Q And you knew you had the power of arrest?

A Yes, sir.

Q Could we agree that it would make a difference in whether or not the persons that you were about to disperse had any weapons or any kind of missiles, rocks, or bottles?

A Yes, sir; that would enter into it.

Q And would it be true -- would it be fair to say that a law enforcement officer could use more force if the -- if the people in the demonstration were armed rather than if they were unarmed?

A Absolutely.

Q And how were these people?

A I don't know.

Q You made any attempt to determine?

A I had no -- I had no way of -- they were not put under arrest, so they were not searched.

Q But at any rate, you didn't see any weapons?

A As I state -- as I have stated before, I did not have a good view of the situation.

Q Uh, huh; and now, was any attempt made or any -- strike that. Was any consideration given to going down half way down the line and attempting to break off the line of march and split it up into smaller groups?

A No, sir; I didn't -- don't think that would have worked; Major Cloud was going up and down the line begging them, absolutely pleading with them, to -- to disperse, asking them to go home or go to the church, that the march would not be allowed.

Q Now, was it your -- did you make a determination that those people had to either go home or go to the church?

A Well, they would have to get out of the road.

Q Well, this is a difference; all you were going to do was get them out of the road?

A Well, if they were dispersed, I wouldn't care where they went --

Q Uh, huh.

A -- but that was merely a suggestion, go home or to the church.

Q I see. Well, after they dispersed, you didn't care where they went?

A I didn't care, except there were numerous number of people on the streets, now, this is hearsay on my part because --

Q Then don't testify to something that is hearsay on your part.

A I did not go across the bridge.

Q Now, this Sheriff's Posse, you saw them, the mounted Posse, you say?

A I did; yes, sir.

Q And did you see them chasing Negroes out in the fields?

A I was not in a position to see that if it happened; no, sir.

Q And if it happened -- have you looked at the pictures?

A Some of them; yes, sir.

Q But you didn't see that?

A I was not in a position to see that.

Q What kind of an agreement did you have with Sheriff Clark as to when he would order the mounted Posse into action?

A I had no agreement with him on such.

Q Who was in charge of that?

A Of the Posse?

Q No, of the -- of the law enforcement officials?

A Well, Major Cloud was in charge of the Troopers.

Q Well, what were you?

A Well, I am the Director; I passed my orders on to Major Cloud, but I was not -- as I told you, I was not in a physical condition to be out on the front lines, in my opinion, I almost had pneumonia --

Q What --

A -- and that is the reason I was not out on the front line.

Q What kind of an arrangement did you have with Sheriff Clark as to the division of responsibility with respect to breaking up the crowd?

A I just merely told Sheriff Clark what our position was, that we would not allow a march from Selma to Montgomery.

Q You then did not ask him to do anything out on the highway that day?

A I might have asked him to participate, I believe I did; yes, sir

Q You did then ask him to participate?

A I believe I did; yes, sir.

Q And what did you ask him to do?

A Well, I possibly said that, "Sheriff, we would like to -- for you to please participate in the breaking up of this march from Montgomery -- from Selma to Montgomery that the Governor has banned."

Q And did you give him any other specific instructions beside that?

A No, sir; I told him what we would do, we would use a minimum amount of force to try to disperse the crowd, then if we could not do it that way, we would have to use tear gas to disperse them.

Q Were you aware afterwards that a number of -- of the Negro citizens that were in that march were hospitalized?

A I heard that; that is just hearsay on my part; I don't know.

Q Did you make any investigation of that?

A Yes, sir; I sent some of my investigators to the hospital, and they would give them no information whatsoever.

Q And other than that, have you made any attempt to investigate to determine the extent of the injuries that were received by the people in the march?

A Yes, sir; I sent -- as I stated before, I sent my investigators to the hospital to try to determine how many and what the extent of their injuries were and how they received the injuries, and they would not give us any information.

Q I want to know, now, again, what factors you take into

consideration in determining what is reasonable force to disperse a group of people?

A Well, there are several methods in riot control how to disperse a crowd, but I think in using the stick in a horizontal manner and going in there -- and I don't mean hit them, but give them a little shove and try to -- to get them on started back in the other direction, disperse them.

Q Now, that is -- that is one?

A That is one method; yes, sir.

Q One method, and that is the method you chose, and you have testified that was not -- that was a minimum amount of force to use?

A Right; yes, sir.

Q And then with respect to the use of the tear gas, what instructions did you have to the men after the tear gas was used? How were they to use their sticks then?

A Well, they would have to use the tear gas I don't think it would be necessary to use the sticks at all, because the crowd is going to disperse then.

Q I see; then it is your -- it is your testimony then that it would be unreasonable to use the sticks after the tear gas?

A Well, now, if you have somebody, just a crowd that is just determined to stay there, I think they should be -- probably place the stick on them and give them a little shove and tell them they will have to move on.

Q But other than that, that is what you would want the men to do?

A That is what I would want the men to do; yes, sir.

Q I see. Now, would you want a period of time to elapse after the tear gas is exploded before a determination is made whether any additional force should be used to disperse the crowd?

A I think you should allow a little bit of time, and I believe there was a little bit of time did elapse in there.

Q How much time elapsed?

A I don't know that; I can't tell you, as again I state, I was not in a position to view the situation.

Q Now, do you think the -- as a -- as a law enforcement officer, do you think you had the right to, or one of your Troopers had the right to, if a -- if a demonstrator laid on the -- on the ground and wouldn't move, do you think your law enforcement officer had the right to go up there and hit him over the head?

A No, sir; I do not. I don't know that that happened.

Q I just want to know whether you would agree with me that he would not have that right?

A No, sir; I would not agree --

MR. McLEAN PITTS: I object to that; that is not -- that is not in evidence.

A -- I think a hypothetical question.

THE COURT: I see that the photographs reflect that, and it is proper cross examination; your objection is overruled.

MR. McLEAN PITTS: All right, sir.

THE COURT: Mr. Alford, close this door; the noise coming from the witness room is a little excessive.

Q Did you see any of the marchers go off into the field on the north or the east side of the road?

A I saw some leave the road; now, as I state again, I was not in a position to look down in the fields, but I did see some go out to the side of the roads.

Q Now, did you go back to the church afterwards?

A No, sir; I did not go; as I stated before, after the -- it was broken up, the demonstration was broken up, I came on back to Montgomery and went to bed for a little while, and I got to worrying about, well, "What is going to happen tonight, I am afraid somebody is going to get killed," and I rode back over there and got in touch with the Sheriff and told him we had to stay right on top of the situation, it may be some outsiders in there that would want to cause us trouble, and he agreed with me.

Q Now, I want to go back again to the -- until after your men first used the sticks at the shoulder level to push into the -- into the marchers --

A Yes, sir.

Q -- and after the marchers were on their knees on the ground; I want to know whether or not you believed that --

MR. KOHN: We object to that; he's gone over the same ground before, your honor.

THE COURT: Go ahead and ask your question.

A Yes, sir; I was there.

Q All right. Now, there were -- in handling that march you did three different things, or three different things occurred; I want to see if you will agree with me on this; number one, the mounted Posse was not there; is that true?

A I didn't see the mounted Posse.

Q Number two, you cleared the area of all the whites?

A Whites, which I should have done on Sunday.

Q Okay.

A I will agree with you on that.

Q You agree you should have done that on Sunday?

A Right, that is the -- an error I made.

Q All right; was having the Posse there an error?

A Well, I don't know what part the Posse played in it; as I stated before, I saw them take no action, I wasn't in the position to see.

Q But if -- if the testimony that has been presented here today about the Posse chasing innocent Negroes through the fields is true, then would you agree it was an error to have the Posse there?

MR. McLEAN PITTS: We object to that.

THE COURT: Sustain it.

MR. McLEAN PITTS: We object to that.

THE COURT: Sustain it.

Q The third -- the third thing you did different on -- on Tuesday

was that you didn't use any force to disperse the crowd?

A That is correct; we would have --

Q You just stood your ground?

A We would have should they not dispersed.

Q And they were there for a matter of some thirty or thirty-five minutes, and then they dispersed peacefully?

A That is correct, sir.

MR. DOAR: Thank you.

THE COURT: Mr. Smith.

BY MR. SMITH:

Q Were you present on Friday, March 5 --

A Talk a little louder.

Q Were you present on Friday, March 5, when Governor Wallace met with approximately thirty of his legislative leaders?

A No, sir; I was not; I was not.

Q You were not?

A I was not; no, sir.

Q Were you present at any time when discussion was held in regard to the possibility of blocking U.S. highway 80 between Selma and Montgomery and portions of it?

A That is correct, sir; I was.

Q Now, when was this discussed?

A That was at night; I don't remember the date; that was one night.

Q Did you explain to the Governor the general condition of the highway or not?

A Yes, sir; that was taken into consideration, the condition of the highway, and the detouring of all of the traffic and --

Q Did you express to the Governor the condition of the alternate route?

A That was brought up; yes, sir; I don't remember whether I explained it to him or not, but that was taken into consideration

Q Isn't it a fact that Governor Wallace stated emphatically that he wanted this matter handled in such a manner so that nobody would be hurt?

A That is correct, sir; that is correct.

MR. SMITH: I have no further questions.

THE COURT: Mr. Pitts.

BY MR. McLEAN PITTS:

Q Colonel Lingo, I believe you have been head of the State Troopers for how long, you say?

A Since January 14, '63.

Q And during that time there has been quite a few demonstrations in various towns and marches and walks; is that correct?

A That is correct, sir.

Q And have your State Troopers been called out?

A Yes, sir; we have been called out on numerous occasions to assist the local authorities.

Q And you have been there personally on those?

A Oh, yes, sir; I have.

Q So you have had experience in observing mass groups of people who

are trying to demonstrate or march, so to speak; is that correct?

A That is correct, sir.

Q Have you observed the crowds in that -- at those times, white people and colored people?

A Yes, sir; I have; yes, sir.

Q Now, Colonel Lingo, have you been -- when were you first -- when did your Troopers first go to Selma after the first after -- in January or December, December, '64, or first part of January, '65

A That I can't tell you exact date; no, sir; I believe it was in '65 we sent them over.

Q But it was several weeks before all this?

A Oh, yes.

Q Sometime before all this occurred?

A Oh, yes, sir.

Q The Troopers had been in and out --

A Right.

Q -- of Selma; is that correct?

A Yes, sir; we have had so much going on until I can't --

Q Now, I will ask you, is it the policy of the State and the policy of the State Department of Investigation -- I mean State Department of Public Safety that you do not send Troopers into a town of the size of Selma, the larger towns, unless it is at the request of the Mayor or the Sheriff and the Sheriff?

A That is correct, sir.

Q And I will ask you if it is not true that Mayor Joe Smitherman

and Sheriff Jim Clark jointly requested aid from the State Troopers?

A That is correct, sir.

Q And after that request was made, the State Troopers came into Selma; is that correct?

A That is correct, sir.

Q I will ask you is it not correct that your instructions to those State Troopers were to only give aid and assistance to local law enforcement officers?

A That is correct, sir.

Q And during that time were you in and out of Selma?

A I was, sir.

Q Did you have an opportunity of observing demonstrations in Selma and observing the crowds in Selma?

A Yes, sir; I did have; I --

Q Did you have State investigators there?

A I did.

Q And do you know how many -- what was the greatest number of State investigators that you had in Selma at any one time, to your knowledge?

A I believe we had as many as fifteen at one time; I just --

Q And --

A -- not positive about that figure, but I believe we have had as many as fifteen.

Q Twelve to fifteen, anyway; is that correct?

A Yes, sir.

Q And those State investigators are under the direction of Major Jones; is that correct?

A That is correct, sir.

Q And Major Jones, himself, was in Selma; is that correct?

A That's right; yes, sir.

Q Did he make regular reports to you on the conditions that existed in Selma?

A He did.

Q I will ask you whether or not the condition in Selma between the races has deteriorated since Christmas?

A It definitely has; yes, sir.

Q Has it been constantly getting worse?

A Yes, sir.

Q Has that tenseness or that deterioration been caused by demonstration after demonstration on the streets?

A I think the demonstrations have caused it; yes, sir.

Q And have you been -- have you seen these demonstrations on the street?

A I most certainly have, sir.

Q Have you been around the Dallas County Court House when they were having them?

A I have, sir.

Q Will you describe what some of those demonstrations that you saw around the Dallas County Court House?

A Yes, sir; I have seen them block the sidewalks and just fill the Court House full of people; of course, I have nothing to do with the registration or nothing whatsoever, that doesn't come under my Department, but it was unnecessary, I have even seen children all in the line going into the Court House standing there, and I know they were not of age, of voting age, therefore they couldn't --

MR. GRAY: Your honor, we object to the --

THE COURT: Well, I sustain it to that part of the response that -- or that part of his answer that is not responsive.

MR. McLEAN PITTS: All right, sir.

Q But you have seen --

THE COURT: Just answer his questions, please.

Q You have seen big crowds around that Court House, and have all the entrances to that Court House been blocked on occasion?

A Yes, sir; it has.

Q And you have seen it?

A Yes, sir; I have seen it.

Q Now, and -- now, you say that you came in -- came to Selma on Sunday afternoon, and you had previously discussed with the Governor's office about the -- that this particular march could not proceed from Montgomery to Selma?

A That is correct.

Q Selma to Montgomery, I mean?

A That's right.

Q And the reason for it was -- was because of the danger to these marchers, themselves?

A And the motoring public.

Q And to the traveling public --

A Right.

Q -- is that correct?

A Right, sir.

Q And so the Governor decided that he would not permit the march; is that correct?

A That is correct, sir.

Q And it was your job as department -- as head of the Troopers to keep that march from proceeding; is that correct?

A That is correct; I am -- to maintain law and order, that is the only purpose, the only concern I have.

Q Now, when were you in Selma the last time you were in Selma prior to that time?

A Now, prior to which time?

Q Prior to that Sunday?

A To that Sunday?

Q Yeah?

A Possibly Friday; I am not sure.

Q What would you say -- did you make an investigation then as to conditions that were existing in Selma between the races?

A Yes, sir; the situation was constantly -- the tension was constantly increasing.

Q Was it very tense?

A Yes, sir; it was very tense.

Q And had you had similar experience in observing pre-riot trouble in Birmingham and other places?

A Birmingham, Gadsden; yes, sir; Tuscaloosa, and several different places.

Q What was the condition in Selma on that Friday, compared to these other towns?

A Well, you could see small groups of white people forming, and some of them looked like they were pretty tough characters, and I just didn't like the looks of the situation, and --

Q And --

A -- and it was really getting tense.

Q It was getting tense?

A Yes, sir.

Q You know the approximate size of the Sheriff's force in Selma; is that correct?

A Yes, sir; about seven or eight deputies, I believe that is correct.

Q In normal times; is that right?

A Right; right, sir.

Q And you know the approximate size of the Selma Police Department?

A About forty men, I believe.

Q Uh, huh; and that is all the law enforcement that Selma and Dallas County has got; is that right?

A That is correct, sir.

Q And the auxiliary, which is the Posse --

A Posse; yes, sir.

Q -- is that correct?

A That is correct.

Q Now, have you had an opportunity to observe the Posse in action in these demonstrations that have been taking place in Selma?

A Well, the -- no, sir; I haven't observed the Posse except the Sunday when they rode by me going on up the street; now, what happened after that, I don't know.

Q All right, sir.

A But they did ride by me.

Q Out on Sunday afternoon?

A On Sunday afternoon; yes, sir.

Q All right, sir; now, since we are on that point, Colonel, did you -- they rode right by you out there; is that correct?

A That is correct, sir.

Q Did you see the Posse as they rode in front of you?

A Yes, sir.

Q Did you see any member of that Posse have any whip or bullwhip?

A Yes, sir; I saw some whips, some little whips about three or four feet long, where they whipped the horses, and I saw one with long reins where he could come around and hit the rump of his horse on both sides; I am not a horseman, I don't know.

Q Do you know what a bullwhip is?

A Well, I -- I am not sure I know what a bullwhip is.

Q You know a -- a drover's whip is a long whip?

A I have seen them in picture shows, and on television, where these -- they knock cigarettes out of people's mouth and such as that, I guess that is what a bullwhip is.

Q Well, did you see any kind of instrument -- any whip like that on any of those horses?

A No, sir; I did not.

Q I'll ask you further, is it true that as to what method should be used -- well, I will withdraw that question. You say that out in this area there where -- on that Sunday afternoon, on the Montgomery side of that bridge, there is businesses on both sides of that road, isn't it?

A Yes, sir; that is correct.

Q And there is a traffic light there for the old Montgomery highway isn't that right?

A That's right.

Q It is about three quarters of a mile from that bridge down to that light; is that correct?

A That is the approximate distance; yes, sir.

Q And that is in the area where this occurred; is that correct?

A That is correct, sir.

Q Now, when you arrived there, did you see white people all around there and in that area?

A Now, you refer to Sunday or Tuesday?

Q Sunday?

A Sunday?

Q Sunday?

A Yes, sir.

Q And it was a good many of them there; is that correct?

A Yes, sir; there was.

Q Can you -- you got any estimate as to the number of people that was milling around there?

A Oh, I would say two or three hundred.

Q When you arrived there?

A Yes, sir; that is just an estimate.

Q Did that increase?

A Yes, sir.

Q Did that increase during the afternoon?

A Possibly so; yes, sir.

Q Now, I'll ask you this, Major -- I mean Colonel Lingo; it was very difficult to keep people out of that area because of the main artery of U.S. 80 --

A Yes, sir.

Q -- and you wanted to keep that highway open as long as you could; is that correct?

A Yes, sir; that is correct.

Q And how long -- and did you close U.S. 80 that afternoon?

A We had to.

Q And where did you close it at?

A Down the road behind the -- where we were, where they confronted them.

Q That is a traffic light?

A Yes, sir; the traffic light just behind them.

Q All right, sir; now, did that cause a traffic congestion on U.S. 80?

A Yes, sir; traffic was backed up for miles, how many I don't know this is hearsay, but they say it was backed up for several miles

Q And what -- back toward the City of Selma, was it backed up that a'way, too?

A Well, yes, sir; it had to be, I couldn't see across the bridge.

MR. GRAY: We object to that, your honor.

THE COURT: Sustain it.

Q Well, it approaches from -- the bridge from the City of Selma side, you come right down the main street of the City of Selma; is that correct?

A That is correct; yes.

Q Now -- but you didn't go on that side of the bridge at that time

A No, sir.

Q At that date?

A No, sir.

Q In controlling a crowd or a mass group of people this a'way that are determined to march or to do something on the streets, in controlling them do you have to take into consideration the amount of tension that is existing there and the number of people

in the area?

A Definitely; yes, sir.

Q And did you take that into consideration?

A I did; yes, sir.

Q On Sunday afternoon?

A Yes, sir.

Q Now, I believe you testified, also, that you didn't believe in mass arrests; is that correct?

A No, sir; I do not, not in a circumstance like that.

Q And mass arrests have proven futile in Selma, Alabama; isn't that correct?

A Yes, sir.

Q And the City attempted to make mass arrests --

A That is correct.

Q -- for violation of their parade orders; is that correct?

A That is correct; yes, sir.

Q And it was futile, wasn't it?

A Yes, sir.

Q And in making these mass arrests -- well, I withdraw that question. It is also the problem that in making these arrests where they claim that it is for voter registration that they are immediately removed, those cases, out of the hands of the local courts; isn't that correct?

A Yes, sir.

Q And that is what has happened in Selma; is that correct?

A (Nodded to indicate affirmative reply)

Q So you came to the conclusion that the problem of arresting all these people out there would do no good; is that correct?

A That is correct, sir.

Q And -- and did you further arrive at the opinion that mass arresting the leaders would not disperse the rest of the group?

A That was my opinion, that it would not help.

Q So you had the problem of breaking up some four or five hundred people and sending them back to where they come from; is that right?

A I would say around six or seven hundred.

Q Six or seven hundred?

A Yes, sir.

Q And you had a minimum amount of time to do it because of a terrific traffic congestion on that highway; is that correct?

A That is correct; yes, sir.

Q And you had to arrive at decisions quick; is that correct?

A That is correct, sir.

Q And you had Major Cloud out there under your supervision, but you gave him orders from time to time?

A I did.

Q As I understand you, Colonel, after the Troopers told them to disperse, and that they moved into them with their clubs held horizontal?

A Yes, sir; that is the way they are trained.

Q And pushed them back; is that right?

A That is the way they are trained; yes, sir.

Q And that was a long line of people, wasn't it?

A Yes, sir; it was.

Q But the line didn't turn around and go back when the Troopers -- saw them pushing the front ones back, did they?

A No, sir.

MR. GRAY: Your honor, we object to the form of these questions.

THE COURT: Overrule.

MR. McLEAN PITTS: Cross examination.

MR. NABRIT: May I be heard on that, your honor?

THE COURT: Well, I have permitted friendly witnesses to be cross examined on both sides when the other party put them on; I have overruled the objection; I will permit it. Is that the basis for your wanting to be heard?

MR. NABRIT: What I wanted to say was there were so many questions would suggest the answers.

THE COURT: Well, I understand that, you don't have a jury in the box in this case, I am familiar with trials and trial tactics; go ahead, objection is overruled; let's get along, examine your witness.

MR. McLEAN PITTS: All right, sir.

Q And after they were pushed back, some time elapsed between that time and the time gas was released?

A Quite a bit of time; yes, sir; I don't know exactly how much, but it was quite a bit of time.

Q In fact, you had time to get out and walk up there and look around?

A Oh, yes; yes, sir; Major Cloud had time enough to walk up and down the line asking them to get up and leave.

Q And he asked you to let the use -- whether you wanted the gas released at that time?

A Yes, sir.

Q And you told him no?

A That's right, sir.

Q Now, actually, where this occurred at out there on the highway is outside the corporate limits of the City of Selma, but within its police jurisdiction; is that correct? Is that correct?

A That is correct; I believe the city limits is the middle of the bridge, I believe.

Q The bridge?

A Yes, sir.

Q All right, sir; now -- and so -- and the City, no -- you asked the City to send troops -- I mean some of their patrolmen there?

A Yes, sir.

Q But they had all they could handle back down the City; is that correct?

A That was the information they sent to me, that they had too much

traffic, they couldn't control it.

Q Now, get back to this pushing, that gives -- and out there across the river on that afternoon, you -- some of these people fell down on the pavement; is that correct?

A Yes, sir.

Q And you -- did you look at them?

A I think I saw one down --

Q And --

A -- and I believe the -- Major Cloud had that person removed.

Q And did you -- did you see anything wrong with some of these people; were some of them just lay down?

A Some of them were just limp; I walked by some of them, you could see them looking around, their eyes open.

Q All right, sir; now, on that afternoon, did you have at that time or sometime later, did you have some of your Troopers injured?

A Yes, sir; I did have.

Q And how many of those Troopers were injured?

A Well, I don't know exactly; I been tied up in court here, I don't know exactly the number that were injured; but I have the number -- well, I know definitely one had to go to the hospital. I have this -- the names here of the ones that met resistance.

MR. NABRIT: Objection; that is not responsive.

THE COURT: I sustain it.

Q And will you tell -- do you say you have the names of the ones

that met resistance?

A Yes, sir.

Q Was that out there on that afternoon?

A Yes, sir.

Q Will you name those Troopers?

MR. GRAY: Your honor, we are going to object.

MR. NABRIT: Objection, unless personal knowledge.

THE COURT: All this is a report you have received during the course of your administering the functions of the Alabama Patrol; is that right?

WITNESS: Yes, sir; I received this information today. Not the information, but the list of the names.

THE COURT: I might say this, in all fairness; in all fairness, Mr. Pitts, I consider testimony that is this leading and suggestive of very little value.

MR. McLEAN PITTS: All right, sir; I abide by the court's decision.

THE COURT: I am not making a decision; in all fairness --

MR. McLEAN PITTS: I withdraw the question.

THE COURT: -- I have permitted both sides some leeway in it, but when a lawyer testifies to the extent that you are doing, I consider it of very little value.

MR. McLEAN PITTS: I will withdraw the question; I ask --

THE COURT: Now, that doesn't apply just to this question. I have overruled objection as to the admissibility of this evidence regarding the Troopers.

MR. McLEAN PITTS: All right, sir; all right, sir.

MR. NABRIT: Could we have voir dire on the paper he is referring to, your honor?

THE COURT: Yes, voir dire requested before the evidence comes in on the paper.

VOIR DIRE EXAMINATION:

BY MR. GRAY:

Q When -- how long have you had that list of names on that paper, sir?

A I received it today.

Q Was it prepared for this litigation?

A Major Cloud -- I told him to prepare it for me; yes.

Q So the -- the -- it was not actual--- you did not actually receive this information in the ordinary course of your business, did you?

A I would have received it, but I have been here in court.

Q But it was prepared solely so you could read it off to the court at this time?

A Well, this would come to me, whether I had been here or not; I wouldn't have gotten it until I got back to my office.

Q Now, can you tell from those names where the resistance took place?

- A There -- they say -- I say, "They say"; Major Cloud says that that resistance took place there at the -- where they were confronted on --
- Q Now, is that on the paper; is that on your piece of paper?
- A No, that is not on the paper.
- Q So then any testimony as to where that took place would be hearsay?
- A We have Troopers that can testify to that, where it took place.
- Q So all you know is you have a list of names of persons who were injured sometime during the day in Selma?
- A During the --
- Q During Sunday?
- A Right; during Sunday.
- Q Did you say that those people on that list were injured?
- A No, I said they met resistance.
- Q They met resistance?
- A I said some of them were injured; one of them definitely did have to go to the hospital.
- Q Was there any explanation as to what was meant by, "Met resistance"?
- A Yes, some of them --
- Q As far as those are concerned?
- A Before what?
- Q Is there any information on that paper which indicates the type of resistance which took place?

A No, there is no nothing on this paper; it is only just a list of names that -- the ones that met resistance.

MR. GRAY: Your honor, we object.

THE COURT: It is not admissible.

MR. McLEAN PITTS: All right, that's -- we have other witnesses we can prove it by; I withdraw the question.

THE COURT: All right; you can prove it by competent testimony, but that is not competent.

MR. McLEAN PITTS: I can prove it by Major Cloud.

THE COURT: All right.

CROSS EXAMINATION (cont'd):

BY MR. McLEAN PITTS:

Q Colonel, have you been in Selma -- well, I withdraw that question. Getting to Marion, you went to Marion at the call of the Sheriff and the Chief of Police; is that correct?

A Yes, sir; that is correct.

Q Now, was that a hurried trip or not?

A Well, we moved in several days before the night marches were banned, and they were permitted to parade there a few days, and it just getting bigger and bigger and bigger; they were beginning to get out of hand, so the Sheriff and all of them and the Mayor decided no more marches, that's it.

Q And did the situation deteriorate in Marion?

A Definitely; yes, sir.

Q Now, Colonel Lingo, when you got to Marion, did you see Sheriff

Jim Clark there then?

A I did, I did; yes, sir.

Q Did you see Sheriff Jim Clark arrest any person in Marion?

A No, sir.

Q Did you see him kick or strike any person in Marion?

A No, sir.

Q Did you see any of his deputies arrest any person in Marion or hit or strike any person?

A The only time I saw his deputies, over there in front of City Hall.

Q All right, sir. Now, getting back to Selma, have you been there on occasions when these demonstrations were going on?

A Yes, sir; I --

Q And the arrests were made and so forth?

A Yes, sir.

Q Have you seen Sheriff Jim Clark strike any person there?

A No, sir; I have not.

Q Have you seen any of his deputies or any of his Posse strike or beat up anybody over there?

A No, sir.

Q Has anybody been shot by any -- any of the Sheriff's forces or any of the Posse?

A Not to my knowledge.

Q And -- do you know of any acts of brutality on the part of Sheriff Clark or his Posse or his deputies?

A I have not; I haven't observed any.

Q You never observed any?

A No, sir.

Q Now, it is one more question I want to ask you about night marches; are night marches more dangerous to the persons that are involved in those marches than day marches?

A They definitely are; yes, sir.

MR. NABRIT: Objection.

THE COURT: Overrule.

Q Well, I will ask --

MR. McLEAN PITTS: You overruled it? All right.

THE COURT: (Nodded to indicate affirmative reply)

Q Is it also a possibility of more violence at night than there is in the day time?

A Yes, sir; there is.

Q It is more difficult to identify people at night?

A Yes, sir.

Q And in sound police protection -- I mean police -- policing, is it your opinion that large marches where tension or -- could be caused should not be allowed at night?

A They definitely should not be allowed.

Q Do you -- I'll ask you, in your experience have you heard -- in your experience as a law enforcement officer, is it true that horses are used a great deal by law enforcement agencies?

A I have some horses, myself; I haven't used them in any riots

so far.

MR. NABRIT: Objection; may it please the court, there has been no testimony foundation for talking about riots.

THE COURT: Overrule.

Q Well, have -- is it -- I ask you, was it -- is it your -- do you know of many law enforcement agencies, police, that do use horses in their policing?

A Quite a few north; yes, sir.

MR. McLEAN PITTS: I believe that is all.

THE COURT: Redirect, Mr. Kohn.

MR. McLEAN PITTS: Yes, sir; I believe -- just one minute, I wanted to ask him --

MR. KOHN: No redirect.

MR. McLEAN PITTS: That's all.

WITNESS: Could I get a drink of water?

THE COURT: Go right ahead. I have excused him to get water.

MR. GRAY: Oh, I am sorry.

THE COURT: Redirect, Mr. Kohn.

MR. KOHN: No, your honor.

THE COURT: Recross for the plaintiffs.

MR. GRAY: Yes, sir.

THE COURT: All right. You need a recess, Colonel; you need a recess?

WITNESS: No, sir; I am all right.

THE COURT: Cross examination.

BY MR. GRAY:

Q I show you, sir, Intervenor's Exhibit 3, picture 202; will you look at that picture and tell us exactly where your car was parked with relation to this picture?

A I believe -- let's see, now, is this facing west?

Q It is looking toward Selma.

A That is looking toward Selma?

Q Yes, sir.

A I was back over in here, somewhere back over in here.

MR. KOHN: Let the court see; you want to see that picture?

THE COURT: Oh, yes; you go right ahead.

A I -- I don't --

THE COURT: You want to see it?

MR. KOHN: I thought you wanted to see.

A It is -- my car is not visible in this picture, because it doesn't go far enough back.

Q You were further toward Montgomery than the points indicated on this picture?

A I believe so; I don't know exactly what -- where I was parked along here, I don't know exactly where.

Q Will you tell us, Colonel, you mentioned that at one point you got out of your car and put on a mask?

A Yes, sir.

Q How were you dressed?

A I was in civilian clothes, as I am dressed now.

Q Did you have a hat on?

A Yes.

Q Did you have a coat on?

A I had a rain coat.

Q Rain coat; did you have a rain hat on?

A Oh, no.

Q No rain hat?

A Oh, no.

Q I show you, sir, picture 206, and ask you to examine that photo?

A Uh, huh.

Q Do you recognize the man on the extreme right?

A I believe that is one of our investigators.

Q One of your investigators?

A I believe that is correct.

Q All right.

A I am not positive, though, but his features are similar to one of our investigators.

Q Who does it appear to be from -- in your best judgment?

A It appears to be Sergeant Gatlin.

Q All right, sir. I think you mentioned earlier, sir, that a large group of people in some other testimony in response to one of the cross examiners, I would like to be sure I understand now; the question to break up the march was already made before

the march occurred; is that right?

A That is correct.

Q So whether it was one or whether it was one hundred, if it were a march to Montgomery, it was going to be broken up?

A That is correct.

Q Approximately how long were you in your automobile?

A I imagine -- I imagine about two hours.

Q Approximately how many white people did you see milling around in that area?

A Oh, I would say two, three, or four hundred.

Q Did you give any orders to anyone to disperse the white persons?

A Now, that is on Sunday you are speaking of?

Q On Sunday; yes, sir?

A No, that is an error I made; I should have.

Q Did -- did you --

A But I did on Tuesday.

Q Did you on Sunday direct any of your orders -- your officers to use tear gas on the white people?

A No.

Q Now, have the -- did the State Troopers stop the traffic; the State Troopers had stopped traffic, had they not?

A We had to stop it; it was paralyzed.

Q The marchers were actually marching on the side of the road off of the paved portion; isn't that right?

A Partially on the sidewalk and partially in the road.

Q You could see that from your point -- your vantage point?

A I could see up the top of the bridge; now, it is up high, and now, what I was afraid of, the reason I stopped all traffic, I was afraid somebody might ride by there and rock them or possibly shoot them, and I did not want that to happen.

Q I think you -- you testified that you knew of no Sheriff's deputy who had shot anyone?

A No, I know of no one.

Q Do you know of an incident where a State Trooper shot a Negro in Marion?

A I do.

Q Are familiar with that?

A Yes, sir; I caused an investigation to be made, immediately.

Q Did you know that that person subsequently died that was shot?

A I think that has got to be determined in court what he died from; I think you will find it from mass infection that he died with, that was the cause of death.

Q Now, did you have any of your employees or anyone connected with the State Department of Public Safety making any picture--- taking any pictures?

A Where and when?

Q Sunday of the demonstration?

A Yes.

Q Who was the person making pictures?

A Roy Smith, I believe he was making some pictures, and I think

you will notice this investigator here you were asking about, I think you will find him -- that he has a camera and --

Q I show you again Intervenor's Exhibit 3, picture --

A I don't know who this is.

Q -- 214; is the person with the camera one of your employees with the Department of Safety?

A I can't tell; looks like State Trooper pants, but I can't determine, I would guess it was; I couldn't positively say so that it was, but I would think it is.

Q So from that picture it appears as if maybe some State Troopers were making films?

A Oh, yes, sir; we make pictures, we always make pictures.

Q Of this occurrence -- I see; all right.

A Just looking at this picture trying to determine here, what kind of head is that?

MR. GRAY: That's all; thank you.

THE COURT: Mr. Doar.

BY MR. DOAR:

Q Colonel Lingo, did I understand you to say that Governor Wallace instructed you to disperse that crowd in a way that no one would get hurt?

A He instructed me he didn't -- he says he never wants anybody hurt.

Q Mr. Smith asked you, "Isn't it a fact that Governor Wallace said, 'Disperse that crowd so no one would get hurt,'" and you

said that was right?

A That is correct; he wants -- never wants anybody hurt.

Q He didn't want anyone hurt that afternoon?

A That is correct, sir.

Q And you understood that?

A Yes, sir; I always understand that.

Q You communicated that --

A That is a standing -- that is a standing order with him, to not hurt anyone unless only in self defense.

Q Well, did I understand you to say that you didn't make arrests that afternoon because --

A Now you are speaking of Sunday?

Q Sunday, because it was futile to make arrests in Selma?

A Mass arrests would have done no good, and we have tried to arrest the leaders.

Q No, wait a minute, excuse me; I understood Mr. Pitts to ask you the reason you didn't make the arrests there is because it was futile to make arrests in Selma?

A Yes, sir; it would have done no good.

Q Well, what do you mean by that?

A Well, we couldn't have broken the crowd up by just making a few arrests.

Q No, but if you had made mass arrests?

A If we made mass arrests, I just explained to you that I don't believe in mass arrests, because there is a lot of individuals

in there that don't know what they are doing; they are just there because they are told to be there, tell them they are going to get their -- a pension check cut off if they don't be there.

Q Well, I -- you -- you said in answer to Lawyer Pitts question that it was futile to make mass arrests in Selma?

A Well, not necessarily Selma; I think that would apply any place.

Q I see. And Lawyer Pitts also said it was futile because the defendants would remove the cases to Federal Court; was that your testimony?

MR. McLEAN PITTS: Wait a minute, your honor; I didn't --

A No, sir; I don't believe --

MR. McLEAN PITTS: Wait just a minute; I didn't ask the question to that effect.

A No, sir; I don't remember that question.

THE COURT: That was the substance of one of the questions, as I recall it; the objection is overruled; go ahead, Mr. Doar.

Q You don't recall the question now?

A I don't remember anything about it being removed to Federal Court; no, sir; I don't remember that portion of it.

MR. DOAR: All right.

THE COURT: Mr. Smith.

MR. SMITH: No questions.

THE COURT: Any other questions?

MR. McLEAN PITTS: Yes, sir; I want to ask him a few more questions.

THE COURT: Mr. Pitts.

BY MR. McLEAN PITTS:

Q Colonel Lingo, you just testified that you would not -- that you gave no instructions about gassing white people, but if there were white people in that march, they were to be gassed; is that right?

A If they had been all --

MR. NABRIT: Objection; hypothetical, your honor.

THE COURT: Overrule.

A If they had been all white people in that march, they would have been handled in the same manner as the marchers on Sunday were handled.

Q And there were some white --

A The only thing I am concerned with is law and order; I am not a politician.

Q You did -- did you see some white people in that march?

A I did; yes, sir.

Q Now, Colonel Lingo, if the marchers had obeyed the orders or the requests of Major Cloud, would anybody have been injured that afternoon?

A No, sir --

MR. GRAY: Objection.

A -- if they had turned around --

MR. NABRIT: Objection.

THE COURT: I sustain it to that question.

MR. McLEAN PITTS: Just one minute.

Q Do you know whether or not any of your Troopers moved any white people around on -- out there in that area on that Sunday afternoon?

A I am sure they did.

MR. McLEAN PITTS: That's all.

A I didn't see them move any, but they have the instructions not to let them get in there where they might --

MR. GRAY: Now, we are going to object unless he knows of his own knowledge.

THE COURT: It is not responsive. He answered the question; that part of it that is responsive is admitted.

MR. McLEAN PITTS: That is all right, your honor. That's all.

THE COURT: Any further examination of this witness

MR. GRAY: I have just one or two questions.

BY MR. GRAY:

Q Were you -- are you familiar with the march that took place in Selma the Saturday before where the white people throughout the country and the State marched in Selma?

A On a Saturday?

Q On Saturday before this march took place?

A Where did they march?

Q In Selma, to the Court House?

A I don't believe so; I don't believe I was there at that time.

Q Has that matter come to your attention?

A Yes, I have heard about every march that we have had there.

Q All right; now, you had State Troopers in Selma on that Saturday, didn't you?

A Yes.

Q Did they use tear gas on those white people?

A No.

MR. GRAY: That's all.

THE COURT: Further examination, Mr. Doar.

MR. McLEAN PITTS: One question.

THE COURT: Mr. Pitts.

BY MR. McLEAN PITTS:

Q Those white marchers that were there on that day were not on a State highway; is that correct?

A That is correct.

Q They didn't go on the State highway?

A Well, any public street or alley is a public highway.

Q Well, they didn't get out on the road, what I mean?

A No, sir; they didn't get out on 80; no, sir; they --

Q They were at the Court House; is that correct?

A At what?

Q They went to the Court House?

A That -- I assume so; I don't believe I was there on that day.

Q And, Major -- I mean Colonel, there has been a lot of demonstrations on the Court House by Negroes, and no tear gas was used, wasn't it?

A I didn't -- didn't understand you?

Q I say, a lot of demonstrations on the Court House --

A Oh; yes, sir.

Q -- since January, and no tear gas was used, wasn't it?

A That is correct.

MR. McLEAN PITTS: That's all.

THE COURT: Any further questions by you gentlemen?
Any from you?

MR. KOHN: No further questions, your honor.

THE COURT: Let me ask you a few questions, please, sir. Colonel, let's direct your attention to Tuesday, March 9; what time did you go to Selma that day?

WITNESS: I got there, I guess, approximately one o'clock.

THE COURT: And I believe that you told the lawyers that you had the same instructions that day from the Governor to stop the march?

WITNESS: That is correct, sir; yes, sir.

THE COURT: And you got there about when?

WITNESS: Approximately one o'clock, I believe.

THE COURT: And that is p.m.?

WITNESS: Yes, sir; p.m.

THE COURT: Did you have an opportunity to and did you talk with Governor Leroy Collins that day on the 9th?

WITNESS: Yes, sir. I did; yes, sir; I talked to Governor Collins.

THE COURT: And was he in Selma, according to your understanding, as the President's representative on the Committee for Community Service?

WITNESS: I did have that understanding; yes, sir.

THE COURT: What was the nature of your conversation, generally, with Governor Collins concerning the proposed march for Tuesday, the 9th?

WITNESS: Governor Collins came to me with Sheriff Clark, and he says, "What these demonstrators want to do is march down and be confronted by the -- the Troopers and sing and pray and return to the church. Will you permit that?" I said, "Yes, I will" -- said, "I will even protect them on their way there, I will see that nobody harms them."

THE COURT: All right. All right, and was it your understanding that he went back, that he relayed your message to Dr. King?

WITNESS: I assume he did; yes, sir. I also told Governor Collins that, "All that will be agreeable, but there would be no march on the highways from Selma to Montgomery."

THE COURT: All right, and I believe you had your -- your Troopers at approximately the same place on the 9th that they

were on the 7th?

WITNESS: That is correct, sir.

THE COURT: And do you know who furnished Governor Collins, if anyone, with this map?

WITNESS: No, sir; I have never seen that map before.

THE COURT: All right, as to the proposed route --

WITNESS: No, sir.

THE COURT: -- they were to march?

WITNESS: I know nothing about the map.

THE COURT: All right. You don't know, then, where Reverend King obtained this map --

WITNESS: No, sir.

THE COURT: -- that he testified about?

WITNESS: No, sir; I have never seen the map before.

THE COURT: All right, then is it fair to say that your testimony on that point up to now is that you agreed with Governor Collins, as the President's representative, that if the Negroes wanted to march down to where your Troopers were and -- and pray and sing and turn around and return, that was satisfactory on the 9th; is that correct?

WITNESS: Now, I didn't agree that -- that he was not in violation of your court order; I didn't agree to that.

THE COURT: Yeah, that is one of the reasons I am asking the question?

WITNESS: Yes, sir; I did not agree to that, and I

made no deal whatsoever --

THE COURT: What I am interested in is you just answering my questions --

WITNESS: Yes, sir.

THE COURT: -- I will interpret the court order.

WITNESS: Yes, sir; I am sorry.

THE COURT: Was it your understanding with Governor Collins that Dr. King and a group of Negroes were to march on the 9th down to where your Troopers were --

WITNESS: That is correct.

THE COURT: -- turn around after they sang and prayed and go back to Selma?

WITNESS: That is correct, sir.

THE COURT: All right, is that what they did?

WITNESS: Is that -- that is what they did; yes, sir.

THE COURT: You heard the testimony that you moved your Troopers before the Negroes turned and went back, and that you moved your cars; is that correct?

WITNESS: That is correct, sir.

THE COURT: And they were still there when you moved your cars?

WITNESS: That is correct, sir.

THE COURT: And then they turned and went back without your Troopers being there?

WITNESS: That is correct, sir.

THE COURT: Then if you stopped them that day, you stopped them by agreement, did you not? Because you moved your physical force --

WITNESS: That's right; I moved --

THE COURT: -- before they went back?

WITNESS: I moved the physical force; that is correct.

THE COURT: Then if you stopped them that day, they were stopped by agreement that was conveyed to them from you to Governor Collins; is that not right?

WITNESS: Well, the agreement I made with Governor Collins; yes, sir.

THE COURT: All right.

WITNESS: Would you like for me --

THE COURT: And they turned around and went back on their own after you moved your Troopers and moved your cars?

WITNESS: That's right.

THE COURT: And they didn't attempt to march on to Montgomery?

WITNESS: No, sir.

THE COURT: And you were still two or three hundred yards from the River Bridge there in the city limits of Selma?

WITNESS: Not the city limits; in the police jurisdiction.

THE COURT: How far from the Edmund Pettus Bridge

were you?

WITNESS: I would say about a quarter of a mile, approximately a quarter of a mile.

THE COURT: Now, did anything else about this agreement or understanding, whatever you want to call it, that you had with Governor Collins -- you started to say something a few minutes ago and I cut you off?

WITNESS: Yes, sir; I wanted to tell you why I moved the -- the Troopers out of the road.

THE COURT: (Nodded to indicate affirmative reply)

WITNESS: I think the traffic had been paralyzed long enough, and I wanted to move my Troopers and let them return to the church and open that and let that traffic on through, it was just snarled up --

THE COURT: Are you saying the traffic could go on through while the Negro marchers were still there?

WITNESS: No, sir; they could not get through, they were taking up the whole one lane of the road.

THE COURT: On the 9th?

WITNESS: Yes, sir.

THE COURT: And was there one lane open for them?

WITNESS: One -- one lane of --

THE COURT: For traffic?

WITNESS: There were four lanes, and one lane was closed by them.

THE COURT: Two lanes open and two lanes closed?

WITNESS: Right.

THE COURT: And then after you moved your Troopers, did the traffic move on in the other two lanes?

WITNESS: No, sir; we had to hold it until they were -- went on back, because I was afraid we might have trouble until they got --

THE COURT: All right, all right.

WITNESS: -- cleared of the highways.

THE COURT: All right, now, getting on to -- back to the 7th, a few questions, please. Who selected the place for the Troopers to stop the Negro marchers on the 7th?

WITNESS: I did, Major Cloud and myself.

THE COURT: All right. And what considerations caused you to select this particular spot?

WITNESS: Well, it was a kind of wide place in the road there where we could get the people back, they wouldn't have to be -- the outsiders wouldn't be there close up.

THE COURT: Were the outsiders that day present when you selected the spot?

WITNESS: Sunday they were.

THE COURT: I am talking about Sunday now?

WITNESS: You are talking about Sunday?

THE COURT: Yes, sir?

WITNESS: They were back -- yes, sir; they were not

up to the -- close to the edge of the road; they were back up in the buildings and around the side of the buildings.

THE COURT: That the only consideration that caused you to select that particular spot as opposed to others?

WITNESS: I believe so; yes, sir.

THE COURT: Did you give any consideration to moving the outsiders, the whites that were there that you were afraid of?

WITNESS: Well, it worried me after what happened --

THE COURT: I am talking about when you -- when you were troubled with them in selecting the spot?

WITNESS: Sunday?

THE COURT: Yes, sir?

WITNESS: Yes, sir; I did give it consideration; I was watching it very close.

THE COURT: Now, is that bridge the only bridge for -- for automobile and pedestrian traffic coming out of Selma toward Montgomery?

WITNESS: Yes, sir; it is.

THE COURT: Did you give any consideration to putting a barricade up at the Selma end of that bridge to stop that march?

WITNESS: No, sir.

THE COURT: And why not?

WITNESS: The Governor wanted to get out on the highway. Didn't want to stop --

THE COURT: What?

WITNESS: Didn't want to stop them in town. He didn't want to stop them in town.

THE COURT: Then the Governor had something to do with you selecting the spot on the 7th?

WITNESS: Well, not necessarily -- yes, sir; he didn't want to stop them in town, because the white people, see, around those buildings, we were afraid we might have trouble; if we could get them on out there on the highway and disperse them and get them back in an orderly manner, we would have less trouble.

THE COURT: But they had to go across that bridge to get on the highway?

WITNESS: Well, they were on the highway when they were on the bridge, when they were on the Broad Street they were on highway 80.

THE COURT: Well, it would have been relatively easy, would it not have, to have barricaded the bridge and stopped the march before they went across the only bridge?

WITNESS: We could have done that, but we might have had trouble with all those white people that were down town. I had one lieutenant in charge there who had to back --

THE COURT: Were you afraid of the whites committing violence?

WITNESS: Yes, sir; I was; I really was. It was -- I got one lieutenant here who could testify he backed off around a thousand to fifteen hundred white people, he started to throw gas

on them.

THE COURT: All right, sir; a few more questions. I believe the testimony has been up to this point that you and Sheriff Clark are on the same radio frequency -- when I say, "You," I mean the Alabama Highway Patrol?

WITNESS: Yes, sir; that is correct. And several of the others -- well, just about all the Sheriffs throughout the State just a few --

THE COURT: That is what I wanted to ask you; are a majority of the Sheriffs throughout the State on the Alabama Highway Patrol frequency?

WITNESS: That is correct, sir; not all of them, but the majority of them.

THE COURT: Do you know what authority, if any, Sheriff Clark had for being in Perry County the night that you say he and his deputies were over there?

WITNESS: No, sir. I heard him tell somebody he was there by invitation; I don't know.

THE COURT: Do you know who invited him?

WITNESS: No, sir; I don't. I haven't talked to him about that.

THE COURT: Who did you hear him tell he was there by invitation?

WITNESS: I really don't know. I don't remember.

THE COURT: All right. Then the incident on Tuesday,

March 9 -- getting back to it -- was more or less a play of what had been agreed upon beforehand, wasn't it?

WITNESS: Yes, sir.

THE COURT: That is all I want to ask him. You can step down.

WITNESS: Yes, sir.

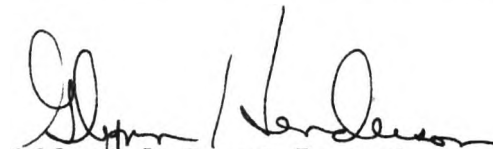
(END OF TESTIMONY CONTAINED IN THIS TRANSCRIPT)

** **

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

I, Glynn Henderson, Official Court Reporter of the United States District Court for the Middle District of Alabama, do hereby certify that the foregoing 105 pages contain a true and correct transcript of proceedings had before the said Court held in the City of Montgomery, Alabama, in the matter therein stated, or that portion of said proceedings indicated in note on page 2 thereof.

In testimony whereof I hereunto set my hand on this the 19th day of March, 1965.


Official Court Reporter.

FILED

APR 17 1965

R. C. DOBSON, CLERK

By

[Signature]

HOSEA WILLIAMS, JOHN LEWIS)
and AMELIA BOYNTON, on)
behalf of themselves and)
other similarly situated,)

Plaintiffs)

UNITED STATES OF AMERICA,)

Plaintiff-)
Intervenor,)

-vs-)

HONORABLE GEORGE C. WALLACE,)
As Governor of the State of)
Alabama; AL LINGO, as)
Director of Public Safety)
for the State of Alabama;)
and JAMES G. CLARK, as)
Sheriff of Dallas County,)
Alabama,)

Defendants)

CIVIL ACTION NO. 2181-N

Now comes George C. Wallace, as Governor of the
State of Alabama, one of the Defendants in the above styled
cause and withdraws his Notice of Appeal heretofore filed.

[Signature]
Attorneys for said Defendant

GOODWYN & SMITH
325 Bell Building
Montgomery, Alabama

RECEIVED

APR 17 1961

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE

CLERK
U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.
MONTGOMERY, ALA.

DISTRICT OF ALABAMA, NORTHERN DIVISION

FILED

APR 17 1961

U. S. DISTRICT COURT

JPB

HOSEA WILLIAMS, JOHN LEWIS)
and AMELIA BOYNTON, on)
behalf of themselves and)
other similarly situated,)

Plaintiffs)

UNITED STATES OF AMERICA,)

Plaintiff-)
Intervenor,)

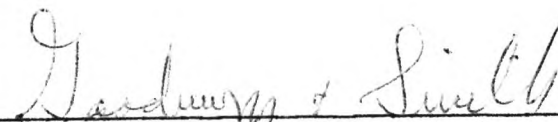
-vs-)

HONORABLE GEORGE C. WALLACE,)
As Governor of the State of)
Alabama; AL LINGO, as)
Director of Public Safety)
for the State of Alabama;)
and JAMES G. CLARK, as)
Sheriff of Dallas County,)
Alabama,)

Defendants)

CIVIL ACTION NO. 2181-N

Now comes George C. Wallace, as Governor of the
State of Alabama, one of the Defendants in the above styled
cause and withdraws his Notice of Appeal heretofore filed.


Attorneys for said Defendant

GOODWYN & SMITH
325 Bell Building
Montgomery, Alabama

RECEIVED

APR 17 1965

CLERK
U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.
MONTGOMERY, ALA.
CHARLES M. CROOK

GOODWYN & SMITH
ATTORNEYS AT LAW
SUITE 325 BELL BUILDING
MONTGOMERY, ALABAMA 36104

April 16, 1965

TELEPHONE
263-1033 & 263-3351

Mr. R. C. Dobson, Clerk
United States District Court
New Post Office Building
Montgomery, Alabama

Re: Hosea Williams, et al -vs-
George C. Wallace, et al

Dear Mr. Dobson:

Please file the enclosed withdrawal of notice
of appeal in the above referenced matter.

Sincerely,

GOODWYN & SMITH

By Charles M. Crook
Charles M. Crook

CMC:gw

Enclosure

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

Hosea Williams, John Lewis
and Amelia Boynton, on behalf
of themselves and others
similarly situated,

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

vs

Honorable George C. Wallace, as
Governor of the State of Alabama;
Al Lingo, as Director of Public
Safety for the State of Alabama;
and James G. Clark, as Sheriff of
Dallas County, Alabama,

Defendants.

Civil Action

No. 2181-N.

.....

Before Hon. Frank M. Johnson, Jr., Judge, at Montgomery,
Alabama, March 11-12-13-15-16, 1965.

A p p e a r a n c e s:

For the Plaintiffs:

Gray & Seay
(Fred D. Gray and
Solomon S. Seay, Jr.),
Peter A. Hall,
Jack Greenberg,
Norman Amaker,
Charles H. Jones, Jr.,
Oscar W. Adams,
Demetrius C. Newton,
James M. Nabrit, III,
Charles S. Ralston.

For the United States:

Ben Hardeman,
John Doar,
David Reuben.

For George C. Wallace:
(and for Al Lingo
3/11-12)

Goodwyn & Smith
(Maury D. Smith,
Charles M. Crook, and
John S. Bowman).

For Al Lingo:
(from 3/13)

John P. Kohn, Jr.

For James G. Clark:

McLean Pitts,
P. H. Pitts,
J. E. Wilkinson, Jr.,
T. G. Gayle.

(NOTE: This transcript is an excerpt transcript containing the testimony of FREDERICK DOUGLAS REESE, witness for the United States, in hearing in above case March 11-12-13-15-16, 1965, this testimony having been adduced on March 13, 1965.)

FREDERICK DOUGLAS REESE, witness for the United States, having been duly affirmed, testified as follows:

DIRECT EXAMINATION:

BY MR. DOAR:

Q Will you tell the court your full name, please?

A Frederick Douglas Reese.

Q And where do you live?

A I live at 1566 Range Street, Selma, Alabama.

Q What is your occupation?

A I am a minister of the gospel, and also a teacher.

Q Referend Reese, are you connected with the Dallas County Voters League?

A I am.

Q Were you present at the march on Sunday, March 7, 1965?

A I was.

Q In the City of Selma?

A (Nodded to indicate affirmative reply)

Q Did you go on that march?

A Yes, I did.

Q Now, directing your attention to a particular part of that march, after the State Troopers used tear gas, what did -- where did you go?

A I went to the east side of highway 80, behind a building, into a field behind the building, as were others in a field back the

Q And were there a number of other Negro citizens that were in th

march in that field, also?

A Yes, there were.

Q And what happened down in that field; could you tell us?

A Well, after the tear gas was thrown and we went in the field, a lot of pandemonium broke out, and people were crying and -- and of course, hysterical, some were completely exhausted and choking from the gas, and also, there was a Mounted Posse, in other words, a man on a horse, that came down in the field during the time we was down there, and particular the time we were come out of the field, this Mounted Posse on the horse was urging, saying to the crowd, "You damn niggers, get out of here," and at the same time jabbing the persons toward the end of the line that was coming out of the field.

Q And as you came out of the field, where did you go then?

A Well, when we came out of the field there was lined up a parallel line of State Troopers; we walked the parallel line of State Troopers back to -- on highway 80, and of course, on that highway, when we came out was tear gas still in the air, and we went -- we proceeded towards the bridge.

Q I want to show you Exhibit number 1, Plaintiff-Intervenor's Exhibit number 1.

MR. KOHN: May we see it, Counsel? All right.

Q Picture 310; you recognize that picture?

A Yes.

Q And what is that picture?

march in that field, also?

A Yes, there were.

Q And what happened down in that field; could you tell us?

A Well, after the tear gas was thrown and we went in the field, a lot of pandemonium broke out, and people were crying and -- and of course, hysterical, some were completely exhausted and choking from the gas, and also, there was a Mounted Posse, in other words, a man on a horse, that came down in the field during the time we was down there, and particular the time we were come out of the field, this Mounted Posse on the horse was urging, saying to the crowd, "You damn niggers, get out of here, and at the same time jabbing the persons toward the end of the line that was coming out of the field.

Q And as you came out of the field, where did you go then?

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Q I want to show you Exhibit number 1, Plaintiff-Intervenor's Exhibit number 1.

MR. KOHN: May we see it, Counsel? All right.

Q Picture 310; you recognize that picture?

A Yes.

Q And what is that picture?

A Here in this picture we see the persons who went in this field, and of course, many persons that went in there with me.

Q Reverend Reese, what if any orders were given to you and the other people in that field by the member or members of the Posse down there about where you should go, what you should do?

A How was that, now; I didn't understand?

Q What if any orders were given by the members of the Posse down there?

A You asking were there any orders given?

Q Yes?

A The only order that I mentioned was that when we were coming out

Q I see; that is the only thing -- order?

A Only order I remember.

Q Now, then did you go back across the bridge?

A Yes, I did.

MR. DOAR: Thank you.

THE COURT: For the plaintiffs.

MR. NABRIT: No questions, your honor.

THE COURT: Mr. Smith.

MR. SMITH: No questions.

THE COURT: Mr. Kohn.

MR. KOHN: I want to ask him a question.

CROSS EXAMINATION:

BY MR. KOHN:

Q Reverend Reese, what is this organization you testified, I

believe, that you belonged to, besides being a minister; what else do you do over there?

A I am a teacher.

Q A teacher in what school?

A The R. B. Hudson High School, Selma.

Q Do you belong to any of these associations or organizations taking part in demonstrations or did take part in the demonstration on Sunday, March 7, 1965?

A I am President of the Dallas County Voters League.

Q Do you draw a salary?

A No, I do not.

Q Do you draw any expense money?

A No, I do not.

Q Are you on anybody's pay roll paying you to agitate?

A I am not on anybody's pay roll --

MR. NABRIT: I object.

A -- as such.

MR. KOHN: I am cross examining him --

THE COURT: Well, you came in the case late.

MR. KOHN: Yes, sir.

THE COURT: It shouldn't have been necessary, but it has been necessary once during this trial for me to advise counsel that when they examine they are to -- they are to demonstrate common courtesies to all of these witnesses, regardless of who they are or what color they are, and that -- that applies --

MR. KOHN: I am not conscious of not doing that, your honor.

THE COURT: -- and the objection is overruled to that particular question. And I -- I am -- I am cognizant of the fact that counsel used the word, "Agitate," but it has many connotations and definitions; I will permit the question.

Q Will you proceed to answer the question?

THE COURT: Asked if you were a member of any of the groups that have participated in any of the demonstrations; I take it you are confining that for the last several months?

MR. KOHN: Last several months; I will, sir.

A I am President of the Dallas Voters -- County Voters League.

Q I can't hear you?

A I say I am President of the Dallas County Voters League.

Q Any other organization?

A No.

Q What is the Dallas County Voters League; what is its objective, its purpose?

A Its objective is to --

MR. HALL: May it please your honor, we object to this question; this has been explained before.

THE COURT: Well, I will permit a limited amount of this; Mr. Kohn came in this case late, with the court's permission; but I will not permit the fact that he came in late to have the effect of unduly prolonging the trial.

MR. KOHN: That is not my intention, your honor.

THE COURT: We have been into that many, many times in the last two or three days --

MR. KOHN: Yes, your honor.

THE COURT: -- but go ahead; he asked you what the purpose of the League was; overrule.

A The purpose of the League is to foster --

Q Will you talk a little louder so I can hear you back here?

A The purpose of the League is to foster voter registration program, and also to foster citizenship classes.

Q Does that word, "Foster," include demonstrations in the public streets of Selma and the highways of Alabama?

A Well, whatever means that we feel would actually encourage our citizens to become registered, then certainly to foster --

Q Would you like to answer the question specifically that I asked you?

THE COURT: I believe that is a fair answer; you can delve into it further if you wish.

Q Then do you consider demonstrations a part of the objectives of your organization?

A Well, not necessarily the objective, but certainly demonstration could be a means of arriving at the objective.

Q Were you at the scene that you have testified about demonstration as one of the means to reach your objective of this association?

A Do you have reference to the march on Sunday?

Q Yes?

A I was there.

Q For that reason?

A For what reason?

Q One of the means to reach your objective was demonstrating at this scene at this place and time on March 7, 1965?

A Well, I was there for the primary purpose to protest in a sense the brutality that occurred, and also to -- to be a witness to the fact that I was interested and am an interested citizen in seeing that all persons have the right to vote.

Q Now, you said you were there to protest the brutality that occurred; do you mean the brutality that occurred after you got there on this occasion, or before this occasion?

A Well, before.

Q Before this occasion; was that your answer?

A Yes.

MR. KOHN: No further questions.

THE COURT: Any further examination? Mr. Pitts.

BY MR. McLEAN PITTS:

Q You are a teacher at the R. B. Hudson High School; isn't that right?

A That is correct.

Q How many days have you been absent from the R. B. Hudson High School since the commencement of this present semester, January

A Oh, I should imagine -- I am not exactly sure -- possibly four

or five -- I am not sure of the number, I am not sure of the number of days.

Q And one morning you called up there about eight thirty and told them you wasn't coming to school, didn't you?

MR. GRAY: We object, your honor; give him a chance

THE COURT: Overruled.

Q You were going on a demonstration?

A Are you asking a question?

Q Yes?

A Will you please repeat your question, please?

Q I said on one occasion when there was a demonstration, between eight and eight thirty, you called up Yelder, the Principal of that school and told him you weren't coming?

A Which morning do you have reference to?

Q On one morning that there was a demonstration in front of the Court House since January?

A Yes, I have called; now, I -- I couldn't say exactly what morning it was.

Q And how many days you say you have been absent?

A Oh, I -- I am not sure; I am not sure of the number of days.

Q The best of your judgment?

A Well, it might have been five; some around there.

Q Now, you have also been meeting at Brown's Chapel and other churches there in the city, haven't you, at mass meetings, have you?

A Oh, yes.

Q And in those meetings you have advocated juveniles, children, taking part in these demonstrations, haven't you?

A Have I; a question?

Q Yes?

A No, I have not.

Q You have encouraged it, haven't you?

A What do you mean by encouraged?

Q You have spoke in encouragement of it?

A No, I have never spoken encouraging juvenile delinquency.

Q And you have -- at no time have you ever encouraged these juveniles from not going to school?

A No time.

Q But you have assisted in organizing demonstrations of juveniles on school days, haven't you?

A I have not assisted.

Q Now, how many times have you been to the Dallas County Court House since January 1 with demonstrations?

A To the County Court House?

Q Yes?

A Oh, I don't know; I don't --

Q How many times have you been down there with demonstrations since January 1, in your best judgment?

A Oh, I should imagine about three or four times.

Q Three or four times is all you have been down there?

A Yes, with --

Q All right.

A Not down to the Court House; you said with demonstrations.

Q I'm talking about the Dallas County Court House?

A Yes.

Q Now, on what other demonstrations have you been on?

A Other than those to the Dallas County Court House?

Q Yes?

A Well, the only one was across the river on Sunday.

Q All right. Now, on occasions when large groups of Negroes have gone down to the Dallas County Court House in an effort -- what they said to register to vote, it -- it would be on a day that the Board was closed, wasn't it?

A Well, I have known that at least one case.

Q And they would go there and demand to be registered to vote on a day the vote Board was closed; isn't that right?

A Well, I cannot speak for all the times; I say I remember one time.

Q You just remember one case?

A Yes.

Q Do you remember the occasion at around four thirty in the afternoon when you and a group of teachers went down there and Mr. Pickard and Mr. Edgar Stewart advised all of you that the Board was closed?

A I remember that day when we went down; yes, I was in that group.

Q Let me ask you this; have you not had placed against you as a

result of these demonstrations one or more charges of contributing to the delinquency of a minor?

MR. NABRIT: Object.

MR. DOAR: Objection.

THE COURT: Overruled.

WITNESS: Should I answer the question?

Q Yes?

A I have been charged, according to what was reported to me, was a contributing to the delinquency of a minor; yes.

Q You were arrested, weren't you?

A Certainly.

Q And that involved you hauling juveniles to the Dallas County Court House, didn't you?

MR. HALL: Now, your honor please, we are going to object to going into this unless it can be shown that this arrest has culminated in a trial and what it involved has been brought out, that sort of thing, if it was still pending.

THE COURT: One of your theories is harassment by arrest. I don't see that it hurts your case; it may inure to the benefit of your theory. Your objection is overruled, if Mr. Pitts wants to continue it; go ahead.

MR. McLEAN PITTS: Your honor, that is all I want to ask him about it, but for the court's information, I think that that case is in the bosom of the Southern District.

THE COURT: All right. Anything else?

MR. McLEAN PITTS: Pending.

THE COURT: Any other questions from this witness?

MR. KOHN: No, sir.

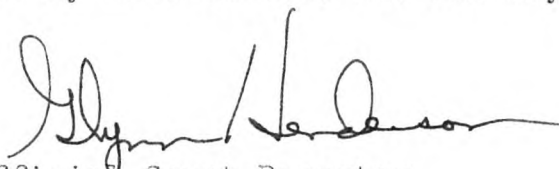
THE COURT: You will be excused; call your next witness.

(END OF TESTIMONY CONTAINED IN THIS TRANSCRIPT)

** **

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

I, Glynn Henderson, Official Court Reporter of the United States District Court for the Middle District of Alabama, do hereby certify that the foregoing 14 pages contain a true and correct transcript of proceedings had before the said Court held in the City of Montgomery, Alabama, in the matter therein stated, or that portion of said proceedings indicated in note on page 2 thereof. In testimony whereof I hereunto set my hand on this the 2nd day of April, 1965.


Official Court Reporter.

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

Hosea Williams, John Lewis
and Amelia Boynton, on behalf
of themselves and others
similarly situated,

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

vs

Honorable George C. Wallace, as
Governor of the State of Alabama;
Al Lingo, as Director of Public
Safety for the State of Alabama;
and James G. Clark, as Sheriff of
Dallas County, Alabama,

Defendants.

Civil Action

No. 2181-N.

FILED

APR 2 1965

R. C. DOBSON, CLERK

By *[Signature]*
Deputy Clerk

Before Hon. Frank M. Johnson, Jr., Judge, at Montgomery,
Alabama, March 11-12-13-15-16, 1965.

(NOTE: This transcript is an excerpt transcript
containing the testimony of FREDERICK DOUGLAS
REESE, witness for the United States, in hearing
in above case March 11-12-13-15-16, 1965, this
testimony having been adduced on March 13, 1965.)

Glynn Henderson,
Official Court
Reporter.

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

Hosea Williams, John Lewis
and Amelia Boynton, on behalf
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and James G. Clark, as Sheriff of
Dallas County, Alabama,

Defendants.

Civil Action

No. 2181-N.

FILED

APR 2 1965

R. C. DOBSON, CLERK
By
Deputy Clerk

Before Hon. Frank M. Johnson, Jr., Judge, at Montgomery,
Alabama, March 11-12-13-15-16, 1965.

(NOTE: This transcript is an excerpt transcript
containing the testimony of SALLIE BETT RODGERS,
witness for the United States, in hearing in
above case March 11-12-13-15-16, 1965, this
testimony having been adduced on March 13, 1965.)

Glynn Henderson,
Official Court
Reporter.

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FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

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Honorable George C. Wallace, as
Governor of the State of Alabama;
Al Lingo, as Director of Public
Safety for the State of Alabama;
and James G. Clark, as Sheriff of
Dallas County, Alabama,

Defendants.

Civil Action

No. 2181-N.

Before Hon. Frank M. Johnson, Jr., Judge, at Montgomery,
Alabama, March 11-12-13-15-16, 1965.

A p p e a r a n c e s:

For the Plaintiffs:

Gray & Seay
(Fred D. Gray and
Solomon S. Seay, Jr.),
Peter A. Hall,
Jack Greenberg,
Norman Amaker,
Charles H. Jones, Jr.,
Oscar W. Adams,
Demetrius C. Newton,
James M. Nabrit, III,
Charles S. Ralston.

For the United States:

Ben Hardeman,
John Doar,
David Reuben.

For George C. Wallace: (and for Al Lingo 3/11-12)	Goodwyn & Smith (Maury D. Smith, Charles M. Crook, and John S. Bowman).
For Al Lingo: (from 3/13)	John P. Kohn, Jr.
For James G. Clark:	McLean Pitts, P. H. Pitts, J. E. Wilkinson, Jr., T. G. Gayle.

(NOTE: This transcript is an excerpt transcript containing the testimony of SALLIE BETT RODGERS, witness for the United States, in hearing in above case March 11-12-13-15-16, 1965, this testimony having been adduced on March 13, 1965.)

SALLIE BETT RODGERS, witness for the United States, having been duly sworn, testified as follows:

DIRECT EXAMINATION:

BY MR. DOAR:

Q Will you tell the court your full name, please?

A Sallie Bett Rodgers.

Q Could you speak up in a loud voice so everyone in the court room can hear you?

A Sallie Bett Rodgers.

Q Where do you live?

A 1522 Union.

Q In what city?

A Selma.

Q How old are you?

A Nineteen.

Q Where do you go to school?

A Selma University.

Q How long have you gone there?

A Two years.

Q Where is your home?

A Tyler, Alabama.

Q Where is Tyler?

A That is about fifteen miles going toward Montgomery, coming toward Montgomery.

Q Have you ever participated in a demonstration in Selma, Alabama

A Yes, sir.

Q On what day did you participate?

A I was -- the first time was on February 10.

Q February 10?

A Yes, sir.

Q And what year was this?

A '65.

Q And where did you go in connection with this demonstration?

A We went to the Court House.

Q And about how many in the group were there?

A There was approximately two hundred.

Q And were these young people or people of all ages?

A They were teenagers mostly.

Q What were their race?

A Negro.

Q What happened after you had -- let me ask you, had you ever been arrested before that day?

A No, sir; I wasn't arrested that day, either.

Q And what happened after you got to the Court House?

A We stood there for about forty-five minutes, and then we were told to -- we -- we heard the voice said, "Left face," and we all turned left face, and then they said, "March," and we started to marching, and we went out in the streets; we thought we was going to the jail, but we wasn't, and we was ran out of town.

Q Now, how -- how were you ordered to march?

A We -- we was -- we -- they just said, "March," and as we were marching, there were -- when the space got between the line, they kept saying, "Close that gap up," and that is how we started to run.

Q And about how far did you go; do you know?

A It seemed to be about approximately five or six miles, I guess; I am not sure.

Q Could you describe how the -- how the group moved as they got out into the country?

A They ran, all the way.

Q And were there law enforcement officials there along with you?

A In front of us, beside us, and behind us.

Q Was Sheriff Clark there?

A I saw him at the Court House, but on the march I am not sure.

Q And did the law enforcement officers do anything to any of the children on the march?

A They beat some of them, cattle prod some of them, and they cursed some of them, hit some of them.

Q Did you -- did you observe whether any of the children on the march had to fall out because of --

A Yes, sir.

Q -- exhaustion?

A Yes, sir.

MR. GAYLE: Objection to that; that is a conclusion,

may it please your honor.

THE COURT: Sustained.

Q Did you observe whether or not any of the children were not able to finish the march?

A Yes, sir.

Q What did they do?

A They -- when they fell, they lay beside the --

MR. GAYLE: We object to that; that is her opinion, may it please your honor, that it wasn't able to conclude it.

THE COURT: Well, he asked this time what did they do.

MR. GAYLE: I beg your pardon; I didn't understand it.

THE COURT: It is a proper question; you can answer it; what did they do?

A They laid beside the road.

Q Were you ever arrested that day?

A No, sir.

Q Were you ever told that you were under arrest?

A No, sir.

MR. DOAR: That's all the questions I have.

THE COURT: For the plaintiffs.

BY MR. HALL:

Q What was your name, please?

A Sallie Rodgers.

MR. KOHN: Little louder, please.

MR. McLEAN PITTS: I can't hear you.

MR. HALL: I asked for her name.

Q I didn't quite get it?

A Sallie Bett Rodgers.

Q Miss Rodgers, I believe you said that that march occurred on February 10 --

A February 10.

Q -- 1945?

A Yes, sir.

Q I want you to tell us -- direct your attention to the moment when someone said, "Left face," and you turned left face and began to march; where did you march, down which street, which way, what did you do?

A Well, we were standing on Alabama Avenue --

Q All right.

A -- and we marched down Alabama Avenue.

Q Were you going east or west on Alabama Avenue?

A We was going toward Lauderdale.

Q That would be east?

A Yes.

Q And how far did you march; did you march right on through the City of Selma?

A We went through the City of Selma.

Q Did you go down a road or highway?

A We went -- I think it was on the highway.

Q It was a paved road?

A It was a paved road; yes, sir.

Q Did you go out of the City of Selma out into the country?

A Yes, sir; we went into the country.

Q Mr. Doar asked you if law enforcement officers were present; I believe you said, "Yes"?

A They were.

Q Were they walking with you; were they riding?

A Well, they would -- they would ride, and then they would walk; you know, they -- when they get tired of running, it seemed they would change shifts, some ride awhile and some walk awhile, some run awhile.

Q They -- were they riding in automobiles?

A They were riding in automobiles.

Q And the automobiles went along beside you?

A Sometimes behind us blowing, you know, trying to persuade us to run faster or something, and I think there was one in front of us.

Q And how many automobiles were there?

A I -- I am not sure how many it was; there were one in front of us and one behind us, but as we was going there were an automobile at each road to stop the cars from coming into the highway that we was running on.

Q Now, you told Mr. Doar that these law enforcement officers carried you at least five or six miles; is that correct --

A Yes, sir.

Q -- in your best judgment?

A Yes, sir.

Q Did you identify the law enforcement officers; were they Sheriff's deputies, possemen, or City policemen?

A I am not sure, but they were dressed differently; some of them had on gray, some had on mixed colors; they were dressed differently, they wasn't in one particular uniform.

Q I see; and some did have on gray?

A Yes, sir; I remember one man particularly that had on gray.

Q You do not know whether they were Sheriff's deputies?

A I am not sure; no, sir.

Q Were there any mounted men?

A No, sir.

Q Any men mounted on horses?

A It wasn't mounted; no, sir.

Q And you are not positive whether they -- or who they were?

A No, sir.

Q How did you get back from where you stopped?

A There were a friend that followed us, followed us out there, and he brought me back.

Q And you never were arrested?

A No, sir; never.

Q Did -- do you know who said, "Left face," whether or not it was a law enforcement officer?

A I believe it were, but I am not sure.

Q Did you hear anyone say anything -- any law enforcement officer say anything at the Court House or see him say anything?

A No, I am not -- I don't remember hearing one say anything.

MR. HALL: That's all.

THE COURT: Mr. Smith.

MR. SMITH: No questions.

THE COURT: Mr. Kohn.

MR. DOAR: Your honor, I had an Exhibit I wanted to show to this witness; might I reopen the cross examination -- direct examination and put that on?

THE COURT: Unless Mr. Kohn wants to examine her prior to that time.

MR. KOHN: We have no objection.

THE COURT: Go ahead.

THE CLERK: Plaintiff-Intervenor's Exhibit number 10 for identification.

BY MR. DOAR:

Q I want to show you an Exhibit which is marked for identification as Plaintiff-Intervenor's number 10, and ask you if you recognize that picture?

A Yes, sir; I recognize it.

Q And what is that a picture of?

A This is a picture of the march on February 10.

Q February 10?

A Yes, sir.

Q And that is the -- taken in the downtown area of Selma; is that right?

A Yes, sir.

MR. DOAR: I would like to offer Plaintiff-Intervenor's Exhibit 10.

MR. GAYLE: I would like to take her on voir dire just a minute, sir.

THE COURT: All right.

MR. GAYLE: Before it is offered into evidence.

THE COURT: All right.

MR. McLEAN PITTS: Voir dire.

MR. WILKINSON: Voir dire.

MR. McLEAN PITTS: Voir dire.

VOIR DIRE EXAMINATION:

BY MR. GAYLE:

Q Is that the picture there -- could you tell me how you know that that was on that date by this picture?

A Because I remember -- I don't know this girl, but I remember her, and she was in the march on February 10.

Q Do you know she was in other marches?

A No, sir.

Q Then you do not know whether this picture was on that date, or other than that one girl, she could have been in other marches, could she not?

A Yes, sir; she could have.

A No, sir.

Q Now, I believe you testified a minute ago that all your testimony a minute ago referred to February 10, 1965; am I correct in making that statement?

A I beg your pardon?

Q What was the date that you testified about a minute ago?

A February 10.

Q February 10?

A Yes, sir.

Q 1965?

A Yes, sir.

Q Now, you were not present, were you, at this march on March 7, that Sunday when there was tear gas used, were you not?

A No, sir; I wasn't.

Q How did you happen to take place or participate in this march on February 10? Who got you -- who asked you to take place -- to take part in that march?

A Who asked me to?

Q Yes, who directed you or who asked you to participate in that march?

A I don't remember.

Q Well, did anybody ask you to participate in that march?

A I don't remember that, either.

Q Did you volunteer on your own to participate in that march?

A I know I was guided by my own conscience, but I am not sure --

Q You are not sure whether anybody asked you to come down and march and take part in this demonstration?

A No, sir.

Q Was that on a school day?

A Yes, sir.

Q Did you have to play hooky from school or excuse yourself from school in order to participate in that march?

A No, sir.

Q Was school out at that time?

A That was on a Wednesday, and I don't have any Wednesday classes.

Q You don't have any Wednesday classes?

A Afternoon, Wednesday afternoon.

Q Had you talked to any school principal about this march?

A No, sir.

Q Had you talked to any member of any organization about this march?

A Before I went to the church?

Q Yes?

A No, sir.

Q Did you talk to anybody relative to whether you should march or was going to march or not going to march?

A I had talked to my parents previously; but on that date; no, sir.

Q Had you talked to any official of any organization, church organization, N.A.C.P., CORE, or anything like that?

A No, sir.

Q Then is your testimony that you just on your own volunteered to

march?

A Yes, sir.

Q Do you belong to any organization that is participating in any of these demonstrations or marches in Selma within the last two months?

A No, sir.

MR. KOHN: That's all.

MR. GAYLE: May I ask her, Judge?

THE COURT: (Nodded to indicate affirmative reply)

BY MR. GAYLE:

Q I believe you stated that was approximately five to six miles?

THE COURT: Let me see the picture, please. Thank you.

A To my judgment, it seems to be.

Q Isn't it a fact that it is not over two and a half miles from there past where you all marched?

A I don't know whether that is a fact or not.

Q You just don't know?

A I don't know.

Q You just guessing it is?

A I am estimating; yes, sir.

Q All right. Now, you stated that your conscience told you to march; is that correct?

A Yes, sir; I went on my own.

Q If your conscience told you to march or to commit any crime, would you go ahead and do it because your conscience told you?

MR. HALL: If your honor please, we object to that question.

THE COURT: I sustain it to that question.

MR. GAYLE: We don't have to except, your honor.

Q Would you disregard any law if your conscience told you to?

MR. HALL: We object, your honor.

THE COURT: Sustained.

MR. GAYLE: That's all.

THE COURT: Any further questions from this witness?

REDIRECT EXAMINATION:

BY MR. NABRIT:

Q Did I understand you to say you are a college student?

A Yes, sir.

Q Attending college voluntarily? You are attending college voluntarily, aren't you?

A Beg your pardon?

MR. McLEAN PITTS: Excuse me, your honor --

THE COURT: I sustain objection to that question.

MR. McLEAN PITTS: I was -- I was objecting on the account I didn't think this was the same attorney that examined; that is what I was objecting to.

THE COURT: Well, your objection is sustained.

MR. McLEAN PITTS: I am not sure about whether it was or not; it didn't seem like --

MR. NABRIT: You are correct, Mr. Pitts; I wasn't

aware of that when I questioned her.

THE COURT: Any further questions from this witness?

MR. HALL: No, sir.

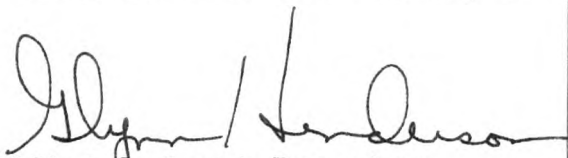
THE COURT: Plaintiff's 10 admitted in evidence. Six or eight pictures of this march already in evidence, gentlemen; Intervenor's 5 and -- well, this Intervenor's 10, also, and Intervenor's 6, all -- all relate to this same march. Excuse this witness. Call your next witness.

(END OF TESTIMONY CONTAINED IN THIS TRANSCRIPT)

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

I, Glynn Henderson, Official Court Reporter of the United States District Court for the Middle District of Alabama, do hereby certify that the foregoing 17 pages contain a true and correct transcript of proceedings had before the said Court held in the City of Montgomery, Alabama, in the matter therein stated, or that portion of said proceedings indicated in note on page 2 thereof. In testimony whereof I hereunto set my hand on this the 2nd day of April, 1965.


Official Court Reporter.

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

Hosea Williams, John Lewis
and Amelia Boynton, on behalf
of themselves and others
similarly situated,

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

vs

Honorable George C. Wallace, as
Governor of the State of Alabama;
Al Lingo, as Director of Public
Safety for the State of Alabama;
and James G. Clark, as Sheriff of
Dallas County, Alabama,

Defendants.

Civil Action

No. 2181-N.

FILED

APR 2 1965

R. C. DOBSON, CLERK

By *ofc*
Deputy Clerk

Before Hon. Frank M. Johnson, Jr., Judge, at Montgomery,
Alabama, March 11-12-13-15-16, 1965.

(NOTE: This transcript is an excerpt transcript
containing the testimony of LEATHA MAE STOVER,
witness for the United States, in hearing in
above case March 11-12-13-15-16, 1965, this
testimony having been adduced on March 13, 1965.)

Glynn Henderson,
Official Court
Reporter.

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

Hosea Williams, John Lewis
and Amelia Boynton, on behalf
of themselves and others
similarly situated,

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

vs

Honorable George C. Wallace, as
Governor of the State of Alabama;
Al Lingo, as Director of Public
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and James G. Clark, as Sheriff of
Dallas County, Alabama,

Defendants.

Civil Action

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A p p e a r a n c e s:

For the Plaintiffs: Gray & Seay
(Fred D. Gray and
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Charles S. Ralston.

For the United States: Ben Hardeman,
John Doar,
David Reuben.

For George C. Wallace: Goodwyn & Smith
(and for Al Lingo (Maury D. Smith,
3/11-12) Charles M. Crook, and
John S. Bowman).

For Al Lingo: John P. Kohn, Jr.
(from 3/13)

For James G. Clark: McLean Pitts,
P. H. Pitts,
J. E. Wilkinson, Jr.,
T. G. Gayle.

(NOTE: This transcript is an excerpt transcript
containing the testimony of LEATHA MAE STOVER,
witness for the United States, in hearing in
above case March 11-12-13-15-16, 1965, this
testimony having been adduced on March 13, 1965.)

LEATHA MAE STOVER, witness for the United States, having been duly sworn, testified as follows:

DIRECT EXAMINATION:

BY MR. DOAR:

Q Will you tell the court your full name, please?

A My name is Leatha Mae Stover.

Q Could you speak up just a little louder so everyone can hear you?

MR. McLEAN PITTS: What is that?

A My name --

THE COURT: Stover; Stover; Stover.

A My name is Leatha Mae Stover.

Q Where do you live, Miss Stover?

A I live in Pleasant Hill, Alabama, but I board in Selma.

Q You go to school?

A Yes.

Q Did you go down to the Court House on the 10th of February, 1965?

A Yes.

Q And how long were you down there?

A I was down there about approximately an hour with fifteen minutes to stay.

Q What were you doing while you were there?

A I was demonstrating; I was just standing.

Q Did you have any kind of a sign?

A Yes.

Q What did the sign say?

A The sign said, "One man one vote."

Q Did you -- were you directed to go on a march by Sheriff Clark that afternoon?

A I don't know whether it was Sheriff Clark or not, but I was instructed to go on a march.

Q And was that -- did this instruction come from a law enforcement official?

A Yes.

Q While you were on the march, were you ever struck by any -- struck by any law enforcement official?

A He was not a law enforcement official.

Q He was not?

A No.

Q Was he with the law enforcement officials?

A Yes.

Q What happened to you, if anything?

A He -- I was cattle prodded.

Q And what happened then?

A After I was cattle prodded, I was made to go on until I dropped out of the line.

Q And after you dropped out, what did you do?

A I fell beside the road; I got weak, and I fell beside the road and --

Q Then what happened?

A One of the officers, one with the helmet on, was trying to make

me go on.

Q And what if anything did the officer with the helmet say?

A He told me I said I wanted to march, and he was going to show me how, he was going to teach me how to march.

Q And what happened then?

A He kept punching me in the back with his billy club and told me to get up and go on, but I told him he would just have to kill me, because I couldn't.

Q And then what happened?

A He told me to lie there until I rest and then get up and go back toward Selma, but he had better not catch me in a car.

Q Then what did you do?

A I stayed there.

Q And did you then get back to Selma that afternoon?

A The freedom car came and picked me up.

Q About how far out of the City of Selma had you gone?

A Well, I don't know, but I was -- to me it felt like about five or six miles.

Q Now, what kind of a speed did the officers make you travel that day?

A (Shook head)

Q What kind of a speed, fast or slow or walk?

A Fast.

Q Did you -- did you have to run?

A Yes.

MR. DOAR: That's all the questions I have.

THE COURT: For the plaintiffs.

MR. HALL: No, sir.

MR. NABRIT: No, your honor.

MR. SMITH: No questions.

THE COURT: Mr. Kohn. Just a minute please --

CROSS EXAMINATION:

BY MR. GAYLE:

Q Where did you say you lived?

THE COURT: Mr. Gayle, I believe it is Mr. Kohn's turn.

MR. GAYLE: I beg your pardon, your honor.

THE COURT: He can waive it if he wants to.

MR. GAYLE: I beg your pardon.

THE COURT: In the absence of a waiver, we will have to go in order.

MR. GAYLE: I thought he did.

BY MR. KOHN:

Q Did I understand you correctly to say that you were born in Selma, but you live in Tuscaloosa?

A No.

Q What did you say; I didn't understand what you said?

A I said I was born in Pleasant Hill.

Q Pleasant Hill?

A (Nodded to indicate affirmative reply)

Q Is that Dallas County?

A Yes.

Q And you living in Tuscaloosa?

A No.

Q Didn't you say something about Tuscaloosa?

A No.

Q Where are you a student?

A At Selma University.

Q Selma University?

A Yes.

Q How did you happen to be demonstrating that day with this sign?

A How did I happen to be?

Q That's right; what brought you there to this demonstration?

A I felt like I had a part to do; I had something to do for my people.

Q Did you discuss it with any of your people before you demonstrated?

A With my parents only.

Q Only your parents?

A Yes.

Q Nobody -- who made this sign for you?

A The sign was given to me at the church as we passed.

Q By whom?

A I don't know the person.

Q Did they go over with you the way to participate in the demonstration, the tactics or the method of demonstrating; did

someone rehearse that with you?

A Did someone --

Q Go over it with you; you just didn't -- they didn't give you a sign and just turn you loose, did they?

A No, they gave us instructions.

Q Now, who is "They"?

A The people at the church.

Q Who?

A The freedom leaders.

Q Freedom leaders?

A Yes.

Q Belonging to what organization, if any, if you know?

A I don't know.

Q Well, can you identify any of these freedom leaders?

A No.

Q You don't know any of them by name?

A Yes, I know some of them.

Q Well, now, tell me their names?

MR. HALL: Your honor please, we object to this question and answer, the whole line; these are not related to the matter in issue.

THE COURT: Overrule.

Q Answer the question, please?

MR. NABRIT: Pardon me, your honor; is the question --
is he asking her to name some of the leaders in general or some of

the leaders who gave her the sign?

THE COURT: The question has to do with the leaders of the group that gave you the sign.

A Well, there was someone at the door passing the signs out.

Q Can you name any leader that was on the scene when and where you were given that sign on this occasion?

A No.

Q Were these people, that you are calling them, were they natives of Selma or were they outsiders?

A They were natives of Selma.

Q All of them?

A Okay; the one that was passing the sign to me, he was a student I would -- I would think it was a student of Selma U.

Q The one that passed you the sign was a student at Selma U.?

A (Nodded to indicate affirmative reply)

Q How much did you charge anybody, if you did, to participate in this demonstration?

A How much did I charge?

Q That is correct; expenses or so much a day; did you get any money out of it?

A (Shook head to indicate negative reply)

Q Did you?

A No.

Q Have you ever participated in a demonstration before this one on February 10, 1965?

A No, I haven't.

Q Have you participated in one since?

A Yes.

Q Which one?

A Oh, I have participated -- I participated in a demonstration the next day, and also the next day.

Q Did anybody ask you to do it the next day and the next day, or did you do it just on your own?

A I did it on my own.

Q Did you have that same sign with you?

A No.

Q Did you have any other sign?

A I don't recall.

Q You don't recall. Do you belong to any -- any organization, firm, or association that sponsoring or participated in this demonstration?

A No.

Q No?

A No.

Q Do you belong to CORE?

A No.

Q You belong to N.A.C.P.?

A No.

Q Did any of the officials of any of these organizations talk to you during any of these three demonstrations that you participated

in?

A I don't recall.

Q You don't recall?

A No; no.

Q But you don't know, do you? Did you observe any outside people that you didn't recognize as being natives of Selma that participated in any one of these three demonstrations which you testified about?

A No.

Q You don't know whether they were outsiders or all Selma people or not, do you? There were a lot of outsiders in town, wasn't there?

A I don't know.

Q You don't know.

MR. KOHN: That's all.

THE COURT: Mr. Pitts.

BY MR. GAYLE:

Q I believe you stated that you belonged to no organization --

A (Nodded to indicate affirmative reply)

Q -- is that correct?

A Yes.

Q What is those buttons you have on there?

A This is a Student Non-violent Coordinating Committee button.

Q That is an organization, isn't it?

A But I -- I don't belong to it.

Q But you are wearing their button?

A Sure.

Q And nobody told you to march; you just -- your conscience told you; is that right?

A (Nodded to indicate affirmative reply)

Q Didn't have any meeting prior to the march; is that correct?

A Prior to the march?

Q Prior to the time that you marched that first time --

A (Shook head to indicate negative reply)

Q -- you didn't go to any meeting?

A Yes.

Q Who was at that meeting?

A I don't recall.

Q Who spoke to you at that meeting?

A I don't know.

Q Did you know -- you said that you knew -- do you know any of the non-violent officers there in town?

A Yes, I know some of the non-violent officers.

Q Did any of those speak to you at the meeting?

A Not to me.

Q Were you at the meeting -- how many of you were in the meeting when you got your instructions was what I was trying -- if you got your instructions?

A I don't recall.

Q You have no idea?

A What do you mean?

Q You all had -- you stated, I believe, that you had a meeting prior to the time that you went on this particular march, that is, on the 10th, that you have testified to; am I correct?

A We have been having mass meetings.

Q Well, prior to that date, did you have a meeting that --

A No.

Q -- that told you decide to march on that day?

A I don't recall.

Q You don't recall?

A No, I don't.

Q Can you recall who spoke at the meeting just before you left there, or the night before at the mass meeting?

A Really, I don't remember that now.

MR. GAYLE: That's all.

THE COURT: Cross.

REDIRECT EXAMINATION:

BY MR. DOAR:

Q Have you attended a number of mass meetings?

A What did you --

Q Before the 10th of February, had you attended a number of mass meetings?

A Yes.

Q Would you speak up just a little louder?

A Yes, I had.

Q Now, after you went down to the Court House, how did you go; did you go in small groups that day?

A We went in groups of five.

Q When you got to the Court House and stood there, did you receive any instructions or orders from any law enforcement official? Prior to the time they told you to make a left face?

A No.

Q Were you ever placed under arrest?

A No.

MR. DOAR: Thank you.

THE COURT: Plaintiffs.

MR. NABRIT: Nothing further.

THE COURT: Mr. Smith.

RE CROSS EXAMINATION:

BY MR. SMITH:

Q How many of the mass meetings or -- had you attended prior to February 10? Just asking for your judgment or opinion, if you have one?

A I don't know, but I had gone to a number.

Q Were many of these held in Brown's --

A Yes.

Q -- Chapel on Sylvan Street?

A Yes.

Q You are a member of that church?

A No.

Q Did you attend any of the meetings, meetings at Brown Chapel, did you?

A Attend any of them?

Q Yes?

A The mass meetings?

Q Yes?

A Yes.

Q Did you attend the meeting at that church?

A At that church?

Q Excuse me; did you attend the meeting at that church on the occasion that the late Malcolm X talked to the group?

A No, I didn't.

Q You did not?

A No.

Q Did you know that he was in Selma prior to February 10 of this year?

A That he was in -- prior to February -- no, I didn't; I don't recall, but I didn't attend that meeting; I know I didn't.

Q Do you know other people that attended?

A No.

Q You do not?

A No.

THE COURT: Further questions from this witness?

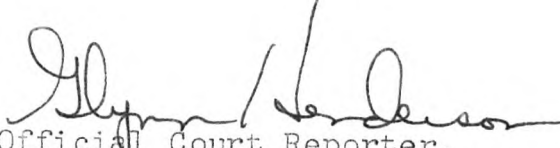
You can be excused from the witness stand. Call your next one, Mr. Doar.

(END OF TESTIMONY CONTAINED IN THIS TRANSCRIPT)

** ** ** ** **

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

I, Glynn Henderson, Official Court Reporter of the United States District Court for the Middle District of Alabama, do hereby certify that the foregoing 15 pages contain a true and correct transcript of proceedings had before the said Court held in the City of Montgomery, Alabama, in the matter therein stated, or that portion of said proceedings indicated in note on page 2 thereof. In testimony whereof I hereunto set my hand on this the 2nd day of April, 1965.


Official Court Reporter.

MEMORANDUM TO CLERK

Re: Hosea Williams, et al.
v. James G. Clark, etc.,
et al. - CA 2181-N

April 2, 1965

The motion to dismiss filed with your office on April 2, 1965, on behalf of Sheriff James G. Clark, Jr., attempts to raise several matters which have already been ruled upon by this Court's order of March 17, 1965. It may be that the motion will need a reappraisal if and when this case is set for a hearing on the motion to make the injunction permanent. Until then, no action should be taken with reference to this motion being placed on the motion docket.

FRANK M. JOHNSON, JR.
United States District Judge

RECEIVED

LAW OFFICES
PITTS & PITTS
THE CITY NATIONAL BANK BUILDING
SELMA, ALABAMA 36702

ARTHUR M. PITTS (1880-1955)
W. MCLEAN PITTS
PHILIP HENRY PITTS

April 1, 1965

MAILING ADDRESS
P. O. BOX 722
TELEPHONE
874-5214
AREA CODE 205

CLERK
U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.
MONTGOMERY, ALA.

APR 2 1965

Mr. R. C. Dobson, Clerk
United States District Court
Federal Building
Montgomery, Alabama

In re: Hosea Williams, et al vs. James G. Clark,
as Sheriff of Dallas County, et al
Civil Action No. 2181-N

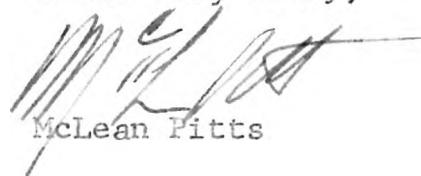
Dear Mr. Dobson:

We enclose herewith Motion to Dismiss on behalf
of Sheriff James G. Clark, Jr.

✓ There is enclose an extra copy of this letter,
which I ask that you please stamp and return, and can serve
as your acknowledgment.

With very best wishes and kindest regards, I remain,

Yours very truly,


McLean Pitts

McLP/sg
Enclosures
CC: Mr. T. G. Gayle
Mr. J. E. Wilkinson, Jr.

HOSEA WILLIAMS, JOHN LEWIS
AND AMELIA BOYNTON, on behalf
of themselves and others
similarly situated,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

VS.

HONORABLE GEORGE C. WALLACE,
as Governor of the State of Alabama;
AL LINGO, as Director of Public
Safety for the State of Alabama;
and JAMES G. CLARK, as Sheriff of
DALLAS COUNTY, ALABAMA,

Defendants.

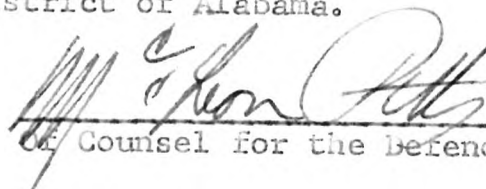
CIVIL ACTION NO. 2181-N

Now comes James G. Clark, as Sheriff of Dallas County,
Alabama, one of the defendants in the above style cause, and
moves to dismiss the complaint in intervention filed by the
United States of America, and in support of motion assigns the
following separate and several grounds:

1. Said Complaint fails to state a cause of action.
2. Said Complaint seeks relief that is not within the
jurisdiction of this Court.
3. Said Complaint seeks relief that is not within the
venue of this Court.
4. That said Complaint seeks relief that is already
pending before a Three Judge District Court in the United States
District Court for the Southern District of Alabama.

Now comes James G. Clark, as Sheriff of Dallas County,
Alabama, one of the defendants in the above styled cause, and
moves to dismiss the complaint of the plaintiff Hosea Williams,
et al, and for grounds of said motion assigns the following

1. Said Complaint fails to state a cause of action.
2. Said Complaint seeks relief that is not within the jurisdiction of this Court.
3. Said Complaint seeks relief that is not within the venue of this Court.
4. That said Complaint seeks relief that is already pending before a Three Judge District Court in the United States District Court for the Southern District of Alabama.


Counsel for the Defendant

PITTS & PITTS
Attorneys at Law
Selma, Alabama

T. G. GAYLE
Attorney at Law
Selma, Alabama

WILKINSON, WILKINSON & RUSSELL
Attorneys at Law
Selma, Alabama

ATTORNEYS FOR THE DEFENDANT

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 10th
day of April, 1965, served a copy
of the foregoing pleading on counsel for all
parties to this proceeding by mailing the same by

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

Hosea Williams, John Lewis
and Amelia Boynton, on behalf
of themselves and others
similarly situated,

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

vs

Honorable George C. Wallace, as
Governor of the State of Alabama;
Al Lingo, as Director of Public
Safety for the State of Alabama;
and James G. Clark, as Sheriff of
Dallas County, Alabama,

Defendants.

Civil Action

No. 2181-N.

FILED

APR 1 - 1965

R. C. DOBSON, CLERK

By *JRS*

.....

Before Hon. Frank M. Johnson, Jr., Judge, at Montgomery,
Alabama, March 11-12-13-15-16, 1965.

(NOTE: This transcript is an excerpt transcript
containing the testimony of JAMES A. HARE,
witness for James G. Clark, in hearing in above
case March 11-12-13-15-16, 1965, this testimony
having been adduced on March 15, 1965.)

Glynn Henderson,
Official Court
Reporter.

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

Hosea Williams, John Lewis
and Amelia Boynton, on behalf
of themselves and others
similarly situated,

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

vs

Honorable George C. Wallace, as
Governor of the State of Alabama;
Al Lingo, as Director of Public
Safety for the State of Alabama;
and James G. Clark, as Sheriff of
Dallas County, Alabama,

Defendants.

Civil Action

No. 2181-N.

Before Hon. Frank M. Johnson, Jr., Judge, at Montgomery,
Alabama, March 11-12-13-15-16, 1965.

A p p e a r a n c e s:

For the Plaintiffs:

Gray & Seay
(Fred D. Gray and
Solomon S. Seay, Jr.),
Peter A. Hall,
Jack Greenberg,
Norman Amaker,
Charles H. Jones, Jr.,
Oscar W. Adams,
Demetrius C. Newton,
James M. Nabrit, III,
Charles S. Ralston.

For the United States:

Ben Hardeman,
John Doar,
David Reuben.

For George C. Wallace:
(and for Al Lingo
3/11-12)

Goodwyn & Smith
(Maury D. Smith,
Charles M. Crook, and
John S. Bowman).

For Al Lingo:
(from 3/13)

John P. Kohn, Jr.

For James G. Clark:

McLean Pitts,
P. H. Pitts,
J. E. Wilkinson, Jr.,
T. G. Gayle.

(NOTE: This transcript is an excerpt transcript
containing the testimony of JAMES A. HARE,
witness for James G. Clark, in hearing in above
case March 11-12-13-15-16, 1965, this testimony
having been adduced on March 15, 1965.)

JAMES A. HARE, witness for James G. Clark, having been duly sworn,
testified as follows:

DIRECT EXAMINATION:

BY MR. P. H. PITTS:

Q Would you state your name, please?

A James A. Hare.

Q And are you Judge of the Circuit Court of Dallas County --

A Yes, sir.

Q -- Alabama?

A Yes, sir.

Q And where are your offices, Judge Hare?

A On the second floor of the Court House; in fact, the -- almost
the entire second floor of the Court House is devoted to Circuit
Court --

Q Court --

A -- activities; the Circuit Clerk, court reporter, library, and
other incidental functions of the court are provided for on the
second floor.

Q And, Judge Hare, have you been in the Dallas County Court House
in your office when any of the demonstrations took place in and
around the Dallas County Court House?

A Yes, sir.

Q And have you witnessed these demonstrations?

A Only on occasions, Mr. Pitts.

Q I understand.

A I have not devoted myself to observing the activities at all.

Q And I call your attention to February 3, 1965 --

A Yes, sir.

Q --- and ask you as to whether or not the Circuit Court of Dallas County, comma, Dallas County, Alabama, was in session?

A Yes, sir; it was.

Q And were there large groups of demonstrators which assembled on the outside of the Dallas County Court House on this particular day?

MR. HALL: Your honor, we object to the method of leading the witness.

THE COURT: I am sorry, Mr. Hall?

MR. HALL: We object to the method of asking these questions, the manner in which --

THE COURT: Do not continue to lead your witness; your objection is **sustained**.

MR. P. H. PITTS: Excuse me; uh, huh.

Q Did you see any demonstrators on the outside of Dallas County Court House on this particular day?

A Yes, sir; virtually all day long was one demonstration after the other.

Q Now, Judge Hare, I show you here Defendants' Exhibit number 4, and ask you as to whether or not you are familiar with the scenes which are depicted in this Exhibit?

A Yes, sir; I am familiar with the scenes shown thereon; 679-3,

I suppose, the scene there in 679-6, 680 generally, and 80-1, 680-13-A, 681-15, I don't know about that, 682-16, 685-33, and I am not familiar with the others.

Q All right. Now, on this particular day we are talking about, which is February 3, 1965, was there any obstruction to the entrance to the Dallas County Court House?

A Yes, sir; there was obstruction that morning, there was obstruction at noon, there was, as I recall, obstruction that afternoon.

Q All right, and I believe you said that the Circuit Court of Dallas County, Alabama, was in session on this particular day?

A Yes, sir; Mr. Pitts, as I recall, on February 3 we had pleadings and nonjury cases called.

Q And so there would be witnesses coming in --

A Yes, sir.

Q -- and out of the Dallas County Court House?

A Yes, sir.

Q Now, Judge Hare, I ask you, after you noticed this crowd that you testified to assembled around the Court House, as to whether or not you took any action?

A Yes, sir; on the 3rd day of February, 1965, I assued an ex mero motu injunction and put it in the hands of the Sheriff to serve.

Q And do you have a certified copy of this --

A Yes, sir.

Q -- order?

MR. P. H. PITTS: Please mark this for identification.

THE CLERK: Defendant Clark Exhibit number 15 for identification.

THE COURT: What number did you give it, Mr. Clerk?

THE CLERK: Defendant Clark 15.

Q And what was the substance of this order, Judge Hare, which was entered on February 3, 1965?

MR. GREENBERG: Object.

THE COURT: I sustain it; I will read it.

WITNESS: All right, sir; let me see where it is; is this the one you offered?

THE COURT: Any objection to it going into evidence?

MR. NABRIT: No objection.

THE COURT: It is admitted.

Q Did you give this order to anybody?

A Yes, sir; I placed it in the hands of the Sheriff and the Chief of Police in the City of Selma, Alabama.

Q Did you give them any instructions at that particular time?

A Yes, sir; I directed them to enforce it, read that order, ask those assembled groups down there who were clapping and singing to disperse, and upon failure to disperse to arrest them and bring them up to the court room.

Q All right, and do you know as to whether or not there were any arrests made on February 3, 1965?

A Yes, sir; I think there were some arrests made. There have been

so many made that I couldn't identify them particularly, but I am certain there were some made that day.

Q All right, and do you know where these arrests were made?

A They were made down in front of the Court House on my direction.

Q And did you send Sheriff James G. Clark down to the front of the Court House to make these arrests?

A As a matter of procedure, I called Sheriff Clark, had him come up there, I took him to the window, identified the crowd, and told him to go down there and read the injunction to them and tell them to disperse, and failing to disperse to bring them up to my court room.

Q All right, and were they brought up to your court room?

A Yes, sir; yes, sir.

Q And were they tried at this time?

A They were; I think there were some of them that were tried on February 3; yes, sir; I am certain there were.

Q And while they were brought up to the court room, Judge Hare, did any occurrence occur in your court room at this particular date?

A Not on that particular day; I think it was prior to that.

Q All right. In other words, then, there were some arrests made prior to February 3, 1965?

A Yes, sir; February 1, I think it was.

Q And do you know who made these arrests?

A Yes, sir; the Sheriff made the arrests.

Q On whose instructions did he make these arrests?

A He made them on my instructions and under my direction.

Q All right, and do you remember as to whether or not the Circuit Court of Dallas County, Alabama, was in session on February 1, 1965?

A It definitely was; yes, sir.

Q And you said that you sent the Sheriff down to make these arrests did you give him any instructions before he went down?

A Yes, sir; I did. I was in the process of trying a case, and all this noise of clapping and singing came up to the room -- the court room and chambers. I called the Sheriff and had the court reporter type a brief order and told the Sheriff to take it down there and read it to them.

Q And do you have a copy of that?

A I have the original, right there.

Q All right, sir.

MR. P. H. PITTS: Mark this for identification.

THE CLERK: Defendant Clark Exhibit number 16 for identification.

MR. HALL: We are going to object to it.

THE COURT: Any objection to it?

MR. AMAKER: Yes, sir.

MR. HALL: Yes, sir; your honor. We object to this paper; it is not dated, it is not identified, it has nothing on it but a few lines of type.

THE COURT: All right.

MR. P. H. PITTS: Your honor, I believe he has testified --

THE COURT: You need not argue; it is admitted in evidence.

MR. HALL: We object.

Q This is the --

THE COURT: Being an order that this Judge says he entered on that date.

MR. P. H. PITTS: Yes, sir.

THE COURT: All right.

WITNESS: (Nodded to indicate affirmative reply)

Q And this order was given to Sheriff James G. Clark?

A Yes, sir.

Q And do you know as to whether or not Sheriff Clark read this order to anyone?

A Yes, sir; I went to the window and observed Sheriff Clark read that by a megaphone to the crowd down there.

Q And was -- you said this crowd -- was this a crowd accumulated outside of the Dallas County Court House?

A Yes, sir.

Q Judge Hare, I show you here Defendants' Exhibit number 2, and ask you if you will look through there and see if this -- if you can identify any of these pictures?

A Yes, sir; I can identify most of these, but I can't say on which

particular occasion, it was that day that Sheriff Clark was reading the order.

Q All right.

A Several occasions.

Q Did you see Sheriff Clark reading this order?

A Yes, sir.

Q And what did the crowd which was gathered outside of the Dallas County Court House do after Sheriff Clark read the order, if anything?

A They did nothing.

Q And did he read the order a second time?

A No, sir; I don't think he read it the second time.

Q And were they -- did they disperse?

A No, sir; they did not.

Q All right, did they just keep standing there?

A No, sir; Sheriff Clark marched them upstairs.

Q All right; in other words, he placed them under arrest?

A He did; yes, sir.

Q All right, and were they brought into the court room of the Circuit Court of Dallas County, Alabama?

A Yes, sir; yes, sir.

MR. GRAY: Objection, your honor.

THE COURT: Do not lead the witness; do not lead the witness.

Q Where were they brought, Judge Hare?

A Well, I first saw them in the court room upstairs after they left the streets.

Q And was this the same group which was arrested by Sheriff Clark downstairs?

A Yes, sir.

MR. NABRIT: Objection, your honor.

THE COURT: Sustain it.

Q Now, did you go into the court room, Judge Hare?

A Yes, sir; I did.

Q All right, and did anything occur in the court room --

A Yes, sir.

Q -- or out of the ordinary, if anything?

A Yes, sir.

Q And what was this?

A Well, when one of the deputies called court to order, the assembled group stood up and started singing.

Q Started singing?

A Yes, sir.

Q And was this in the court room?

A That was in the Circuit Court room of Dallas County; yes, sir.

Q All right, and were they subsequently tried in the Circuit Court of Dallas County, Alabama?

A Yes, sir; I would say right shortly, subsequently.

Q What were they tried for?

A Contempt of court.

Q Now, Judge Hare, directing your attention to after February 3, 1965; do you know as to whether or not Sheriff Clark read your order which was issued on February 3, 1965, at any other time?

A Yes, sir; I had several occasions to direct the Sheriff to go down there and ask them to disperse and read the order to them, and I had directed that one of the deputies take the order down to the church and read it down there. I understood, I have the report --

Q Was it read at the church?

MR. GRAY: We object.

THE COURT: Sustained.

A I directed that it -- all right.

Q You state that you directed it to be read at the church; do you know as to whether or not it was read at the church?

A No, sir; I was not in the church.

Q Now, Judge Hare, have you observed the demonstrations which have occurred in and around the Dallas County Court House?

A Since September of '63; yes, sir.

Q All right, and have you observed the demonstrations which have occurred since January of this year up to the present time?

A Yes, sir; my office is in the Court House; I have to go in and out and --

Q Have you observed the voter registration lines?

A Not particularly; no, sir.

Q Now, Judge Hare, has there been any instances in January,

February, and March, of 1965, whereby any of the passageways or entrances to the Court House have been blocked or obstructed?

A Yes, sir; on February 1 and on February 3, and I would say numerous other occasions.

Q Now, have you seen any of the people who would participate in these demonstrations?

A Oh, yes, sir.

Q Were they mostly people over the age of twenty-one, or were they juveniles, or just what was the majority of them?

A Well, most of them were juveniles; however, on February 3 Edwin Moss brought a group of adults of about fifty up there.

Q Who is Edwin Moss?

A He is connected, I think, with the Good Samaritan Hospital there in Selma, and he led a protest march group down, and the Sheriff brought them to the court room, and I went in there and talked to them, and they left, and left peaceably, and there was -- that was the end of that.

Q But the majority of them were juveniles?

A Virtually all of those, I think, who were dealt with were either juveniles or organizers.

Q All right, and were there many residents of Dallas County, Alabama in these groups?

A Oh, yes, sir.

Q Now, Judge Hare, did you issue any other orders in the year of July 9, 1964?

A Yes, sir; I issued an injunction under date of July 9, 1964, of a general nature.

Q Do you have a copy of this injunction?

A Yes, sir; yes, sir; it is certified.

THE CLERK: Defendant Clark number 17 for identification.

WITNESS: Henry, you can let them look at that one and give this one to Judge Johnson; you hang on to that.

MR. P. H. PITTS: Would you like to examine this, Judge Johnson?

THE COURT: I have already seen it.

MR. P. H. PITTS: Yes, sir.

THE COURT: Any objection to 17 going in evidence?

MR. AMAKER: No objection.

THE COURT: It will be admitted.

Q And when was this injunction or order issued by you, Judge Hare?

A That was on July 9, 1964.

Q And was this injunction or order issued on the petition of anyone?

A Yes, sir; it was on the petition of City of Selma, of Dallas County, I think Sheriff Clark, and possibly the City of Selma.

Q And did this bill of complaint or petition, did it recite certain instances which had occurred in Selma and Dallas County, Alabama?

MR. DOAR: Objected to on the ground --

THE COURT: Sustained.

Q Had there been any racial disturbance in Selma prior to the

issuance of this injunction?

MR. AMAKER: Objection.

THE COURT: Well, I sustain objection to that. I have read the injunction.

WITNESS: It was in --

THE COURT: It was in connection with another case --

WITNESS: Yes, sir.

THE COURT: -- I am on.

WITNESS: Yes, sir; he is very familiar with it.

THE COURT: I already know what is in it.

MR. P. H. PITTS: Like to offer this into evidence.

THE COURT: It is admitted in evidence.

Q Now, Judge Hare, have you had any occasion to witness the Dallas County Sheriff's Department in action in and around the Dallas County Court House?

A Well, just on the occasions, Mr. Pitts, where I have more or less directed them to act on behalf of the court; generally, I have tried to avoid those matters.

Q And have you ever seen any member of the Dallas County Sheriff's Department or of the Dallas County Sheriff's Posse abuse or intimidate any Negro citizen?

MR. AMAKER: Objection.

MR. GREENBERG: Object.

THE COURT: Sustain it; I am going to sustain it until next year as long as you keep phrasing it that way; that makes about

the twentieth time I have sustained it today.

MR. P. H. PITTS: Yes, sir.

THE COURT: It would save a lot of time if you would get away from that --

MR. P. H. PITTS: Yes, sir.

THE COURT: -- and phrase it right.

Q Have you seen any member of the Dallas County Sheriff's Posse or the Dallas County Sheriff's Department hit or strike any Negro in the Dallas County Court House?

A No, sir; I haven't.

Q Now, Judge Hare, have you -- do you have a knowledge of the events which have occurred in Selma during the months of January through March?

A Generally; yes, sir.

Q All right, and have you received reports as to the general condition in Dallas County, Alabama?

A Yes, sir; by telephone, personal --

MR. NABRIT: Objection.

THE COURT: Overrule; just asked as to whether he had or -- received them or not; not what they were; and he said yes.

Q And from these reports that you have received, Judge Hare, and based on your personal knowledge that you have gained, what would you say was the general situation in Selma --

MR. GREENBERG: Object.

Q -- at the present time?

THE COURT: Sustain objection.

Q Judge Hare, has the situation in Selma during this period of time, has it been a tense situation?

MR. GRAY: Objection.

MR. AMAKER: Objection.

MR. GREENBERG: Objection.

THE COURT: Overruled; calling for his own personal knowledge, I take it.

A Yes, sir; yes, sir; there has been a tense situation.

MR. P. H. PITTS: That's all.

THE COURT: All right; cross examination, Mr. Hall.

MR. HALL: Yes, sir. May I have the Judge's injunction in order to -- ?

CROSS EXAMINATION:

BY MR. HALL:

Q Judge Hare, I show you the injunction issued by you on February -- on July 9, I believe you said, of last year marked Defendants' Exhibit 17?

A (Nodded to indicate affirmative reply)

Q Now, that -- that injunction -- that injunction was removed to the U. S. District Court for the Southern District of Alabama, was it not?

A Sometime in December, I believe it was.

Q In January, the time from January or from December until now, that injunction was not operative, was it?

A Not so far as I was -- well, it has not been dissolved; it is still in force.

Q It is in the bosom of Judge Thomas, Middle District -- in the Southern District of Alabama?

A That is correct, but it has not been dissolved that I know of.

Q What I was trying to get at, Judge Hare, was that you, yourself, are not enforcing this or causing it to be enforced at that time?

A Neither is Judge Thomas, so far as I know.

Q All right, sir. Now, Judge Hare, I show you a copy of what you say is an injunction issued by you at sometime.

A That is the 3rd day of February --

Q 3rd day of February.

A -- '65.

Q Marked Defendants' Exhibit 15?

A Uh, huh.

Q Now, are there any named parties involved here?

A None whatever.

Q Some parties respondent. And I believe you said this was done ex mero motu?

A Yes.

Q There was no open hearing, no -- no -- no hearing at all?

A Same thing the eight Federal Judges have in Los Angeles.

Q To whom was this directed, sir?

A Just to anybody.

Q Everybody?

A Everybody.

Q And how -- I believe you testified that you directed the Sheriff to serve it; how was he told to serve it; on whom was he told to serve it?

A I don't know that I directed him to serve it; I directed them to fully enforce the same by legal means; I didn't order any service on them.

Q You did not order any service on it at all?

A No.

Q Now, I believe you testified that on several occasions after you issued that order, pursuant to your orders the Sheriff did arrest groups of demonstrators?

A Quite true.

Q I believe that those arrests were effected on February 3, 5, 8, and 16; do you recall those dates?

A I believe the first arrests under this injunction were -- well, I think I had signed this at the time Edwin Moss was up there, I think it came later on in the day, were the first arrests under that.

Q On the first --

A Well, if you call it arrest under the injunction; actually, I dealt with them as contempts in presenti, presence and hearing of the court, rather than violation of the injunction.

Q I am sorry, Judge, I am sorry, but I got lost somewhere there; I believe you had signed the injunction?

A Yes.

Q Your injunction?

A (Nodded to indicate affirmative reply)

Q On what date, sir?

A February 3.

Q February 3; now, was that the date of the Moss arrest, the date when Sheriff Clark brought Edwin Moss and the group he led up to your court?

A I think they were up there before I signed this, before.

Q Before you signed it?

A Yes.

Q On the 3rd there was another group arrested?

A I think there were three or four groups arrested.

Q On the 3rd?

A Yes.

Q On the day of the 3rd?

A Uh, huh.

Q The Sheriff brought them into your presence?

A Right.

Q Is this correct? And you had a hearing, you said?

A Well, I called them up and adjudged them to be in contempt of court; the arrests were made by the Sheriffs on my -- at my direction.

Q Yes, sir; did you take testimony?

A Yes; took some testimony.

Q Did you take testimony on behalf of the defendants?

A I did not.

Q Did they request counsel?

A Some of them did.

Q Did you allow them to have counsel?

A I did not.

Q But you, yourself, had to have testimony to find them in contempt?

A Well, I took testimony to identify them as being the same group that I had directed the Sheriff to bring up; yes.

Q Well, that is what I was trying to get at, sir, that you did need some testimony in order to ascertain that they would be in contempt in your judgment?

A I asked them their names and --

Q But you did not allow them to give testimony or to have counsel?

A I didn't -- I didn't ask them for any testimony; I asked them for identification, for identification --

Q Yes, sir.

A -- that is all.

Q But did they request an opportunity to be heard and for counsel?

A Some of them certainly did.

Q And you denied this?

A I cited to them the fact that for six hundred years under our system of law they are not of necessity permitted to have counsel.

Q What was your judgment, sir, on this hearing?

A On what?

Q On this hearing, what was your judgment?

A Well, I found most of them guilty; there were a few that were not

Q What was the sentence?

A Fif---

Q And fine?

A Fifty dollar fine and five days in jail, and I explained to all of them that they could purge themselves of contempt and be relieved at any time they saw fit.

Q Excuse me, please; and you did find them guilty of violating your injunction which --

A No, I found --

Q -- had been placed on them?

A I found them guilty of contempt of court; that is what I found them guilty of.

Q How were they in contempt, your honor, Judge?

A Singing and clapping hands and creating a disturbance down there in front of the Court House within the presence and hearing of my court structure; yes.

Q But this was aside from the injunction; it was -- was it a violation of injunction or -- or was this just contempt in itself without --

A Just contempt in itself; if there have been any citations under this injunction, I don't know of them.

Q Well, were you not relying on the injunction?

A I was not relying on the injunction; no.

Q You -- the injunction was nothing at all; you -- just the mere fact that they were there on the sidewalk, you considered to be contempt of court?

A The fact they were there and singing and clapping hands and creating a disturbance and obstructing the doors and the entrance to the Court House; those were the factors that I considered.

Q Now, would this be true in the case -- in the cases, the other cases, of arrests where Sheriff Clark brought the persons immediately to your court, those cases of February 5, 8, and 16?

A Now, on February 8 I think there was a big crowd arrested; they were all, I think, released under a bond, were they --

Q Those cases, but you arrested them and found them guilty under the same circumstances; is that correct?

A I think there have been about over two hundred arrests and probably seventy-five, a hundred found guilty, something like that.

Q Under the same circumstances?

A Under the same or similar circumstances.

Q You were not relying on the injunction?

A No.

Q Which you have been talking about?

A No.

Q But simply on the fact they were down there demonstrating?

A Yes.

Q Were they all singing and clapping hands?

A Well, it would be hard to say; generally, my attention was called to them by their singing and clapping hands down there, and sometimes when I went to the window they were not singing and clapping hands, and I didn't do anything about it.

Q Isn't it a fact, Judge Hare, that some of these people were arrested and brought into your court room without your knowledge, that the first you knew of it was when Sheriff Clark brought them in and told you?

A I think that is true; now, not without my knowledge. I ran past lunch time, and there was another group down there, and I just said, "Well, I am going to lunch, anyway, just put them in the court room," and he put them in the court room; they were there when I got back, but I didn't see them go in there.

Q Yes, sir; it is a fact that most of these cases have been removed to the U. S. District Court --

A That is quite true.

Q -- of the Southern District?

A Removed in twenty-four hours, and back up there the second time within twenty-four hours.

Q And they were granted bond?

A Oh, yes.

Q And those cases are now pending?

A Uh, huh.

Q In all of these cases, we ask you, sir, if you recall the group led by James Bevel?

A Who?

Q Bevel, James Bevel, B-E-V-E-L, the Reverend James Bevel?

A He was up there with a group one day, I recall that; I don't remember the date.

Q We ask you, sir, if that particular group were found guilty of contempt of court and sentenced?

A I think so; as I recall, I recall sentencing James Bevel and a group who were up there with him.

Q We ask you if they did not ask for counsel and for an opportunity to be heard, and if they were not denied?

A That is quite true.

Q I will ask you, sir, if you, yourself, did not take testimony in order to support your position?

A I took testimony in order to support identification.

Q But you did not allow the defendants to give testimony or to be -- or to have counsel?

A That is quite true.

Q Now, Sheriff -- Judge Hare, was your court in session on February 3, 1965?

A Well, as a matter of fact, due to these demonstrations we have had no court, now, in Dallas County since November. We squeezed in two days of a criminal session, I think maybe the second week in January, but the regular session of court, there must have been twelve hundred people around the Court House there; we had Negro plaintiffs, and we had Negro defendants, in civil

cases, and Judge Moore had come down to assist in the trial of cases, and we had to abandon the trial of anything there.

Q So that your court was not in fact in session on any of these dates; is that correct?

A My court is generally in session every day that cases are set.

Q Yes, sir.

A Now, the jury sessions of my court are rather incidental, in view of the complex equity docket that we have there; we have equity, criminal jury, civil, and nonjury civil. And I would say that there are very few days that I am not engaged in the trial of cases or the hearing of petitions or the matters of divorce, of alimony, support, and maintenance, and a thousand and other one things that go on.

Q Now, isn't it -- isn't it a fact, though, your honor, that you deal with these mostly in chambers, or your court was not formerly organized to the extent that you were conducting court, as we say?

A On February 1 I think it was, I was conducting court.

Q On February 1?

A I mean engaged in -- in the trial of a case and hearing the witnesses; yes.

Q This is the time when the juveniles were arrested and came into court and sang?

A That is it; uh, huh.

Q They had already been arrested by Sheriff Clark when they started

singing in your court, hadn't they?

A I had told -- called the Sheriff up there and directed him to go down there and -- and tell them to disperse or either -- and if they failed to do that, to bring them upstairs.

Q All right, sir; when he brought them upstairs, they were under arrest, were they not?

A I assume so.

Q So that when you found them guilty of contempt, it was not for the singing in your court room?

A It definitely was; that is what I asked them; I put that in there specifically; yes.

Q Now, on February 3 --

A I forgot the rest of it and just dealt with that little issue.

Q I see. Now, on February 3, was your court actually organized; did you have an organized court?

A What do you mean by an organized court? I have a court reporter --

Q Yes, sir.

A -- she is there to take testimony, we have cases on the docket and cases set; sometimes they are settled, sometimes they are continued, sometimes they are tried; but I am there to enter the necessary orders and do the necessary business, whatever the occasion may be.

Q Judge Hare, what we had in mind was whether or no you were actually sitting on the bench in the court room in the trial of

a case rather than considering matters in chambers or some other place?

A Well, as a matter of fact, we have an equity hearing room, we seldom use -- we try not to use the big court room because of heating and cooling problems there --

Q Yes, sir.

A -- and in the average run of cases, where there are limited witnesses, they are heard in the equity hearing room, and there is a Stenotype and table; there is not a so called judicial bench in there, but I sit in judicial capacity in there as much so as in the court room.

Q Where is that equity hearing room, sir?

A That is on the west side of the building, and that is where I was when this ruckus started on February 1.

Q That is the west side of the Dallas County Court House?

A That's right; yes.

Q Would it be fair to say that considering the front on Lauderdale Street --

A Uh, huh.

Q -- that the west side is the rear of your Court House building?

A That is quite true.

Q And then you were on the second floor in the rear?

A That is right.

Q And the demonstration was on the front of the Court House?

A I think I could have locked the doors to the -- my office and the

reporter's office and maybe shut the doors into the equity room, and I may not possibly would not have been particularly disturbed, but I didn't feel that that obligation was necessarily on me.

Q I see. Excuse me, please, sir. Sheriff -- I am sorry, Judge Hare, please forgive me -- Judge Hare, I direct your attention to February 18, 1965, when I believe about fifteen Negroes who were allegedly demonstrating at the Court House were brought to your court and found to be in contempt; do you recall that occasion?

A February 18; was that the day of the night of the ruckus in Marion?

Q No, sir -- I don't know.

MR. AMAKER: Yes; yes; yes.

Q If that was the same time.

MR. AMAKER: Yes.

Q It may have been. I believe on that occasion, Judge Hare, to refresh your recollection --

A Uh, huh.

Q -- if I can, I believe about fifteen were involved, and you -- the arrests -- I believe you found about five in contempt, if you recall this?

A I don't remember them particularly, Pete, I have the record of Mrs. -- my court reporter made a complete record of those matters

Q Assuming that this is true --

A Uh, huh.

Q -- and the fact could refresh your recollection, I wanted to know if you recall that you, yourself, did not know these five persons had been arrested until you were summoned to the court room; do you recall this?

A Wait, now; no, those are the ones down -- I think I recall that, downstairs in the hall there --

Q Yes, sir.

A -- demanding to see the --

Q Yes, sir.

A -- Registrar.

Q Yes, sir.

A Yes; well, I called the Sheriff and told him to come upstairs, or bring them upstairs, that is what I sent word for; I think he brought them up.

Q These are the persons who wanted to see -- they were inside the hall, wanted to see the Registrars?

A Yes; yes, I remember that very well.

Q And you found these five persons in contempt?

A I certainly did; yes.

Q You did take testimony in this case, maybe some testimony as to identity of them at least down there, but the defendants were not allowed counsel?

A No.

Q Nor did they give testimony?

A I think you were probably there speaking for them, but I proceeded under the established law in connection with those cases.

Q Yes, sir; we requested an opportunity to get witnesses and prepare defense?

A Uh, huh.

Q Your honor denied it?

A Uh, huh.

Q Judge Hare, I wanted to ask you about the order which you entered on February 1; I believe you said this is --

A That wasn't --

Q -- marked -- Defendants' Exhibit 16.

A I went -- I called the court reporter and asked her to type that up and gave it to the Sheriff and told him to take it down there and read it to them --

Q Yes, sir.

A -- and he did take it down there and read it to them, and they didn't disperse, and that is the bunch that came up there and proceeded to sing Christmas carols to me.

Q Was that the group on the 1st?

A Yes.

Q Is that the first group?

A Yes.

Q That was the -- before the injunction?

A That was before this was prepared --

Q I see, sir.

A -- before I got a copy of it.

Q And this was taken to them -- did you ascertain -- I will withdraw that question. Now, on the occasion, I believe it was February 3, that you have testified to that Edwin Moss led a group to the Court House?

A I think that was it; yes.

Q And on that occasion they were arrested by Sheriff Clark and brought to your court room?

A No, I don't think they were arrested. They appeared down there, I think I had been to the drug store or something -- at any rate, when they were confronted with the Sheriff, Edwin Moss wanted to know if he could talk to me, and the Sheriff said, "Yes, just take your whole crowd up to the court room," and that is -- I don't believe they were under arrest, because --

Q They were brought to your court room?

A Well, they were in my court room.

Q By the Sheriff?

A As a group they were --

Q You did not sentence them?

A No, I didn't.

Q You did not find them in contempt?

A No, they came -- said they had some statement to make, and they made their statement, and then I made a statement to them and told the bailiff to -- that they were free to go so far as I was concerned, there were no charges, they voluntarily come up there,

and they could voluntarily leave, and they did leave.

Q Are you saying that they came to your court voluntarily, and Sheriff Clark did not bring them up there or require them to come

A I was not downstairs; my memory of it is they came down there, I don't know whether Sheriff Clark or Mr. Crocker, who it was, asked them to disperse; they said they wanted to talk to Judge Hare, and they said, "Well, you can do that in the court room up there then, go on up there"; now, whether he led them up there or directed them up there or how they got there, I don't know, but they were there when I went in the court room.

Q Judge, is there any reason why you did not find this group in contempt as you have -- as you found some others?

MR. SMITH: Object to this, if the court please.

THE COURT: I sustain it.

A I don't think there had been a --

THE COURT: I sustained that.

A -- clapping of hands.

THE COURT: I have sustained objection.

A Yes, sir; blocking of doorways.

Q Judge Hare, have you made statements to the press, on the radio, or otherwise public statements indicating your belief in the theory of the inferiority of Negroes?

A No, I have not.

MR. SMITH: Object to this.

A Mr. Kennedy --

THE COURT: I sustain objection to that.

WITNESS: I will answer it, if your honor please.

THE COURT: I sustain it.

MR. SMITH: Just a minute, Judge; we object.

THE COURT: The lawyer objected to it; not a question of that, the lawyers are objecting to it.

MR. KOHN: Your honor, we ask they please speak a little louder.

THE COURT: Yes, speak up.

Q Judge Hare, you have been sitting here at the counsel table by way of agreement of counsel --

A Yes.

Q -- all through this trial, have you not?

A Yes.

Q You have been consulting with counsel for Sheriff Clark and --

A Well, I am sitting over there with counsel for all the group.

MR. HALL: I believe that's all at this time.

THE COURT: For the United States. Anyone wants to leave or enter before this examination starts may do so.

BY MR. DOAR:

Q Judge Hare, were you in Selma on the 7th of March?

A Was that Sunday?

Q That's right?

A Let's see, I think I went to the farm Sunday morning; I was in Selma Sunday afternoon; yes.

Q Were you out at the place where the State Police stopped the demonstrators?

A No.

Q Did you consult with Sheriff Clark about what he was to do out there that day?

A No, sir; I did not.

Q Now, these demonstrations around the Court House, were they in connection with the voting?

A I would hesitate to say that.

Q There has been --

A It has been some word that is what it was about.

Q The signs that the students carried related to voting?

A Oh, yes; they had them up there six years old carrying a sign demanding the right to vote.

Q And on the 1st of February, when you made these first arrests, there were -- that was a registration day, was it not?

A I believe so; I believe they -- they -- if it was the first Monday in the month, which I assume that it was, it was registration day.

Q Registration at that time was going very slowly, sixteen or eighteen people per day?

A I don't know, sir; it went very slowly in January.

Q You -- I mean as far as the Board taking the number of people?

A I don't keep up with that, Mr. Doar; I try to --

Q Did you ever make any investigation into the registration

procedures of Dallas County?

A No, sir; I have tried to stay as far away from that as I could.

Q I see.

A Yes, sir; I have nothing whatever to do with it.

Q You -- you were aware of the fact that Judge Thomas, the Federal District Judge for the Southern District of Alabama, had entered an order late in January?

A Yes, sir; the 23rd of January, I think.

Q Directing the Sheriff to permit persons to come to the registration -- to the Court House and line up at the Lauderdale entrance and to -- directed the Board to process --

A Yes, sir; I think he amended that on the 30th of January.

Q And he also stated that people had a right to come to the Court House peacefully, to assemble --

A Oh, yes.

Q -- and protest voter registration?

A Yes, sir; yes, sir.

Q And you were aware of those orders?

A Yes, sir; and I was aware that I had session of court going on; I didn't think -- read anything, though, that hindered me from dealing with people who were out there clapping, shouting, screaming, singing; that may be part of it, I don't know, I could be in error.

Q You are satisfied that all of the arrests and convictions that you entered that time were against people who were outside shouting,

clapping, and singing?

A So far as I know, they were; yes, sir.

Q But you took no testimony in your court except testimony from Sheriff Clark before you convicted them?

A They were -- the groups that I dealt with, Mr. Doar, were brought upstairs on my specific order to the Sheriff to bring them up there. Now, there were some that I released without anything, when they came up there and told me that they were down there to defy Judge Thomas's injunction, I let them go; I didn't -- I didn't bother with them.

Q You -- you are -- you are a defendant in a number suits --

A Yes, sir.

Q -- in which the United States is a plaintiff --

A Yes, sir.

Q -- in connection with incidents in Dallas County?

A Yes, sir. Next to Mr. Hoffa, I expect I am number one.

Q And those issues are before the court --

A Yes, sir.

Q -- either this three Judge court or the Court of Appeals?

A Yes, sir.

Q Now, prior to March 7, 1965, did you issue any instructions to Sheriff Clark as to how he should handle the demonstrators on Sunday?

A Sunday -- no, sir; I -- I don't think I was --

Q What I am interested in is whether or not you told him that --

not to make arrests, but to use force to disperse that crowd?

A I was not -- that was --

Q On Sunday?

A -- the State Troopers' deal, Mr. Doar; I -- I wasn't -- that was --

Q You weren't consulted about that at all?

A Oh, I might have been -- I would frankly say that some features of it were discussed with me, but I was -- I was not making any decisions at all; I had no -- I had no authority to make any decisions.

Q Do you recall, Judge Hare, what features were discussed with you, and when?

A Now, this is as to the 7th?

Q This is as to the 7th?

A I don't think I had any discussion with anybody on the 7th.

Q You are sure of that?

A Mr. Doar, I have had --

Q Well, if you are not sure of it --

A -- a year and a half, it has just been a constant matter of discussions and dealings with these matters; I may have had some discussions on --

Q But you don't recall any?

A I don't recall it; Sheriff Clark was not in town, as I recall. Now, I went -- I worked on my income tax at the office on

Saturday, I believe, when they had the Lutheran march down there, and I had a brief discussion with -- with a reference to that with Deputy Crocker.

Q Did you have any discussion with Deputy Crocker as to how he should handle the white crowd around the Court House that were there that day?

A Well, his particular problem was, as I recall that we discussed, was the matter of police protection; they had sent word that they were going to march from Jeff Davis to Broad Street and up Broad Street to Alabama Avenue and across to the Court House, and Mr. Crocker was very much concerned about police protection for these marching ministers. And in view of the Saturday crowds and traffic, I am frank to say that I suggested to him that he use patrol cars in -- in the least obvious manner that he could to protect them. They were not marching; they were just coming down in groups of a few together -- and not make any display along Broad Street that would have ATTACTED -- have attracted all the shoppers in Selma around the Court House that afternoon; I did make that suggestion to him; yes, sir.

MR. DOAR: Thank you.

THE COURT: For Governor Wallace.

BY MR. SMITH:

Q Judge Hare, there are two Circuit Judges within the Fourth Judicial Circuit --

A Yes, sir.

Q -- of Alabama?

A Judge Moore lives in Centreville, and I live in Selma.

Q And you are one of the Circuit Judges of the Fourth Judicial Circuit?

A Yes, sir.

Q Is this an elected office?

A Yes, sir.

Q How old are you, sir?

A Fifty-nine.

Q How long have you served as a Circuit Judge of this Fourth Judicial Circuit of Alabama?

A Eleven years.

Q Has any Negro citizen in Dallas County appealed to your court from a denial of the right to register as a qualified voter in Dallas County?

A No, sir; I never recall one.

Q Over this entire period of time, no appeals have been filed into your court?

A That is quite true; I don't recall one ever having been filed.

Q In this regard. Now, I want to direct your attention back to February 3; did the Sheriff or the person from the Sheriff's office who called your court to order act as your bailiff?

A That is the capacity he was serving in; yes, sir.

Q Were these people within the presence of the court, within your court room?

A They were sitting in the middle section as far as from me to those seats out there; yes, sir.

Q And when he called court to order, they commenced singing; is that --

A Yes, sir.

Q -- what your honor says?

A Yes, sir; they were singing when I walked in the court room.

Q How long did they sing?

A Not very long, I'll tell you.

Q Did you ask them to stop singing?

A Yes, sir; I made a call for order, and we -- we got some order.

MR. SMITH: I believe that's all.

THE COURT: For Colonel Lingo.

MR. KOHN: No questions, your honor.

THE COURT: Any redirect for Sheriff Clark?

MR. P. H. PITTS: No, sir.

THE COURT: Any other questions from this witness?

MR. HALL: One -- one question, your honor.

THE COURT: Mr. Hall.

BY MR. HALL:

Q Judge Hare, you said that on some occasion you found out that the purpose of some demonstration was to defy Judge Thomas's injunction?

A That is what they told me; yes.

Q Can you tell us -- could you identify the person who told you

this?

A Well, I had -- you see, Judge Thomas's first order was issued on November 23, I think; there were some arrests for unlawful assembly, and I don't know, one day we must have had thirty or forty up there that were not down there -- what they were down there to do was to defy Judge Thomas's order, not -- not anything I had to say, and I turned them loose.

Q I have asked Mrs. Bailey to transcribe for me -- did you have her report whatever you did --

A Yes.

Q -- on these situations? And I have had her transcribe some of these proceedings for me; would this appear in any of -- of these records?

A Oh, I don't think so. In my conference with Edwin Moss, now, all I have is -- I did have Mrs. Bailey come in and transcribe what I had to say to the group --

Q I see.

A -- just as a matter of precaution, and what was -- the group said to me I did not make of record.

MR. HALL: I believe that's all.

THE COURT: Anything further?

MR. P. H. PITTS: No, sir.

THE COURT: Step down, Judge Hare.

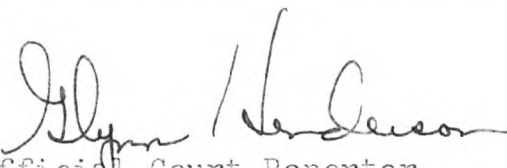
WITNESS: All right, sir.

(END OF TESTIMONY CONTAINED IN THIS TRANSCRIPT)

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

I, Glynn Henderson, Official Court Reporter of the United States District Court for the Middle District of Alabama, do hereby certify that the foregoing 42 pages contain a true and correct transcript of proceedings had before the said Court held in the City of Montgomery, Alabama, in the matter therein stated, or that portion of said proceedings indicated in note on page 2 thereof. In testimony whereof I hereunto set my hand on this the 1st day of April, 1965.


Official Court Reporter.

