

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF THE STATE OF GEORGIA
ATLANTA DIVISION

MR. BENJAMIN D. BROWN
MISS HERSCHELLE S. SULLIVAN
MR. CHARLES F. LYLES
MR. LONNIE C. KING, JR.,
Plaintiffs &
Members of the Committee on Appeal
For Human Rights

vs.

Civil Action No. _____

THE CITY OF ATLANTA, GEORGIA,
by service on Mr. William B. Hartsfield,
Mayor
City Hall
Atlanta, Georgia

MISS VIRGINIA CARMICHAEL
Director of Recreation, City of Atlanta
City Hall
Atlanta, Georgia

MR. GEORGE I. SIMONS
General Manager, Dept. of Parks
City of Atlanta
City Hall
Atlanta, Georgia

MR. JAMES WEBB -
Judge, Municipal Court
City of Atlanta
Atlanta, Georgia

Counsel Pro Se (for themselves)

Benjamin D. Brown
196 Napoleon Dr., S. W.
Atlanta, Georgia

Miss Herschelle S. Sullivan
350 Leonard St., S. W.
Atlanta, Georgia

Charles F. Lyles
1419 Capitol Ave., S. W.
Atlanta, Georgia

Lonnie C. King, Jr.
2175 Gordon Rd., S. W.
Atlanta, Georgia

. . . A Suit to Exhume Much
of the Cancerous Racial Segregation
That is Festering Within
Atlanta . . .

Now come the plaintiffs who come before this Court and set forth the following case:

1. That this is an action to abolish racial segregation and racial discrimination in the use and enjoyment of every public facility -- including among others -- park concession stands, swimming pools, tennis courts, Municipal Auditorium, recreational centers, Municipal Courts and every other public building and function which is either owned, operated, maintained or subsidized by the City of Atlanta, Georgia.

2. That this is a class action which is being brought on behalf of the plaintiffs and all other citizens of Atlanta similarly situated who are members of the Negro race--an estimated 230,000 persons. The class is too large to be joined as plaintiffs.

3. That the jurisdiction of this Court is invoked under all appropriate statutes, and especially the following ones:
Title 28 U.S.C. Sections 1331, 1343, 1355, 1357, 2072, 2201, 2202
2281, 2294
Title 42 U.S.C. Sections 1981, 1983.

4. That this suit seeks declaratory and injunctive relief to prohibit the continuance--under color of law-- of all racial discrimination and racial segregation in the use of all public parks, public swimming pools, public tennis courts, public buildings and other public facilities, by the defendants, their agents, successors, assigns and those having notice of the injunction.

THE DEFENDANTS:

5. The defendant, City of Atlanta, Georgia, is a public, municipal corporation of the State of Georgia which is maintained and operated by taxes secured from both black and white citizens. William B. Hartsfield is the mayor and chief executive officer of said city.

6. The defendant, Miss Virginia Carmichael, is the Director of Recreation for the City of Atlanta. In this position, Miss Carmichael directs and supervises various and sundry aspects of the city's recreational program.

7. The defendant, George I. Simons, is the General Manager of the Department of Parks of the City of Atlanta. In this capacity he exercises direction and control of the use of the various and sundry facilities maintained by the public taxes of the City.

8. The defendant, James Webb, is a judge of the Municipal Court of the City of Atlanta.

THE PLAINTIFFS:

9. The plaintiffs are obvious members of the Negro race, citizens of the United States, and the City of Atlanta, Georgia.

10. The class represented by the plaintiffs is those estimated 230,000 persons who are:

- a. Citizens of the United States
- b. Citizens of Atlanta, Georgia
- c. Members of the Negro race.

11. This class is too large to be joined as party plaintiffs.

THE INJURY:

12. The City of Atlanta is a vast municipal corporation which owns, operates, subsidizes and maintains hundreds of buildings and facilities--including parks, pools, recreational centers, tennis courts, the Municipal Courts and the Municipal Auditorium-- at the expense of millions of dollars annually.

13. The defendant city and the other defendants--under color of law and by virtue of their official positions--require and enforce racial discrimination and racial segregation in the use of the

public facilities.

14. That this un-American and degrading practice is done under color of law, custom, policy and usages. Which of several possible customs, statutes, ordinances or whims employed by the defendants and their agents at various times are unknown to the plaintiffs.

When the servants, agents and employees of the defendants enforce racial segregation and racial discrimination under color of law, they do not announce what law--if any--they are enforcing. The Negroes are merely told that because of race they are not permitted to enter or that they must use certain areas or certain facilities which have been set aside for the sole use of Negro citizens.

15. However, there are some statutes and ordinances, such as the following which do set forth requirements that Negroes be prohibited from using the same facilities at the same time and in the same manner as is permitted white persons. See Atlanta City Ordinance 68-126.

BY WAY OF FURTHER PLEADING AND ILLUSTRATIONS OF THE UNLAWFUL PRACTICES OF THE DEFENDANTS:

16. Tennis Courts. When plaintiffs sought to use the tennis facilities of the Betsy Grant Tennis Center on 13 May 1961, Jack Rogers, manager of this public facility denied the plaintiffs use of the facility solely because of race and under color of law.

17. Municipal Auditorium. When plaintiffs went to the Municipal Auditorium on 12 May 1961 to a wrestling match open to the public they were denied admission solely because of race and informed by the manager, H. H. Niegruegge, that this was done under color of law and was part of the policy of the Municipal Auditorium.

18. Parks. The parks of the City are designated for required use solely by Negroes or solely by whites--under color of law.

19. Municipal Court. Judge James Webb, an agent of the City, did on or about 9 February 1961 sentence the plaintiff herein, Lonnie C. King to five hours in jail--over protest--because the plaintiff, King, refused to comply with the required racially segregated seating enforced by the defendant in the courtroom. This was done under color of law.

THE LAW INVOLVED:

20. All of the ten-thousand-and-one instances (which occur daily) of total exclusion because of race or segregation by race in the use and enjoyment of the facilities of the City of Atlanta is done by the defendants, their agents and servants under color of law and based solely on race.

21. Such practices are insulting, degrading, unnecessary, medieval, foolish, septic and unconstitutional as being violative of the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution.

22. Your plaintiffs have suffered, are suffering, and will suffer grievous and irreparable harm unless the Court will grant immediate equitable relief. Plaintiffs have no remedy at law.

23. The defendants intend to, and will continue the aforementioned unlawful practice of racial segregation and racial discrimination unless ordered to stop by this Court.

24. That to the extent that the defendants are acting under color of law, statute, ordinance, regulation, custom or usage-- or without benefit of same--they are acting unconstitutionally:

Holmes v. City of Atlanta, 223 F. 2d 93
City of Montgomery v. Gilmore, 217 F. 2d 364
Dawson v. City of Baltimore, 220 F. 2d 386
Dept. of Conservation v. Tate, 231 F. 2d 615
Holley v. City of Portsmouth, 150 F. Supp. 6
Fayson v. Beard, 134 F. Supp. 379
City of Petersburg v. Alsip, 238 F. 2d 830
Ward v. City of Miami, 151 F. Supp. 593
Simpkins v. City of Greensboro, 149 F. Supp. 562

25. That an actual controversy exists between the parties to this suit.

26. That the value of the civil rights and civil liberties sought to be enforced by this suit are in excess of \$1,000,000.00, exclusive of cost and interest.

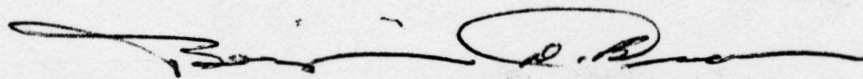
PRAYER OF THE COMPLAINT:

Wherefore Plaintiffs pray that this Court will--

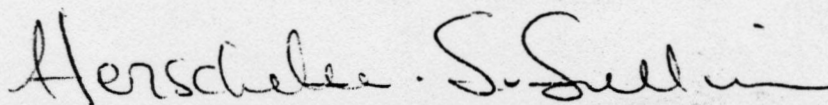
- A. Award them \$13.00 in compensatory damage
- B. Advance this cause on the docket and provide a speedy hearing
- C. Render a declaratory judgment between the parties and the subject matter so that such declaration shall have the force and effect of law.
- D. Issue an immediate, temporary injunction barring all racial discrimination and all racial segregation in all facilities owned, operated, controlled, maintained or subsidized by the City of Atlanta, Georgia.
- E. Make the temporary injunction permanent after a hearing on the merits and not only prohibit racial discrimination and racial segregation by the defendants, their agents, servants, successors and assigns . . . but at once extend the scope of the injunction to prohibit similar conduct on the part of all persons having

notice of the injunction.

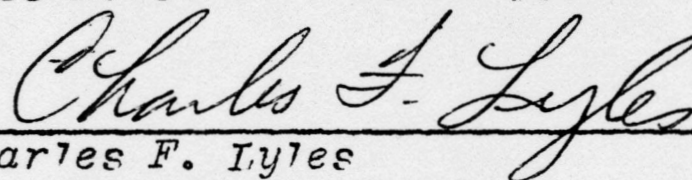
F. Enjoin disbursement of any money to any facility which is racially segregated.



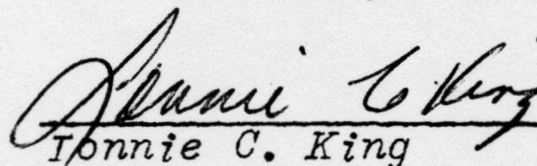
Benjamin D. Brown



Miss Herschelle S. Sullivan



Charles F. Lyles

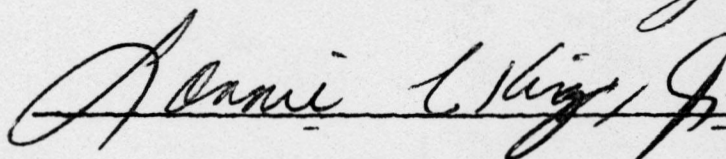
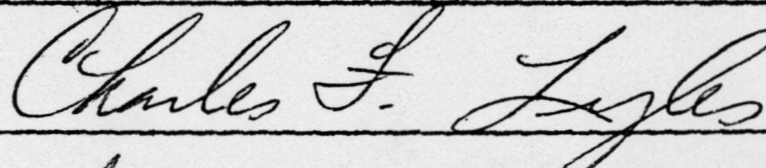
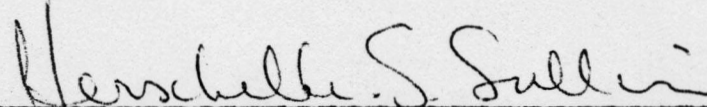


Jonnie C. King

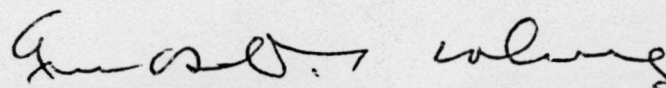
State of Georgia
City--County of Fulton

The following named persons after first being sworn and under oath, each for himself, deposes and says that they are the plaintiffs in the above named suit and that they have read same and known the contents thereof and that the matters contained therein are true to the best of their knowledge and belief.

Witness the following signatures



Subscribed and sworn before me in my city and state aforesaid this 16th day of May 1961.

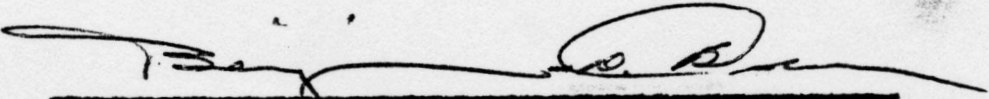


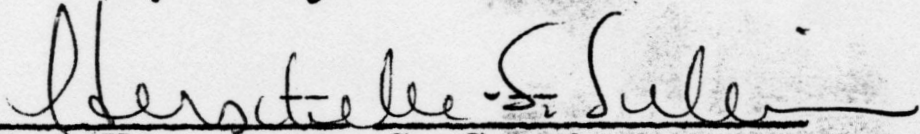
Notary Public

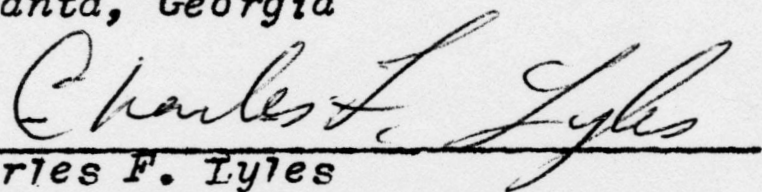
my commission expires on _____

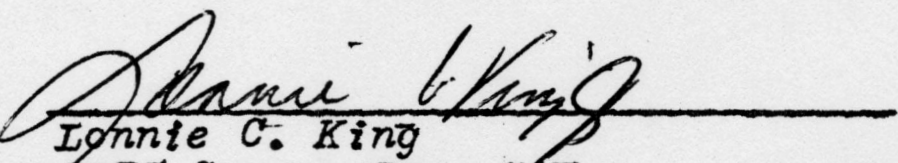
Notary Public, Georgia, State at Large
My Commission Expires April 24, 1962

Counsel pro se


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nf:va