

(Filed Jan 2, 1963, Washington, D.C.)

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF COLUMBIA

ROBERT MOSES, SAM BLOCK, CHARLES
McLAURIN, CHARLES COBB, JESSE
HARRIS, HOLLIS WATKINS, LAFAYETTE
SURNEY and WILLIAM HIGGS,

Plaintiffs,

v.

ROBERT F. KENNEDY, Attorney General
of the United States and J. EDGAR
HOOVER, Director of Federal Bureau
of Investigation of the United
States of America,

Defendants

NO. _____

COMPLAINT

Jurisdiction

1. Jurisdiction is based upon Title 28, Sect. 1343(3), U. S. Code, and Title 28, Sect. 1361, U. S. Code.

Nature of Cause of Action

2. This is an action in the nature of mandamus to compel the defendants, the Attorney General of the United States and the Director of the Federal Bureau of Investigation, to perform duties owed to plaintiffs and to the class which they represent, i. e., to protect plaintiffs and their class from deprivation of their constitutional rights, by the investigation, arrest, and prosecution of offending law enforcement officers of the state of Mississippi and of its political sub-divisions and offending resi-

dents of the state of Mississippi acting individually or collectively and/or in concert and conspiracy with said law enforcement officers. By failing and refusing to perform such duties, defendants have in effect sanctioned and perpetuated a consistent pattern on the part of the law enforcement officials of the state of Mississippi and/or private and public citizens thereof inimical to plaintiffs' civil rights and liberties.

Plaintiffs

3. Plaintiff Robert Moses is a citizen of the state of New York, is a member of the Negro race, and resides at 901-1/2 Nelson St., Greenville, Mississippi.

4. Plaintiff Sam Block is a citizen of the state of Mississippi, a member of the Negro race, and resides at 807 Rear Miller St., Greenwood, Mississippi.

5. Plaintiff Charles McLaurin is a citizen of the state of Mississippi, a member of the Negro race, and resides at 909 Reden St., Ruleville, Mississippi.

6. Plaintiff Charles Cobb is a citizen of the state of Massachusetts, is a member of the Negro race, and resides at 901-1/2 Nelson St., Greenville, Mississippi.

7. Plaintiff Jesse Harris is a citizen of the state of Mississippi, is a member of the Negro race, and resides at 909 Reden St., Ruleville, Mississippi.

8. Plaintiff Hollis Watkins is a citizen of the state of Mississippi, a member of the Negro race, and resides at 714 Rose St., Jackson, Mississippi.

9. Plaintiff Lafayette Surney is a citizen of the state of Mississippi, a member of the Negro race, and resides at 901-1/2 Nelson St., Greenville, Mississippi.

10. Plaintiff William Higgs is a citizen of the state of Mississippi a member of the Caucasian race, and resides at 951 Terrace Court, Jackson, Mississippi.

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Defendants

11. Defendant Robert F. Kennedy, the Attorney General of the United States, is a resident of the District of Columbia, with offices in the Department of Justice Building, Washington, D. C.

12. Defendant J. Edgar Hoover, the Director of the Federal Bureau of Investigation, is a resident of the District of Columbia, with offices in the Department of Justice Building in Washington, D. C.

13. Defendants are being sued in their official capacities.

The Factual Situation

14. All plaintiffs have been and are at present actively working in a voter registration drive in the state of Mississippi, to register Negro citizens of the United States and of Mississippi. In order to prevent the said voter registration drive from being successful, and to thereby knowingly deny plaintiffs and those similarly situated of their civil rights, white law enforcement officers and private citizens of the state of Mississippi have, and are continuing to, harass, intimidate, threaten, attack, arrest, jail, and unconstitutionally convict the plaintiffs and others similarly situated. A few of the typical incidents in which Mississippi law enforcement officers and/or private citizens of the state of Mississippi knowingly have deprived and are depriving plaintiffs and others similarly situated of their constitutional right to carry on a voter registration drive and other constitutionally protected activities in the area of race relations are set forth in paragraphs 15 through 23, inclusive.

15. In the fall of 1961, plaintiff Robert Moses was beaten in Liberty, Mississippi by a group of citizens which included county officials acting under the color of law while taking two Negro farmers to the courthouse to register. This act resulted in severe injuries to plaintiff's head and in the intimidation of prospective Negro voters in Amite County.

In the summer of 1962 plaintiff Moses passed out leaflets in Indianola, Mississippi urging Negroes to register to vote. Plaintiff was arrested by local law enforcement officers. He was prosecuted and unconstitutionally convicted for this activity under the charge of passing out handbills without a permit.

16. Plaintiff Sam Block, while engaging in Negro voter registration activity in Greenwood, LeFlore County, Mississippi, has been repeatedly threatened, arrested, and jailed by the local law enforcement officials for this activity. During the summer of 1961, plaintiff Block and two other voter registration workers barely escaped from a white lynch mob, early on the morning of August 16, 1962, by leaping out of a second-storey window. The mob was guided by and assisted by the local law enforcement officials. Plaintiff Block immediately contacted Mr. John Doar of the Civil Rights Division of the United States Department of Justice, who told plaintiff Block that the Justice Department could not act until someone was hurt and therefore denied plaintiff Block's request for help. Plaintiff Block has continued to suffer at the hands of the local law enforcement officers. The Department of Justice and the Federal Bureau of Investigation, although continually requested by plaintiffs and others to prevent these actions by local law enforcement officers, has failed and refused to do so.

17. Plaintiff Charles McLaurin was recently arrested by local law enforcement officers in Clarksdale, Coahoma County, Mississippi, for taking Negroes to the courthouse to register. The voter registrar pointed out plaintiff to the police.

Plaintiff McLaurin was also unconstitutionally arrested, prosecuted and convicted for passing out leaflets urging Negroes to register to vote in Indianola, Sunflower County, Mississippi, by local law enforcement officers under the charge of passing out handbills without a permit.

Plaintiff McLaurin, while peacefully picketing against segregation and while petitioning the government of the United States to redress his grievances, was also arrested and dragged off the steps of the Federal Building in Jackson, Mississippi in or about July, 1962, by city policemen, taken unconstitutionally to jail, and subsequently convicted of breach of the peace on evidence which failed to show the commission of any unlawful acts. United States marshals, agents of the Federal Bureau of Investigation, and United States Attorneys were in said Federal Building but made no effort to prevent his arrest. During all this time plaintiff McLaurin was on property under the exclusive jurisdiction of the United States government.

18. Plaintiff Charles Cobb has been unconstitutionally arrested, threatened, and harassed during the last three months by the Mayor and other law enforcement officials in Rulesville, Sunflower County, Mississippi,

to prevent plaintiff from continuing to register Negro voters. Some of plaintiff Cobb's associates have been ambushed with firearms and have barely escaped being killed. One associate was shot in the head, but survived. Attention has been called to this latter incident by the President of the United States.

19. Plaintiff Jesse Harris on June 20, 1962, was arrested and charged with contempt of court for sitting on the white side of the courtroom of the Hinds County Court in Jackson, Mississippi. Plaintiff was sentenced to pay a \$100 fine and to serve 30 days at the Hinds County Penal Farm, where he was beaten by guards because of his participation in voter registration and other civil rights activities. The Federal Bureau of Investigation has investigated this incident, but both it and the rest of the Department of Justice have failed and refused to take any action.

20. Plaintiff Hollis Watkins, while peacefully carrying a sign protesting segregation and the arrest of Brenda Travis, a fellow student, was arrested in Pike County, Mississippi, along with 115 other Negro public school children on October 4, 1961, and charged and unconstitutionally convicted of breach of peace. Plaintiff Watkins is currently engaged in Negro voter registration and segregation protest activity and is being intimidated by local law enforcement officers.

21. Plaintiff Lafayette Surney has been working for the last five months in Negro voter registration activity in the Delta region of the state of Mississippi. Plaintiff Surney has been and is being unconstitutionally arrested, threatened and intimidated by local law enforcement officers for his participation and his activity.

22. Plaintiff William Higgs was arrested by the city and county police in Clarksdale, Coahoma County, along with four college students, one of whom was a Negro girl, in June, 1962. Plaintiff Higgs was in Clarksdale in the capacity of legal counsel to the congressional campaign of Merrill W. Lindsay, the first Negro congressional candidate in this area in this century. Plaintiff Higgs, together with the four students, was arrested without charges, was not taken before any magistrate, had his life threatened and was held incommunicado for more than twenty hours.

23. The defendants' agencies, the Department of Justice and the Federal Bureau of Investigation, have investigated and have been fully informed through plaintiffs and many others to deprive Negroes of their

constitutional rights. The defendants' agencies have been repeatedly requested by plaintiffs and by others to arrest and prosecute the offending local and state law enforcement officers and/or any private citizens acting individually or collectively and/or in concert and conspiracy with said law enforcement officers, but have, in all cases, failed and refused to do so. In most cases, defendants' agencies were notified in advance by plaintiffs and others preparing to exercise their constitutional rights under threat of action by local law enforcement authorities depriving plaintiffs and others of their constitutional rights. On the spot action by defendants' agencies, particularly the United States Marshals and the agents of the Federal Bureau of Investigation, could have prevented and can prevent these incidents.

Plaintiffs are informed and verily believe that defendants' agencies have systematically refused to take action not only in connection with the incidents alleged in the complaint but with similar incidents occurring in the state of Mississippi generally.

Statement of Cause of Action

24. The defendant Robert F. Kennedy, Attorney General of the United States, is the chief executive officer of the United States Department of Justice and directs the activities of United States Marshals, United States Attorneys, and the Civil Rights Division of the Department of Justice (Title 28 U. S. C., 547(c) and 507 (b)). Defendant J. Edgar Hoover, Director of the Federal Bureau of Investigation, directs the activities of the agents of said Bureau.

United States Marshals, agents of the Federal Bureau of Investigation, and United States Attorneys, are authorized and required by law to arrest, imprison, and institute prosecutions against all persons who willfully subject any inhabitant of any State to the deprivation of any rights, privileges or immunities secured or protected by the Constitution or laws of the United States. (Title 42, U. S. C., 1987, 1986, 1988; 18 U. S. C. 242, 241, 3052, 3053; 28 U. S. C. 549.)

Defendants and their agents have been repeatedly requested by plaintiffs and others to perform the statutory duties stated in the preceding paragraph, in order that they be protected in carrying on the constitutionally guaranteed activities described in paragraphs 14-23, supra, but they have refused and failed to do so. Plaintiffs bring this action in the nature of mandamus to compel defendants to perform their above statutory duties, with all of the diligence and vigor with which they perform their duties with

respect to the enforcement of other laws of the United States.

Defendants and their agents are in possession of the results of extensive investigations by the Federal Bureau of Investigation and other Federal agencies describing in great detail the incidents set out in paragraphs 14 to 23, supra. Defendants are therefore able to perform their above statutory duties.

Plaintiffs and their class have no adequate remedy other than that sought herein.

Prayer for Relief

25. Plaintiffs hereby request of the Court an order:
(A) directing the defendant Robert F. Kennedy, Attorney General of the United States, to

1) direct the United States Attorneys for the Northern and Southern Districts of Mississippi to institute immediately criminal prosecutions against those state and local law enforcement officials and any other persons, public or private, responsible for the deprivations of plaintiffs' rights as described above;

2) direct said United States Attorneys to continue to institute prosecutions against said local state law enforcement officials and any other persons, public or private, who are responsible for the deprivation of the constitutional rights of plaintiffs and other citizens of Mississippi similarly situated;

3) direct appropriate United States Marshals to arrest and cause to be imprisoned those Mississippi state and local law enforcement officials and any other persons, public or private, responsible for the deprivation of plaintiffs' rights as described above;

4) direct appropriate United States Marshals to continue to arrest and cause to be imprisoned Mississippi state and local

law enforcement officials and any other persons, public or private, who are responsible for the deprivation of the constitutional rights of plaintiffs and other citizens of Mississippi similarly situated;

5) direct appropriate United States Marshals to arrest and cause to be imprisoned those Mississippi state and local law enforcement officials and any other persons, public or private, who are in the act of depriving plaintiffs and other citizens of Mississippi of their constitutional rights under circumstances similar to those described above, so as to effectively stop the arrests and prosecutions of plaintiffs and other citizens of Mississippi by state and local law enforcement officials and their persecution and harassment by other persons, public or private, which prevent plaintiffs and others from exercising their constitutional rights;

(B) directing defendant J. Edgar Hoover, Director of the Federal Bureau of Investigation, to direct forthwith the appropriate agents of the Federal Bureau of Investigation to arrest and cause to be imprisoned those state and local law enforcement officers of the State of Mississippi, or any other persons, public or private, who deprive or who are in the act of depriving plaintiffs and other citizens of Mississippi of their constitutional rights;

(C) directing defendants to perform their law enforcement duties and to cause those serving under their supervision to perform their respective law enforcement duties, with respect to those laws which are intended to protect individuals from the kind of violations herein complained of, with all of the vigor, diligence and effort devoted to their enforcement of other laws of the United States; and

(D) granting such other and further relief as

is appropriate and necessary.

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