

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. :

NO. _____

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. :

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 subdivisions, and offending residents 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.

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 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-story window. The mob was guided by and assisted by the local law enforcement officials. Plaintiff Block immediately contacted

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 the 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 Troois, 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 of the above described incidents and conditions, all of which were willfully done by local law enforcement officers and 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

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 enforce-

APPENDIX

18 U.S.C.

"§241. CONSPIRACY AGAINST RIGHTS OF CITIZENS

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured --

They shall be fined not more than \$5,000 or imprisoned not more than ten years, or both."

"§242. DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

"§3052. POWERS OF FEDERAL BUREAU OF INVESTIGATION

The Director, Assistant Directors, inspectors, and agents of the Federal Bureau of Investigation of the Department of Justice may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make arrests without warrant for felonies cognizable under the laws of the United States, where the person making the arrest has reasonable grounds to believe that the person arrested is guilty of such felony and there is a likelihood of his escaping before a warrant can be obtained for his arrest."

"§3053. POWERS OF MARSHALS AND DEPUTIES

United States marshals and their deputies may carry firearms and may make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony."

"§1985. CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS -
PREVENTING OFFICER FROM PERFORMING DUTIES

(1) If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

OBSTRUCTING JUSTICE; INTIMIDATING PARTY,
WITNESS, OR JUROR

(2) If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

DEPRIVING PERSONS OF RIGHTS OR PRIVILEGES

(3) If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen

in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators. R.S. §1980.

"§1986. SAME; ACTION FOR NEGLIGENCE TO PREVENT

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding \$5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued. R.S. §1981."

"§1987. PROSECUTION OF VIOLATION OF CERTAIN LAWS

The United States attorneys, marshals, and deputy marshals, the commissioners appointed by the district and territorial courts, with power to arrest, imprison, or bail offenders, and every other officer who is especially empowered by the President, are authorized and required, at the expense of the United States, to institute prosecutions against all persons violating any of the provisions of section 1990 of this title or of sections 5506-5516 and 5518-5532 of the Revised Statutes [now 18 U.S.C. 241-242 (supra) and other civil rights criminal statutes contained in Title 18 United States Code], and to cause such persons to be arrested, and imprisoned or bailed, for trial before the court of the United States or the territorial court having cognizance of the offense. R.S. §1982; June 25, 1948, c. 646, §1, 62 Stat. 909."

"§1988. PROCEEDINGS IN VINDICATION OF CIVIL RIGHTS

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this chapter and Title 18, for the protection of all persons in the United States in their civil rights, and for their

vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty.
R.S. §722."