

*Marshal's #816*

# District Court of the United States

FOR THE

EASTERN DISTRICT OF SOUTH CAROLINA

CHARLESTON DIVISION

CIVIL ACTION FILE NO. 2505

**FILED**

MAY 17 1950

**ERNEST L. ALLEN**  
C.D.C.U.S.E.D.S.C.

**SUMMONS**

Approved for Filing

Harry Briggs, Jr., et al

Plaintiff

v.

The Board of Trustees for School District Number 22, Clarendon County, South Carolina, R. W. Elliott, Chairman, J. D. Carson and George Kennedy, Members; The County Board of Education for Clarendon County, South Carolina, L. B. McCord, Chairman, Superintendent of Education for Clarendon County, A. J. Plowden, W. E. Baker, Members and H. B. Betchman, Superintendent of School District Number 22,

Defendant

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

To the above named Defendant:

That

You are hereby summoned and required to serve upon

Harold R. Boulware, Esq.

at

the

Subscribed and sworn to before me

this

plaintiff's attorney, whose address is 1109 1/2 Washington St., Columbia, S.C.

Witness my hand

at

the

United States Marshal

MARSHAL'S FEES

an answer to the complaint which is herewith served upon you, within **-20-** days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

ERNEST L. ALLEN

Clerk of Court.

By

*James W. Smith*  
Deputy Clerk.

Date: May 17, 1950

[Seal of Court]

I hereby certify and return that on the

day of

19

Note, This

is in compliance with Rule 4 of the Federal Rules of Civil Procedure.

OFFICE OF MARSHAL

District Court of the United States

FOR THE

DISTRICT OF SOUTH CAROLINA

CHARLESTON Division

CIVIL ACTION FILE NO. 5292

District Court of the United States

DISTRICT OF

No. ....

SUMMONS IN CIVIL ACTION

Returnable not later than

after service.

FILED

MAY 17 1950

ERNEST L. ALLEN

SUMMONS

Attorney for Plaintiff.

FPI-LK-1-13-48-150M-5257-60

Plaintiff

v.

Defendant

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

To the above named Defendant:

[SEAL]

You are hereby summoned and required to serve upon

19

day of

Subscribed and sworn to before me, a

this

plaintiff's attorney, whose address is 1100 1/2 Washington St. Deputy United States Marshal.

By

United States Marshal

MARSHAL'S FEES

an answer to the complaint which is herewith served upon you within

-50-

of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will

be taken against you for the relief demanded in the complaint.

Clerk of Court

Deputy Clerk

[Seal of Court]

I received the within summons

I hereby certify and return, that on the

day of

19

VICE OF WRIT

For  
Mr. L. B. McCord  
Manning, S.C.

marshal's # 816

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

MAY 17 1950

ERNEST L. ALLEN  
C. D. C. U. S. E. D. S. C.

CIVIL ACTION NO. 2505

Harry Briggs, Jr., Thomsa L. Briggs, Catherine E. Briggs,  
Thomas Gamble, Thomas Brown, Eurlia Brown, Joe Morris Brown,  
Minnie M. Corner, William Corner, Daisy Georgia, Julian V.  
Georgia, H. A. Georgia, Leroy Georgia, Charlie P. Georgia,  
Gervine Georgia, Roosevelt Georgia, William Gibson, Jr.,  
Maxine C. Gibson, Harold M. Gibosn, Ellen Henry, Joe H.  
Henry, Joseph Hilton, Morgan Johnson, Gussie S. Johnson,  
Samuel Johnson, John A. Johnson, Raymon Lawson, Eddie Lee  
Lawson, Susan Lawson, Willie Lee Oliver, Mary Lee Oliver,  
William C. Oliver, Daisy Oliver, Lewis Oliver, Jr., Clestine  
Parson, Shirley B. Ragin, Carrie Y. Ragin, Willien Ragin,  
Elaine Ragin, Elliott E. Richardson, Annie L. Richardson,  
James D. Richardson Charlie E. Richardson, Dorothy I.  
Richardson, Donald J. Richardson, Alberta Richburg, Rebecca  
Richburg, Lillian Richburg, Hazel Richburg, Marion Richburg,  
Helen Richburg, Calvin Richburg, Parnust Richburg, Lawrence  
B. Rivers, Jr., Dock Robinson, Jr., Willie L. Robinson,  
Gennette Robinson, Janie Lee Fludds, Willie M. Stukes. Jr.,  
Gardenia E. Stukes, Lewis W. Stukes, Mary L. Bennett, Lillian  
Bennett, John L. McKinzie, infants by their parents, guardians  
and next friends, Harry Briggs, Eliza Briggs, James Brown, Jr.,  
Theola Brown, Mary Corner, F. Georgia, Elnoria Georgia,  
Robert Georgia, Carrie Georgia, William Gibson, G. H. Henry,  
Gladys E. Hilton, Morgan Hilton, Joseph Hilton, Gussie  
Hilton, Lee Johnson, Bessie J. Johnson, Susan Lawson,  
Frederick D. Oliver, Mary J. Oliver, Bennie Parson, Jr.,  
Edward Ragin, Sarah Ragin, Nathaniel Ragin, Theodore Ragin,  
Lee Richardson, Lucrisher Richardson, E. E. Richburg, John  
H. Richburg, Richard Richburg, Frances Richburg, L. B. Rivers,  
Charlie Robinson, Lizzie Robinson, Ester F. Singleton, Willie  
M. Stukes, Sr., Gardenia M. Stukes, Gabriel Tindal, and Annie  
S. Tindal, on behalf of themselves and others similarly  
situated,

PLAINTIFFS,

- VS -

The Board of Trustees for School District Number 22, Clarendon  
County, South Carolina, R. W. Elliott, Chairman, J. D. Carson  
and George Kennedy, Members; The County Board of Education  
for Clarendon County, South Carolina, L. B. McCord, Chairman,  
Superintendent of Education for Clarendon County, A. J. Plowden,  
W. E. Baker, Members and H. B. Betchman, Superintendent of  
School District Number 22,

DEFENDANTS.

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C O M P L A I N T

1. The jurisdiction of this Court is invoked under Title 28, United States, Section 1342 and under Judicial Code, Section 24 (1) U.S. C., Section 41 (1), this being a suit in equity which arises under the constitution and/or laws of the United States, viz, the Fourteenth Amendment of said Constitution and/or Section 41 and 43 of Title 8 of the United States Code, wherein the matter in controversy exceeds, exclusive of interest and costs, the sum of \$3000.00.

2. The jurisdiction of this Court is also invoked under Title 28, United States Code, Section 1343 and under Judicial Code, Section 24, (14) 28 U.S.C., Section 41 (14), this being a suit in equity authorized by law to be brought to redress the deprivation under color of law, statute, regulation, custom and usage of a state of rights, privileges and immunities secured by the Constitution of the United States, viz., the Fourteenth Amendment of the said Constitution, and of rights secured by laws of the United States providing for equal rights of citizens of the United States and of all persons within the jurisdiction of the United States, viz., Section 41 and 43 of Title 8, of the United States Code.

3. Plaintiffs show further that this is a proceeding for a declaratory judgment and injunction under Title 28, United States Code, Section 2201 and under Section 274 of the Judicial Code for the purpose of determining a question in actual controversy between the parties, to-wit: the question of whether the practices of defendants in denying plaintiffs and other Negro school children of public school age in School District #22 of Clarendon County, South Carolina, on account of their race and color, education which is equal to that furnished white school children of public school

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age and in denying to plaintiffs and other Negro school children on account of race and color, transportation to schools in busses maintained and operated by defendants County Board of Education for Clarendon County, South Carolina, and Board of Trustees of School District #22, while providing such transportation for white children of public school is unconstitutional and void as a violation of the 14th Amendment to the Constitution of the United States, all of which will appear more fully hereafter.

4. Plaintiffs bring this suit as a class action pursuant to Rule 23 A of the Federal Rules of Civil Procedure, on their own behalf and also on behalf of all other persons similarly situated, who represent a class so numerous as to make it impracticable to bring them all before the Court.

5. Plaintiffs, Harry Briggs, Jr., Thomas L. Briggs, Catherine E. Briggs, Thomas Gamble, Thomas Brown, Eurlia Brown, Joe Morris Brown, Minnie M. Corner, William Corner, Daisy Georgia, Julian V. Georgia, H. A. Georgia, Jr., Charlie P. Georgia, Gervine Georgia, Roosevelt Georgia, Leroy Georgia, William Gibson, Jr., Maxine C. Gibson, Harold M. Gibson, Ellen Henry, Joe H. Henry, Joseph Hilton, Morgan Johnson, Gussie S. Johnson, Samuel Johnson, John A. Johnson, Raymon Lawson, Eddie Lee Lawson, Susan Lawson, Willie Lee Oliver, Mary Lee Oliver, William C. Oliver, Daisy Oliver, Lewis Oliver, Jr., Clestine Parson, Shirley B. Ragin, Carrie Y. Ragin, Willien Ragin, Elaine Ragin, Elliott Richardson, Annie L. Richardson, James D. Richardson, Charlie E. Richardson, Dorothy I. Richardson, Donald J. Richardson, Matherine Richardson, Elaine Richardson, Emanuel Richardson, Alberta Richburg, Rebecca Richburg, Lillian Richburg, Hazel Richburg, Marion Richburg, Helen Richburg, Calvin Richburg, Parnust D. Rivers, Lawrence

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B. Rivers, Jr., Dock Robinson, Jr., Willie L. Robinson, Gennette Robinson, Janie Lee Fluddo, Willie M. Stukes, Jr., Gardenia E. Stukes, Lewis W. Stukes, Mary L. Bennett, Lillian Bennett and John L. McKenzie, are Negro children of public school age, citizens of the United States and of the State of South Carolina, residing in School District #22 in Clarendon County, South Carolina and attending the public school maintained and operated within said school district and are minors and bring this action through their parents, guardians and next of kin.

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6. The plaintiffs, Harry Briggs, Eliza Briggs, James Brown, Jr., Theola Brown, Mary Corner, F. Georgia, Elnoria Georgia, Robert Georgia, Carrie Georgia, William Gibson, G. H. Henry, Gladys E. Hilton, Morgan Hilton, Joseph Hilton, Gussie Hilton, Lee Johnson, Bessie J. Johnson, Susan Lawson, Frederick D. Oliver, Mary J. Oliver, Bonnie Parson, Jr., Edward Ragin, Sarah Ragin, Nathaniel Ragin, Theodore Ragin, Lee Richardson, Luerisher Richardson, E.E. Richburg, John H. Richburg, Richard Richburg, Frances Richburg, L. B. Rivers, Charlie Robinson, Lizzie Robinson, Ester F. Singleton, Willie M. Stukes, Sr., Gardenia M. Stukes, Gabriel Tindal and Annie S. Tindal, are the parents, guardians and next of kin of the plaintiffs described in paragraph 5 above. They are taxpayers and residents of School District #22, Clarendon County and bring this action on behalf of and for the school children of public school age, all minors as described in paragraph 5.

7. Defendant, County Board of Education of Clarendon County, South Carolina, exists pursuant to the laws of the State of South Carolina as an administrative department of the State

discharging governmental functions. (Code of Laws of South Carolina of 1942, Section 5316). Defendants A. J. Plowden and W. E. Baker are members of the aforesaid Board and are being sued in their official capacity.

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8. Defendant, L. B. McCord is chairman of the County Board of Education of Clarendon County and County Superintendent of Schools. He holds office pursuant to the laws of South Carolina as an administrative officer of the State, charged with overall supervision and government of the public schools maintained and operated within the County of Clarendon. (Code of Laws of South Carolina of 1942, Sections 5301, 5303, 5306, 5316). He is being sued in his official capacity.

9. Defendant, the Board of Trustees of School District #22 of Clarendon County, South Carolina exists pursuant to the laws of South Carolina as an administrative department of the State, discharging governmental functions, specifically the maintenance and operation of the public schools in District #22 (Code of Laws of South Carolina of 1942, Section 5328). Defendant R. W. Elliott is chairman of the said Board and holds office pursuant to the laws of the State (Code of Laws of South Carolina, Section 5328 and 5343). He is being sued in his official capacity. Defendants J. D. Carson and George Kennedy are members of the said Board and hold office pursuant to Section 5343 of the Code of Laws of South Carolina of 1942. They are being sued in their official capacity. Defendant, J. B. Betchman is the Superintendent of schools of Schools District #22. He is the executive officer of the Board of Trustees of School District #22, charged with the responsibility of maintaining,

managing and governing the public schools in the aforesaid District in accordance with the rules, regulations and policy laid down by the Board of Trustees. He is being sued in his official capacity.

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10. All parties to this action, both plaintiffs and defendants are citizens of the United States and of the State of South Carolina and are resident and domiciled in said State. Defendants, County Board of Education of Clarendon County and the Board of Trustees of School District #22 exists pursuant to the laws of the State as administrative departments of the State of South Carolina.

11. The State of South Carolina has declared public education a State function. The Constitution of South Carolina, Article II, Section 5, provided:

" Free Public Schools--school districts bonded debt graded school districts--The General Assembly shall provide for a liberal system of free public schools for all children between the ages of six and twenty-one years.."

Fursuant to this mandate the General Assembly of South Carolina has established a system of free public schools in the State of South Carolina according to a plan set out in Title 31, Chapter 122 of the South Carolina Code of 1942. Provision has been made for the establishment of separate schools for colored and white persons with the positive duty of maintaining these separate schools under the same general regulations as to management, usefulness and efficiency (Constitution of S. C. 1895, Article 11, Section 7; Code of Laws of South Carolina, Section 5377). The establishment, maintenance and administration of the public school system in Clarendon County, South Carolina

is vested in the County Board of Education, County Superintendent of Education and Board of Trustees and a Superintendent of Schools for each school district of the County. (Constitution of South Carolina 1895, Article II, Sections 1 and 2; Code of Laws of South Carolina 1942, Section 5301, 5316 and 5328).

12. The public schools of the County of Clarendon, South Carolina, are under the direct control and supervision of defendants acting as an administrative department or division of the State of South Carolina. (Code of Laws of South Carolina 1942, Sections 5301 and 5328). Defendants are under a duty to maintain an efficient system of Public Schools in Clarendon County, South Carolina (Code of Laws of South Carolina 1942, Sections 5301, 5303 and 5328).

13. Defendants are under a duty to provide for the transportation of pupils wherever such procedures will contribute to the school system. (Code of Laws of South Carolina 1942, Section 5385). By virtue of the authority invested in them by the laws of the State of South Carolina, defendants have purchased, leased and contracted for the use of a large number of buses, exclusively for the transportation of white school children, Defendants supervise, control and regulate the operation of all of the buses used for the transportation of school children in School District #22 of Clarendon County, South Carolina.

14 Defendants over a long period of years have consistently pursued and maintained and are now pursuing and maintaining the policy, custom and usage of providing free bus transportation for white school children in School District #22 of Clarendon County, South Carolina, and are failing and refusing to provide

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similar free bus transportation for Negro pupils in School District #22 of Clarendon County, South Carolina. Such discrimination is being practiced against the plaintiffs and other Negro children, similarly situated, solely on account of their race and color, and in violation of rights secured under the 14th Amendment to the Constitution of the United States.

15. The public school system in School District #22 Clarendon County, South Carolina, is maintained on a segregated basis.

White children attend the Summerton Elementary School and Summerton High School, Negro children are compelled to attend the Scotts Branch High School, the Liberty Hill Elementary School and the Rambay Elementary School solely because of their race and color. The Scotts Branch High School, Liberty Hill Elementary School and the Rambay Elementary School are unequal to the Summerton High School and the Summerton Elementary School maintained for white children of public school age are superior to the school maintained for Negro children of public school age. In short plaintiffs and other Negro children of public school age in School District #22 are being denied equal educational advantages in violation of the Constitution of the United States.

16. Plaintiffs have filed petitions with defendants requesting that defendants cease discriminating against Negro children of public school age attending public schools in District #22, and defendants have failed and refused to cease discriminating against plaintiffs and the class they represent solely because of their race and color in violation of their rights to equal protection of the laws provided by the Fourteenth Amendment of

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Constitution of the United States.

17. Plaintiffs and others similarly situated are suffering irreparable injury and are threatened by irreparable injury in the future by reason of the act herein complained of. They have no plan, adequate or complete remedy to redress the wrongs and illegal acts herein complained of other than this suit for declaration of rights and an injunction. Any other remedy to which plaintiffs and those similarly situated could be remitted would be attended by such uncertainties and delays as to deny substantial relief, would involve a multiplicity of suits, cause further irreparable injury and occasion damage, vexation and inconvenience not only to the plaintiff and those similarly situated, but to defendants as governmental agencies.

WHEREFORE, plaintiffs respectfully pray the Court that upon the filing of this complaint, as may appear proper and convenient to the Court, the Court advance this cause on the docket and order a speedy hearing on this action according to law, and that upon such hearings:

- (1) That this Court adjudge, decree, and declare the rights and legal relations of the parties to the subject matter herein controversy, in order that such declaration shall have the force and effect of a final judgment or decree.
- (2) That this Court enter a judgment or decree declaring the policy, custom, usage, and practice of the defendants in maintaining public schools for Negro children because of their race and color

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which are in every respect inferior to those maintained for white children is a denial to the Negro children of the equal protection of the laws guaranteed by the Fourteenth Amendment of the United States Constitution and is therefore unconstitutional and void.

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- (3) That this Court enter a judgment or decree declaring that the policy, custom, usage, and practice of the defendants of establishing and maintaining adequate free transportation to and from school for white children while failing to or refusing to provide such bus transportation to Negro children because of their race and color is a denial to the latter of the equal protection of the laws guaranteed by the Fourteenth Amendment of the Constitution and therefore unconstitutional and void.
- (4) That this Court issue a permanent injunction forever restraining and enjoining defendants, and each of them, from making a distinction on account of race and color in maintaining public schools for Negro children which are inferior to those maintained for white children.
- (5) That this Court issue a permanent injunction forever restraining and enjoining the defendants, and each of them, from making a distinction on account of race and color in providing, establishing or maintaining adequate free public transportation for white children while failing to provide adequate free public

transportation for Negro children.

(6) Plaintiffs further pray that the Court will allow them their costs herein and that further additional or alternative relief as may appear to the Court to be equitable and just.

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Harold R. Boulware

Thurgood Marshall

Robert L. Carter

Attorneys for Plaintiffs

1109½ Washington Street  
Columbia, S. C.

15 May, 1950