

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1954

No. 2

HARRY BRIGGS, Jr., Et. Al.,

Appellants,

vs.

R W ELLIOTT, Et. Al,

Appellees

FORM OF DECREE SUGGESTED BY APPELLANTS

Judgment reversed and cause remanded to the District Court for proceedings not inconsistent with this Court's opinion, and entry of a decree containing the following provisions:

(1) Article XI, section 7, of the Constitution of South Carolina, and section 5377 of the Code of Laws of South Carolina of 1942, and other legislative provisions of South Carolina requiring, directing or permitting defendants to maintain racial segregation in public schools in School District No. 1 of Clarendon County, South Carolina, are unconstitutional and of no force and effect;

(2) Defendants, their successors in office, and their agents and employees and all other persons acting under their direction and supervision, are forthwith ordered to cease using race as a basis of determining admission, assignment or attendance in public schools in School District No. 1 of Clarendon County, South Carolina, so that at a time no later than the school term commencing in September, 1955, plaintiffs, and all others similarly situated, will be attending schools on a basis not involving race;

(3) Defendants are ordered to file with the District Court by July 15, 1955, for approval by August 15, 1955, a plan showing what changes they have made in the existing methods of determining the public schools pupils attend so that race no longer will be used as a criterion;

(4) The District Court is to retain jurisdiction to make whatever further orders it deems appropriate to carry out the foregoing.

SUGGESTED DECREE TO BE ENTERED IF THE SUPREME COURT DECIDES THAT IT SHOULD EXERCISE ITS EQUITY POWERS TO PERMIT AN EFFECTIVE GRADUAL ADJUSTMENT TO BE BROUGHT ABOUT BY EXISTING SEGREGATION SYSTEMS TO A SYSTEM NOT BASED ON COLOR DISTINCTION

Judgment reversed and cause remanded to the District Court for proceedings not inconsistent with this Court's opinion, and the entry of a decree containing the following provisions:

(1) Article XI, section 7, of the Constitution of South Carolina and section 5377 of the Code of Laws of South Carolina of 1942 and other legislative provisions of South Carolina requiring, directing or permitting defendants to maintain racial segregation in public schools in School District No. 1 in Clarendon County, South Carolina are unconstitutional and of no force and effect;

(2) Defendants, their agents, employees, successors in office and all other persons acting under their direction and supervision are forthwith ordered to cease using race as a basis of determining admission, assignment and attendance in public schools in School District No. 1, Clarendon County, South Carolina so that beginning of the next school term, (i.e. September, 1955) plaintiffs and all others similarly situated will be attending school on a basis not involving race;

(3) Notwithstanding the foregoing, if the defendants or other responsible officials by August 15, 1955,

(a) show the District Court that the transition to a school system not based on race or color distinctions involves such administrative factors as would cause serious and substantial dislocation in the operation of public schools should admission beginning the next school term be ordered; and

(b) submit a plan to the District Court which, after public hearing is found

(i) will eliminate as soon as feasible but in no event later than September 1, 1956, racial segregation in the public schools presently subject to defendants' authority or control, in School District No. 1, Clarendon County, South Carolina; and

(ii) to provide for an effective commencement of the actual transition (i.e. the admission of some Negroes to non-segregated schools) by the beginning of the next school term (September 1, 1955),

The District Court may allow defendants additional time and make such orders as are necessary to permit the effectuation of such a program.

(4) Defendants are ordered to make detailed periodic reports showing the progress made in carrying out the approved plan;

(5) The District Court under no circumstances will extend the time to effect actual transition to a school system not based on race or color distinctions beyond September 1, 1956.