

No. ~~816~~ ¹⁹⁵¹ Term
~~1953~~ ¹⁹⁵⁴
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BRIGGS ET AL. V. ELLIOTT ET AL.

Note

Appeal from USDC-E.D.S.C. (Parker, Dobie, Timmerman).

This is the case challenging the constitutionality of segregation in South Carolina public schools, which was here earlier this term as No. 273 (memo attached). What has happened since then is this: On Dec. 21, 1951, ^(appellees) ~~XXXX~~ filed with the 3-judge DC a report on what steps they had taken to provide negroes with educational facilities equal to those furnished whites, as required by the ct's original decree of June, '51. The DC forwarded the report to this Ct., which thereupon vacated the DC's judg. and remanded the case to the DC, so that the latter could consider the report and take whatever action it deemed appropriate. 342 US 350 (Jan. 28, 1952). The DC held a hearing on March 3, '52, at which time appellees filed a supplemental report showing what additional steps had been taken since the Dec. 21st report. After considering these two reports, the DC filed a new judg. and opinion on March 13, from which appts appeal directly to this Ct.

The DC found that since last June the appellees "have proceeded promptly and in good faith to comply with the court's decree," so that thericula of white and negro schools have already

been equalized, and physical facilities will be equalized by the fall of this year. Accordingly the ct. concluded:

"There can be no doubt that as a result of the program in which [appellees] are engaged the educational facilities and opportunities afforded Negroes within the district will, by the beginning of the next school year beginning in September 1952, be made equal to those afforded white persons."

Adhering to its view that segregation as such is not unconstitutional, the DC denied appts' request for an injunction abolishing segregation.

Now that the DC has found as a fact that educational facilities in District 22 of Clarendon County will be substantially equal come next September, this case is on a par with No. 436, Brown v. Topeka Bd. of Edu., in raising the constitutionality of segregation of such.*

I am attaching the latest opinion of the DC in case you'd like a fuller description of the steps appellees have taken to equalize the facilities.

NPJ

SWT

* Appts do not challenge the DC's findings that within a few months facilities will be equalized. In this appeal they challenge only the validity of segregation as such.