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# G.I. Joe v. Jim Crow: Legal Battles Over Off-Base School Segregation Of Military Children In The American South, 1962-1964

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G.I. JOE V. JIM CROW: LEGAL BATTLES OVER OFF-BASE SCHOOL SEGREGATION OF  
MILITARY CHILDREN IN THE AMERICAN SOUTH, 1962-1964

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## DEDICATION

To America's current and former Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen. I am honored to be among your ranks.

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## ABSTRACT

Between 1962 and 1964, the U.S. Justice Department, African American military members stationed on southern military bases, and the National Association for the Advancement of Colored People (NAACP) filed six federal civil suits to end off-base segregation of military children in public schools. These cases took place in Alabama, Louisiana, Mississippi, South Carolina, and Virginia. Plaintiffs sought to bring civilian cities near federal military bases into compliance with the U.S. Supreme Court's 1954 *Brown* decision. The presence of federal military bases, which had been integrated since a 1948 Executive Order issued by President Harry S. Truman, provided leverage against ongoing southern resistance to national policy and played a crucial role in ending *de jure* segregation in five southern school districts almost a decade after *Brown* and before other districts in each state fully desegregated. Although these cases were historic in outcome, they are underappreciated in scholarship.

This dissertation assesses the local and national significance of each case. Analysis of these cases addresses questions about how the Kennedy administration used southern military bases to advance social change; how African American military members and their NAACP attorneys extended the *Brown* fight by launching a new type of legal challenge to school segregation; how segregationists in southern military communities continued to resist *Brown* while simultaneously recognizing the importance of military presence in their cities; and what influence these cases had on the legal and social trajectory of public school desegregation in the South.



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## CHAPTER 1

### INTRODUCTION

In his 1995 autobiography, *My American Journey*, former Secretary of State Colin L. Powell, recalled the personal experience of being an African American soldier stationed in the South during the early 1960s. On base, Powell was a respected captain who led black and white soldiers in an integrated unit. Off base, however, Powell was treated as a second-class citizen and subjected to the injustices of segregation. He commented later, “For me, the real world began on the [base]. I regarded military installations in the South as healthy cells in an otherwise sick body.”<sup>1</sup>

Powell worked in a racially inclusive environment; his base and all others had been integrated since 1948, when President Harry S. Truman issued Executive Order 9981 which mandated desegregation and equal opportunity within the armed forces. This action made federal military bases, and all organizations and places on them, into integrated spaces—even in the segregated South. Later, in 1951, Congress, with support from several pro-segregation members, sent a defense housing bill to President Truman that included a provision to segregate federally operated schools on military bases. President Truman vetoed it in keeping with the spirit of his earlier executive order.<sup>2</sup>

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<sup>1</sup> Colin L. Powell with Joseph E. Persico, *My American Journey* (New York: Random House, 1995), 108.

<sup>2</sup> Beginning in 1948, Executive Orders 9980 and 9981 of 1948 required racial desegregation of the federal civilian workforce and the U.S. armed forces. See “Executive Orders 9980 and 9981,” Harry S. Truman Library and Museum, accessed September 21, 2014, [www.trumanlibrary.org/9981.htm](http://www.trumanlibrary.org/9981.htm); and “Memorandum of Disapproval of Bill Requiring Segregation in Certain Schools on Federal Property,” *Ibid*, accessed March 1, 2016, [www.trumanlibrary.org/publicpapers/index.php?pid=548](http://www.trumanlibrary.org/publicpapers/index.php?pid=548).

In the early 1960s, it was routine for African Americans living in the South to face daily humiliations resulting from legal segregation and discrimination. However, for African American military members, like Powell, and their families, the combination of Jim Crow laws and President Truman's order created a paradoxical living experience as residents of desegregated bases that were surrounded by segregated civilian communities.

This dissertation focuses on that paradox. In his 2012 presidential address to the Southern Historical Association, Orville Vernon Burton implied that scholars are attracted to southern history because it is rich in paradox—situations combining contradictory features that make them more intriguing than fiction. As an example, Burton described the unique and strange social environment created by the juxtaposition of southern military bases and cities and towns that host them. He stated: “Despite [being surrounded by a political climate of southern conservatism], these bases form a kind of heartland of socialism, providing government-run single-payer health care, pensions, day care, education, job training, antidiscriminatory [sic] housing, shopping, and worship.”<sup>3</sup>

Burton suggested that, because of their federal status and physical separation from the local community, military members stationed in the South are able to live under more socially moderate conditions than off-base residents. However, in the early 1960s, because many southern military installations did not offer on-base schools, African American military members' children, accustomed to integration on base, were forced to attend segregated local schools. From 1962 to 1964, the federal government, African American military parents, and attorneys from the National Association for the

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<sup>3</sup> Orville Vernon Burton, “The South as ‘Other,’ the Southerner as Stranger,” *The Journal of Southern History*, 1 (February 2013): 18.

Advancement of Colored People (NAACP) sought to resolve this paradox by bringing six legal challenges to public school segregation of military children in the South.

The cases were *U.S. v. County School Board of Prince George* (Virginia, 1962), *U.S. v. Mobile County School Board* (Alabama, 1963), *U.S. v. Biloxi Municipal School District and Gulfport Municipal Separate School District* (Mississippi, 1963), *U.S. v. Bossier Parish School Board* (Louisiana, 1963), *Lemon v. Bossier Parish School Board* (Louisiana, 1964), and *Randall v. Sumter School District 2* (South Carolina, 1963). They centered on five southern military communities and constituted the first time that federal civil action against local discrimination was taken on behalf of military children. In each case, the plaintiffs attempted to challenge the legality of public school segregation. The cases demonstrated that the presence of federal military bases in southern communities forced the issue of state and local noncompliance with national policy and played a pivotal role in bringing *de jure* public school segregation to an end in five southern school districts.

Mid-twentieth-century federal legal battles over public school segregation centered on the U.S. Supreme Court's seminal ruling in the 1954 *Brown v. Board* case. The Court famously proclaimed: "In the field of public education the doctrine of 'separate but equal' has no place."<sup>4</sup> This decree ended more than a half century of constitutional protection for racial segregation in public schooling. It did not, however, address the issue of implementation.

One year after its initial ruling, the Court added the consequential but imprecise statement that "all deliberate speed" be taken to accomplish public school desegregation.<sup>5</sup>

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<sup>4</sup> *Brown v. Board*, 347 U.S. 483 (1954).

<sup>5</sup> *Brown v. Board*, 349 U.S. 294 (1955).

Therein lay the challenge. Conservative officials still resisted and white supremacy and racial segregation remained the law of the land in southern states. Left to their own devices, they would have continued to ignore *Brown*. It would take many more cases in federal courts before southern towns and cities were compelled to abide by the Supreme Court's decision. *Brown* implementation was a national process that took place in local episodes of racial struggle, political entanglement, and social paradox. Six post-*Brown* episodes took place because the federal government, military parents, and their NAACP attorneys sought to expand the civil rights of military children.

In the 1960s, the fight over civil rights related largely to the way in which the federal government, individual states, and local communities saw their citizens through the eyes of the law. Legal scholar Mae M. Ngai explained that historical analysis of American citizenship is a study of “statutory structures, judicial genealogies, and administrative enforcement” of legal reform.<sup>6</sup> Ngai's observation relates to these six cases because each one raised concerns about the structure of Jim Crow, the legacy of *Brown*, and the trials of social transformation.

Historical analysis of these six cases answers significant questions. First, what motivated the federal government to pursue legal action on behalf of military children? Second, how did the federal government use its military bases in the South as a way to start *Brown* implementation at local levels? Third, how did African American military members and their NAACP legal representatives work together to combat school segregation in southern military communities? Fourth, how did conservative officials in southern military communities continue to resist desegregation for military children while

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<sup>6</sup> Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, NJ: Princeton Univ. Press, 2005), 3.

simultaneously recognizing the importance of military bases in their cities?<sup>7</sup> Finally, what influence did these six cases have on the legal and social trajectory of public school desegregation in the South?

This dissertation is organized around the six cases. Chapters Two through Six are dedicated to the cases and the states in which they took place. Chapters Two through Four are assessments of the cases from Virginia, Alabama, and Mississippi. These chapters are arranged chronologically based on when each suit was initially filed. Chapters Five and Six are analyses of the two cases from Louisiana and the one suit from South Carolina.

Chapter Two is an assessment of *U.S. v. County School Board of Prince George* (Virginia) which began in September of 1962—three months after a federal court of appeals sided with U.S. Air Force veteran James Meredith in his high-profile, two-year legal fight to desegregate the University of Mississippi. In this chapter, I argue that the presence Fort Lee, Virginia in Prince George County allowed the Kennedy administration to launch a limited yet unprecedented legal challenge against off-base discrimination aimed at military members and their families.

Chapters Three and Four are evaluations of *U.S. vs. Mobile County School Board* (Alabama) and *U.S. v. Biloxi Municipal School District and Gulfport Municipal Separate School District* (Mississippi) which opened in January of 1963—six months after the NAACP, at its national convention in Atlanta, Georgia, called for increased federal

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<sup>7</sup> From 1951 to 1962, officials from these five school districts willingly accepted over seventeen-million dollars in federal funding to educate military children. In every case, these funds accounted for twenty-five to fifty percent of each district's annual operating expenses. Additionally, the federal government provided more funds per military child to the school districts than the districts spent on their own civilian pupils. School administrators then applied these national funds to help impose local segregation on military children. See *Administration of Public Laws 874 and 815: Twelfth Annual Report of the Commission of Education* (Washington, D.C: U.S. Department of Health, Education, and Welfare, 1962).

commitment to civil rights reform.<sup>8</sup> These chapters have similar arguments to Chapter Two in that the Kennedy administration used federal military bases as leverage to end to *de jure* school segregation in southern military communities.

Chapter Five is an assessment of two directly connected cases from Louisiana. They are *U.S. v. Bossier Parish School Board*—launched by the U.S. Justice Department in January of 1963—and its follow-on suit, *Lemon, et al, v. Bossier Parish School Board*, initiated by African American military members and NAACP attorneys in December of 1964. The *Lemon* case was the only one of the six that began after the assassination of President John F. Kennedy. This chapter begins with a similar argument as Chapters Two through Four in that the U.S. Justice Department used a nearby federal military base to challenge local resistance to the *Brown* decision. However, responsibility for this strategy later transitioned in the *Lemon* case from the federal government to individual service members and the NAACP as they continued the U.S. Justice Department’s effort by filing their own suit against an off-base school district.

Chapter Six is an evaluation of *Randall, et al, v. Sumter School District 2* (South Carolina) which opened in September of 1963—one day before white supremacists bombed an African American church in Birmingham, Alabama, killing four young girls in the process. This case started before the *Lemon* suit, but its analysis is in a subsequent chapter as not to separate the *Bossier* and *Lemon* cases. In this chapter, I argue that airmen from Shaw Air Force Base, South Carolina, aided by their NAACP legal team, broke new legal ground by becoming the nation’s first African American military families to represent themselves in an ongoing legal strategy to use military bases and

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<sup>8</sup> “NAACP Convention in Atlanta,” Digital Library of Georgia, accessed March 19, 2016, [http://crdl.usg.edu/events/naacp\\_convention\\_atlanta](http://crdl.usg.edu/events/naacp_convention_atlanta).

military employment as leverage against public school segregation during the early 1960s.

In Chapter Seven, I conclude that the federal government, African American military members, and their NAACP attorneys were able to use southern military bases in a novel, legal strategy to extend civil rights protection into neighboring segregated communities. They highlighted the vital role military bases played in the economies of the affected areas. They made their case by illuminating direct and indirect connections between military readiness for the Cold War and the quality of treatment military members received in local communities, and they compelled conservative officials to start taking serious steps towards realization of *Brown*.

Indeed, these six cases contributed to bringing an end to *de jure* public school segregation in five southern military communities. More importantly, they proved that, in the early 1960s, G.I. Joe was a formidable foe against Jim Crow.



## CHAPTER 2

### FORT LEE AND PRINCE GEORGE COUNTY, VIRGINIA

Fort Robert E. Lee, Virginia, named for commanding general of the Confederate army, is a U.S. Army base twenty-five miles south of Richmond. This federal military post has stood near a confluence of the James and Appomattox Rivers since the United States entered World War I. The rivers squeeze Fort Lee and its neighboring communities into a geographic embrace with Prince George County to the south and east, and the city of Petersburg to the west.

More than geography shaped Fort Lee's relationship with Prince George County in the early 1960s. Legal competition over federal authority, state sovereignty, and local control began to push and pull at Fort Lee and Prince George County in September of 1962 when the U.S. Justice Department, Commonwealth, and municipal officials began to clash over off-base segregated education of military children. Ironically, the base that bears the name of a Virginian who fought to dissolve the United States served as the federal government's most effective agent in a fight to dissolve *de jure* public school segregation in one part of the Old Dominion. Desegregated Fort Lee was a socially and economically influential national space in segregated southern Virginia. Its presence there allowed the Kennedy administration to launch a limited yet unprecedented legal challenge against off-base discrimination aimed at military members and their families.

Space in and around Fort Lee had curious parameters related to race and citizenship in the 1950s and 1960s. President Harry S. Truman ordered military desegregation in 1948. This move began to set the base apart legally, socially, and culturally from surrounding communities where Commonwealth and municipal laws buttressed racial barriers and reinforced white privilege.

Carl Williams first encountered Fort Lee's strange spatial and racial arrangement with its neighbors in 1958. His family was African American and stationed at Fort Lee. Carl was the school-aged son of an Army officer who had led both white and black soldiers in the Korean War and on Fort Lee. Despite Carl's youth, his experience as a black military child in southern Virginia in the late 1950s opened his eyes to the concepts and practices of social paradox and racial incongruity. Nearly five decades after his childhood experiences at Fort Lee, Williams recalled:

When Dad got transferred to Fort Lee we lived in town in Petersburg—segregation was the rule of the day there—the schools were segregated even after *Brown vs. Board of Education*...Eventually we were able to live on the military base. There was no segregation by race on the military base. Swimming pools. All...facilities were available on an equal, nondiscriminatory basis since the Truman edict. But there were no schools on a military base so when we went to the schools in town—we would be bused to the black schools and the white students would be bused to white schools.<sup>9</sup>

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<sup>9</sup> Telephone interview with Carl Williams, May 23, 2007, by Carol Lynn McKibben. As quoted in McKibben, *Racial Beachhead: Diversity and Democracy in a Military Town Seaside, California* (Stanford, CA: Stanford Univ. Press, 2012), 87.

Ideas about Jim Crow's future in education dominated young Williams's formative mind and Virginia's legal sphere. After *Brown*, Virginia had become a crowded legal battlefield where federal, state, and local combatants gathered to engage one another over segregation in public education. From the late 1950s through the mid-1960s, conservative white Virginians adopted a policy of mass resistance against the U.S. Supreme Court and federal authority by asserting interposition, and enacting school-closing laws. Jim Crow's defenders in Virginia school districts defied federally forced integration by completely abandoning public education or by simply ignoring *Brown*.<sup>10</sup> The former was more extreme than the latter but not uncommon. The strategy of massive resistance related directly to what took place around Fort Lee.

Massive resistance laws, passed by the Virginia General Assembly in 1956, empowered the state legislature to cut off state funding to any school system which desegregated. Additionally, these statutes authorized Virginia's governor to close any public school facing court-ordered desegregation. The National Association for the Advancement of Colored People (NAACP) used federal courts to push for public school desegregation in Charlottesville, Norfolk, and Warren County in 1958. In response, Governor J. Lindsey Almond, Jr., a conservative Democrat and early supporter of massive resistance, closed the affected public schools while dedicated segregationists organized to build private alternatives to public education.<sup>11</sup>

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<sup>10</sup> Matthew D. Lassiter and Andrew B. Lewis, "Massive Resistance Revisited: Virginia's White Moderates and the Byrd Organization," in Lassiter and Lewis, eds., *The Moderates' Dilemma: Massive Resistance to School Desegregation in Virginia* (Charlottesville: Univ. of Virginia Press, 1998), 1.

<sup>11</sup> *Ibid*, p. 7.

Public school doors closed, and massive resistance became a platform from which segregationists launched their counterattack against perceived federal infringement on state and local education in Virginia. Ironically, massive resistance cut off public school education for thousands of white students in Virginia. Consequently, the federal government initially leaned its legal shoulders into closed schools' doors on behalf of Virginia's white students.

In 1959, a U.S. district court and the Virginia Supreme Court ruled that it was irresponsible to leave almost thirteen-thousand white students without public schooling for the sake of circumventing desegregation. Despite the courts' decisions, influential conservative Virginians still resisted desegregation. In Prince Edward County, Virginia (seventy miles west of Fort Lee in the heart of Virginia's rural and conservative Southside region), staunch segregationists poured public resources into private all-white schools while depriving the district's seventeen-hundred African American students of public schooling from 1959 to 1964.<sup>12</sup>

As the Kennedy administration took office in early 1961, it faced massive resistance from conservative whites and heightened expectations from African American constituents to deliver on its inaugural promise to advance human rights at home and abroad.<sup>13</sup> The massive resistance strategy in Virginia represented the most radically conservative response to *Brown* in Virginia. Although limited in geographic scope, the political influence of Prince Edward County's massive resistance efforts extended beyond

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<sup>12</sup> Amy E. Murrell, "The 'Impossible' Prince Edward Case: The Endurance of Resistance in a Southside County, 1959-64," in *The Moderates' Dilemma*, p. 159.

<sup>13</sup> "President Kennedy's Inaugural Address, January 20, 1961," John F. Kennedy Presidential Library and Museum, accessed September 7, 2015, [www.jfklibrary.org/Research/Research-Aids/Ready-Reference/JFK-Fast-Facts/Inaugural-Address.aspx](http://www.jfklibrary.org/Research/Research-Aids/Ready-Reference/JFK-Fast-Facts/Inaugural-Address.aspx).

the county's towns of Farmville and Prospect. The rebellious school closings tested the limits of the Kennedy administration's commitment to civil rights and desegregation in Virginia. In the process, pro-segregationists silenced local moderate voices and dared Washington to intervene.

The Kennedy administration did attempt to intervene. In the spring of 1961, U.S. Attorney General Robert F. Kennedy petitioned to name the federal government as a co-plaintiff in the NAACP's federal suit to reopen Prince Edward County's schools. Kennedy's move was a way to explore the limits of federal power in legal action against local discrimination. Later, Assistant U.S. Attorney General Burke Marshall shared his concerns about the availability of federal tools to take on state-sanctioned segregation in the early 1960s. Marshall stated:

It is necessary to be realistic about the limitations on the power of the federal government to eliminate racial discrimination...They derive from two aspects of the federal system: the control in state institutions over normally routine decisions affecting the daily lives of all citizens, and the traditional and constitutional reluctance of the federal courts to intrude... [W]hen the issue of segregation is involved, the state government controls make it everlastingly tedious, sometimes seemingly impossible, to superimpose federal standards upon the administration practiced by local institutions of government.<sup>14</sup>

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<sup>14</sup> Burke Marshall, *Federalism and Civil Rights* (New York: Columbia Univ. Press, 1964), 3-4.

Indeed, in the early 1960s, racial discrimination was a routine, legal system that affected the lives of all Virginians. With regard to the U.S. Justice Department's initial attempt to challenge this system, the court did prove reluctant to allow the federal government to intrude. U.S. District Court Judge Oren R. Lewis denied the U.S. Justice Department's motion to be a co-litigant because he saw no clear congressional guidance on how the federal government can demonstrate national interest in a local issue of this nature.<sup>15</sup> With federal support stalled, Prince Edward County's African American parents, the NAACP, and the Student Nonviolent Coordinating Committee waged their own anti-massive resistance campaign. Their unrelenting efforts attracted significant national publicity and moved the White House to reconsider ways in which it could support desegregation efforts in Virginia.<sup>16</sup>

A strategy for national support to local civil rights in Virginia came about gradually. Schools remained closed in Prince Edward County for almost four years before the White House found another way to address the situation. The U.S. Justice Department saw a possibility in Prince George County.<sup>17</sup> Instead of abandoning public schooling as in Prince Edward County, Prince George County's white conservative leaders simply ignored federal calls for desegregation. Schools remained open but segregated. Despite different strategies, both school districts resisted *Brown*. Beginning

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<sup>15</sup> Amy Tillerson-Brown, "'Grassroots Schools' and Training Centers in the Prospect District of Prince Edward County, 1959-1964," in Terence Hicks and Abul Pitre, eds., *The Educational Lockout of African Americans in Prince Edward County, Virginia (1959-1964): Personal Accounts and Reflections* (Lanham, MD: Univ. Press of America, 2010), 22.

<sup>16</sup> In the summer of 1963, President Kennedy ordered the establishment of a system of free schools for over fifteen-hundred black students and a small number of white students in Prince Edward County. Desegregated public schools opened in the district in the fall of 1964 after the U.S. Supreme Court declared that Prince Edward County leaders violated the Fourteenth Amendment. *Ibid*, p. 163.

<sup>17</sup> Replies to Interrogatories as Directed to Defendants, *U.S. v. Prince George County School Board*, 221 F. Supp. 93, U.S. District Court E.D. Virginia, Richmond Division, June 24, 1963.

in 1962, the Kennedy administration determined that public school segregation in Prince George County was unacceptable and required federal intervention.

Some of Prince George County's African American students were able to attract discrete White House support during a time when the Kennedy administration held a reluctant posture on civil rights.<sup>18</sup> This reluctance revealed itself in Prince Edward County as the Kennedy administration halted its effort there after a federal judge disallowed its petition to join the case as a co-plaintiff. The U.S. Justice Department did not press the matter in appeal. Instead, the Kennedy administration looked to Prince George County as a place where it could act on behalf of a specific group of students in the district. Why did these local children garner national support? Much had to do with where and when their parents worked.

While Prince Edward County's school board brazenly shut its doors to more than eleven-hundred African American students, the Kennedy administration began a desegregation fight for one-tenth of that number in Prince George County because of Fort Lee. Harold Hutchinson was one of those children. In the summer of 1962, Hutchinson and his friends—Liza Jean Pfander and Ginger Downey—enjoyed vacation activities together. The three soon-to-be second graders read about astronauts and space travel in a summer reading club at their neighborhood library. They enhanced their reading experiences by playing together on a small replica of the National Aeronautics and Space Administration's *Friendship 7* spacecraft in front of the library.<sup>19</sup>

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<sup>18</sup> Legal historian Mary L. Dudziak reflected on the Kennedy administration's early reluctance towards civil rights reform. She stated: "A posture of reluctant engagement characterized President Kennedy's response to the [civil rights] movement during the first two years of his presidency, until 1963, when he embraced civil rights and appeared to make that cause his own." See Mary L. Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy* (Princeton, NJ: Princeton Univ. Press, 2000), 155.

<sup>19</sup> *Fort Lee Traveller*, July 19, 1962: 4.

This group of three friends lived in the same neighborhood and was to attend Prince George County schools when summer vacation ended at the beginning of September, 1962. Despite living in the same area and entering the same grade, the three playmates were bound for different schools in the fall. Hutchinson, Pfander, and Downey lived on Fort Lee as children of soldiers. Hutchinson was an African American child, and Pfander and Downey were white.

The children's integrated existence on base in the early 1960s was similar to Carl Williams's in the late 1950s. Black and white children passed summer vacation by swimming together at the base pool, watching movies side-by-side at the base theater, and competing on integrated teams in the base's youth athletic league. Such interracial activities were nearly impossible in public spaces immediately off-base. Fort Lee's work environment was also socially and racially distinct from Prince George County's. While off-base residents worked behind a wall of racial separation, Hutchinson's Pfander's, and Downey's parents served on a base that had been removing racial barriers since 1948.

Fort Lee was home to the U.S. Army Quartermaster School and Logistics Management Center. The base's mission was to provide career and specialty training to the Army's military and civilian logisticians of all ranks. There were fifty-six hundred military members and two-thousand Army civilian employees assigned to Fort Lee in 1962. The federal base was the largest single employer in Prince George County.<sup>20</sup>

There was an inconsequential number of federal employees in Prince Edward County in 1962. Fort Lee's seventy-seven hundred national security professionals (plus their families), however, constituted the most sizeable community in the Prince George

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<sup>20</sup> Complaint, *U.S. v. Prince George County School Board*, September 14, 1962.



County. These numbers prompted the U.S. Justice Department to begin a legal challenge against school segregation in Prince George County. On September 14, 1962, U.S. Attorney General Robert F. Kennedy filed a federal civil suit in Richmond's U.S. District Court against Prince George County's school board and the Commonwealth of Virginia.<sup>21</sup>

Kennedy frequently delegated signature authority for civil suits to subordinate officials within the Justice Department. On this occasion, however, he personally signed the federal government's official complaint against a local school board. Kennedy's signature marked the federal government's vested interest in improving a local civil rights situation that affected national security. The national security perspective provided the Kennedy administration with grounds to attack segregation in Prince George County.

The Kennedy administration's grievance against the school board was both unprecedented and limited. There were one-hundred-and-seventeen African American military children from Fort Lee whom Prince George County school officials forced to attend segregated schools in nearby Petersburg. The federal government's complaint was on their behalf and any subsequent African American pupils whose parents lived and worked on Fort Lee.

This suit marked the first time the Kennedy administration used a federal military installation in a legal strategy against local discrimination. Use of the base also showed the White House's narrow perspective on furthering civil rights in this case. U.S. Attorney General Robert Kennedy asserted that Prince George County's school board "unconstitutionally discriminate[d] against the dependents of Negro military

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<sup>21</sup> Ibid.

personnel...because of their race, thereby causing irreparable injury to [the federal government], consisting of impairment” to individual military service and overall national defense.<sup>22</sup>

Denied earlier by Judge Lewis’s opinion in the Prince Edward County case, the U.S. Attorney General wanted to make clear that Prince George County’s segregated schools harmed African American service members, and thus, reduced national security. The federal government claimed that there was clear national interest in this case. U.S. Attorney General Kennedy reinforced this point by issuing a public statement three days after he filed suit. He announced:

The purpose of the suit is to seek an end to unconstitutional school segregation in an area where such segregation directly affects the armed forces. It makes no sense that we should ask military personnel to make sacrifices and serve away from home and at the same time see their children treated as inferiors by local requirements that they attend segregated schools. It is even more incongruous considering that these school systems are supported by [national] public funds.<sup>23</sup>

The U.S. attorney general’s statement affirmed three critical federal positions in this case. First, that the U.S. Justice Department sought to desegregate Prince George County’s schools only for Fort Lee’s military children. Second, that as it affected military children, off-base racial discrimination weakened national defense. Finally, that

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<sup>22</sup> Ibid.

<sup>23</sup> *Southern School News*, October 1962: 2.

it was constitutionally paradoxical for the federal government to fund a public system that discriminated against military members and their families.

These confined themes were essential to the Kennedy administration's approach to the case. The White House shied away from an all-out assault on southern segregation. Fort Lee and Prince George County afforded the Kennedy administration with an opportunity to exercise restraint as it pursued specific local civil rights for a limited number of federally connected children.

Fort Lee's children represented a physical connection between local and national interests in Prince George County schools. They also stood at a financial intersection between Washington, D.C. and Prince George County because the federal government augmented local funds to support off-base education for military children. The U.S. attorney general was keenly aware of the amount of federal funds used in Prince George County for Fort Lee's children.

Robert Kennedy publicized the federal government's financial contribution in his initial complaint. The U.S. Department of Health, Education, and Welfare (HEW) paid more than two-and-a-half million dollars to the school board from 1951 to 1961 to construct, maintain, and operate local schools.<sup>24</sup> There were over eighteen-hundred military children in the Prince George County school system from a total population of over forty-six hundred. Fort Lee's children represented less than half of Prince George County's student population. Yet, HEW's financial contribution constituted almost fifty percent of Prince George County's school board budget in 1961.<sup>25</sup>

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<sup>24</sup> Complaint, *U.S. v. Prince George County School Board*, September 14, 1962.

<sup>25</sup> Replies to Interrogatories as Directed to Defendants, *U.S. v. Prince George County School Board*, June 24, 1963.

Congress passed impact aid legislation (Public Laws 815 and 874) in 1950 to assist local school districts with construction and cost of public educational activities affected by federal defense efforts. These laws intended to make up for tax revenue local school districts lost from land occupied by federal military bases.<sup>26</sup> The Kennedy administration was able to lean on Public Laws 815 and 874 in Prince George County to push its way into focused civil rights intervention.

The U.S. Justice Department's financial argument was part of a multi-department strategy to defend civil rights for military children in the South. The Departments of Defense, Justice, and HEW proposed to use national funding for local leverage. HEW Secretary Abraham Ribicoff opened the strategy in March of 1962 when he announced that school segregation was unacceptable under Public Laws 815 and 874 and that the administration would take appropriate steps to provide integrated schools to Department of Defense children in some segregated school districts in the South with military bases.<sup>27</sup> Six months later, in September of 1962, the U.S. Justice Department took its first step as part of this strategy with its desegregation suit against the Prince George County School Board.

U.S. Attorney General Kennedy emphasized Washington's monetary stake in the county's schools. He also declared that the suit would not threaten federal assistance to the county's schools.<sup>28</sup> Despite this assurance, local officials recognized that funding was of undeniable importance in their schools. This looming reality prompted the school board to call a special meeting on October 5, 1962. Federal funding and the law suit

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<sup>26</sup> Morris J. MacGregor, *Integration of the Armed Forces, 1940-1965* (Washington, D.C.: Center for Military History, 1989), 487.

<sup>27</sup> *Ibid*, p. 596.

<sup>28</sup> *Southern School News*, October 1962: 2

were the meeting's only agenda items. Six board members attended. They included James E. Kilbourne (member), M.R. Lilley (member), and James O. Morehead (superintendent and clerk).<sup>29</sup>

The Board reacted as though the 444 U.S. Attorney General Kennedy personally placed Washington at odds with them, their community and the way they managed the local school system by calling them out in federal court. They needed quality legal representation to confront the nation's chief law enforcement officer who, in their opinion, overstepped his authority by intervening in what they considered a local matter. The Board agreed to retain John S. Battle and F.L. Wyche from the Richmond law firm Battle, Neal, Harris, Minor, and Williams.

Battle was senior partner and former Virginia governor (1950-1954). Ironically, he had served on the U.S. Commission on Civil Rights under President Dwight D. Eisenhower.<sup>30</sup> His firm had represented Charlottesville's school board in its massive resistance crisis from 1958-1959.<sup>31</sup> That this small southern Virginia school district enlisted its state's former governor as legal counsel to oppose the U.S. Attorney General underscored the case's potential weight in the possible balance of public school segregation beyond Fort Lee and Prince George County.

Discussions about funding dominated the Board's morning proceedings. Members reviewed county-by-county analysis of federal impact funds received for teachers' salaries under Public Law 874 in Virginia for 1960-1961. The Commonwealth

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<sup>29</sup> Prince George County School Board Minutes, October 5, 1962.

<sup>30</sup> Peter R. Henriques, "John S. Battle: Last Governor of the Quiet Years," in *The Governors of Virginia, 1860-1978*, Edward Younger and James Tice Moore, eds. (Charlottesville: Univ. Press of Virginia, 1982), 320.

<sup>31</sup> Andrew B. Lewis, "Emergency Mothers: Basement Schools and the Preservation of Public School in Charlottesville," in *The Moderates' Dilemma*, p. 72.

collected almost eight-million dollars from Washington to help pay teachers who educated military and federal children. These funds augmented teachers' average annual pay by eight-hundred-and seventy-two dollars. The impact was even higher in Prince George County where over one-hundred and fifty educators taught military children. The federal government had contributed one-hundred and ninety-one thousand dollars to the county for teacher pay for academic year 1960-1961. These funds increased recipients' annual salary by almost thirteen-hundred dollars.<sup>32</sup> Prince George County teachers' average annual salary in the early 1960s around forty-five hundred dollars.<sup>33</sup>

Although Attorney General Kennedy vowed that this suit would not endanger the county's federal funds, board members still showed concern. Superintendent Morehead, in particular, realized that a potential reduction in pay by almost thirteen-hundred dollars per teacher per year would cause major difficulties. Morehead closed the meeting by asking members to consider the board's funding position.

The superintendent explained: "If the United States of America and in particular the Department of Justice are successful in their pending litigation against me as an individual and the Prince George County School Board, you can easily see the implications throughout Virginia and the entire nation when federal funds have been received and utilized for school purposes."<sup>34</sup> Morehead was the county's chief educational administrator. He was responsible for turning budgets, plans, and policies into practice. The superintendent's closing remarks implied that the board needed to

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<sup>32</sup> Prince George County School Board Minutes, October 5, 1962.

<sup>33</sup> Ibid, April 23, 1963.

<sup>34</sup> Ibid.

consider carefully the potential costs and benefits of keeping Fort Lee's children in racially separated schools.

While Prince George County officials worried, Commonwealth leaders acted. Virginia's attorney general rebuffed his federal counterpart on October 8, 1962 by personally signing a motion to dismiss the case. Robert Y. Button had been Virginia's attorney general for less than a year. He was also as a conservative Democrat who had served in the state senate from 1945-1960. As a senator, Button had backed massive resistance. He was also a member of the state's Commission of Education which crafted Virginia's defiant response to *Brown*.<sup>35</sup> As Commonwealth attorney general, Button prepared Virginia's first official response to what he saw as federal overreach in Prince George County. He claimed that the Kennedy administration: 1) failed to identify a solvable problem, 2) named the Commonwealth as a co-defendant without justification, 3) omitted the Virginia Pupil Placement Board as a co-defendant, and 4) provided insufficient legal reasoning for the suit.<sup>36</sup>

Button questioned the Kennedy administration's legal specificity and constitutional authority. His first argument suggested that segregation was a matter for state and local governments. Button's second and third points curiously implied that the Kennedy administration was erroneous in naming the Commonwealth as a co-defendant. He asserted that the state's Pupil Placement Board, not the governor's administration, was responsible for student assignments.

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<sup>35</sup> Frank B. Atkinson, *The Dynamic Dominion: Realignment and the Rise of Two-party Competition in Virginia, 1945-1980* (Lanham, MD: Rowman & Littlefield Publishers, 2006), 130.

<sup>36</sup> Commonwealth Motion to Dismiss, *U.S. v. Prince George County School Board*, October 8, 1962.

The Pupil Placement Board was a state centralized body that assigned, enrolled, or placed students in Virginia's public schools. The Virginia State Assembly created the Board in 1956 as part of its massive resistance response to *Brown*. The Board removed local authority for pupil placement from school districts and placed it in Richmond's hands. This move allowed the governor to deny any changes to school segregation.<sup>37</sup> Although Button asserted that the federal government was technically inaccurate in naming the Commonwealth as a co-defendant, the Pupil Placement Board still answered to the governor while it managed statewide transfer requests from black parents for their children to attend all-white schools.

Button's final point was in keeping with the judicial logic that U.S. District Court Judge Lewis applied a year earlier in the Prince Edward County case. Judge Lewis disallowed the Kennedy administration as a co-plaintiff in that desegregation case because it failed to sufficiently demonstrate federal interests in local schools. Button's position alluded to the idea that similar reasoning could disqualify the federal government as a legitimate plaintiff in Prince George County.

The Prince George County School Board also disputed legitimacy of the federal government's claims. Its counsel issued the Board's own dismissal motion. The board's attorney John Battle made three arguments similar to Button. He asserted that the U.S. Attorney General: 1) was wrong in his belief that the school board could carry out desegregation, 2) had no congressional authority to file suit, and 3) failed to call the state's Pupil Placement Board as a party in this suit.<sup>38</sup> Battle's first point separated his

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<sup>37</sup> Lassiter and Lewis, "Massive Resistance Revisited," in *The Moderates' Dilemma*, p. 7.

<sup>38</sup> County School Board Motion to Dismiss, *U.S. v. Prince George County School Board*, October 8, 1962.



motion from Button's but it continued to question the grounds on which the federal government brought suit.

U.S. Attorney General Kennedy had alleged that Virginia and Prince George County violated the equal protection clause of the U.S. Constitution's Fourteenth Amendment by forcing Fort Lee's African American military children to attend segregated schools in the nearby city of Petersburg.<sup>39</sup> Battle rejected this claim. He contended that only affected individuals (not the U.S. government) could assert Fourteenth Amendment protection.<sup>40</sup> Battle made an innovative move by questioning whether the federal government could claim Fourteenth Amendment protection for individuals. The U.S. Justice Department's complaint, on the other hand, implied that Fort Lee's affected African Americans were simultaneously individuals and members of a federal corporate body that qualified for Fourteenth Amendment defense provided by the U.S. Attorney General.

Both plaintiff and defendant were raising new questions on how to interpret the Fourteenth Amendment. The federal government tried to participate as a litigating amicus in previous suits.<sup>41</sup> Nevertheless, individual citizens remained principal plaintiffs in these earlier cases, and no litigant had a significant federal link. In the Prince George County case, however, the U.S. Attorney General chose to intervene in the most direct way by naming the federal government as primary complainant. The U.S. Justice

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<sup>39</sup> Complaint, *U.S. v. Prince George County School Board*, September 14, 1962.

<sup>40</sup> Prince George County School Board Motion to Dismiss, *U.S. v. Prince George County School Board*, October 8, 1962.

<sup>41</sup> In the spring of 1961, the U.S. Justice Department made the federal government a party to desegregation suits in Louisiana's St. Helena and East Baton Rouge parishes. The federal government successfully entered these cases as a friend of the court. In the Prince Edward case, however, the U.S. attorney general wanted to intervene in a more direct way as a co-plaintiff. See J.W. Peltason, *Fifty-Eight Lonely Men: Southern Federal Judges and School Desegregation* (Urbana: Univ. of Illinois, 1971), 253.

Department ventured into uncharted legal territory by suggesting that local actions injured a national mission.<sup>42</sup> Button and Battle endeavored to dismantle the federal government's new strategy.

Prince George County's Board of Supervisors took similar positions as Button and Battle in questioning the validity of the federal government's suit. The supervisors held a special meeting in November of 1962 to address the suit after Button and Battle submitted their dismissal motions. Board Supervisor James Lee Thacker argued that the county "had nothing but trouble and confusion" since entering a contract with HEW in 1951 to educate Fort Lee's children.<sup>43</sup>

Thacker's comment reflected a common concern among white southern conservative officials regarding acceptance of federal funds for local projects. Thacker implied that receipt of Washington money gave license for federal meddling in Prince George County's affairs. Board members rejected the federal government's suit because, in their opinion, Washington failed to maintain its agreement with the county. The five-man board claimed that it received assurances from Washington that the federal government would not pursue school desegregation if the county entered a twenty-year contract in 1951 to educate Fort Lee's children.<sup>44</sup>

HEW began its contract with Prince George County less than three years after President Truman ordered desegregation of the U.S. armed forces. Federal influence on racial change in local schools would have been a genuine concern for Prince George County's white conservative leaders in 1951. Truman administration officials may have

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<sup>42</sup> Brian K. Landsberg, *Enforcing Civil Rights: Race, Discrimination, and the Department of Justice* (Lawrence: Univ. Press of Kansas, 1997), 138.

<sup>43</sup> *Southern School News*, November 1962: 19.

<sup>44</sup> *Ibid.*

made informal assurances to the county that it would not challenge local school segregation. However, these provisions were absent from the official contract, and county supervisors had to face its peculiar fiscal arrangement with Washington.<sup>45</sup>

While board members decried the impending federal suit, they also took time in the meeting to approve almost fifty-thousand dollars in local funds to build two new all-black schools. They noted that the federal government was slated to contribute over one-hundred and ninety-four thousand dollars for these schools.<sup>46</sup> This move revealed the case's tangled nature. County supervisors defended the status quo. Yet, they recognized the seriousness of the case and offered to improve African American education by building new schools with a majority of federal funds. Paradox permeated Prince George County's relationship with the federal government and Fort Lee.

Several weeks after the county's board of supervisors voiced its concerns, U.S. Assistant Attorney General Burke Marshall submitted an amended complaint to the Court. Marshall led the U.S. Justice Department's Civil Rights Division since the beginning of 1961. On December 21, 1962, he added Virginia's Pupil Placement Board as the third defendant. The amendment also disputed the Pupil Placement Board's relationship with the county. The Commonwealth and county had argued that the Pupil Placement Board assigned Fort Lee's children to segregated schools. Marshall countered by suggesting that the Pupil Placement Board consistently made its assignment decisions based on recommendations from local school boards—an omitted point in the state's and

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<sup>45</sup> Plaintiff's Exhibits, *U.S. v. Prince George County School Board*, May 14, 1963.

<sup>46</sup> *Southern School News*, November 1962: 19.

county's dismissal motions.<sup>47</sup> Marshall's amendment was his final action in this case for 1962.

As 1963 arrived, the U.S. Justice Department launched a legal campaign to eliminate off-base school segregation for military children in select districts in Alabama, Mississippi, and Louisiana.<sup>48</sup> Meanwhile, the Kennedy administration's first test continued in Prince George County. John D. Butzner, Jr. was the presiding judge. He was a native Pennsylvanian but spent the majority of his professional life in Virginia.

From the early 1940s to 1961, Judge Butzner practiced law in Fredericksburg and served on the state's circuit court. The Kennedy administration appointed Judge Butzner to replace Judge Oren Lewis at Richmond's U.S. District Court in 1962; consequently, he had less than one year in his post when this case began.<sup>49</sup> Judge Butzner made his first significant decision on May 10, 1963 when he announced that all parties were to present their briefs, exhibits, and witnesses in a hearing beginning on May 14, 1963.<sup>50</sup>

St. John Barrett was lead counsel for the U.S. Justice Department. He was a native Californian and had worked in the U.S. Justice Department's Civil Rights Division since its establishment in 1957. In the same month that the federal government filed suit in Prince George County, Barrett had been in Mississippi accompanying James Meredith at the University of Mississippi in his attempt to enroll at the all-white institution.<sup>51</sup>

In Prince George County, Barrett called on witnesses to establish the federal government's position. The Kennedy administration argued consistently that this case

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<sup>47</sup> Amended Complaint, *U.S. v. Prince George County School Board*, December 21, 1962.

<sup>48</sup> *Southern School News*, February 1963: 18.

<sup>49</sup> "Inventory of the Papers of Judge John D. Butzner, Jr., 1986-1998," Charlottesville: Univ. of Virginia Law Library.

<sup>50</sup> Proposed Pre-Trial Order, *U.S. v. Prince George County School Board*, May 10, 1963.

<sup>51</sup> Charles W. Eagles, *The Price of Defiance: James Meredith and the Integration of Ole Miss* (Chapel Hill: Univ. of North Carolina Press, 2009), 310.

was about an inextricable link between national security and civil rights. The federal government used personal testimony to raise this connection. Barrett's witnesses consisted of twelve African American service members and spouses from Fort Lee. They all had school-aged children who attended nearby off-base segregated schools. Barrett wanted Judge Butzner to see and hear how a local policy denigrated national employees, and by extension, weakened national security.

Major James W. Price, an African American service member stationed at Fort Lee, was the federal government's principal witness. He served as commander of an integrated unit on Fort Lee. He led black and white soldiers. Barrett chose a line of questioning that highlighted Major Price's professional background, his contributions to national security, and his and his wife's commitment to quality education for their children.

The Prices had lived in Kobe, Japan; Paris, France; and Fort Lee since 1953. Their four school-aged daughters attended integrated American schools while living in Asia and Europe. Major Price praised these schools' excellence and equity. On the other hand, he reported that while at Fort Lee his children had to attend substandard segregated schools in Petersburg while his white neighbors' children went to better-resourced, all-white schools immediately off base in Prince George County. When Barrett asked Major Price how he felt about his children's schools, he stated that it was the main reason why he tried to avoid a posting in the South.<sup>52</sup>

Major Price's testimony established that his family enjoyed first-class citizenship while overseas or on base. Barrett contrasted this ideal image by asking Major Barrett to

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<sup>52</sup> Transcript of Proceedings, *U.S. v. Prince George County School Board*, May 14-15, 1963.

explain how local requirements forced a national military leader's children into a less-than-ideal educational situation in Petersburg. Major Price added that he had applied to have his children transferred to the same Prince George County schools that Fort Lee's white children attended. These schools' principals entertained his requests only to have him receive rejection letters from the state's Pupil Placement Board.<sup>53</sup>

Barrett was able to use Major Price's answers as an example of the earlier point made by Assistant U.S. Attorney Marshall in December of 1962. Barrett had implied that local principals accepted transfer requests from Fort Lee's African American parents. School officials offered no protest. Nevertheless, these parents received rejections from the Pupil Placement Board. Barrett suggested that the Pupil Placement Board acted on recommendations from school leaders to keep military children from integrating local schools. Barrett used Major Price's statements to demonstrate that the Pupil Placement Board was a mere formality for transfer denial as the Commonwealth and Prince George County conspired to defend segregation. Delay and denial through state and local policies were longstanding tactics by southern white conservative officials since the *Brown* decision in 1954. As historian Keith M. Finley explained, "The absence of a clear timetable in the implementation edict only invited defiance."<sup>54</sup>

Meanwhile the School Board's attorney worked to counter the U.S. Justice Department's national security argument. Battle tried to portray Major Price not as a respected representative of the military but rather a common citizen subject to state and local arrangements for school attendance just like everyone else. Battle wanted to limit

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<sup>53</sup> Ibid.

<sup>54</sup> Keith M. Finley, *Delaying the Dream: Southern Senators and the Fight against Civil Rights, 1938-1965* (Baton Rouge: Louisiana State Univ. Press, 2008), 138.

the idea that Fort Lee's residents were special because of who they were and where they lived and worked.

In cross examination, Battle posed questions to Major Price regarding the timing of his children's transfer requests. Major Price, according to Battle, missed the deadline to submit a transfer request. Consequently, the major did not receive positive consideration for transfer. The decision to reject Major Price's request, Battle argued, was based on application tardiness not race.

Additionally, Battle introduced the idea that the federal government, not the Commonwealth or Prince George County, was responsible for sending Fort Lee's African American children to segregated schools in Petersburg. He pointed to a Fort Lee directive from July of 1962 which stated that the base's African American children were to attend specific schools in Petersburg. Battle suggested that the federal government—not the school board—promoted race restrictions by publishing a document that directed the base's African American students to Petersburg's segregated schools.<sup>55</sup>

The federal government then reasserted its claim that state and county officials were responsible Fort Lee's children attending segregated schools. In redirection, Barrett asked Major Price whether he was aware of the transfer deadline and why he had missed it. Major Price testified that he knew about the deadline—adding that school officials never mentioned it when he submitted his transfer documents in person. He noted that he missed the cutoff date because he wanted to confirm whether the base's memorandum on school assignments was to be taken as order or information only.

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<sup>55</sup> Transcript of Proceedings, *U.S. v. Prince George County School Board*, May 14-15, 1963.

Major Price testified that after the deadline base officials informed him that they published the memorandum to notify Fort Lee's parents about Prince George County school procedures for the base. With this testimony, the federal government wanted to demonstrate that base officials were merely passing local information not establishing attendance guidelines. Judge Butzner accepted Barrett's argument and Major Price's testimony as reasonable proof that the county, not the federal government, determined where Fort Lee's children attended school. Afterwards, Judge Butzner announced that he would make final judgement on the case at the end of June, 1963.<sup>56</sup>

While awaiting Judge Butzner's decision, board members busied themselves with ideas on how to confront the possibility of an unfavorable ruling. Preservation of the educational status quo remained on their minds. *De facto* segregation through obscure policy arrangements provided members with a potential remedy.

The board met on June 10, 1963. Its first order of business was a discussion regarding enrollment at the county's flagship school, Prince George High School. Prince George High School was the county's only all-white high school. It was close to Fort Lee, and the base's white children attended it. The county constructed the school in 1953 at a cost of over seven-hundred and thirty-five thousand dollars. HEW had contributed more than three-hundred and seventy-one thousand dollars (more than half of the budget) to the county for its construction as Fort Lee's white students attended Prince George High School.<sup>57</sup>

School board members disregarded these numbers as they reacted to what they perceived as federal infringement on local authority. Board member M.R. Lilley took up

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<sup>56</sup> Ibid.

<sup>57</sup> Complaint, *U.S. v. Prince George County School Board*, September 14, 1962.



a resolution to prohibit non-resident students from attending Prince George County High School in the upcoming 1963-1964 academic year. His colleague, James E. Kilbourne, explained that he and Lilley anticipated an enrollment spike at Prince George High School. Kilbourne expressed concern over possible overburdening of staff and facilities. Consequently, the board voted unanimously not to accept tuition-paying students at the school beginning in September of 1963. The motion was also retroactive to tuition-paying students who entered Prince George High School in 1962.<sup>58</sup> Board members saw the threat of overcrowding as a promising solution to avoid forced federal desegregation.

This approach was, to a degree, ideologically aligned with the massive resistance movement. Prince George County schools never closed to avoid desegregation like in other Virginia districts. However, the idea of closing Prince George High School to tuition-paying students was a kind of massive resistance message to the U.S. Justice Department.

At the time of this suit, of Prince George High School's one-thousand and ninety-seven students, five-hundred and sixty paid tuition. All tuition-paying students were white military children from Fort Lee.<sup>59</sup> They attended Prince George High School with funds provided to the district from the federal government. The school board planned to keep Prince George High School white by shutting its doors to Fort Lee's children—even the base's white students. This plan, however, was financially untenable as the federal government accounted for almost half of county school board's budget.<sup>60</sup>

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<sup>58</sup> Prince George County School Board Minutes, June 10, 1963.

<sup>59</sup> Replies to Interrogatories as Directed to Defendants, *U.S. v. Prince George County School Board*, June 24, 1963.

<sup>60</sup> Memorandum of the Court, *U.S. v. Prince George County School Board*, June 24, 1963.

The county's relationship with Fort Lee and the federal government was peculiar. This case revealed how Fort Lee and Prince George County related through paradox and necessity. Fort Lee relied on Prince George County to educate its children, and the county depended on the federal government's financial input. Details of this process both joined and separated litigants. Judge Butzner had to find what he considered to be the most tenable legal terrain between federal expectations and local traditions as he prepared his ruling.

This case was buried under dense layers of questions about constitutional protection, military priority, contractual obligation, and educational authority. Finding tenable legal terrain among these issues required significant judicial excavation. Judge Butzner published a thirty-eight page "Memorandum of the Court" on June 24, 1963 to announce his ruling and explain its rationale.

The judge opened his decision by addressing constitutional protection—the Kennedy administration's foundational argument in this case. In its initial complaint, the U.S. Justice Department claimed that the Commonwealth and Prince George County violated the equal protection clause of the Fourteenth Amendment by compelling Fort Lee's African American children to attend segregated schools. Judge Butzner aimed to clarify whether the federal government could collectively assume these children's individual identities as principal plaintiff; and if so, decide whether the national government had the right to claim that local practices unlawfully abridged national Fourteenth Amendment privileges.

On the issue of collective identity, Judge Butzner referenced a U.S. Supreme Court case that took place when the United States was moving toward civil conflict over

questions about race and federal-state relations. By citing this case, Judge Butzner demonstrated that the divisive essence of these longstanding issues had never faded after one-hundred-and thirteen years. In 1850, the U.S. Supreme Court heard *Cotton v. the United States*, a federal property rights case. President Millard Fillmore’s administration was the sole plaintiff.

There was uncertainty about whether the federal government could sue as a collective body in citizens’ stead to protect what the administration perceived as a national good. On that specific matter, the U.S. Supreme Court concluded that the federal government was entitled to bring suit, just as an individual person, to protect its property and interests—particularly as related to contractual obligations. The U.S. Supreme Court concluded:

...Every sovereign State is of necessity a body politic, or artificial person, and as such capable of making contracts and holding property, both real and personal. It would present a strange anomaly, indeed, if, having the power to make contracts and hold property as other persons, natural or artificial, [sovereign states] were not entitled to the same remedies for their protection...Although as a sovereign the United States may not be sued, yet as a corporation or body politic they may bring suits to enforce their contracts and protect their property, in the State courts, or in their own tribunals administering the same laws. As an owner of property in almost every State of the Union, they have the same right to have it protected by the local laws that other persons have.<sup>61</sup>

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<sup>61</sup> *Cotton, Plaintiff in Error, v. the United States*, 52 U.S. (11 How.) 229, 231 (1850).

Judge Butzner referred to this portion of *Cotton v. the United States* to characterize the Kennedy administration's position in the *Prince George* case. He recognized the federal government and its employees (specifically, Fort Lee's African American military members and their children) as a collective entity that had the right to sue to protect its property and contractual interests.<sup>62</sup> As related to this point, the U.S. Attorney General had asserted that Prince George County breached its contract with the federal government by forcing Fort Lee's children to attend segregated schools in violation of HEW policy.

Having acknowledged the plaintiff's collective identity, Judge Butzner considered whether the federal government was eligible for Fourteenth Amendment protection. He found counsel in his predecessor's decision from the Prince Edward County case of 1961. In that case, the NAACP had alleged that Prince Edward County infringed on African Americans' Fourteenth Amendment rights by closing public schools in lieu of desegregation. The presiding Judge Lewis restricted the U.S. Justice Department from naming the federal government as a co-plaintiff in this local case due to a lack of clear legislation on how to define national interests under the Fourteenth Amendment. Judge Butzner saw reason and applicability in this logic. He explained, "This Court is not disposed to depart from the sound principle expressed by [my predecessor]...Relief, therefore, is not based upon the rights of the children under the Fourteenth Amendment."<sup>63</sup> With this statement, Judge Butzner denied the federal government's Fourteenth Amendment claim.

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<sup>62</sup> Memorandum of the Court, *U.S. v. Prince George County School Board*, June 24, 1963.

<sup>63</sup> *Ibid.*

The judge also considered the children's parents' rights as soldiers contributing to national security. The U.S. Attorney General asserted military priority in this case. School segregation, charged the Kennedy administration, placed an undue burden on military parents and reduced their ability to soldier effectively. The federal government argued that local segregation encumbered national defense.

Judge Butzner disagreed with this contention. He pointed to recent Army efficiency reports on the African American officers and non-commissioned officers from Fort Lee who requested transfers to all-white schools for their children. The defendants had entered the soldiers' job performance reports into evidence. These reports noted that most of the soldiers performed above average during their time at Fort Lee.

In light of these reports, Judge Butzner concluded: "The efficiency of Negro military personnel at Fort Lee has not been decreased. While morale of this personnel had been adversely affected by segregation of their children, the evidence does not establish that this has impinged upon the war power of the United States."<sup>64</sup> Judge Butzner denied relief to the federal government on its military priority claim. Ironically, African American soldiers' exceptional work under adverse social conditions played a critical role in his decision.

Also, the judge had to consider whether the Commonwealth and Prince George County behaved in a less-than-exceptional manner in educating Fort Lee's children. State and county officials broke contract and overstepped authority by segregating the base's pupils, according to the U.S. Attorney General. Judge Butzner closed his ruling by addressing the issues of contractual obligation and educational authority.

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<sup>64</sup> Ibid.

The Kennedy administration relied on Public Law 815 as the contractual principle to which Virginia and Prince George County had to comply if they were to receive federal funds for their schools. This law, according to the HEW secretary, was incompatible with segregation. Federal attorneys asserted that the Commonwealth and the county violated this statute and exceeded their educational authority by using federal funds to segregate military children. This treatment, in the federal government's opinion, singled out Fort Lee's African American children by disallowing them to attend county schools under the same assignment policies as the base's and county's white students.

Judge Butzner concurred with this argument. He concluded that the school board entered into a federal contract which bound the state and county to assign both black and white military children to the same schools regardless of race. Thus, he ordered:

...The relief to which the United States is entitled is measured by the statute and the assurance given by the School Board. The School Board and the Pupil Placement Board must assign the federally-connected Negro children to schools so that the school facilities of the County will be available to them on the same terms in accordance with [Title 2 of Public Law 815 and] and the laws of the state as they are available to other children in the County. No more is required of these defendants. Less will not suffice...<sup>65</sup>

The county was to implement Judge Butzner's decision in the upcoming school year. His verdict was remarkable. It was a long-delayed first step in bringing Prince

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<sup>65</sup> Ibid.

George County into compliance with *Brown*. His ruling also reflected the limited nature of this case. The Kennedy administration was reluctant to bring unmitigated federal power to bear against local segregation when this suit began. The *Prince George County* case applied to less than one hundred African American students from Fort Lee. Nevertheless, Fort Lee's African American military parents received federal legal affirmation that the local community had to recognize a specific civil right for a particular group—their children.

Specificity was integral to the U.S. Justice Department's approach. The Kennedy administration wanted to establish that Fort Lee and its residents were exceptional members of the Prince George County community because of their federal status. The base and its soldiers, argued the U.S. Attorney General, should transcend local racial limitations. The outcome of this case showed that they did.

Fort Robert E. Lee, Virginia has stood steadfastly over the banks of James and Appomattox Rivers since 1917. In 1963, however, the *Prince George County* case moved the base into a legal position from which the Kennedy administration could launch other suits to end local school segregation for military children. Four months into the *Prince George County* case, the U.S. Justice Department initiated three simultaneous federal civil suits against school districts in Mobile, Alabama; Bossier Parish, Louisiana; and Biloxi and Gulfport, Mississippi.

## CHAPTER 3

### BROOKLEY AIR FORCE BASE AND MOBILE COUNTY, ALABAMA

In September of 1962, the Kennedy administration challenged Virginia's Prince George County school district over segregated public schooling of military children. The White House raised several issues regarding federal military bases in southern communities. The *Prince George County* case established a legal avenue on which the U.S. Justice Department could pursue local change by leveraging southern military bases and their employees. At the time, this path had no parallel and its course was undetermined. Nevertheless, the U.S. Attorney General had compelled a federal judge, Virginia leaders, and Prince George County officials to consider whether southern military bases and their occupants were worthy of exceptional status in relation to local application of specific Jim Crow laws.

This same consideration became relevant in Mobile County, Alabama in January of 1963 when the U.S. Justice Department filed suit against the county's public school commission. As in Prince George County, in Mobile County, the U.S. Justice Department's objective remained limited—to desegregate off-base schools for children connected to a nearby federal military base. The Kennedy administration still tried to balance civil rights advocacy with political prudence by confronting segregation in Mobile County only on behalf of a select group. The White House's approach to resolve educational discrimination in Mobile County was deliberately narrow. However, the



legal and constitutional issues that surrounded this latest case were anything but narrow or simple. The federal government elected to fight against public school segregation in Mobile County specifically because the area was home to federal military bases and federal military employees. By the end of 1962, there were one-hundred and fourteen public school districts in Alabama with more than eight-hundred thousand total students. All districts were segregated.

Mobile County's school system had over seventy-six thousand pupils.<sup>66</sup> Over fourteen thousand of them had a direct connection to the area's federal military bases.<sup>67</sup> Mobile County's military children constituted less than one-tenth of Alabama's public school population. Yet, the U.S. Justice Department selected them and the bases on which their parents worked to make a legal statement about civil rights in post-*Brown* Alabama. Like the *Prince George County* case, the *Mobile County* case renewed questions about federal commitment to civil rights, entangled relations between federal bases and host communities, off-base legal status of military employees and their family members, select applicability of Fourteenth-Amendment protection, and federal necessity versus state and municipal authority.

Federal military bases had been part of Mobile's cityscape since just before the Second World War. In 1940, the U.S. Army claimed a one-thousand-acre site on Mobile Bay (south of the city's center) and began construction of Brookley Army Airfield. The base became a critical air depot, and by the middle of World War II, it employed over

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<sup>66</sup> *Statistical Summary of School Segregation-Desegregation in the Southern and Border States* (Nashville, TN: Southern Education Reporting Service, November, 1962), 3.

<sup>67</sup> Complaint, *U.S. v. Mobile County Board of School Commissioners*, U.S. District Court S.D. Alabama, Southern Division, January 18, 1963.

sixteen thousand people.<sup>68</sup> In 1947, the installation transformed into Brookley Air Force Base (AFB) when the U.S. Air Force became independent of the U.S. Army. Dauphin Island Air Force Station and a small U.S. Coast Guard Station augmented Mobile's federal military presence, but Brookley AFB was the federal government's principal possession in Mobile.

By the beginning of the 1960s, the population of Brookley AFB had declined from its World War II peak. Nevertheless, Cold War commitments required almost one thousand military personnel and over fifteen thousand federal civilians on Brookley AFB. Airmen and civilian employees of the U.S. Department of Defense sent over fourteen-thousand students to Mobile County's segregated schools in 1962.<sup>69</sup>

Military parents and their children worked and lived in desegregated conditions on Brookley AFB. U.S. Department of Defense civilians worked on base under desegregated circumstances but lived in Mobile's off-base segregated communities. Despite federal strides toward integration on base, local resistance to *Brown* forced Brookley AFB's military and civilian employees to endure segregated and unequal education for their children off base.

Racial barriers of many kinds separated Brookley AFB from neighboring Mobile. In the early 1960s, this separation was evident in neighborhoods, at work, and on playing fields. Intramural athletics were popular among Brookley AFB's units. Airmen and

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<sup>68</sup> Allen Cronenberg, "Mobile and World War II, 1940-1945," in Michael V.R. Thomason, ed., *Mobile: The History of Alabama's First City* (Tuscaloosa: Univ. of Alabama Press, 2001), 213.

<sup>69</sup> Complaint, *U.S. v. Mobile County Board of School Commissioners*, January 18, 1963.

federal civilian employees competed at a sports complex on the base's west side.<sup>70</sup> Units, not race, divided the teams, and black and white spectators sat together in bleachers.

Off base, Mobilians entertained themselves by following the city's minor league baseball team, the Mobile Bears. In 1961, the Bears were affiliated with the New York Mets, which was an integrated team. There were no black players on the Bears' roster, however. Also, fans sat in segregated seating at the Bears' stadium. Segregation ruled minor league baseball in the South at this time, and Mobile was no exception.<sup>71</sup>

Local circumstances involving Brookley AFB and the Mobile Bears played a notable role in the Kennedy administration's maturation on off-base discrimination. In April of 1961, U.S. Defense Secretary Robert S. McNamara approved an order that banned off-base organizations that practiced racial and religious discrimination from using on-base facilities.<sup>72</sup> For example, one of these groups was Dixie Youth Baseball. This league formed in South Carolina in 1955 to avoid Little League's racial integration.<sup>73</sup>

Secretary McNamara's edict prohibited Mobile's all-white Dixie Youth team (and other Dixie squads in southern military communities) from playing on Brookley AFB or any other southern military base. This step was meaningful but limited in impact. It announced that U.S. Defense Department leaders were committed to keeping racial

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<sup>70</sup> "Map of Brookley AFB, AL," U.S. Geological Survey, accessed September 3, 2015, [http://alabamamaps.ua.edu/aerials/Counties/Mobile/Mobile\\_Brookley\\_Air\\_Field\\_1952.html](http://alabamamaps.ua.edu/aerials/Counties/Mobile/Mobile_Brookley_Air_Field_1952.html).

<sup>71</sup> "Minor League Baseball Honors Black History Month," Minor League Baseball, accessed September 3, 2015, [www.milb.com/news/article.jsp?ymd=20060131&content\\_id=39877&fext=.jsp&vkey=news\\_milb](http://www.milb.com/news/article.jsp?ymd=20060131&content_id=39877&fext=.jsp&vkey=news_milb).

<sup>72</sup> Morris J. MacGregor, *Integration of the Armed Forces, 1940-1965* (Washington, D.C.: Center for Military History, 1989), 511.

<sup>73</sup> Ramon M. Jackson, "Baseball Dreams Deferred: The Story of the Cannon Street YMCA All-Stars (Part I)," *Sports in American History*, accessed September 4, 2015, [www.uspsporthistory.com/2014/07/10/baseball-dreams-deferred-the-story-of-the-cannon-street-ymca-all-stars-part-i](http://www.uspsporthistory.com/2014/07/10/baseball-dreams-deferred-the-story-of-the-cannon-street-ymca-all-stars-part-i).

discrimination outside base gates; however, it did not take action to protect service members, departmental civilians, and family members beyond the gates in local communities.

Some base commanders interpreted Secretary McNamara's directive as license to extend the U.S. Defense Department's fight against racial discrimination into neighboring civilian communities. Brookley AFB's Major General Daniel F. Callahan was one of these commanders. General Callahan, a native Kansan, had been senior leader on Brookley AFB since 1957.<sup>74</sup> Prior to Secretary McNamara's order, Major General Callahan allowed a civilian employees' organization on base to use federal funds to subsidize tickets for Mobile Bears games.

The base's federal civilians, military members, and families were able to purchase tickets at a reduced rate. This program encouraged their participation in the local community from the base's personnel. It did not, however, exempt them from segregation in the Mobile Bears stadium. After Secretary McNamara released his antidiscrimination order, Major Gen Callahan canceled the base's ticket arrangement with the Bears over segregated seating.<sup>75</sup>

This action pushed the Kennedy administration to clarify its position on what flexibility base commanders had to combat off-base discrimination against federal military employees. Senior administration officials considered how to curb zealous commanders so as to protect base workers' civil rights without antagonizing southern congressmen who wielded substantial influence on the defense budget. In Alabama's

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<sup>74</sup> "Biography of Major General Daniel F. Callahan," U.S. Air Force, accessed September 4, 2015, [www.af.mil/AboutUs/Biographies/Display/tabid/225/Article/107433/major-general-daniel-francis-callahan.aspx](http://www.af.mil/AboutUs/Biographies/Display/tabid/225/Article/107433/major-general-daniel-francis-callahan.aspx).

<sup>75</sup> MacGregor, *Integration of the Armed Forces*, p. 512.

case, J. Lister Hill was the state's junior U.S. senator in 1961. He was a committed segregationist and member of the Senate Appropriations Committee. Seven years earlier, Senator Hill had signed the "Southern Manifesto" condemning the U.S. Supreme Court's *Brown* ruling.<sup>76</sup> The Kennedy administration had to tread carefully.

In May of 1961, U.S. Deputy Secretary of Defense Roswell L. Gilpatric approved a cautious policy that asked base commanders to work tactfully with off-base agencies to reduce racial discrimination against base personnel in local communities.<sup>77</sup> Secretary Gilpatric's instruction clarified the U.S. Defense Department's perspective on base-community relations regarding pursuit of nondiscriminatory public accommodation. However, it failed to specify legal options in cases of persistent local discrimination against base employees.

Racial discrimination in Mobile County's public schools was persistent. The process to reverse it proved to be tedious and episodic. From 1954 to 1961, local conservative leaders had blocked *Brown*'s implementation and federal officials were hesitant to fight for it. Brookley AFB provided the Kennedy administration with a reason to end this hesitancy.

In 1961, Mobile's population was around three-hundred and thirty thousand. Of that number, over sixteen-thousand lived and/or worked on Brookley AFB.<sup>78</sup> With family members, over thirty-six thousand Mobilians had a direct federal connection through Brookley AFB. The federal government found these numbers and Brookley AFB's presence in Mobile County difficult to overlook. Local opposition and national

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<sup>76</sup> Keith M. Finley, *Delaying the Dream: Southern Senators and the Fight against Civil Rights, 1938-1965* (Baton Rouge: Louisiana State Univ. Press, 2008), 153-154.

<sup>77</sup> MacGregor, *Integration of the Armed Forces*, p. 513-515.

<sup>78</sup> Complaint, *U.S. v. Mobile County Board of School Commissioners*, January 18, 1963.

aspiration intersected at Brookley AFB as the Kennedy administration decided to partially fulfill inaugural promises it made regarding its championing of civil rights.

President Kennedy had alluded to federal civil rights activism when he took office. On January 21, 1961, he gave his inaugural address as heavy snow fell on the Capitol. The president suggested that his election represented a torch being passed to a new generation dedicated to change and intolerant of inequity. He declared that his generation would be “unwilling to witness or permit the slow undoing of those human rights to which this nation has always been committed, and to which we are committed today at home and around the world.”<sup>79</sup> The president’s words resonated among Mobile’s African Americans. John L. LeFlore, a community leader and civil rights advocate, was among them.

One week after President Kennedy’s encouraging address, an inspired LeFlore wrote Mobile County’s Board of School Commissioners requesting that its members reconsider their positions on school segregation. LeFlore spoke as director of the Citizens’ Committee—a civil rights advocacy organization comprised of prominent African American Mobilians. His letter asserted: “[I]t is incumbent upon us to ask the honorable members of the Mobile County School Board to reorganize the Mobile County school system , city and county, to meet the requirements of the U.S. Supreme Court decision of May 17, 1954, and subsequent rulings related to public school desegregation.”<sup>80</sup>

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<sup>79</sup> “President Kennedy’s Inaugural Address, January 20, 1961,” John F. Kennedy Presidential Library and Museum, accessed September 7, 2015, [www.jfklibrary.org/Research/Research-Aids/Ready-Reference/JFK-Fast-Facts/Inaugural-Address.aspx](http://www.jfklibrary.org/Research/Research-Aids/Ready-Reference/JFK-Fast-Facts/Inaugural-Address.aspx).

<sup>80</sup> John L. LeFlore, letter to Mobile County Board of School Commissioners, January 28, 1961, Non-Partisan Voters’ League Records, Univ. of South Alabama, The Doy Leale McCall Rare Book and Manuscript Library, Mobile.

LeFlore expressed the indignation of Mobile's African American community at the board's continued failure to act on *Brown*. LeFlore's appeal, however, was toothless. It lacked a threat of legal or financial recourse against the school district. Additionally, LeFlore spoke for Mobile's private citizens who had little to no direct connection to the federal government. The Kennedy administration, at the time, was not sufficiently moved to defend the civil rights of Mobile's private citizens.

Military members and U.S. Defense Department civilians, however, were a different matter. They were national figures influenced negatively by local restrictions. The board ignored LeFlore's call for school desegregation for over a year until the Kennedy administration began to show movement on the issue in relation to southern military communities.

Rumblings from the White House began in March of 1962 with a threatening pronouncement from U.S. Secretary of Health, Education, and Welfare (HEW) Abraham Ribicoff. He announced that HEW would henceforth withhold federal funds from local school districts that required military children to attend segregated schools. Six months later, the U.S. Justice Department filed the *Prince George County* case.<sup>81</sup> Conservative white leaders in Mobile and Huntsville took notice.

Huntsville is an Alabama city three-hundred-and-fifty miles north of Mobile. It is a self-governing city surrounded by Madison County. In the early 1960s, Huntsville and Mobile were home to the state's largest number of federal employees. Mobile hosted Brookley AFB, while Huntsville was home to the National Aeronautics and Space

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<sup>81</sup> Brauer, *John F. Kennedy and the Second Reconstruction*, p. 145.

Administration's (NASA) Marshall Space Flight Center on the U.S. Army's Red Stone Arsenal.

The U.S. Department of Defense operated both facilities in Mobile and Huntsville; however, most of Red Stone Arsenal's federal employees worked for NASA and not for the military. Nevertheless, both municipalities received impact funds from Washington to educate federal workers' children. Mobile and Huntsville school administrators used these funds to maintain segregated schools.<sup>82</sup> When HEW threatened to cut funding and the U.S. Justice Department launched the *Prince George County* case, school leaders from the two districts began to collaborate.

On December 7, 1962, an attorney from the Huntsville legal firm of Ford, Cardwell, Ford, and Payne corresponded with a counterpart at Pillans, Reams, Tappan, Wood, and Roberts in Mobile. The former organization represented Huntsville's school district and the latter firm was on retainer for Mobile County's school commission. On the twenty-first anniversary of the attack on Pearl Harbor, Huntsville attorney Ralph H. Ford wrote to his Mobile colleague, Palmer Pillans, to discuss the federal government's impending legal attack against their school districts. Ford expressed concern and a desire for the two firms to share strategies on how to defend their districts if the U.S. Justice Department sued them. He explained:

There are rumors to the effect that the United States of America plans to file this suit against Madison County and Huntsville Boards of Education and a similar one against Mobile...As stated these are strictly rumors. We do not know

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<sup>82</sup> Ibid, p. 187.



definitely what the plans are...[W]e suggest that we exchange pleadings and briefs if either or both of us find ourselves embroiled in court action.<sup>83</sup>

Ford's tone was indicative of the stance taken by Alabama's white conservative establishment in the early 1960s. The U.S. government, Ford implied, was an outside entity threatening to impose its misguided perspective regarding racial order on Huntsville and Mobile. Conservative defense of racial hierarchy was often a multilayered effort. Ford meant to strengthen those layers by suggesting that Huntsville and Mobile cooperate to rebuff the Kennedy administration.

The prospect of a federal suit prompted the board to abandon its strategy of ignoring LeFlore's call for immediate school desegregation. On January 15, 1963, twenty-four months after LeFlore's original petition, the Mobile County School Commission finally responded to him by publishing a letter to address African Americans' concerns about segregation. Signatories were Charles E. McNeil, President; Arthur F. Smith, Jr., Vice President; and members William B. Crane, Jack C. Gallalee, and Kenneth W. Reed. The Commission announced plans to invest in new construction for African American schools and sought to dampen aspirations about desegregation. In fact, the board resorted to a familiar conservative refrain of indefinite delay by explaining: "[I]t would be ill-advised and not to the best interest of your people for use to attempt to present a formula for integration of the public schools at this time."<sup>84</sup>

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<sup>83</sup> Ralph H. Ford, letter to Palmer Pillans, December 7, 1962, Jack C. Gallalee Papers, Univ. of South Alabama, The Doy Leale McCall Rare Book and Manuscript Library, Mobile.

<sup>84</sup> Board of School Commissioners of Mobile County to Petitioners, January 15, 1963, from *Ibid.*

While the board offered counseled delay, the U.S. Justice Department pressed Mobile for an immediate formula regarding segregation of Brookley AFB's students. On January 18, 1963, Assistant U.S. Attorney General Burke Marshall filed suit against Mobile's and Huntsville's school boards over local segregation of federally-connected children. The Huntsville case dealt primarily with children of NASA employees who worked at the U.S. Army's Red Stone Arsenal. The Mobile suit, however, centered on people and principles related to national defense.

The Kennedy administration viewed Brookley AFB's airmen and military employees as special residents of Mobile County. The U.S. Justice Department asserted that the area's military personnel and U.S. Defense Department civilians deserved federal protection against local discrimination. The White House's legal endeavor was bold but narrow. It excluded Mobilians who did not live and/or work on Brookley AFB.

There were over fourteen-thousand students associated with Brookley AFB in the Mobile County school system in 1962. Approximately one-third of these children were African Americans. The federal government had stressed three reasons for fighting on their behalf. First, Brookley AFB personnel were distinct within the local community because they contributed directly to national defense. Next, Washington provided Mobile County with over six-million dollars since 1951 to assist in educating Brookley AFB's children. Third, Mobile County violated the U.S. Constitution's Fourteenth Amendment and federal statues by using these funds to discriminate against Brookley AFB's African American students.

The county school commission spent federal funds to send Brookley AFB's children to segregated schools. This practice, asserted the U.S. Justice Department,

contravened national impact aid legislation because it applied racially prejudiced attendance and transfer criteria to Brookley AFB's black children but not to its white students. Marshall complained that the county failed to provide Fourteenth-Amendment protection to military children by forcing local segregation on them<sup>85</sup>

In addition to Mobile, three other southern military communities met federal criteria for legal action. Marshall filed suit against school administrators in Bossier Parish, Louisiana, and Biloxi and Gulfport, Mississippi. U.S. Attorney General Robert F. Kennedy made a public statement to explain why local circumstances drove the federal government to intervene in Mobile and other southern military cities. He declared, "[T]he [federal] government has a direct interest in seeking an end to unconstitutional school segregation in these areas because government employees and money are involved."<sup>86</sup> The U.S. attorney general's public statement brought the Kennedy administration into Mobile's civil rights struggle, but it did not constitute a ringing federal endorsement of Mobile's larger antidiscrimination movement. Rather, it was a careful signal to Mobile's conservative leaders that what mattered to the White House were Brookley AFB and its employees' civil rights.

Federal funding mattered to Mobile County's school officials. This issue provided leverage for the Kennedy administration as Mobile County's school commissioners found it difficult to ignore Brookley AFB's financial presence in their system. As the U.S. Justice Department initiated its suit, Mobile's Assistant County School Superintendent C.L. Scarborough provided board members with a fiscal assessment of the situation. He warned, "[I]t would be a major jolt to the budget of the

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<sup>85</sup> Complaint, *U.S. v. Mobile County Board of School Commissioners*, January 18, 1963.

<sup>86</sup> As quoted in *Southern School News*, February 1963: 18.

system if the federal government should discontinue its participation in financial support of Mobile Schools.”<sup>87</sup> Scarborough understood the county’s economic dependence on Brookley AFB and the federal government.

Immediately following Scarborough’s warning, school commissioners and their lead attorney, Palmer Pillans, met to strategize on how to respond to Assistant U.S. Attorney Marshall’s accusations. Members quickly adopted an official position on the situation. Their pronouncement questioned the federal government’s legal authority to bring suit and asserted the board’s intention to have the case thrown out of court. School commissioners announced:

The Board is advised by its legal counsel, that in their opinion there is no lawful authority for the institution of the suit brought by the [U.S] Attorney General’s office in the name of the United States in the Federal Court at Mobile against the Board, its members and the Superintendent of Education. Consequently, the Board has instructed its attorneys to contest vigorously the said action and attempt to procure its dismissal.<sup>88</sup>

The Board’s response was a boldfaced rejection of the federal government’s constitutional assertions. Scarborough’s earlier warning about the county’s potential economic dilemma with the federal government left board members undeterred in their defiance. They implied that state sovereignty protected Mobile County from federal

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<sup>87</sup> C.L. Scarborough, letter to Cranford H. Burns, January 9, 1963, Jack C. Gallalee Papers, Univ. of South Alabama, The Doy Leale McCall Rare Book and Manuscript Library, Mobile.

<sup>88</sup> Mobile County School Board Minutes, January 23, 1963.

infringement in the management of its schools. This principle, in their opinion, applied to the education of all Mobile County students—including military children connected to Brookley AFB. School commissioners followed up their defiant statement by conferring with state officials to form an interlocking defense between Mobile and Montgomery. This move was fairly uncomplicated as Governor George C. Wallace was already sympathetic to Mobile County’s fight against the Kennedy administration.<sup>89</sup>

Brookley AFB and Mobile became a small but consequential front in a grander clash over states’ rights and civil rights between the Kennedy administration and Alabama’s political defenders of the racial status quo. Governor Wallace pledged figuratively to stand between Brookley AFB and Mobile County over forced desegregation. He offered to assist Mobile County’s legal team by making available State Attorney General Richmond M. Flowers and the State Bar Association Committee to advise in local defense against the U.S. Justice Department.<sup>90</sup>

Both state and county officials defended their positions by asserting that the federal government lacked clear constitutional authority to intervene in Mobile’s educational affairs on behalf of base occupants and its workers. Their logic rested on a philosophical foundation established by U.S. District Court Judge Oren R. Lewis in the Prince Edward County, Virginia school desegregation case in 1961. In that case, the U.S. Justice Department petitioned to have itself named as a co-complainant in a federal civil suit against the local school district. The National Association for the Advancement of

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<sup>89</sup> In 1962, then-candidate Wallace campaigned famously against *Brown* and what he saw as federal usurpation of states’ rights. If the Kennedy administration tried to integrate Alabama’s schools, then Wallace promised, “I shall refuse to abide by any such illegal court order even to the point of standing at the schoolhouse door.” See Dan T. Carter, *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics*, 2<sup>nd</sup> Ed. (Baton Rouge: Louisiana State Univ. Press, 1995), 105.

<sup>90</sup> *Ibid.*

Colored People (NAACP) served as principal plaintiff. The organization's attorneys alleged that Prince Edward County violated African American residents' Fourteenth Amendment rights by forcing black children to attend segregated schools. Judge Lewis disallowed the Kennedy administration from participating as a co-litigant due to insufficient federal legislation on how to define and defend national interests under the Fourteenth Amendment in a local matter.<sup>91</sup>

There was no federal military base in Prince Edward County. This absence weakened the U.S. Justice Department in trying to articulate its specific interest in Prince Edward County in 1961. There was, however, an undeniable federal military presence in Mobile County in 1963. Over thirty-six-thousand service members, U.S. Defense Department civilians, and children connected directly to Brookley AFB and smaller bases in greater Mobile.<sup>92</sup> These numbers left Mobile County's school commissioners undeterred from arguing that the federal government had no compelling reason to meddle in local affairs. They relied on Judge Lewis's position to assert a call for dismissal of the U.S. Justice Department's complaint against them.

On February 8, 1963, the commissioners' lead attorney, Palmer Pillans, received board authorization to act on his earlier advice by submitting to the U.S. District Court a motion to dismiss the Kennedy administration's case in Mobile. Pillans offered several reasons to justify a dismissal motion. First, he noted that the federal government failed to articulate a complaint from which Mobile County could offer relief. This point implied that Mobile County followed state attendance policy by segregating Brookley AFB's

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<sup>91</sup> J.W. Peltason, *Fifty-Eight Lonely Men: Southern Federal Judges and School Desegregation* (Urbana: Univ. of Illinois, 1971), 253.

<sup>92</sup> Complaint, *U.S. v. Mobile County Board of School Commissioners*, January 18, 1963.

children. Consequently, any adjustment required state action. Pillans argued that the federal government acted against a local governmental entity without constitutional authority. He added that the U.S. Justice Department lacked a constitutional mandate to act in the name of the United States against a municipal school district.

The board's attorney also attacked the Kennedy administration's use of the equal protection clause. Pillans asserted that only individuals (not the federal government) could seek relief from deprivation of Fourteenth-Amendment rights. Next, he questioned the federal government's legal right to bring suit. Pillans implied that Brookley AFB's presence in Mobile County did not in itself constitute a lawful federal interest in need of White House intervention. Finally, Pillans claimed that since the state government established Mobile County's school attendance guidelines, then only a state court could resolve a legal question about segregation in Mobile County. Pillans insisted, therefore, that Mobile's U.S. District Court was without jurisdiction in this case.<sup>93</sup>

Assistant U.S. Attorney General Marshall saw similar justifications in a dismissal motion four months earlier. When the U.S. Justice Department sued in federal court to desegregate schools in Prince George County, Virginia for nearby military children, the Commonwealth's attorney general, Robert Y. Button, fired back with a dismissal motion.<sup>94</sup> Button's reasons paralleled Pillans's in both philosophy and logic. The ongoing *Prince George County* case appeared to provide Mobile County school commissioners with a strategic blueprint on how to establish a local defense against federal intrusion. Both districts claimed that the Kennedy administration committed

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<sup>93</sup> *Mobile Press*, February 8, 1963: 1, 8.

<sup>94</sup> Commonwealth Motion to Dismiss, *U.S. v. Prince George County School Board*, 221 F. Supp. 93, U.S. District Court E.D. Virginia, Richmond Division, October 8, 1962.

constitutional overreach, neglected state sovereignty, and argued unjustifiably for federal exemption from state and local laws for military-related individuals.

Judge John D. Butzner, Jr. of Richmond's U.S. District Court presided over the *Prince George County* case. He deferred immediate ruling on the Commonwealth's dismissal motion. Instead, he instructed the litigants to prepare for an upcoming hearing that would address both the federal government's complaint and the Commonwealth's dismissal motion.<sup>95</sup> By deferring decision on dismissal and requiring both parties to proceed toward trial, Judge Butzner suggested that there was sufficient justification for the U.S. Justice Department to sue Prince George County.

The judge's actions revealed that he was curious about how to resolve the legal status of federal military bases and their employees in relation to specific local laws. There was no curiosity among Mobile County's school commissioners about this issue. In their opinion, Brookley AFB's children attended Mobile's schools under the auspices of states' rights not federal exemptions. The U.S. Justice Department depended on the idea that this arrangement was subject to interpretation by higher authority. In this case, the higher authority was Mobile's U.S. District Court judge, Daniel H. Thomas.

Judge Thomas was a native Alabamian and a second-generation jurist. President Harry S. Truman appointed him to Mobile's federal bench in 1951. Judge Thomas's ascent to federal judgeship began with an internal fight among Alabama's Democrats in 1950. Dixiecrats challenged the state's national party loyalists over control of Alabama's Democratic Executive Committee. Thomas led Mobile's loyalists against states' rights factionalists. Alabama's U.S. senators J. Lister Hill and John J. Sparkman were also

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<sup>95</sup> Order Fixing Trial Date and Schedule for Pre-Trial Proceeding, *U.S. v. Prince George County School Board*, December 14, 1962.



national party loyalists. Although the two legislators opposed federal intrusion in Alabama's civil rights situation, they saw little value in placing their powerful positions within the Democratic Party at risk by supporting a Dixiecrat-led party fracture. Senators Hill and Sparkman appreciated Thomas's loyalty and rewarded him with a recommendation to direct Mobile's federal district court.<sup>96</sup>

Judge Thomas's political background as a Democratic Party loyalist provided minor comfort to the Kennedy administration concerned about his judicial leanings. Throughout the 1950s and early 1960s, Judge Thomas established a conservative reputation on race-related litigation. Of note, he frustrated and delayed court petitions by the U.S. Justice Department for permission to review local voter registration practices. The Civil Rights Act of 1957 and the Civil Rights Act of 1960 provided the U.S. Justice Department with tools to combat racial discrimination in voter registration. When the Kennedy administration tried to apply these tools in 1962 to investigate voter discrimination in Selma, Alabama, Judge Thomas backed local officials. He explained that grievances related to voter registration "should be resolved by the people and not by the court."<sup>97</sup>

Judge Thomas's nod to the people over the court in Selma signaled his general opposition to federal involvement in what he interpreted as local circumstances. There were similar circumstances in the U.S. Justice Department's suit against Mobile County. Local, state, and federal interests entangled Mobile County with Brookley AFB and its

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<sup>96</sup> Guide to Judge Daniel H. Thomas Scrapbooks, Univ. of South Alabama, The Doy Leale McCall Rare Book and Manuscript Library, Mobile, and J. Mills Thornton III, *Dividing Lines: Municipal Politics and the Struggle for Civil Rights in Montgomery, Birmingham, and Selma* (Tuscaloosa: Univ. of Alabama Press, 2002), 443.

<sup>97</sup> Ibid and Joseph M. Bagley, "School Desegregation, Law and Order, and Litigating Social Justice in Alabama, 1954-1973," Dissertation, Georgia State Univ., Atlanta, 2013, 214.

children. Judge Thomas faced a potential ruling on how to constitutionally balance federal prerogative against state sovereignty and local control. Although this case focused on Brookley AFB and its people, the future of Mobile's racial hierarchy was at stake. Judge Thomas's conservative inclinations regarding racial change reemerged in his dealing with the Kennedy administration's latest petition in his district.

On February 18, 1963, St. John Barrett from the U.S. Justice Department's Civil Rights Division submitted twenty-nine interrogatories to Judge Thomas. The federal government asked Judge Thomas to have the defendants answer general and specific questions about school assignments for Brookley AFB children.<sup>98</sup> Barrett intended to expose the school commissioners' discriminatory practices toward federally-connected students.

In the *Prince George County* case, Judge Butzner obliged school officials to respond to federal interrogatories. Judge Thomas, however, made his first ruling in the *Mobile County* case by allowing school commissioners to avoid answering federal interrogatories.<sup>99</sup> He accepted a defendants' stay motion to delay answering questions from the Kennedy administration. The judge proclaimed, "[T]he said motion [to stay interrogatories] should be granted...and it is ordered by the Court that such answers be stayed until the Court shall have ruled on the defendants' motion to dismiss the complaint."<sup>100</sup>

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<sup>98</sup> Interrogatories Directed to the Defendants, *U.S. v. Mobile County Board of School Commissioners*, February 8, 1963.

<sup>99</sup> *Mobile Press*, February 27, 1963: 1.

<sup>100</sup> Order Staying the Answers, by the Defendants, to Interrogatories heretofore Propounded by Plaintiff to Defendants, *U.S. v. Prince George County School Board*, February 27, 1963.

Judge Thomas's decision disguised dismissal as delay. In the *Prince George County* case, Judge Butzner established an unresolved yet finite path toward addressing the federal government's legal position in local segregation of military children. Judge Thomas assigned modest value to immediacy in resolving such an issue in Mobile County. By supporting the defendants' stay motion, he placed the Kennedy administration on notice that his court considered Brookley AFB as restricted territory in the federal government's attempt to alter Mobile County's racial landscape. At that moment, Brookley AFB failed to provide the Kennedy administration with sufficient leverage to move school segregation in Mobile County. Judge Thomas's action suggested that the base's occupants, employees, and family members held no special status in relation to local ordinances. He addressed the situation by legally ignoring it.

This posture, however, was short-lived. The Kennedy administration's suit encouraged John LeFlore to initiate his own litigation against Mobile County's school commissioners one month after the Judge Thomas halted the U.S. Justice Department's effort. LeFlore enlisted help from the NAACP's Legal Defense Fund (LDF) to prevent Mobile County from operating a "dual school system...based wholly on race and color."<sup>101</sup> LeFlore and the LDF submitted their complaint to Judge Thomas on March 27, 1963.

The LDF represented twenty African American students who were refused admission to Mobile's all-white Murphy High School in 1962.<sup>102</sup> These students, not the federal government, were principal plaintiffs in this case (known as the *Birdie Mae Davis*

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<sup>101</sup> Complaint, *Birdie Mae Davis, et al., v. Board of School Commissioners of Mobile County, et al.*, U.S. District Court S.D. Alabama, Southern Division, March 27, 1963.

<sup>102</sup> Keith Nicholls, "Politics and Civil Rights in Post-World War II Mobile," in Thomason, ed., *Mobile*, p. 259.

case). One of the complainants, however, had a federal connection. Dorothy B. Davis was a sixteen-year-old whose mother worked as a U.S. Department of Defense civilian employee on Brookley AFB.<sup>103</sup>

Unlike the *U.S. v. Mobile County* case, which pursued desegregation only for military children, the *Birdie Mae Davis* case sought comprehensive and immediate desegregation throughout Mobile's schools before the start of the 1963 academic year. In response to this latest threat, school attorneys continued to appeal to Judge Thomas's conservatism by seeking dismissal. Again, the judge accommodated county officials. As in the Kennedy administration's case, Judge Thomas endorsed the status quo by ignoring the LDF's call for immediate attention. Inaction forced the NAACP to take its plea to the U.S. Fifth Circuit Court of Appeals in Louisiana.

In June of 1963, the higher court ordered Judge Thomas to oversee gradual implementation of school desegregation in Mobile County. This process was to begin in August of 1963.<sup>104</sup> The *Birdie Mae Davis* case bounced between appeal and implementation for years due to the actual speed of school desegregation in Mobile County. Nevertheless, it was the first post-*Brown* case to drive *de jure* school desegregation in Mobile County.

Meanwhile, the Kennedy administration's case on behalf of Brookley AFB's children remained unresolved until Mobile's U.S. attorney submitted a motion from President Lyndon B. Johnson's administration to dismiss the *U.S. v. Mobile County* case on April 15, 1965. The request implied that the ongoing *Birdie Mae Davis* case and the

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<sup>103</sup> *Mobile Press*, September 4, 1963: 1.

<sup>104</sup> Bagley, "School Desegregation," p. 220.

approved Civil Rights Act of 1964 brought the federal government's original point to moot. Judge Thomas accepted the request and issued a dismissal order a day later.<sup>105</sup>

Although the *U.S. v. Mobile County* case concluded without a decision, it pushed Mobile County closer to *Brown* implementation. The case encouraged Mobile's African American leaders and the NAACP to launch their own legal campaign against public school desegregation. Most notably, it showed that Brookley AFB's presence in Mobile County motivated the Kennedy administration to use legal measures to protect military members and federal civilians from off-base discrimination at a time when the White House was unsure of its commitment to civil rights in the South.

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<sup>105</sup> Dismissal Order, *U.S. v. Mobile County Board of School Commissioners*, April 16, 1965.

## CHAPTER 4

### KEESLER AIR FORCE BASE-NAVAL CONSTRUCTION BATTALION CENTER AND BILOXI-GULFPORT, MISSISSIPPI

Biloxi and Gulfport, Mississippi are sixty-three and seventy-five miles west of Mobile, Alabama along the southern gulf coast. The three cities are in close proximity to each other. In the early 1960s, they were close to each other in another way as the federal government launched its legal challenge to school segregation of military children. In Biloxi and Gulfport, as in Mobile, integrated military bases remained at the center of the judicial struggle against educational segregation. There were similar actors in Mississippi as well. Kennedy administration officials and activists from the National Association for the Advancement of Colored People (NAACP) pushed local leaders and federal judges to resolve specific issues about military bases' and military employees' places in the community. The Kennedy administration continued its limited attempt to open a path toward public school desegregation for military children in Biloxi and Gulfport.

That path was opened on August 31, 1964 (two-and-a-half months after President Lyndon B. Johnson signed the landmark Civil Rights Act of 1964), when sixteen African American first graders entered previously all-white schools in Biloxi, Mississippi. Seven of them walked through the doors of Gorenflo Elementary School. This school was on Biloxi's east side, approximately two miles from Keesler Air Force Base's (AFB) main

gate. Until that morning, Gorenflo Elementary School had served only white children from the local neighborhood and the base. The remaining nine students started their day at Beauvoir, Lopez, and Perkins elementary schools. Agents from the Federal Bureau of Investigations lingered near each school in case trouble erupted. None did. Biloxi's superintendent of schools, Robert D. Brown, commented, "We anticipated no problems and had no problems."<sup>106</sup>

Brown's words implied that public school desegregation in Biloxi began as an accepted inevitability. The process was nothing of the sort. Earlier, on July 7, 1964, Judge Sidney C. Mize of the U.S. District Court in Jackson ruled that Biloxi's and nearby Gulfport's schools had to desegregate immediately. Judge Mize's decision meant that the nation's last state without desegregated schools below the college level would finally begin to implement the U.S. Supreme Court's 1954 *Brown* decision. The judge's order was definitive, but the outcome of the legal fight leading to that decision was uncertain.

Judge's Mize's verdict resulted from nineteen months of steady pressure exerted at the local levels by the federal government and the NAACP in Biloxi and Gulfport. The Kennedy administration was able to apply this pressure because of Keesler AFB in Biloxi and the U.S. Naval Construction Battalion Center (NCBC) in Gulfport. These bases and their occupants constituted a national presence in Biloxi and Gulfport that enabled the federal government to mount the first challenge to public school segregation in a Mississippi federal court.

This case revealed the strange lines that separated southern Mississippi's integrated military bases from their nearby segregated communities in the early 1960s.

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<sup>106</sup> *Hattiesburg American*, August 31, 1964:1.

One of these lines was the simple act of military children attending off-base schools. Students from Keesler AFB and the NCBC lived in integrated communities on base. However, each morning they left base and traveled to racially separated schools in Biloxi and Gulfport. This paradoxical existence made Biloxi's and Gulfport's military children unique among their civilian peers in the state.

In academic year 1962-1963, there were one-hundred-and-fifty public school districts in the Magnolia State. All were segregated.<sup>107</sup> The school districts in Biloxi and Gulfport, however, differed from others. Biloxi and Gulfport had the state's largest federal presence because of their military bases. There were thousands of military employees and family members associated with Keesler AFB and the NCBC in 1962. However, federal military status did not exempt base children from off-base discrimination in local schools.

Federally-connected children and their military parents prompted anti-discrimination activists to try to convince a reluctant Kennedy administration to invest national resources in another local fight against school segregation. Attorney J. Francis Pohlhaus was director of the NAACP's bureau in Washington, D.C., and Dr. Gilbert R. Mason was president of the organization's Biloxi branch. Mason was a veteran civil rights advocate and Biloxi's only civilian African American physician.<sup>108</sup>

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<sup>107</sup> U.S. Commission on Civil Rights, Table 1, in *Public Education Staff Report* (Washington, D.C: U.S. Government, 1964).

<sup>108</sup> In the late 1950s and early 1960s, Mason orchestrated a series of "wade-ins" to protest beach segregation. Biloxi's and Gulfport's beachfronts were segregated public property that stretched twenty-six miles along Mississippi's gulf coast. Keesler AFB's main gate stood directly in front of Biloxi's segregated beach. Mason led African Americans into protest by walking along the shoreline of Biloxi's and Gulfport's segregated beaches. In 1960, one march exploded into violence as a white mob attacked Mason and his fellow activists. For information on Dr. Gilbert R. Mason and Mississippi's "wade-ins" see, Gilbert R. Mason with James P. Smith, *Beaches, Blood, and Ballots: A Black Doctor's Civil Rights Struggle* (Jackson: Univ. Press of Mississippi, 2000).



Pohlhaus was aware that the U.S. Justice Department had made an unprecedented legal move in September of 1962 in Prince George County, Virginia, by filing suit to desegregate local schools for military children. This action motivated Pohlhaus to seek similar Kennedy administration involvement in Mississippi. The Kennedy administration's recent intervention in support of desegregation at the previously all-white University of Mississippi also inspired hope. However, the rioting and bloodshed in Oxford during the desegregation crisis at Ole Miss reminded Pohlhaus and Mason that the stakes were high.

Pohlhaus called on Mason to establish national and local coordination within the NAACP. An expanded anti-discrimination fight in Biloxi, argued Pohlhaus, required active participation from the Kennedy administration. He asserted that the federal government needed a clear reason to intervene in Biloxi and Gulfport.<sup>109</sup> Pohlhaus and Mason wanted to urge the Kennedy administration to defend military employees in Biloxi and Gulfport against local discrimination. Despite federal intervention at Ole Miss, African American Mississippians remained curious but uncertain about the White House's commitment to civil rights in their state.

Pohlhaus and Mason facilitated NAACP discussions with the U.S. Justice Department. They reminded federal officials that, although Ole Miss had begun to desegregate, local public schools were still segregated.<sup>110</sup> The White House was listening. The federal government needed a cautious way to demonstrate limited commitment to public school desegregation in Mississippi. Keesler AFB and the NCBC provided that opportunity.

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<sup>109</sup> Ibid, p. 151.

<sup>110</sup> Ibid, p. 153.

By the end of 1962, Biloxi had a population of approximately forty-five thousand people, and Gulfport's was around thirty-thousand. Between Keesler AFB and the NCBC, the U.S. Department of Defense employed over twenty-seven thousand service members and federal civilians. The bases accounted for fifty percent of the local community's employment, and military employees sent sixteen-hundred children to segregated public schools.<sup>111</sup> The Kennedy administration found it difficult to ignore these numbers.

On January 17, 1963, the U.S. Justice Department filed separate and simultaneous suits against school districts in Biloxi and Gulfport, Mobile County, Alabama, and Bossier Parish, Louisiana, to desegregate local schools for military children. Regarding the Mississippi case, Assistant U.S. Attorney Burke Marshall submitted the U.S. Justice Department's initial complaint to Judge Sidney C. Mize at the federal court in Gulfport.

Judge Mize was born in Gulfport. He was a one-time state Democratic Party leader and, ironically, a former member of Gulfport's school board. President Franklin D. Roosevelt appointed him to the federal bench in 1937.

Mize was a judicial conservative. He was four months removed from his reluctant ruling in favor of desegregation at Ole Miss when Marshall initiated the federal government's complaint against Biloxi and Gulfport. Mize had delayed and ultimately dismissed the Ole Miss case. The plaintiff's successful appeal to a higher court forced Mize to reverse himself.<sup>112</sup> Mize's behavior in the Ole Miss case left no doubts about his

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<sup>111</sup> See First Claim, *U.S. v. Biloxi and Gulfport*, January 18, 1963.

<sup>112</sup> William Doyle, *An American Insurrection: The Battle of Oxford, Mississippi* (New York: Doubleday, 2001), 18-19.

views on desegregation. Now, Marshall had placed desegregation on Mize's docket once again.

Judge Mize's office initially entitled this case *U.S. v. Biloxi Municipal Separate School District and Gulfport Municipal Separate School District*. The name signified the U.S. Justice Department's intent to jointly sue both school districts. Marshall accused each board of violating the U.S. Constitution by requiring military children to attend segregated schools supported by federal funds. The Kennedy administration had made a similar accusation in the *Prince George County* case. However, while massive resistance influenced federal desegregation efforts in Prince George County, recent racial violence in Mississippi affected the way Kennedy administration would challenge school segregation in Biloxi and Gulfport.

Passions over civil rights, segregation, and black-white relations erupted into bloodshed throughout Mississippi in the early 1960s. This volatile atmosphere figured into the U.S. Justice Department's selection of military children for its limited pursuit of public school desegregation in Mississippi. In most military communities in the South in the 1960s, African American service members preferred to reside on base in integrated communities for relative insulation from off-base discrimination.<sup>113</sup> African Americans on Keesler AFB and the NCBC were no different.

There were two-hundred-and-fifty African American military children in Mississippi's gulf coast region at the end of 1962. All lived on military installations.<sup>114</sup>

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<sup>113</sup> See Polly J. Smith, *The Impact of Military Desegregation on Segregation Patterns in American Cities: A Case Study of Colorado Springs, New London, and Fayetteville* (Lewiston, NY: Mellen Press, 2007), 43; and Morris J. MacGregor, *Integration of the Armed Forces, 1940-1965* (Washington, D.C.: U.S. Army Center of Military History, 1989), 516-517.

<sup>114</sup> First Claim, *U.S. v. Biloxi and Gulfport*, January 18, 1963.

The U.S. Justice Department and the NAACP considered that a case involving military personnel would be less likely to expose parents and children to off-base racial violence.<sup>115</sup>

Public school segregation both separated and connected Mississippi's military bases to their civil communities. Assistant U.S. Attorney General Marshall strove to eliminate this paradox by pointing out the bases' importance to their off-base communities. His official complaint painstakingly detailed Keesler AFB's economic relationship with Biloxi and Gulfport. He aimed to showcase the military's financial contribution to cities that segregated their bases' children.

Marshall outlined how much the federal government had invested in Biloxi and Gulfport schools on behalf of military children from 1951 to 1962. During those years, the federal government had provided Biloxi's and Gulfport's school districts with over one-million dollars for school construction projects. The local school districts had invested just over one-hundred thousand dollars in the same period. The federal government had contributed to school construction in Biloxi and Gulfport at a rate twelve times higher than that of the local governments.<sup>116</sup>

The U.S. Justice Department's grievance also indicated that segregation was not only unconstitutional, but that it endangered military readiness by exposing base personnel and their families to off-base discrimination. Similar to criticism by the U.S. Justice Department in the *Prince George County* case, Marshall's argument was that off-

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<sup>115</sup> Mason, *Beaches, Blood, and Ballots*, p. 152.

<sup>116</sup> Appendix D, First Claim, *U.S. v. Biloxi and Gulfport*, January 18, 1963.

base racial discrimination against African American service members compromised military preparedness for the Cold War.<sup>117</sup>

Loryce E. Wharton, Judge Mize's court clerk, received the federal government's complaint at high noon.<sup>118</sup> She immediately processed it—marking the opening salvo of a legal duel between adjoining communities separated by national change and local tradition.

Marshall named the superintendents and school board members of Biloxi and Gulfport as principal defendants. Among these names were J.A. Graves and Robert D. Brown. Graves had been president of Biloxi's school board since 1957. He was popular with local white constituents because he worked to acquire additional land at the end of the previous decade to expand some of Biloxi's white junior high schools.<sup>119</sup> Black Biloxians, however, saw Graves as just another conservative white official who always acted in the best interest of Biloxi's white residents.<sup>120</sup>

Robert Brown had been Biloxi's school superintendent since 1960. Except for a brief interruption from 1942 to 1944, he had worked continuously in public school education throughout Mississippi since 1935. World War II brought him to Biloxi where he worked at Keesler Field (Keesler AFB's predecessor) in aircraft maintenance. Following military service, Brown left the base and joined Biloxi's civilian community as a teacher, principal, and, eventually, superintendent.<sup>121</sup> Both Graves and Brown

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<sup>117</sup> See Mary L. Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy* (Princeton, NJ: Princeton Univ. Press, 2000).

<sup>118</sup> First Claim, *U.S. v. Biloxi and Gulfport*, January 18, 1963.

<sup>119</sup> Biloxi Municipal School District (BMSD), "Biloxi Schools, 1960-1969," in *The Biloxi Schools, 1924-2001* (Biloxi, MS: BMSD, 2002), 3.

<sup>120</sup> Mason, *Beaches, Blood, and Ballots*, p. 150.

<sup>121</sup> BMSD, "Superintendents of the Biloxi Public School District, 1922-2001," in *The Biloxi Schools, 1924-2001*, p. 11.

expressed surprise after the U.S. Justice Department filed suit. Brown commented, “We’re mystified about this. They said we are violating the Fourteenth Amendment, yet no colored student has ever made an application to attend...white public schools.”<sup>122</sup>

Biloxi’s mayor, Daniel D. Guice, joined Graves and Brown in announcing his shock in light of the federal suit. Guice had been in office for less than a year. He was member of a prominent Biloxi family. Guice and his brother, Jacob, shared a successful law practice, and Jacob had served from 1953 to 1958 as a member of the Biloxi school board.<sup>123</sup> Upon hearing of Marshall’s proposed litigation, Mayor Daniel Guice expressed disgust at what he saw as rising federal interference in local affairs. The mayor explained, “Naturally, I was quite surprised about the suit filed by the United States attorney-general attempting to interfere with our local school systems. It is apparent that there is an ever-increasing trend on the part of our federal government, headed by the President and his brother, the attorney-general, to entirely depart from our traditional Constitutional government in its entirety.”<sup>124</sup>

Guice’s comments were decidedly more piercing than Graves’s or Brown’s. Nevertheless, they captured succinctly the way conservative white Mississippians saw the federal government’s actions in their state over civil rights and desegregation. To them, Marshall’s suit represented the latest attempt by the federal government to impose national will on local and state sovereignty. In response, school officials assembled a supporting cast to challenge the federal government.

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<sup>122</sup> *Biloxi Daily Herald*, January 19, 1963: 1.

<sup>123</sup> BMSD, “Biloxi Schools, 1950-1959,” in *The Biloxi Schools, 1924-2001*, p. 2.

<sup>124</sup> *Jackson Clarion-Ledger*, August 25, 2009: 1.

Graves and Brown turned to the school district's attorney, Victor B. Pringle, a local lawyer. Pringle had served as chairman of Biloxi's Democratic Party in the 1950s and was a member of the city's housing authority.<sup>125</sup> Recognizing that the ensuing legal battle was more than just a local struggle against segregation in Biloxi and Gulfport, Pringle enlisted support from Joe T. Patterson, Mississippi's attorney general, and Jackson M. Tubb, head of the state's department of education.<sup>126</sup> Patterson, a Democrat, had been state attorney since 1959.

Immediately upon taking office, Patterson represented Governor Ross Barnett's pro-segregation stance in front of a U.S. House of Representatives subcommittee hearing on civil rights legislation. Patterson asserted, "The dual system of education in Mississippi is working to the complete satisfaction of both races."<sup>127</sup> Patterson also led Governor Barnett's legal fight against the desegregation of the University of Mississippi.<sup>128</sup> Graves and Brown used Patterson's presence to signal state (not just local) resolve against interference from the Kennedy administration in Biloxi.

Jackson Tubb had been state superintendent of education since World War II. He was a seasoned veteran in the fight against *Brown* implementation. Like Patterson, Tubb suggested that Mississippi's African Americans were content about school segregation. In 1960, he commented that "Mississippi Negroes are more interested in education than integration—when given equal opportunity in their own improved and fully equipped

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<sup>125</sup> *Biloxi Daily Herald*, October 31, 1977: 2.

<sup>126</sup> *Ibid*, January 19, 1963: 2.

<sup>127</sup> As quoted in Charles C. Bolton, *The Hardest Deal of All: The Battle over School Integration in Mississippi, 1870-1980* (Jackson: Univ. Press of Mississippi, 2005), 78. Despite Patterson's positive portrayal of separate-but-equal education in Mississippi, the state's white officials routinely short-changed resources and funding for black schools. Public schools in Biloxi and Gulfport were part of this race-based imbalance.

<sup>128</sup> Yasuhiro Katagiri, *The Mississippi State Sovereignty Commission: Civil Rights and States' Rights* (Jackson: Univ. Press of Mississippi, 2001), 126.

schools.”<sup>129</sup> For almost two decades, Tubb contributed successfully to a statewide campaign that paid lip service to separate-but-equal and ignored *Brown*. Graves, Brown, and Pringle looked to use Tubb’s talents in their fight against Marshall.

Biloxi’s status quo defenders gathered to block the U.S. Justice Department’s attempt to use Keesler AFB as a racial, social, and educational inroad to change. They countered immediately after the Kennedy administration filed suit. On February 11, 1963, Pringle provided Judge Mize with the district’s initial objections. He contended that the two districts were separate entities and should be treated as such in any legal matter. His motion called for legal severance of the two districts in the case.<sup>130</sup> More significantly, Pringle filed a concurrent motion to dismiss the federal government’s complaint.

Biloxi school administrators asserted three reasons for immediate dismissal. First, they refused to acknowledge that a U.S. District Court held jurisdiction in the matter. They argued that any legal issues related to public schooling should be handled in local or state court. Next, they claimed that the plaintiff’s objectives were unreasonable. Finally, they argued that the federal government failed to demonstrate national interest in what they considered to be a local issue.<sup>131</sup>

At the heart of the defense was the argument that Keesler AFB and its occupants did not warrant exceptional status in local civil matters simply because of their federal status. The base and its employees, in Pringle’s opinion, were subject to local authority (particularly as related to education and segregation). Save the request for severance,

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<sup>129</sup> Ibid.

<sup>130</sup> Motion Objecting to Joinder of Parties and for Severance, *U.S. v. Biloxi and Gulfport*, February 11, 1963.

<sup>131</sup> Motion to Dismiss, *U.S. v. Biloxi and Gulfport*, February 11, 1963.



Pringle's counterclaims mirrored those presented by Prince George County attorneys four months earlier in their defense against the U.S. Justice Department.

One day after Pringle called for dismissal, James S. Eaton, president of Gulfport's school board, did the same. Eaton was a well-known Gulfport attorney who had served as school district president since 1949.<sup>132</sup> He was board president during the *Brown* ruling in 1954 and since then had worked tirelessly to forestall its implementation in Gulfport. Eaton directed Owen T. Palmer, Sr., legal counsel for Gulfport's school district, to file a dismissal motion with Judge Mize. Palmer ran a well-established legal practice in Gulfport. He had represented the school district for over two decades.<sup>133</sup> The dismissal motion that Palmer authored read exactly as Biloxi's.<sup>134</sup>

With both motions submitted, Judge Mize announced that he would resume his court's civil docket two months later in April of 1963.<sup>135</sup> Meanwhile, the Kennedy administration continued to address segregation of military children in the South. Mississippi's conservative white officials followed White House actions with concern.

U.S. Commissioner of Education Abraham Ribicoff instructed Assistant Secretary of Health, Education, and Welfare (HEW) James M. Quigley to develop a strategy on civil rights that included military children in the South. Quigley was aware that a majority of military members' children in the South had to attend segregated off-base

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<sup>132</sup> *Biloxi Daily Herald*, June 9, 1949: 5.

<sup>133</sup> Owen T. Palmer, Sr. represented Gulfport in its legal struggle to maintain school segregation in the 1960s. Palmer's son, Owen T. Palmer, Jr., followed in his father's footsteps as legal counsel for the Gulfport school district in the 1970s and 1980s. Ironically, after Palmer Sr.'s death in 1977, the city of Gulfport named a public park after him. Black and white residents of Gulfport now enjoy Owen T. Palmer, Sr. Park, which is two miles away from the base that Palmer, Sr. opposed in this desegregation case. See *Biloxi Daily Herald*, February 16, 1999: 2.

<sup>134</sup> Motion to Dismiss, *U.S. v. Biloxi and Gulfport*, February 12, 1963.

<sup>135</sup> *Biloxi Daily Herald*, February 11, 1963: 2.

schools in states where there were no federally-managed base schools.<sup>136</sup> Biloxi and Gulfport fell into this category.

Quigley proposed that the federal government should construct on-base schools in areas where military children had to attend segregated, off-base schools. Under Quigley's advisement, Anthony J. Celebrezze, Ribicoff's successor as U.S. Commissioner of Education, announced in early 1963 that the Kennedy administration would begin immediate construction of desegregated, federally-operated schools on bases in Alabama, Georgia, Mississippi, and South Carolina. This announcement also contained a financial component. Celebrezze explained that federal educational funding would be redirected from local schools to base schools as military children withdrew from local districts.<sup>137</sup>

Quigley's tactic bore some fruit as some southern military communities reconsidered their relationship with nearby federal bases. The Commandant of the U.S. Marine Corps announced in mid-1963 that Stafford County, Virginia's school board agreed to open its schools to military children from nearby Marine Corps Base Quantico without regard to race. Also, the U.S. Air Force revealed that local leaders in Florida and Texas had decided to desegregate their schools for Air Force children.<sup>138</sup>

The U.S. Department of Health, Education, and Welfare's plan supported U.S. Department of Defense efforts to allow base commanders to exercise what authority they could to reduce off-base discrimination. Some base commanders were able to achieve success because they articulated Quigley's ideas in a manner that persuaded off-base

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<sup>136</sup> Gary Orfield, *The Reconstruction of Southern Education: The Schools and the 1964 Civil Rights Act* (New York: Wiley-Interscience, 1969), 53.

<sup>137</sup> MacGregor, *Integration*, p. 596.

<sup>138</sup> *Ibid.*, p. 597.

civilian leaders.<sup>139</sup> Mississippi, however, was at the forefront of resistance to civil rights and desegregation. Recognizing this recalcitrance, Quigley chose to interact personally with school district leaders in Biloxi and Gulfport.

Soon after the U.S. Justice Department issued its complaint against Biloxi and Gulfport, Quigley developed four out-of-court propositions for the two school districts to resolve the situation. Quigley traveled to the Mississippi gulf coast and presented his ideas in conferences with school board leaders. Of note, he asked district leaders to give assurances that children residing on federal property in the local area would be assigned to schools on a desegregated basis in the next school year.<sup>140</sup> Biloxi's superintendent Robert Brown appeared pessimistic.

Brown informed Quigley that any plan involving public school desegregation would be in violation of the state's separate-but-equal mandate. Brown's response to Quigley captured the essence of Mississippi's paradoxical resistant to *Brown*. It justified Biloxi's opposition to *Brown* by asserting state statutes that violated a U.S. Supreme Court ruling. Quigley's personal involvement failed to move Biloxi and Gulfport.

Since Biloxi and Gulfport leaders were unresponsive to out-of-court negotiation, the next move fell to Judge Mize. He announced that a hearing on the defendants' severance motion would take place on April 22, 1963 in the state capital of Jackson.<sup>141</sup>

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<sup>139</sup> Ibid.

<sup>140</sup> Quigley's other propositions were as follows. He requested that the federal government lease a Biloxi school for use only by military children on a desegregated basis. The Biloxi school district would manage the school and the federal government would fund it. Quigley proposed that the federal government could lease and operate a Biloxi school. However, the Biloxi school district would administer the school. Finally, he recommended that the federal government build a desegregated school on Keesler AFB for military children. The Biloxi school district would manage and staff this on-base school. See *Biloxi Daily Herald*, January 18, 1963: 2.

<sup>141</sup> Notice of Hearing of Motion Objecting to Joinder of Parties and Severance, *U.S. v. Biloxi and Gulfport*, April 11, 1963.

This change in venue suggested that Judge Mize saw the case as something larger than a local case involving just Biloxi or Gulfport. Meanwhile, state attorney general Joe Patterson sent an official dispatch to Judge Mize's clerk. Patterson wanted to make the judge aware that his office would provide four additional attorneys to both defendant school districts to support their legal teams. Patterson added that he would be one of the attorneys representing the defendants.<sup>142</sup> The state attorney general was preparing an interlocked legal defense between Jackson, Biloxi, and Gulfport in their defense against the Kennedy administration.

The following week Judge Mize issued his first decision which placed the Kennedy administration on the defensive. The judge agreed with Victor Pringle and Owens Palmer, lead attorneys for Biloxi and Gulfport, that the one case, which named both school districts as defendants, should be split into two cases with separate defendants.<sup>143</sup> Gulfport's school district president James Eaton expressed relief about severance. He also expressed confidence that that severance was the first step toward dismissal of a case legal merit.<sup>144</sup>

Eaton's comment about merit suggested that he believed Judge Mize would dismiss the case owing to a lack of precedent regarding federal bases and local civil rights. There was precedent, however. Four months earlier, Judge John D. Butzner, Jr, Judge Mize's counterpart in Richmond's U.S. District Court, deferred ruling on a plaintiff's dismissal motion in the Kennedy administration's desegregation against the

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<sup>142</sup> Dugas Shands, Assistant Attorney General of Mississippi, letter to Ms. Loyrce E. Wharton, Clerk to U.S. District Judge Sidney C. Mize, April 16, 1963, in *U.S. v. Biloxi and Gulfport* File, National Archives, Atlanta, GA.

<sup>143</sup> Order Sustaining Defendants' Motion for Severance, *U.S. v. Biloxi and Gulfport*, April 22, 1963.

<sup>144</sup> *Biloxi Daily Herald*, April 22, 1963: 1.

Prince George County school board on behalf of military children.<sup>145</sup> Judge Butzner allowed the case to proceed because of an implied judicial curiosity about the legal status of federal military bases and military members in a local matter. Judge Mize, on the other hand, had shown previously that he was less curious than Judge Butzner about hearing arguments that challenged segregation's status quo. He expressed this conservatism two years earlier when he dismissed the initial Ole Miss desegregation case.

Next, Judge Mize turned to the Kennedy administration's claim that Gulfport's school board had breached federal grant conditions by requiring military children to attend segregated schools. Assistant U.S. Attorney General Marshall alleged that the defendants violated written assurances they had given the federal government. These assurances, argued Marshall, included making local public schools available to military children under the same terms of availability for civilian children. The federal government intended to demonstrate that Biloxi and Gulfport failed to make all schools available to military children because of segregation. This failure, Marshall contended, violated the districts' agreement with the federal government.<sup>146</sup>

Judge Mize interpreted the terms of this arrangement differently. He emphasized equality of treatment over availability and access. The judge explained that military children received equal treatment as local civilian children by being sent to segregated schools. Since segregation was the law of the land in Mississippi, children from Keesler AFB and the NCBC received identical access to segregated schools. Judge Mize concluded, "All children attending schools in the Defendants' district are admitted on the

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<sup>145</sup> Order Fixing Trial Date and Schedule for Pre-Trial Proceeding, *U.S. v. Prince George County School Board*, December 14, 1962.

<sup>146</sup> First Claim, *U.S. v. Biloxi and Gulfport*, January 18, 1963.

same terms, i.e. all white children without exception are alleged to go to white schools and all colored children without exception are alleged to go to schools reserved for the Negro race.”<sup>147</sup> In Judge Mize’s eyes, consistency meant equal application of Jim Crow law.

The application of school segregation laws centered on the concept of dual attendance zones. Southern school districts used these zones, which were based on racially segregated neighborhoods, to establish feeder schools in which single-race primary and middle schools fed single-race high schools. *De facto* segregation in Biloxi’s and Gulfport’s civilian neighborhoods in the early 1960s made it easy for school officials to establish *de jure* dual attendance zones for civilian residential areas. Keesler AFB and the NCBC were different, however.

Base children lived in integrated neighborhoods. Nevertheless, black and white military children had to attend separate schools off base. This practice meant that there was an inconsistent application of dual attendance zones as related to military children. Consequently, Judge Mize contradicted himself when he asserted that local school officials were consistent in their application of school segregation. He also diverged from an earlier ruling in a different federal circuit court in Virginia that prohibited dual attendance zones because they placed an indefinite delay on *Brown* implementation.<sup>148</sup>

The judge reestablished his conservative position on segregation by dismissing the U.S. Justice Department’s complaint against Gulfport on May 16, 1963. He asserted that the federal government failed to establish its eligibility for Fourteenth Amendment

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<sup>147</sup> Opinion and Order, *U.S. v. Gulfport* May 16, 1963.

<sup>148</sup> This case was *Bradley v. School Board of the City of Richmond*, 317 F.2d 429, 432 (Fourth Circuit 1963). See Robert A. Pratt, *The Color of Their Skin: Education and Race in Richmond, Virginia, 1954-1989* (Charlottesville: Univ. of Virginia Press, 1993), 36.

protection against local laws. Judge Mize explained that constitutional protections the Kennedy administration sought in this case applied only to private citizens and not to a public body like the federal government. He argued, “Only natural persons are entitled to privileges and immunities of the Fourteenth Amendment.” The judge added that only Congress possessed constitutional authority to enforce the Fourteenth Amendment.<sup>149</sup>

Eight days later, Robert E. Hauberg, U.S. Attorney in Jackson, appealed this dismissal. Hauberg’s appeal went to the U.S. Fifth Circuit Court of Appeals in New Orleans, Louisiana. Meanwhile, Judge Mize still had to rule on the dismissal motion in the *Biloxi* case. He announced his decision on June 17, 1963.

Judge Mize initially submitted an opinion letter to Assistant U.S. Attorney General Marshall and Mississippi Attorney General Patterson. In it, the judge explained that he considered the merits of the *Biloxi* case since his earlier ruling in the *Gulfport* case. He further described that both cases were significantly similar, and thus, warranted comparable judicial treatment. Judge Mize’s rationale led him to conclude, “I find that the principles of law governing the rights to bring the suit by the [federal] Government are the same in each case, and, therefore, am of the opinion now that the decision rendered in the *Gulfport* case is completely applicable to the principles of law involved in the [Biloxi] case.”<sup>150</sup> Judge Mize’s judicial conservatism was once again on display.

The judge’s reasoning centered on similarities between the two cases. Earlier on April 22, 1963, however, he emphasized dissimilarities between the cases as he approved

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<sup>149</sup> Opinion of the Court, *U.S. v. Gulfport Separate School District*, CA-2678, U.S. District Court, Jackson, MS, May 16, 1963. Hereafter the *Gulfport* suit had its own case number due to Judge Mize’s decision to sever it from the *Biloxi* case on April 22, 1963. The *Biloxi* case maintained the original case number of CA-2643.

<sup>150</sup> Judge Sidney C. Mize, Opinion Letter, June 17, 1963. National Archives, Atlanta, GA, in *U.S. v. Biloxi* File.

the defendants' requests for severance. Almost two months after Judge Mize separated the cases, he focused on their similarities as he dismissed both of them.

Judge Mize's opinion letter coincided with his ruling. On June 17, 1963, he dismissed the federal government's case against the Biloxi school board. The judge's decision mirrored his Gulfport ruling. He asserted principally that the U.S. Justice Department failed to demonstrate bona fide national interest in what was fundamentally a local issue.<sup>151</sup> In light of Judge Mize's latest dismissal, Hauberg filed another appeal with the U.S. Fifth Circuit Court of Appeals in New Orleans.<sup>152</sup>

Judge Mize's two dismissals appeared to be the end of a lengthy national road to local change in Mississippi. These cases, however, were not a final destination. Rather, they were an invaluable point of departure on Mississippi's lengthy road to public school desegregation. These cases involving Mississippi's federal military bases and armed forces member had exposed legal vulnerabilities in white conservatives' defense of segregated education in Biloxi and Gulfport. White House and military leaders aimed to further reveal those vulnerabilities while the U.S. Justice Department's cases sat in appeal.

On July 9, 1963, President Kennedy, Vice President Lyndon B. Johnson, and U.S. Secretary McNamara spoke privately about how to work southern military bases into a larger civil rights strategy. Mississippi's bases were one of their topics. The three leaders discussed the idea of threatening to close some southern bases to get the attention of local conservative white officials who resisted civil rights. They knew that civilian communities with military bases relied on their economic input to local areas.

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<sup>151</sup> Order, *U.S. v. Biloxi*, June 17, 1963.

<sup>152</sup> Notice of Appeal and Designation of Record, *U.S. v. Biloxi*, July 15, 1963.



Secretary McNamara suggested that his department could issue an order to have base commanders enforce off-limits policies against discriminatory, off-base businesses. He suggested, “[We] could absolutely close up Biloxi” with this kind of pressure.<sup>153</sup> This action was to be more stringent than a directive Secretary McNamara issued in 1961 that prohibited racially discriminatory organizations from on-base facilities.<sup>154</sup> The secretary’s latest suggestion did not result in an immediate policy change. However, Secretary McNamara did instruct all base commanders to speak to their personnel about off-base public school segregation.

Keesler AFB’s commander at the time was Colonel Lewis H. Walker. In August of 1963, Colonel Walker addressed his airmen at Keesler AFB, explaining that if there was any opposition to Biloxi’s policy of segregation, then military employees had the right to sue the school district as individuals in federal court.<sup>155</sup> Colonel Walker’s words were not an official endorsement from the Air Force, but they did reaffirm the idea that White House and military leaders supported the idea that federal military bases and military members in Mississippi were entitled to special protection against specific local laws.

The U.S. Fifth Court of Appeals addressed this protection in mid-summer of 1963 when it merged the *Biloxi* and *Gulfport* cases with three other desegregation suits from Mississippi. Judge Mize had presided over these cases as well and dismissed all of them. They were *Gilbert R. Mason v. the Biloxi Municipal Separate School District*, *Darrell K.*

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<sup>153</sup> Kent Germany, ed., “Meeting on Civil Rights and Southern Military Bases,” July 9, 1963, JFK Library Tape 96.6, in forthcoming *John F. Kennedy and Civil Rights: The Presidential Recordings* (Charlottesville: Rotunda Digital Imprint of the Univ. of Virginia Press), 4.

<sup>154</sup> MacGregor, *Integration of the Armed Forces*, p. 511.

<sup>155</sup> Bolton, *The Hardest Deal of All*, p. 93.

*Evers v. Jackson Municipal Separate School District, and Dian Hudson v. Leake County School Board.*

Dr. Gilbert Mason had launched his own legal battle in June of 1963 after Judge Mize dismissed the federal government's case in Biloxi. The *Evers* case had begun in March of 1963 on behalf of Medgar Evers's children. Evers filed suit three months before a white supremacist assassinated him. The *Hudson* case started in March of 1963 with assistance from the NAACP. All the cases were significant in their own right, but the *Biloxi* and *Gulfport* cases represented the initial challenge to public school segregation in a Mississippi federal court.

The Appeals Court announced its judgement on February 14, 1964. Judges Griffin B. Bell, Leo Brewster, and Joseph C. Hutcheson were the presiding jurists. All three men were native southerners. Bell and Brewster were Kennedy appointees, and Hutcheson had been named to the bench by President Herbert Hoover in 1930.

The judges affirmed that all school districts violated the Fourteenth Amendment and *Brown* by having enforced racial segregation. They held that compulsory racial segregation prohibited a reasonable opportunity for appellants to apply to any public school without regard to race. This practice, in the judges' view, denied appellants equal protection under the law. The three jurists then reversed all previous dismissals by Judge Mize and remanded their decision to him for judicial implementation.<sup>156</sup> They compelled a reluctant Judge Mize to implement the relief Kennedy administration officials sought in *Biloxi* and *Gulfport*.

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<sup>156</sup> Appeal Judgment, *Gilbert R. Mason v. the Biloxi Municipal Separate School District, Darrell K. Evers v. Jackson Municipal Separate School District, and Dian Hudson v. Leake County School Board*, U.S. Fifth Court of Appeals, New Orleans, LA, February 14, 1964.

Over the next five months, Judge Mize ordered all school districts to admit principal plaintiffs from each case to the schools of their choice. He also instructed the districts to present him with a preliminary desegregation plan for academic year 1964-1965. Judge Mize had played a judicial cat-and-mouse game with these cases for nineteen months.

On July 7, 1964, these games came to an end when Mize approved the plaintiffs' request for a permanent injunction against public school segregation. The following month, a handful of African American military and civilian children desegregated previously all-white schools in Biloxi.

For the area's military students, the bus ride from base to their new schools was relatively short. Their brief ride, however, was the result of a long road that started with the U.S. Justice Department (prompted by cooperation with the NAACP) using federal military bases in Mississippi as a legal onramp into a specific portion of the Magnolia's State's civil rights struggle.

## CHAPTER 5

### BARKSDALE AIR FORCE BASE AND BOSSIER PARISH, LOUISIANA

By the end of 1962, there were sixty-seven public school districts in Louisiana. Orleans Parish, which includes New Orleans, was the only desegregated school district at the time.<sup>157</sup> The parish was integrated under court order on November 14, 1960 after an eight-year fight in federal court between attorneys from the National Association for the Advancement of Colored People (NAACP) and white conservative officials from the parish and state.<sup>158</sup>

Long-time segregationist, political boss, and senior official in the Louisiana States' Rights Party, Leander Perez, defiantly denounced the court's decision the next day at a gathering of five thousand like-minded white conservatives in the city's Municipal Auditorium. Perez barked, "Don't wait for your daughter to be raped by the Congolese. Don't wait until the burr-heads are forced into your schools. Do something about it."<sup>159</sup>

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<sup>157</sup> At the end calendar year 1962, Orleans Parish had over thirty-seven thousand white students and over fifty-eight thousand African American students. One thousand seven-hundred-and-eighty-six African American pupils attended twenty-eight previously all-white public schools throughout the district. See *Statistical Summary of School Segregation-Desegregation in the Southern and Border States* (Nashville, TN: Southern Education Reporting Service, November, 1962), 3.

<sup>158</sup> The NAACP filed *Bush v. Orleans Parish School Board* in federal district court in New Orleans, Louisiana on September 5, 1952 on behalf of twenty-one separate plaintiffs. The court's decision in November of 1962 in favor of the plaintiffs declared that a decade of delay by the parish and interposition by the state were unconstitutional. See *Bush v. Orleans Parish School Board*, 188 F.Supp. 916, U.S. District Court E. D. Louisiana, New Orleans Division, 30 November 1960.

<sup>159</sup> As quoted in Jack Bass, *Unlikely Heroes* (New York: Simon and Schuster, 1981), 129.

Defenders of public school segregation in Louisiana did do something. Hoping to keep the growing momentum of *Brown* implementation at bay, they continued to construct political and legal walls like the levees they built to hold back the mighty Mississippi River. One of the places where the guardians of segregation were especially active was in Bossier Parish, Louisiana. Barksdale Air Force Base (AFB) and neighboring Bossier Parish became one of Louisiana's many battlefields in an extended fight over change after federal courts mandated school desegregation in Orleans Parish.

In the far northwest section of the Louisiana, the cities of Shreveport and Bossier City make up an overlapping urban area which is Louisiana's third largest municipality.<sup>160</sup> Barksdale AFB is adjacent to the Greater Shreveport community along the banks of the Red River. The base has been part of Bossier Parish since the early 1930s. Since 1958, Barksdale AFB has served as a continuous home for the U.S. Air Force's long-range, heavy bomber fleet, the B-52 Stratofortress.<sup>161</sup> In the early 1960s, the base was a critical component in the nation's Cold War fight against the Soviet Union. Barksdale AFB and Bossier Parish also became the center of a legal fight over the future of public school segregation in Louisiana. This battle was an episode with local, state, and national actors in the larger struggle over desegregation.

The case centered on the base's relationship with its host civilian community. Bossier Parish school officials had consistently rejected the U.S. Supreme Court's decision in the 1954 *Brown* case. Their rejection continued after the latest ruling in the 1960 Orleans Parish case. By 1962, Bossier Parish school leaders had still made no

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<sup>160</sup> Carl L. Bankston III and Stephen J. Caldas, *A Troubled Dream: The Promise and Failure of School Desegregation in Louisiana* (Nashville, TN: Vanderbilt Univ. Press, 2002), 171.

<sup>161</sup> "Barksdale Fact Sheet," U.S. Air Force, accessed November 2, 2015, <http://www.barksdale.af.mil/library/factsheets/factsheet.asp?id=4409>.

movement toward compliance with the *Brown* decision. However, Barksdale AFB's presence in Bossier Parish provided the federal government, African American military employees, and civil rights activists with an opportunity to use the base to leverage change in the area of public school segregation.

There were two public school desegregation cases associated with Barksdale AFB in the early 1960s. One was filed by the federal government, and a later one was filed by individual African Americans service members in cooperation with the NAACP. The first Barksdale case accompanied three other suits filed in September of 1962 and January of 1963 by the U.S. Justice Department on behalf of military children in Virginia, Alabama, and Mississippi.

The two Barksdale cases, which centered on federal protection for military employees against local discrimination, were the first of their kind in Louisiana's federal courts. They raised enduring issues related to the segregated South about federal influence, state sovereignty, and local authority. Also, the cases stimulated expanded cooperation between the federal government and the NAACP in a strategy to use southern federal military bases and military children to pursue public school desegregation.

Before the Kennedy administration filed the first Barksdale suit, the White House had federal officials from the U.S. Department of Health, Education, and Welfare (HEW) contact the Bossier Parish school board to try to reach an out-of-court settlement regarding segregation of military children. In early November of 1962, HEW officials advised the board that unless it allowed students from Barksdale AFB to attend off-base

public schools on a desegregated basis, the federal government would construct and operate its own schools on base.<sup>162</sup>

The Kennedy administration derived this authority from the Civil Rights Act of 1960 which allowed Washington, D.C. to provide federal education to military children in states that failed to provide suitable free public education.<sup>163</sup> HEW's notification implied that the federal government was willing to remove not only students but associated funding from Bossier Parish's schools if the board failed to comply with the federal government's requirement. The parish school board reacted quickly to the Kennedy administration's threat.

The board called a special meeting in early December of 1962 to address HEW's proposal. The federal government trusted that fiscal pressure would be persuasive because Washington, D.C. had supplemented the parish school board's with almost six-million dollars in federal subsidy to educate military children in local schools from 1951 to 1962. The federal government's per capita contribution to parish schools was twenty-five percent higher than the school board's.<sup>164</sup>

Although the Bossier Parish school board relied on federal funds, HEW's proposal left board members unmoved. After the board's special session concluded, Superintendent Emmett Cope acted on behalf of members by sending an official notification rejecting the federal government's proposal to Assistant HEW Secretary James M. Quigley. Cope stated that if the federal government chose to build and

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<sup>162</sup> *Bossier Banner-Progress*, January 24, 1963: 1.

<sup>163</sup> Brian K. Landsberg, *Enforcing Civil Rights: Race, Discrimination, and the Justice Department* (Lawrence: Univ. of Kansas Press, 1997), 13.

<sup>164</sup> Complaint, *U.S. v. Bossier Parish School Board*, U.S. District Court W.D. Louisiana, Shreveport Division, January 18, 1963.

maintain its own integrated schools on Barksdale AFB then the effect on Bossier Parish would be negligible. He ended his letter with a statement of defiant confidence. The superintendent concluded, “[A]ll children residing on federal property will be welcome to attend our segregated school system.”<sup>165</sup>

Cope’s letter suggested that school integration was acceptable to the board as long as it was confined to Barksdale AFB. Also, the superintendent’s reaction to HEW’s threat implied that board members were confident that the federal government was unlikely to make an additional push for off-base desegregation. The board was confident in its defiant position, but it failed to read Kennedy administration intentions.

HEW had given similar notification in November of 1962 to school districts in Mobile County, Alabama and Biloxi-Gulfport, Mississippi, about the possibility of pulling military funding and children from local schools. Bossier Parish school did not expect similar treatment as they assumed the Kennedy administration had reached its limit in pursuit of off-base civil rights for military children. School administrators in Mobile County had activated their attorneys in December of 1962 in preparation for defense against a possible civil suit from the U.S. Justice Department.<sup>166</sup> They recognized that HEW’s announcement about possible federal plans to build base schools and withhold federal funds was a deliberate, carrot-and-stick overture. Mobile County officials reacted with prudence while Bossier Parish voiced their confidence about continued school segregation.

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<sup>165</sup> *Bossier Banner-Progress*, January 23, 1963: 1.

<sup>166</sup> Attorney Ralph H. Ford, letter to Attorney Palmer Pillans, December 7, 1962, Jack C. Gallalee Papers, Univ. of South Alabama, The Doy Leale McCall Rare Book and Manuscript Library, Mobile.



For the federal government's part, Assistant U.S. Attorney General Burke Marshall filed a civil suit against the Bossier Parish School Board on January 18, 1963. Marshall's initial complaint was similar to the ones issued by the U.S. Justice Department in the *Prince George County*, *Mobile County*, and *Biloxi-Gulfport* cases.<sup>167</sup> He outlined alleged violations committed by Bossier Parish against the federal government. His accusations centered on improper use of federal funds to segregate Barksdale AFB children, unequal access to off-base schools for Barksdale AFB students, reduced military readiness because of off-base discrimination, and violation of military children's Fourteenth Amendment protection by parish officials.<sup>168</sup>

Again, as in the *Prince George County*, *Mobile County*, and *Biloxi-Gulfport* cases, the Kennedy administration's cause was limited to military children. Bossier Parish had over fifteen-thousand students in its public schools at the end of 1962. Four-thousand-three-hundred-and-sixty of them were African American.<sup>169</sup> There were over four-thousand military children attending Bossier Parish's segregated public schools at the end of 1962. Seven-hundred-and-forty of them lived in integrated neighborhoods on Barksdale A4FB. From this number, thirteen students were African American.<sup>170</sup> Thus, the federal government's desegregation suit pertained directly to only thirteen students out of a total parish school population of over fifteen-thousand.

Despite this relatively small number, Bossier Parish leaders reacted to the federal government's litigation with shock and outrage because they saw any change in the educational racial hierarchy as an initial encroachment on their way of life. Louis H.

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<sup>167</sup> The U.S. Justice Department launched the latter two cases at the same time as the *Bossier Parish* case.

<sup>168</sup> Complaint, *U.S. v. Bossier Parish*, January 18, 1963.

<sup>169</sup> State of Louisiana, "State Department of Education of Louisiana Annual Report, 1962-1963," 198.

<sup>170</sup> Complaint, *U.S. v. Bossier Parish*, January 18, 1963.

Padgett, Jr. was one of the school district's attorneys. He expressed the board's indignation in a letter published in a local paper on January 24, 1963—six days after the Justice Department initiated its suit. Padgett characterized the White House's action as an unconstitutional social experiment at Bossier Parish's expense. He stated:

The suit...is an attempt of [U.S. Attorney General] Bobby Kennedy to 'bootleg' integration into the Bossier Parish school system using our fine military community as his guinea pig...The object of Mr. Kennedy's suit is to destroy this fine public school system and his actions cannot be justified on legal, moral, or political grounds. This suit will be defended by the Bossier Parish School Board to the last ditch.<sup>171</sup>

Padgett articulated disagreement and, more importantly, defiance. He acknowledged that Barkley AFB was a welcome and important presence in Bossier Parish by referring to it as "our fine military community." His words implied ownership (or at least an interdependent relationship) despite the fact that Barksdale AFB was a federal military installation, partially reliant on but independent of, the parish.<sup>172</sup> He also suggested that the federal government's action was an attack on Bossier Parish's established system of segregation by a northern interloper—U.S. Attorney General Robert F. Kennedy.

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<sup>171</sup> *Bossier Banner-Progress*, January 24, 1963: 1.

<sup>172</sup> Despite the fact that Barksdale AFB was an integrated federal military base and neighboring Bossier Parish was a segregated civilian community in the early 1960s, the two areas shared an entangled and peculiar relationship. For example, on the same day that the federal government sued Bossier Parish to compel off-base desegregation for military children, the Bossier City Chamber of Commerce named ten white senior military leaders from Barksdale AFB as honorary members of its organization. See *Barksdale AFB Observer*, January 18, 1963: 7.

Bossier Parish's white conservatives immediately voiced their support for school board leaders in the upcoming legal battle against the Kennedy administration. The Worshipful Master of the local all-white Masonic Lodge and the Board of Directors of Bossier City's all-white Kiwanis Club both submitted written resolutions of support to the Bossier Parish school board at the end of January, 1963. John L. Adams, Jr. of the Masonic Lodge cheered the school board by stating, "[W]e believe, that whatever the outcome, you will do all you can toward preserving our way of life." The Kiwanis Club pledged its "unqualified support to said Board and officials in exercising its rights under the Constitution to defend to the utmost against the Federal Government's attempt to usurp the powers of local officials within the realms of education."<sup>173</sup>

These resolutions of support captured Bossier Parish's conservative white sentiment toward the case and the possibility of restricted, forced desegregation. They did not, however, represent an official response from the school board. That came in the first week of February, 1963 when the school board's legal team filed two motions to dismiss the case.

A formidable and experienced collection of attorneys made up the school board's legal team. The defendants' attorneys included Louisiana Attorney General Jack P.F. Gremillion and his two assistant attorneys general followed by District Attorney Padgett and his two assistant district attorneys. The presence of the state's chief legal officer in this case demonstrated that Louisiana Governor Earl K. Long wanted to establish an interconnected legal defense between Baton Rouge and Bossier Parish in the fight against the Kennedy administration. Gremillion had been Louisiana's attorney general since

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<sup>173</sup> Bossier Parish School Board Minutes, February 21, 1963.

1956, and was one of the principal voices in the fight against school desegregation in Orleans Parish in 1960.<sup>174</sup>

Gremillion's two dismissal motions centered on court jurisdiction and on equal access. First, he claimed that the U.S. District Court in Shreveport held no jurisdiction in this case. Gremillion based this assertion on the idea that the U.S. Justice Department lacked constitutional and congressional authority to name itself as principal plaintiff on behalf of federally-connected citizens in a Fourteenth Amendment legal matter. He argued that only private individuals (not the federal government) could launch a complaint in U.S. district court to seek Fourteenth Amendment protection against alleged discrimination. Since the federal government was not an individual, contended Gremillion, then Shreveport's U.S. District Court lacked jurisdiction.<sup>175</sup>

Second, Gremillion challenged the federal government's complaint that Bossier Parish disallowed equal access to its public schools for Barksdale AFB's African American students by forcing them to attend segregated schools. Gremillion charged that Bossier Parish afforded the same opportunity to Barksdale AFB's African American students to attend the district's segregated schools as it did for the community's off-base African American children. The school board requested dismissal in this area because it suggested that the federal government failed to articulate a claim that the court could resolve.<sup>176</sup>

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<sup>174</sup> "Bush v. Orleans Parish School Board and the Desegregation of New Orleans Schools: Biographies," Federal Judicial Center, accessed November 10, 2015, [www.fjc.gov/history/home.nsf/page/tu\\_bush\\_bio\\_gremillion.html](http://www.fjc.gov/history/home.nsf/page/tu_bush_bio_gremillion.html).

<sup>175</sup> Memorandum in support of Motions to Dismiss, *U.S. v. Bossier Parish*, February 5, 1963.

<sup>176</sup> *Ibid.*

Gremillion concluded his dismissal motions by beating a familiar southern white conservative drum of resistance. He raised the issue of perceived federal imposition on state sovereignty by complaining, “[I]t is apparent that the plaintiff...is sailing an uncharted course in the seas of civil rights in a blatant attempt to federalize the local school systems of a sovereign state.”<sup>177</sup> Gremillion’s comment suggested that the federal government had no interest, indeed no right, to meddle with school segregation in Bossier Parish. However, the U.S. Justice Department argued that six-million dollars in federal funding and four thousand military children in local schools gave sufficient reason for the U.S. attorney general to challenge the Bossier Parish school board.

Assistant U.S. Attorney General Marshall reemphasized these interests on March 13, 1963, when he submitted his official rebuttal of Gremillion’s dismissal motions. Interpretation of precedent and existing federal statutes was at the heart of Marshall’s disagreement with Gremillion. Marshall endeavored to overcome Gremillion’s assertions by questioning the Louisiana attorney general’s familiarity with the way the federal government interacts with state and local governments to support national interests.

In its opposition memorandum, the U.S. Justice Department presented three principal reasons to justify its complaint of discrimination against the Bossier Parish School Board. The first was that school officials breached contractual assurances given to Washington, D.C. by accepting federal funds and using them to segregate military children. Next, the federal government argued that these assurances were based on congressional authorization it received from the School Construction Act of 1950. Finally, Assistant U.S. Attorney General Marshall reemphasized that, by not assuring

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<sup>177</sup> Ibid.

equal access for Barksdale AFB children to suitable educational facilities, the Bossier Parish School Board violated the U.S. Constitution's Fourteenth Amendment. All of these reasons, Marshall concluded, defined and substantiated the federal government's statutory, pecuniary, and functional interests in Barksdale AFB vis-à-vis school segregation.<sup>178</sup>

The federal government augmented its opposition memorandum on July 10, 1963 by providing the court with a copy of Judge John D. Butzner's decision from June 24, 1963 in the similar *U.S. v. Prince George County School Board* case from U.S. District Court in Richmond, Virginia. Since Judge Butzner ruled in favor of the federal government in its attempt to stop local segregation of base children in Virginia, the U.S. Justice Department anticipated that this decision would be a persuasive tool with the federal judge in Louisiana. That judge was Ben C. Dawkins, Jr.

Judge Dawkins was a Democrat and an Eisenhower appointee. He had been on the federal bench in Shreveport since August of 1953. The judge's predecessor was his father, Ben C. Dawkins, Sr., who held Shreveport's federal judgeship from 1924 to 1953.<sup>179</sup> The younger Dawkins inherited a court that had to address *Brown*, continued

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<sup>178</sup> The School Construction Act of 1950 required local schools that received federal funds to educate military children to make public schools available to these children on the same terms and in accordance with the same state laws that applied to pupil assignments for non-military children. Louisiana's State Constitution of 1958 repealed public school segregation in accordance with the *Brown v. Board* decision. However, local districts continued to segregate their schools post-*Brown* because a 1954 state act provided broad powers to local school boards for pupil assignments. This move allowed Bossier Parish to maintain its segregated school system despite the fact that public school segregation was not part of Louisiana's constitution. The U.S. Justice Department argued that Bossier Parish violated its assurance to assign Barksdale AFB children in accordance with state law, not local practice, by sending these pupils to segregated schools. See "Memorandum for the United States in Opposition to the Defendants' Motion to Dismiss," *U.S. v. Bossier Parish*, March 13, 1963; and *Statistical Summary of School Segregation-Desegregation in the Southern and Border States, 1963-1964* (Nashville, TN: Southern Education Reporting Service, 1964), 25.

<sup>179</sup> Interview with Judge Ben C. Dawkins, Jr., March 1 and 28, 1978; and June 5 and 12, 1979, by Norman Provizer, Archives and Special Collections, Noel Memorial Library, Louisiana State Univ. in Shreveport.

school segregation, and a burgeoning civil rights movement. Judge Dawkins approached all of them with judicial conservatism.

In 1957, Judge Dawkins dismissed an African American petitioner's case regarding voter suppression in Monroe, Louisiana partially on what he characterized as "the plaintiff's lack of good faith" to properly follow the voter registration timeline.<sup>180</sup>

Two years later, in 1959, Judge Dawkins acted on a request from Louisiana's attorney general to stop the U.S. Commission on Civil Rights from holding hearings into alleged voter discrimination in Shreveport. When it was suggested that his ruling might be overturned by a higher court, Judge Dawkins commented, "It is all part of the game."<sup>181</sup>

Before Judge Dawkins began his deliberations, Louisiana Attorney General Gremillion provided him with a supplement to elaborate on the defendant's request for dismissal. The supplement challenged the federal government's complaint on two fronts. First, it was an attempt to discredit the worthiness of African American service members to receive legal protection from the U.S. Justice Department. Second, it served as a way for Gremillion to place reasonable doubt in Judge Dawkins's mind about the federal government's legal standing to bring suit.

On the first front, Gremillion relied on a common southern white conservative tactic, to discard African Americans' military service as a creditable reason for the federal government to protect them from alleged discrimination. The federal government had intimated that public school segregation of Barksdale AFB's African American

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<sup>180</sup> In this case, the African American plaintiff encountered several administrative barriers to voter registration from the Ouachita Parish voter registration office. These barriers caused the plaintiff to unjustly miss the voter registration deadline. Judge Dawkins ruled in favor of the Ouachita Parish Registrar of Voters. See *Reddix v. Lucky*, 148 F. Supp. 108, U.S. District Court W.D. Louisiana, Shreveport Division, February 11, 1957.

<sup>181</sup> As quoted in J.W. Peltason, *Fifty-Eight Lonely Men: Southern Judges and School Desegregation* (Urbana: Univ. of Illinois Press, 1971), 133.

students reduced the military readiness of affected parents because they constantly worried about their children's educational wellbeing. This readiness, the Assistant U.S. Attorney General argued, deserved special protection by the federal government.

Louisiana's Attorney General rejected this notion in his dismissal supplement to Judge Dawkins. Gremillion suggested that since African Americans were emotionally and intellectually inferior then they did not merit special consideration from the U.S. Justice Department regarding their civil rights. He wrote:

If the negro soldiers at Barksdale are so neurotic that the thought of association of their children in school with other members of their race, and sending them outside the area to avoid such association, lowers their morale to such an extent that they cannot properly perform their military and other duties, then such soldiers belong in another kind of institution. These averments [or allegations] are an insult to the black race, and if true they are a sad commentary on the weak character and emotional instability of the negro soldier... irrespective of their civil rights.<sup>182</sup>

On the second front, Gremillion attacked the legal grounds on which the federal government made its case. He provided Judge Dawkins with copies of recent dismissal orders issued in the *U.S. v. Gulfport School Board* (Louisiana) and *U.S. v. Madison County School Board* (Huntsville, Alabama) cases. These cases were similar to the one

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<sup>182</sup> Supplemental Memorandum in Support of the Defendants' Motion to Dismiss, *U.S. v. Bossier Parish School Board*, June 20, 1963.



against Bossier Parish in that the U.S. Justice Department sought federal protection against local discrimination for federally-connected children. In both cases, U.S. District Court judges ruled that the federal government failed to show sufficient constitutional or congressional authority to be able to represent individuals under Fourteenth Amendment provisions.<sup>183</sup>

Gremillion wanted Judge Dawkins to consider these dismissals as successful counter-arguments to the *U.S. v. Prince George County* case. However, the *Prince George County* ruling in support of the federal government came one month after dismissals in Alabama and Mississippi. Therefore, the most current decision in a similar case to the one under consideration by Judge Dawkins favored the U.S. Justice Department.

Judge Dawkins authored a fourteen-page decision letter on the *Bossier Parish* case. In it, he explained that statutory ambiguity and judicial interpretation were at the center of his decision. Statutory ambiguity related to the U.S. Justice Department's assertion that Bossier Parish breached contractual obligations by using federal funds to segregate military children. Judge Dawkins questioned whether existing federal law explicitly prohibited the use of federal funds in segregated school districts. He concluded that it did not. The state of Louisiana and Bossier Parish, in Judge Dawkins's opinion, was in a transition period from segregation to desegregation. He pointed out that neither *Brown* of 1954 nor *Brown II* of 1955 articulated a fixed date for complete implementation of school desegregation. The absence of an implementation timeline, he added, did not

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<sup>183</sup> Order to Dismiss, *U.S. v. Gulfport School Board*, May 16, 1963; and *U.S. v. Madison County School Board*, May 29, 1963.

absolve Bossier Parish of its desegregation responsibility; however, it also did not empower the U.S. Justice Department to establish a local timeline.<sup>184</sup>

The judicial interpretation related to previous judgments in similar cases. In the *U.S. v. Prince George County* and *U.S. v. Gulfport* cases, the U.S. Justice Department claimed that local school districts violated their contractual assurance to assign military children without regard to race. Judge Dawkins pointed out that, in the *Prince George County* case, Judge Butzner interpreted statutory guidelines related to this assurance as sufficiently unambiguous to support the federal government's claim. Judge Dawkins added that in the *U.S. v. Gulfport* case, Judge Sidney C. Mize drew a similar conclusion about unambiguity. Nevertheless, Judge Mize still dismissed the federal government's complaint against Gulfport's school board.<sup>185</sup>

In previous cases, interpretation of the same statutes led to two different rulings. With this in mind, Judge Dawkins relied on what he viewed as a fundamental principle to guide his decision in the *U.S. v. Bossier Parish* case. There is clear constitutional and statutory delineation between federal and state authority, the judge asserted. This separation, Judge Dawkins explained, must be upheld when in doubt. He argued, "As this Court interprets the statutory assurance, especially in light of the legislative history...prohibiting any department of the United States from exercising over the personnel of any local or State educational agency, the [federal government] on its contractual claim has no standing and no claim upon which relief can be granted."<sup>186</sup>

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<sup>184</sup> Ruling on Defendants' Motions to Dismiss for Lack of Jurisdiction and for Failure to State a Claim upon which Relief can be Granted, *U.S. v. Bossier Parish*, August 20, 1963.

<sup>185</sup> The statutory guidelines to which Judge Dawkins was referring were the Civil Rights Acts of 1957 and 1960. Both statutes, he pointed out, provided certain federal protection against discrimination. They did not, however, provide explicit power to the U.S. attorney general to pursue specific assurances against discrimination for individuals in federal court. See *Ibid.*

<sup>186</sup> *Ibid.*

Judge Dawkins's conservative perspective on the federal government's role contributed to his endorsement of the Bossier Parish school board's dismissal motion. On August 20, 1963, he threw the federal government's case out of court. Judge Dawkins concluded his decision by asserting his court's impartiality and by criticizing what he described as the U.S. Justice Department's federal bias.

The judge explained that complaints brought to his court should seek relief for all citizens within its district. The federal government, he suggested, failed on this front because it only sought school desegregation for children from Barksdale AFB. "It must be noted," declared Judge Dawkins, "that we sit in judgment here as a court of equity, of whom evenhandedness is a *sine qua non*. Surely it would be highly inequitable to grant an injunction which would favor only federal children, and not the much larger number of others who attend the public schools of Bossier Parish."<sup>187</sup>

Judge Dawkins's previous political and judicial viewpoints provided little evidence that he held any sympathy for the causes of civil rights and school desegregation. Nevertheless, he concluded his initial involvement in the Bossier Parish desegregation case by pointing to this undeniable fact. Ironically, this staunchly conservative jurist reminded the Kennedy administration that its school desegregation objective was limited to thirteen African American students who lived on Barksdale AFB out of 4,360 African American students throughout Bossier Parish.<sup>188</sup> The judge's dismissal marked an end to the U.S. Justice Department's inaugural legal fight for school desegregation in Bossier Parish.<sup>189</sup>

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<sup>187</sup> Ibid.

<sup>188</sup> State of Louisiana, "State Department of Education of Louisiana Annual Report, 1962-1963," 198.

<sup>189</sup> The U.S. Justice Department appealed Judge Dawkins's dismissal decision to the U.S. Fifth Circuit Court of Appeals in New Orleans, Louisiana on August 22, 1963. The higher court affirmed Judge

The 1963-1964 academic year began with no change to school segregation in Bossier Parish. Barksdale AFB's military family had to prepare for that continued reality. At the end of August, 1963, Barksdale AFB's newspaper published an informational piece about attendance zones for off-base schools. The article included a map which divided the east and west sides of the base. This division delineated which off-base elementary schools base children would attend in September of 1963. Children living on the east side of the base would attend Waller Elementary School, and students residing on the west side of the base would attend Kerr Elementary School.<sup>190</sup>

The article did not, however, address racial boundaries associated with these schools. Waller and Kerr elementary schools were all-white. Although, African American children lived on both the east and west sides of Barksdale AFB, they could not attend Waller or Kerr elementary school. Barksdale AFB's relatively small population of African American military parents knew that when the parish's schools opened on September 3, 1963, their children would take separate buses from their white neighbors to attend all-black Butler Elementary School and Mitchell Junior/Senior High School.<sup>191</sup>

As school began in Bossier Parish, however, a legal development in South Carolina brought a noteworthy change in strategy involving the use of southern military bases as leverage in the fight against off-base school segregation. This time it centered

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Dawkins's order on August 25, 1964. Later, the case went into consolidated appeal to the U.S. Supreme Court with similar cases from the U.S. Justice Department. On December 7, 1964, the U.S. Supreme Court declined to hear the federal government's consolidated appeal and allowed lower courts' dismissals to stand. This decision practically ended U.S. Justice Department litigation against Bossier Parish School Board on behalf of military children. See *Shreveport Journal*, December 8, 1964: 35.

<sup>190</sup> *Barksdale AFB Observer*, August 16, 1963: 9.

<sup>191</sup> These schools were double in distance from base as compared to schools attended by the base's white students. See Complaint, *U.S. v. Bossier Parish*, January 18, 1963.

on African American military members and the NAACP as principal agents for change instead of the U.S. Justice Department.

On September 14, 1963, a group of African American military parents from Shaw AFB, South Carolina and NAACP attorneys filed suit against the off-base school district to stop it from requiring military children from attending segregated schools.<sup>192</sup> They broke new legal ground by representing themselves in federal court as private individuals with national military obligations against a local government. The presiding federal judge ruled in their favor in August of 1964. His decision brought an end to *de jure* school segregation in Sumter County, South Carolina. This change occurred because a federal military base, its occupants, and the NAACP constituted a formidable challenge to school segregation in the aftermath of the Civil Rights Act of 1964.<sup>193</sup>

Successful litigation in South Carolina reinvigorated Barksdale AFB's African American military parents and local and national civil rights activists. They were now determined to revive the U.S. Justice Department's failed attempt against school segregation in Bossier Parish. Barksdale AFB's presence in the Bossier Parish area remained central to their quest. Also essential was cooperation between African American military members and the NAACP. Local and national NAACP attorneys had

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<sup>192</sup> Complaint, *U.S. v. Sumter School District Number 2*, U.S. District Court E. D. South Carolina, Columbia Division, September 14, 1963.

<sup>193</sup> In mid-July of 1964, federal officials tried to pressure the Bossier Parish School Board into immediate school desegregation by threatening to use legal powers granted by the newly-passed Civil Rights Act of 1964. The Act expanded authority for the U.S. Justice Department and the U.S. Department of Health, Education, and Welfare to enforce public school desegregation in districts that received federal funds for education. Bossier Parish officials remained resistant. The Board passed a resolution that affirmed its unchanged position on the desegregation, Barksdale AFB, and the Civil Rights Act of 1964. The resolution read: "[The Bossier Parish School Board] will continue to provide quality education, on a segregated basis, for all children in Bossier Parish, Barksdale Field, and Bossier Base, within the limits of its financial ability to do so." See *Shreveport Times*, July 17, 1964: 2A.

represented military plaintiffs in South Carolina. This coordination continued in Bossier Parish.

The NAACP had collaborated vigorously with potential plaintiffs for school desegregation cases since resistance to *Brown* implementation began in 1955. Political scientist J.W. Peltason explained that plaintiff selection by the NAACP was a logical and thoughtful process used to improve conditions in and out of court. Peltason elaborated:

The NAACP has been the channel to recruit and instruct plaintiffs, to provide the funds and furnish the lawyer...The best plaintiffs are those who are not exposed to community pressures, and who have enough education so they cannot be led into damaging admissions. There is safety also in numbers. The larger the number of plaintiffs, the more difficult it is for school boards to find some factor other than race to explain the exclusion of [African American] children from white school.<sup>194</sup>

NAACP attorneys considered each of these issues in relation to Barksdale AFB, Bossier Parish, and a possible legal challenge to school segregation there. African American military families living and working on Barksdale AFB were not immediately exposed to off-base white conservatives' backlash. Their numbers were relatively small but relevant nonetheless. Every African American family from Barksdale AFB with children was a potential plaintiff. Finally, as trained members of the Armed Forces,

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<sup>194</sup> Peltason, *Fifty-Eight Lonely Men*, p. 105.

Barksdale AFB's military employees were educated to at least a high school level and could, ideally, present themselves well—both in and out of court. These factors made the base's African American families attractive as plaintiffs to the NAACP's attorneys.

One of these attorneys was Jesse N. Stone, Jr. Stone was a native Louisianan and a 1950 graduate of the all-black Southern University Law Center in Baton Rouge. After graduation, he began a legal practice in Shreveport as the city's first African American attorney since the beginning of the twentieth century.<sup>195</sup> Stone had been involved with the NAACP in northern Louisiana throughout the early 1960s. He became a local conduit for the national organization as it considered finding plaintiffs from Barksdale AFB to reinitiate a legal fight against school segregation in federal court.

In the latter half of 1964, Stone established communication with Jack Greenberg and Norman Amaker who were national attorneys with the NAACP's Legal Defense Fund (LDF) in New York.<sup>196</sup> Greenberg and the LDF had worked previously on plaintiff selection and representation in the *Bush v. Orleans Parish* school desegregation case between 1956 and 1960. On December 2, 1964, Stone, Greenberg, and Amaker announced the LDF's latest selection of plaintiffs in Louisiana by filing suit with Judge Dawkins against the Bossier Parish school board.

The plaintiffs were eight, school-aged, African American, military children from Barksdale AFB. They represented four different military families. Principal plaintiffs were the Lemon family. U.S. Army Sergeant William H. Lemon and Mrs. Nettie J. Lemon had four children attending Bossier Parish's segregated schools. Two of the

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<sup>195</sup> "SU Gives Tribute to Jesse Stone," Southern Univ., accessed November 19, 2015, [www.southerndigest.com/article\\_cf4d96a2-3d95-5984-90e0-a3bd903a7b6f.html](http://www.southerndigest.com/article_cf4d96a2-3d95-5984-90e0-a3bd903a7b6f.html).

<sup>196</sup> *Shreveport Sun*, December 10, 1964: 1.

remaining four litigants were also U.S. Army non-commissioned officers who worked in the same unit as Sergeant Lemon. The fourth complainant was a junior enlisted airman assigned to a different unit.<sup>197</sup> NAACP attorneys looked to these four military families to reinsert the federal government into the fight for public school desegregation in Bossier Parish. This time, however, the federal government was represented at a personal level by private individuals instead of the U.S. Justice Department.

Stone and his colleagues sought comprehensive school desegregation.<sup>198</sup> They requested immediate admittance to then all-white schools for each plaintiff at the beginning of the 1965-1966 academic year. For the remainder of Bossier Parish's African American students, the suit called for their admittance to presently all-white schools by the end of the 1965-1966 academic year. The NAACP also petitioned Judge Dawkins to compel the Bossier Parish School Board to submit a thorough desegregation plan to him for review before implementation.<sup>199</sup>

Curiously, the NAACP's initial complaint made no mention of the plaintiffs' military status. The NAACP omitted the plaintiffs' military status in its initial complaint possibly to differentiate its legal action from the U.S. Justice Department's previous one. Although the plaintiffs' military standing was common knowledge and critical to their selection by the NAACP, it appears that Stone, Greenburg, and Amaker chose not to call attention to it. Rather, the attorneys characterized their plaintiffs as ubiquitous and their cause as pertinent to all African American students in Bossier Parish. In other words, this suit was not limited to the eight children named as plaintiffs or to the comparatively small

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<sup>197</sup> *Shreveport Times*, December 3, 1964: 1.

<sup>198</sup> *Ibid.*

<sup>199</sup> Motion for Preliminary Injunction, *Lemon, et al, v. Bossier Parish School Board* (CA-10687), U.S. District Court W.D. Louisiana, Shreveport Division, December 2, 1964.



number of African American families on Barksdale AFB. This litigation actually expanded the scope of the U.S. Justice Department's previously unsuccessful bid for partial school desegregation.

The defendants were well aware that all litigants were military members from Barksdale AFB. School Board President James Roberson announced this knowledge and the board's displeasure immediately after the suit was launched. Roberson declared, "[This act] by the three soldiers, who reside at Barksdale, and a Barksdale airman came as no surprise. We will oppose integration of our school system as long as possible under any circumstance."<sup>200</sup>

Unlike Roberson, Bossier Parish Superintendent Emmett Cope reacted to the suit with disbelief. He indicated that the NAACP provided no advanced warning of its intentions. Cope did join Roberson in displeasure and defiance about the upcoming case. He affirmed, "[T]he school board hasn't changed its mind at all and is going to resist in every way that is possible to avoid integrating."<sup>201</sup>

Bossier Parish school board members called a special meeting in January of 1965 to strategize about their legal defense against the NAACP. They recognized that this litigation emanated from Barksdale AFB but that the NAACP was the force behind it. The board also acknowledged that the suit sought total integration of the parish's public schools. Louis H. Padgett, Jr. was District Attorney and normally served as the board's legal counsel. He had served for the board with State Attorney General Jack P.F. Gremillion in 1963 in the *U.S. v. Bossier Parish* case. At the moment, however, Padgett was preoccupied with superseding litigation in the U.S. Supreme Court.

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<sup>200</sup> *Shreveport Times*, December 3, 1964: 1.

<sup>201</sup> *Ibid.*

The board needed legal representation. In a unanimous resolution and upon recommendation from Padgett, members approved employment of a relatively young Shreveport attorney to represent them in the *Lemon* case. The board placed J. Bennett Johnston, Jr. on a three thousand-dollar retainer to serve as legal defense.<sup>202</sup> Johnston was a native of neighboring Caddo Parish, Louisiana. He graduated from the U.S. Military Academy, the Louisiana State University Law School, and had as a U.S. Army Judge Advocate General Corps officer from 1956 to 1956.<sup>203</sup> Ironically, Johnston had served as a legal officer in a racially integrated military. Now, Bossier Parish School Board called upon him to oppose other military members in a legal fight over racial integration.

The board closed its January, 1965 special session with an endorsement of Johnston and an expression of confidence regarding the impending court case. Members and their legal team had reason to be confident. It was only seventeen months earlier, in August of 1963, when Judge Dawkins dismissed the Kennedy administration's school desegregation suit against them. Also, Judge Dawkins remained on the U.S. District Court bench in Shreveport. One of the first actions Judge Dawkins had to consider in the newest school desegregation suit against the Bossier Parish School Board was a motion by the Johnson administration to join the Lemons and other litigants as a co-plaintiff.

On January 4, 1965, Assistant U.S. Attorney General Burke Marshall submitted a motion to Judge Dawkins. Marshall's petition mirrored the NAACP's initial complaint from December of 1964 in calling for immediate and comprehensive desegregation of

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<sup>202</sup> Bossier Parish School Board Minutes, January 21, 1965.

<sup>203</sup> "Bibliographical Directory of the United States Congress: J. Bennett Johnston, Jr.," U.S. Congress, accessed November 24, 2015, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=J000189>.

Bossier Parish's public schools. Similar to the NAACP, the U.S. Justice Department made no mention of federal interest in protecting its military base and military members against local discrimination. Nevertheless, the Lemons and other military litigants from Barksdale AFB opened a path for the U.S. Justice Department to participate in their fight by filing suit as individuals.

Marshall claimed that the federal government's interest in this case centered on authority granted to the U.S. Justice Department by the Civil Rights Act of 1964. He argued that the Act allowed the U.S. Attorney General to enforce immediate compliance of the 1954 *Brown* decision from the U.S. Supreme Court. This legislation, asserted Marshall, removed the all-deliberate-speed ambiguity of the 1955 *Brown* decision by explicitly empowering the federal government to sanction and/or sue resistant school boards.<sup>204</sup> NAACP and U.S. Justice Department attorneys concluded that the Civil Rights Act of 1964 would close an indefinite legal loophole in Bossier Parish regarding public school desegregation.

Bossier Parish school board officials and their legal team saw the situation in a different light. They sought to preserve the status quo by pointing out a consideration downplayed by the NAACP and the U.S. Justice Department. LDF and U.S. Justice Department attorneys deliberately avoided mentioning the principal plaintiffs' military status because their suit was on behalf of all Bossier Parish residents negatively affected by public school segregation. The defendants, however, looked to the plaintiffs' military status a key reason to dismiss the case against them.

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<sup>204</sup> Memorandum of Authorities in Support of Motion for Preliminary Injunction, *Lemon, et al, and U.S. v. Bossier Parish*, January 4, 1965, and *Statistical Summary of School Segregation-Desegregation in the Southern and Border States, 1964-1965* (Nashville, TN: Southern Education Reporting Service, December, 1965), 7.

On March 18, 1965, Louisiana Attorney General Jack Gremillion, District Attorney Louis Padgett, and Bossier Parish School Board's lead counsel J. Bennett Johnston filed a motion to dismiss the case on residency grounds. The defendants' attorneys argued that the plaintiffs' military status differentiated them from bona fide Bossier Parish residents. The dismissal motion explained that, as federal military members and residents of Barksdale AFB, the plaintiffs failed to qualify as Bossier Parish residents; and as such were not entitled to Fourteenth Amendment protection from alleged discrimination by the parish government.<sup>205</sup> The school board's legal team claimed:

That because plaintiffs are residents of Barksdale Air Force Base, their children have no right to be educated at Bossier Parish School... Accordingly, plaintiffs have no right to bring this suit on their own behalf...[T]hey have no right to champion the rights of others who may have such rights; that is, they are not entitled to bring a class action on behalf of a class of which they are not members.<sup>206</sup>

This motion was an attempt to separate Barksdale AFB and its occupants from the rest of Bossier Parish. The School Board's defense team, however, ignored the fact that Washington, D.C had compensated Bossier Parish School Board with over six-hundred-thousand dollars in federal funds during academic year 1963-1964 to educate Barksdale

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<sup>205</sup> Joel W. Friedman, *Champion of Civil Rights: Judge John Minor Wisdom* (Baton Rouge: Louisiana State Univ. Press, 2009), 193.

<sup>206</sup> Motion to Dismiss for Failure to State a Claim, *Lemon, et al v. Bossier Parish*, March 18, 1965.

AFB's children.<sup>207</sup> The federal government's per-military-student contribution rate to Bossier Parish Schools exceeded local and state per-civilian-student contribution rates by over twenty-five percent in academic year 1963-1964.<sup>208</sup>

The School Board accepted these funds without hesitation. Nevertheless, its lawyers claimed that the parish bore no responsibility to educate Barksdale AFB's children. Twenty-two months earlier, in January of 1963, Bossier Parish's District Attorney Louis Padgett implied that the parish had a responsibility to provide segregated education to Barksdale AFB's children. He referred to these children as "fine members of our military community."<sup>209</sup> Padgett's signature on the 1965 dismissal motion, however, signaled a reversal in his and his colleagues' view on the base and its children. In light of the *Lemon* case, the board now characterized Barksdale AFB and its students as an unentitled and dispossessed presence in Bossier Parish.

Bossier Parish School Board's dismissal request in March of 1965 initiated a month-long series of motions and counter motions submitted to Judge Dawkins by parish, state, NAACP, and U.S. Justice Department attorneys. Both defendant and plaintiff petitions raised arguments related to constitutional interpretation, federal authority, local/state control, the 1954 *Brown* decision, and the 1964 Civil Rights Act. The latter item represented a significant change in the nation's legal landscape since Judge Dawkins's dismissal of the U.S. Justice Department's suit against the Bossier Parish School Board nineteen months earlier in August of 1963.

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<sup>207</sup> Affidavit from U.S. Department of Health, Education, and Welfare, *Ibid*, April 7, 1965.

<sup>208</sup> State of Louisiana, "State Department of Education of Louisiana Annual Report,' 1965," 92.

<sup>209</sup> *Bossier Banner-Progress*, January 24, 1963: 1.

The Civil Rights Act of 1964 unsettled Judge Dawkins's conservative foundation. He pondered its significance to the *Lemon* case and to the continued existence of school segregation in Bossier Parish. The judge began to recognize that there was a rational and resolute relationship between *Brown* of 1954 and the Civil Rights Act of 1964. The latter realized the former. Judge Dawkins reflected on this relationship when he reluctantly ruled in favor of the Lemon family and their co-plaintiffs on April 13, 1965.<sup>210</sup>

Judge Dawkins initially addressed the issue of the plaintiffs' residency. He encouraged Bossier Parish School Board's legal team by acknowledging that the complainants were distinct from civilian parish residents because they lived on Barksdale AFB. This observation called into question whether base residents could file suit against an off-base local government over discrimination. Judge Dawkins concluded that they could—not because they were legal residents of Bossier Parish, but because the 1954 *Brown* decision and the 1964 Civil Rights Act obliged parish officials to provide desegregated public schools to all African American students in Bossier Parish.

The judge explained that Barksdale AFB children were a third-party beneficiary of this accommodation because the Bossier Parish School Board entered into a contract with the federal government to assign and educate base children like off-base civilian students. In other words, although the Lemons and the other military plaintiffs were not *de jure* residents of Bossier Parish, they were entitled to bring suit in federal court on

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<sup>210</sup> On the day of his initial decision in the *Lemon* case, Judge Dawkins issued a public statement to affirm his conservative values and to explain how current laws tied his hands regarding continued defense of public school segregation. He wrote: "It is at once recognized that a decision as this, cutting across the grain of long established customs and mores of our section of the country, is bound to raise objection in the minds of even our most thoughtful and discerning citizens. As one who was born, reared, educated and who has lived in Louisiana all of his life, this judge is deeply sympathetic to the point of view which opposes such action... Yet, as the law stands today... there constitutionally can be no enforced segregation in our public schools." See *Shreveport Times*, April 14, 1965: 1.

behalf of all African American students to seek relief from local discrimination.<sup>211</sup> The school board's contract with the federal government provided base occupants with local residency.

Next, Judge Dawkins affirmed the U.S. attorney general's authority to join this suit as a co-plaintiff. He cited authority granted by the Civil Rights Act of 1964 for the U.S. Justice Department to take legal action against federal fund recipients who committed racial discrimination. Comparing this decision with his 1963 dismissal of the federal government's suit against the Bossier Parish School Board, Judge Dawkins contended that there was no such explicit authority granted to the U.S. Justice Department at the time.<sup>212</sup> Finally, Judge Dawkins ordered the Bossier Parish School Board to cease all operations related to public school segregation. He directed school officials to submit a desegregation plan to him for the 1965-1966 academic year within thirty days—by mid-May of 1965.<sup>213</sup>

Board members' immediate response to Judge Dawkins's decision was not to organize a desegregation plan. Rather, they issued an appeal to the U.S. Fifth Circuit Court of Appeals in New Orleans—filed on April 29, 1965. Their request cited no specific reasons for the appeal other than the Board's disagreement with Judge Dawkins's order.<sup>214</sup>

As the higher court considered the defendants' request, the plaintiffs' status as military children from Barksdale AFB resurfaced as a contributing factor. The three-

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<sup>211</sup> Opinion on Motions for Preliminary Injunction, Summary Judgment, to Dismiss for Failure to State a Claim, and Motion to Permit Intervention by the Government, *Lemon, et al v. Bossier Parish*, April 13, 1965.

<sup>212</sup> *Ibid.*

<sup>213</sup> Decree, *Ibid.*

<sup>214</sup> Notice of Appeal, *Lemon v. Bossier Parish School Board*, U.S. Fifth Circuit Court of Appeals, New Orleans, Louisiana, April 29, 1965.

judge court agreed with Judge Dawkins that Barksdale AFB children could sue on behalf of all off-base students to seek relief from discrimination because Bossier Parish School Board willingly accepted federal funds to educate military children. Judge John Minor Wisdom authored the court's rejection of Bossier Parish's appeal. In it, he asserted that once the school board accepted a student (whether military or civilian) then that student had a constitutional right to pursue a desegregated education. The court then affirmed Judge Dawkins's decision and empowered his court to oversee implementation of his original order.<sup>215</sup>

This decree marked the first time that federal courts in Louisiana endorsed immediate *Brown* implementation in Bossier Parish. It did not, however, end disagreement over the pace and nature of school desegregation in the parish.<sup>216</sup> Nevertheless, from *U.S. v. Bossier Parish School Board* in 1963 to *Lemon, et al, v. Bossier Parish School Board* in 1964, the U.S. Justice Department, the NAACP, and African American military members were able to use Barksdale AFB's presence in the community as leverage to reverse a decade of *de jure* racial segregation in Bossier Parish's public schools.

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<sup>215</sup> Friedman, *Champion of Civil Rights*, pp. 193-194.

<sup>216</sup> Since the 1965 *Lemon* decision in favor of immediate but graduated public school desegregation in Bossier Parish, the case has remained open in a series of appeals and counter-appeals related to racial demographics of students, staffs, and administrations. As of the end of 2010, Bossier Parish remained under federal oversight for developing implementation of the original *Lemon* order. See "Parish Desegregation Status Matrix," Cowen Institute for Public Education Initiative, Tulane Univ., accessed December 1, 2015, [www.coweninstitute.com/wp-content/uploads/2010/08/Parish-Desegregation-Status-Summary.pdf](http://www.coweninstitute.com/wp-content/uploads/2010/08/Parish-Desegregation-Status-Summary.pdf).



CHAPTER 6  
SHAW AIR FORCE BASE AND SUMTER COUNTY,  
SOUTH CAROLINA

Between September of 1962 and January of 1963, four federal civil suits challenged off-base public school segregation of military children. The first began in September of 1962 in Prince George County, Virginia, and the remaining three opened simultaneously in January of 1963 in Mobile County, Alabama; Biloxi-Gulfport, Mississippi; and Bossier Parish, Louisiana. The federal government served as principal plaintiff. In each case, the U.S. Justice Department claimed national interest in local affairs because of the presence of federal military bases and military families in four segregated southern communities.

Although these cases pursued local change on behalf of specific individuals, i.e. federal military employees and their families, they did not constitute individual action by private citizens. The U.S. Justice Department assumed that role. As a result, each case raised the issue of whether the federal government could represent individual citizens in civil action. The U.S. Justice Department's actions made it appear as though the federal government and its southern military bases embodied the cause. There was a facelessness related to the legal struggle over off-base segregation of military children in public schools.

However, there were real people and real lives involved in this fight. They became noticeable in September of 1963 when a group of African American military parents from Shaw AFB, South Carolina, and their NAACP attorneys filed suit against a local school district to stop off-base educational segregation of military children.<sup>217</sup> These families and their legal team were agents for change. They broke new legal ground by becoming the nation's first African American military families to represent themselves in an ongoing legal strategy to use military bases and military employment as leverage against public school segregation during the early 1960s.

Although this case centered on individual military members and not the federal government, it still featured many of the same themes brought up in the four other suits filed by the U.S. Justice Department. It underscored the complex nature of federal, state, and local relations regarding public school segregation; it featured cooperation between African American military members and the NAACP regarding their effort to eliminate public school segregation; and it highlighted the role of federal military bases and military employees in federal litigation against public school segregation. In Sumter County, South Carolina's case, Shaw AFB's presence allowed military members and their NAACP legal team to bring an end to *de jure* segregation in Sumter School District 2.

The most notable military member involved in the South Carolina case was James Edward Preston Randall. Randall was raised in segregated Roanoke, Virginia, where he passed his early years dreaming about escaping Jim Crow's limits by flying above them

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<sup>217</sup> Complaint, *U.S. v. Sumter School District Number 2*, U.S. District Court E. D. South Carolina, Columbia Division, September 17, 1963.

as a fighter pilot. Randall held on to this dream while attending Roanoke's all-black Lucy Addison High School during the Second World War.

Periodically, four Addison alumni would return to Roanoke and stroll confidently through the school's halls. They captured Randall's attention and admiration. These former Addison Bulldogs were newly minted Tuskegee Airmen. The sight of these men in their striking uniforms with ornate, polished wings intensified Randall's hopes of flying. Timing and determination came together for Randall. At the end of his high school career, he was able to pursue his dream.

After graduation in 1945, Randall entered the U.S. Army Air Corps. He reported for pilot training in Tuskegee, Alabama. However, World War II soon ended, and the War Department discontinued the Tuskegee flight training program for African American pilot candidates.<sup>218</sup> Randall returned to the Old Dominion disheartened. He then enrolled at Hampton Institute, a private college for African Americans, to study industrial education. Still, Randall's heart remained set on becoming a fighter pilot.

In 1948, Randall applied to the U.S. Air Force's cadet pilot training program. The newly independent U.S. Air Force was the organizational successor to the U.S. Army Air Corps. Randall was accepted into the program and, again, reported for fighter pilot training.<sup>219</sup> This time, the experience was quite different.

Instead of being a soldier in the segregated U.S. Army, Randall was now an airman in the U.S. Air Force, which was beginning the process of integration.<sup>220</sup> Rather

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<sup>218</sup> For further information on the history of the Tuskegee Airmen, see Robert J. Jakeman, *Divided Skies: Establishing Segregated Flight Training at Tuskegee, Alabama, 1934-1942* (Tuscaloosa: Univ. of Alabama, 1996) and Lynn M. Homan and Thomas Reilly, *Black Knights: The Story of the Tuskegee Airman* (Greta, LA: Pelican Publishing, 2001).

<sup>219</sup> Colonel (Retired) James Edward Preston Randall, U.S. Air Force, personal interview, October 30, 2013.

<sup>220</sup> The National Security Act of 1947 established the Department of the Air Force as a service component of the U.S. Department of Defense. Previously, the U.S. Army and its Air Corps managed the nation's air

than a segregated U.S. Army airfield in central Alabama, Randall was now assigned to an integrated training unit at Randolph AFB, near San Antonio, Texas, and later Nellis AFB, near Las Vegas, Nevada. Randall successfully completed the program on March 25, 1950, when he became a second lieutenant and earned his coveted U.S. Air Force pilot wings.<sup>221</sup>

As Randall's military career progressed, he became a married man with a family. His wife, the former Mary Ann Bell, and their four children, Roberta, Louise, William, and Patricia, the youngest, made up the entire Randall family. Mary Ann Randall was a native of Indiana. She was a steady presence for the Randall children while her husband was away on missions or deployments. Privately, however, Mrs. Randall's confidence gave way to a constant fear about the possibility of having to raise her children in the segregated South if her husband received assignment orders there.

From 1959-1962, the Randall family lived at Spangdahlem Air Base, Federal Republic of Germany, a racially integrated military community. Mr. Randall piloted jets in integrated formations, and the Randall children frolicked on the integrated playgrounds of the base's schools. However, these racially diverse environs soon changed for the Randall family.

In the fall of 1962, the U.S. Air Force unexpectedly ordered Randall to go to Shaw AFB, in racially divided South Carolina, from Spangdahlem. By the time the Randalls were informed that they had to move to South Carolina, the state had already experienced a high-profile legal battle over school segregation. In 1950, an NAACP

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combat functions. See United States, *National Security Act of 1947* (Washington, D.C.: United States Government, 1947).

<sup>221</sup> James Randall, personal interview, October 30, 2013.

legal team that included Thurgood Marshall had filed suit against the Clarendon County school district over the separate-but-equal standard. This case, *Briggs v. Elliott*, was one of a series of school desegregation suits filed by the NAACP in Delaware, Kansas, and the District of Columbia.<sup>222</sup> It and the others became the foundation for the 1954 *Brown v. Board* case in the U.S. Supreme Court. Although the *Brown* decision proclaimed the unconstitutionality of school segregation, by 1962, public schools throughout South Carolina, to include the ones that served Shaw AFB, remained segregated.

Since Shaw AFB opened in 1941, it had been the federal government's second-largest presence in central South Carolina behind the U.S. Army's Fort Jackson, near Columbia.<sup>223</sup> By 1962, Shaw was home to several U.S. Air Force flying squadrons, which meant the possibility of continued flight time for Mr. Randall. Mrs. Randall, however, was preoccupied with what an impending move to South Carolina would mean for her children—an off-base life of second-class citizenship under segregation. Although the older Randall kids knew about segregation, to them, it was a civics lesson or a distant television image on the American Forces Network. They had never faced Jim Crow in person.

Roberta, the first-born Randall child, had returned home from school one crisp German afternoon in October of 1962 to find her mother in tears. The ten-year-old asked her mother why she was crying. Mrs. Randall gathered herself and responded, “Berta,

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<sup>222</sup> Orville Vernon Burton and Lewis Reece, “The Palmetto Revolution: School Desegregation,” in Brian J. Daugherty and Charles C. Bolton, eds. *With All Deliberate Speed: Implementing Brown v. Board of Education* (Fayetteville, AR: Univ. of Arkansas, 2008), 71.

<sup>223</sup> Since Shaw AFB opened in 1941, it has been the single largest employer for Sumter County, South Carolina. See “Shaw Air Force Base: Installation Overview,” U.S. Department of Defense, accessed December 21, 2015, [www.militaryinstallations.dod.mil/MOS/f?p=mi:content:0:::::p4\\_inst\\_id,p4\\_content\\_title,p4\\_content\\_ekmt\\_id,p4\\_content\\_directory:4270,Installation%20Overview,30.90.30.30.0.0.0.0,1](http://www.militaryinstallations.dod.mil/MOS/f?p=mi:content:0:::::p4_inst_id,p4_content_title,p4_content_ekmt_id,p4_content_directory:4270,Installation%20Overview,30.90.30.30.0.0.0.0,1).

daddy just got orders to move. We're moving to South Carolina at the end of the year.”  
“So, why are you crying?” Roberta asked again. By this time, Mrs. Randall had regained her composure and replied, “You wouldn't understand.”<sup>224</sup>

The Randalls spent Christmas of 1962 with the Bells, Mrs. Randall's family, in Evansville, Indiana. The children were delighted to spend the holidays at their grandparents' home and were blissfully unaware of what awaited them in South Carolina. In January of 1963, the family relocated to Shaw AFB in the Palmetto State.

The family stayed in temporary accommodations on base while awaiting permanent housing. Mr. Randall, who had risen to the rank of major, was assigned to Shaw AFB's headquarters as a staff officer. His job consisted of administrative duties and minimal flight hours as he was not assigned to a flying unit. The prospect of diminished flying hours was disconcerting to Randall. His professional disappointment, however, was quickly eclipsed by personal concern as his children were forced to encounter racial segregation for the first time.

In 1963, Shaw AFB had no on-base schools. Consequently, children lived there had to attend off-base public schools operated by Sumter School District 2. Sumter County's schools, like all other public schools in South Carolina, remained racially segregated, despite the 1954 decision by U.S. Supreme Court. In fact, since the 1896 *Plessy v. Ferguson* decision by the U.S. Supreme Court, state and local officials in South Carolina had taken measures to ensure “absolute segregation” in public schools<sup>225</sup> Nearly

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<sup>224</sup> Roberta Rollins, personal interview, October 28, 2013.

<sup>225</sup> Dan T. Carter provided historical context to “separate but equal doctrine” in South Carolina in his essay “Unfinished Transformation: Matthew J. Perry's South Carolina.” Carter explained: “In the years that followed the 1895 [state constitutional] convention, South Carolina, like other southern state and local governments, instituted a wide variety of measures to guarantee absolute racial segregation in public accommodations and all public aspects of southern life. The Supreme Court mandated that the government had to furnish ‘separate but equal’ facilities in its *Plessy v. Ferguson* (1896) decision, but state and local

nine years after *Brown v. Board*, South Carolina was the last state in the South with no desegregated public schools below college level. White conservative leaders had perfected the use of administrative barriers to place an indefinite delay on *Brown* implementation in South Carolina.<sup>226</sup>

On their first day of school, Roberta, Louise, and William waited for their bus on base with other military children (both black and white). Mrs. Randall stood in the background. The first bus arrived. It had a white bus driver and a placard in the front window that read, “Shaw Heights School.”

As the bus approached the stop, awaiting children began to separate along racial lines. The white students got on the bus. The Randall children also stepped forward, and their mother had to inform her anxious youngsters to wait for the next bus. Minutes later, a second bus arrived with an African American woman at the wheel, and a large sign in the front window that read, “Ebenezer School.” The Randall children boarded the bus along with the other African American students, and the bus departed the base and headed north toward the town of Dalzell and their new school.<sup>227</sup>

The first bus had taken the base’s white students to all-white Shaw Heights School. It served military and civilian children through eighth grade and was just minutes away. From their temporary on-base lodging, the Randalls could see Shaw

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governments made no effort to create equal public facilities for black South Carolinians.” See Dan T. Carter, “Unfinished Transformation: Matthew J. Perry’s South Carolina,” in W. Lewis Burke and Belinda F. Gergel, eds., *Matthew J. Perry: The Man, His Times, and His Legacy* (Columbia: Univ. of South Carolina, 2004), 238-261.

<sup>226</sup> Robert J. Moore, “The Civil Rights Advocate,” in *Matthew J. Perry*, p. 164. For additional information on the delaying tactics South Carolina officials used to resist school desegregation see, Burton and Reece, “The Palmetto Revolution,” in Daugherty and Bolton, eds. *With All Deliberate Speed*.

<sup>227</sup> Roberta Rollins, personal interview, October 28, 2013.

Heights School on the other side of the fence.<sup>228</sup> Nevertheless, Shaw Heights School might as well have been as far away as their previous home in Germany.

At Ebenezer School, the Randall children encountered an environment markedly different from the one they experienced in Germany.<sup>229</sup> Spangdahlem's schools were well maintained. Ebenezer School was in deteriorating condition as it had suffered from years of neglect.<sup>230</sup> In Spangdahlem, the Randalls were educated in a racially integrated and militarily disciplined learning environment. Ebenezer School, on the other hand, was all-black and had a mixture of civilian and military children. The school's lack of resources worked against every aspect of the educational process. High student-teacher ratio caused teachers to spend much of the school day trying to achieve a reasonable degree of organization and order. They often failed.<sup>231</sup>

Ebenezer School appalled Mr. and Mrs. Randall. Mr. Randall informed the base's legal representative, the judge advocate general (JAG), that his children's school was unacceptable. He requested a leave of absence to relocate his family to his wife's hometown in Indiana where his children could attend better resourced and fully integrated schools.

The JAG officer advised Mr. Randall not to move his family. Instead, the military attorney arranged for the Randall children to transfer to an alternate all-black school, Liberty Street School, in downtown Sumter. Liberty Street School was in Sumter School District 17. The Randall children's transfer marked an exception to an agreement

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<sup>228</sup> William Randall, personal interview, October 30, 2013.

<sup>229</sup> Ebenezer School in Dalzell, South Carolina was one of three all-black schools in Sumter School District 2 that served students from first to twelfth grades. In 1963-1964, Ebenezer School had a capacity of over twelve-hundred students. There were over fifteen-hundred students in attendance. See Answers to Interrogatories, *Randall*, March 10, 1964.

<sup>230</sup> James Randall, personal interview, October 30, 2013.

<sup>231</sup> Louise Lawler, personal interview, October 28, 2013.



between the base and Sumter School District 2, which was responsible for public schooling of Shaw AFB's students.<sup>232</sup> This move, however, did not alter the fundamental nature of school segregation in Sumter County.<sup>233</sup>

At the end of February, 1963, the Randall children began their studies at Liberty Street School. The JAG arranged for them to use a bus that transported some base children to the all-white St. Anne Catholic School in downtown Sumter. The Randall children disembarked at Liberty Street after the bus completed its initial stop at St. Anne.

One day in late spring of 1963 on a particularly hot afternoon, as the school bus was returning to base from Liberty Street and St. Anne, the driver made an unscheduled stop at a public rest station for the children to drink from the water fountains. As Roberta Randall moved forward to exit the bus, a nun politely asked her to return to her seat. When Roberta asked why, the nun just reiterated her command.

Roberta saw the same look of disappointment from the nun's face as she had seen from her mother in Germany when the family received orders for South Carolina. Roberta returned to her seat and peered out the bus window. As her fellow travelers returned to the bus, Roberta saw a white sign with black letters next to the fountain. It read, "Whites Only."<sup>234</sup>

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<sup>232</sup> In accordance with official arrangements between Shaw AFB and Sumter School District 2, African American military children who resided on base attended Ebenezer School in Dalzell, ten miles from base, and white military children attended Shaw Heights School just outside the base. The base had no official agreement with Sumter School District 17, which served primarily served African American students who lived near the center of the city of Sumter. See Order of Unitary Status and Dismissal, *Randall*, C.A. No. 3:63-CV-1240, July 18, 2013.

<sup>233</sup> By academic year 1962-1963, none of South Carolina's one-hundred-and-eight public school districts was integrated. Less than one-third of all public school districts in the South were integrated at this time. See South Carolina Council on Human Relations Collection, 1934-1976, South Caroliniana Library, Univ. of South Carolina, Columbia.

<sup>234</sup> Roberta Rollins, personal interview, October 28, 2013.

Roberta and Louise suffered personally and academically because of their experiences at Ebenezer and Liberty Street Schools.<sup>235</sup> Four thousand miles of ocean and several years of social development separated the girls from their integrated existence in Spangdahlem. Nevertheless, the Randall children completed their first school year under segregated circumstances in June of 1963. Their summer vacation began amidst an eruption of national racial tension. A month earlier, the nation saw vivid televised images of fire hoses, police dogs, and police batons used violently against peaceful civil rights demonstrators in Birmingham, Alabama. As spring gave way to summer, Alabama was on a national stage as one of the primary fronts in the struggle for civil rights.

On June 11, 1963, Alabama's Governor George C. Wallace stood firmly at the doors of Foster Auditorium at the University of Alabama in Tuscaloosa and, in front of the nation, denied the admission of African American students.<sup>236</sup> That same evening, James and Mary Ann Randall gathered around a small black and white television in the living room of their base quarters and watched intently as President John F. Kennedy addressed the nation.<sup>237</sup>

President Kennedy spoke of the situation in Alabama and expressed his displeasure about the nation's sorry state of racial affairs. In particular, President Kennedy suggested that continued racial discrimination in public schools was an affront to the nation's founding principles. The president explained:

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<sup>235</sup> Louise Lawler and Roberta Rollins, personal interviews, October 28, 2013.

<sup>236</sup> See Carter. *The Politics of Rage: George Wallace, the Origins of New Conservatism, and the Transformation of American Politics* (New York: Simon and Schuster, 1995). Carter argued that Wallace opportunistically, if not crudely, placed himself at the intersection of white indignation and southern populism to incite and exploit white conservative fears related to civil rights activism and legislation in the 1960s.

<sup>237</sup> James Randall, personal interview, October 30, 2013.

If an American, because his skin is dark, cannot send his children to the best public school available, if he cannot enjoy the full and free life that all of us want, then who among us would be content to have the color of his skin change and stand in his place? Who among us would then be content with the counsels of patience and delay?<sup>238</sup>

President Kennedy's address and other national events in the summer of 1963 served as a relevant backdrop to Sumter and a catalyst for change. As the Randall children began their second year at Liberty Street School in late August, their parents remained frustrated about the education their children were receiving in segregated Sumter. Soon, the Randalls and other African American military families from Shaw AFB began legal action against Sumter School District 2.

On September 14, 1963, the Randalls started a federal civil suit on behalf of their three school-aged children. On a complaint filed with the U.S. District Court in Columbia, South Carolina, they sought to compel Sumter School District 2 to discontinue school segregation.<sup>239</sup> The school district itself was named as the primary defendant but it was represented by specific officials. Among them were Dan L. Reynolds, chairman of

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<sup>238</sup> John F. Kennedy, "Report to the American People on Civil Rights, June 11, 1963," Video from the John F. Kennedy Presidential Library and Museum, accessed November 16, 2013, [www.jfklibrary.org](http://www.jfklibrary.org).

<sup>239</sup> The principal complaint in this civil action was as follows: "This is a proceeding for the permanent injunction enjoining Sumter School District No. 2, its members and the Superintendent of Sumter School District No. 2 from continuing the policy, practice, custom and usage of operating a compulsory biracial school system in Sumter School District No. 2. See Summons in Civil Action, *Randall v. Sumter School District 2*, U.S. District Court E.D. South Carolina, Columbia, September 17, 1963

the district's board of trustees and Hugh T. Stoddard, Jr., the district's superintendent. Ironically, Stoddard was a reserve officer in the desegregated U.S. Marine Corps.<sup>240</sup>

Thirteen other African American military families assigned to Shaw AFB joined the Randalls in signing individual complaints.<sup>241</sup> As Mr. Randall was the senior military member among them, his children were the lead plaintiffs. A cohort of local and national attorneys from the NAACP represented them.

The attorneys included Ernest A. Finney, Jr., Jack Greenberg, Ira Kaye, and Matthew J. Perry. Finney and Perry were African American South Carolinians. Both had graduated in the early 1950s from the all-black South Carolina State College's Law School in Orangeburg. Finney practiced in Sumter, and Perry worked in the state's capital. Kaye and Greenberg were white attorneys. Kaye resided in Sumter and was a leader in the local Jewish community. Greenberg led the NAACP's Legal Defense Fund and advised on this case from his office in New York City. In 1961, Greenberg succeeded Thurgood Marshall as chief counsel of the NAACP Legal Defense Fund and, in 1954, had served famously as co-counsel with Marshall in the *Brown v. Board* case.<sup>242</sup>

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<sup>240</sup> Sumter School District 2 Meeting Minutes, September 9, 1964. During this meeting, Stoddard advised the board that he had to report to Washington, D.C. for three weeks in October of 1964 to serve on a U.S. Marine Corps promotion board.

<sup>241</sup> Summons in Civil Action, *Randall*, September 14, 1963.

<sup>242</sup> Earlier in 1963, Matthew Perry had worked as Harvey Gantt's attorney when the latter became the first African American to attend South Carolina's Clemson College. Ernest Finney worked previously with Perry in several desegregation cases in South Carolina—including defense of students who tried to force desegregation at department store lunch counters. For additional information on Finney, Perry, and Greenberg, see Jack Greenberg, *Crusaders in the Courts: How a Dedicated Band of Lawyers Fought for the Civil Rights Revolution* (New York: Basic Books, 1994), and Burke and Gergel, eds., *Matthew J. Perry*. Ira Kaye was a Sumter defense attorney who was a leader in the local Jewish community. In 1961, he served as chief legal counsel to a group of Sumterites in a federal desegregation case against Sumter School District 2. These citizens, locally known as "Turks" were of dark complexion but self-identified as white. Because of Sumter's biracial school system, the district identified the plaintiffs' children as "other." The district forced the plaintiffs' children to attend an isolated school in Dalzell. These children did not fit into the district's black-white paradigm. In the federal case *Hood v. Board of Trustees of Sumter County School District No. 2, Sumter County, South Carolina*, the plaintiffs brought suit for their children to attend the all-white Shaw School because they perceived of themselves to be white. The case originally began in 1956. Previously, federal judges in South Carolina refused the plaintiffs' motion. Kaye worked to have a federal

The four attorneys prepared the airmen's' legal documentation for the upcoming judicial struggle. By this time, late summer of 1963, there was good reason for the Randalls, the other co-plaintiffs, and their legal representatives to be confident about their chances for success in the situation at Shaw Heights School and other schools in Sumter District 2. Perry, Finney, and Greenberg were also aware that their case was not taking place in a vacuum.

There were relevant developments in other federal desegregation cases in the region and in South Carolina that offered hope. Earlier in the summer, the U.S. District Court in Richmond, Virginia, had ordered Prince George County School District to desegregate its schools for military students from nearby Fort Lee, Virginia.<sup>243</sup> Also, the U.S. District Court in Charleston, South Carolina, had directed Charleston County School District 20 to allow African American students to attend all-white schools.<sup>244</sup> As a result of the Charleston case, entitled *Brown v. Charleston School District 20*, on August 30, 1963, eleven students in Charleston County became the state's first African American pupils below college level to attend previously all-white local schools.<sup>245</sup>

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appellate court in Richmond, Virginia to hear the case. On October 17, 1961, the U.S. Fourth Circuit Court of Appeals in Richmond ruled in favor of the "Turks." It ordered: "that the children of the race known as Turks are entitled to admission to the public schools of Sumter County, South Carolina on an equal basis with all children of the county and without discrimination as to race or color." For more information on Kaye and this case, see: Ira Kaye and Ruth Barnett Kaye Interview with Dale Rosengarten, June 15, 1996, Jewish Heritage Collection, Mss. 1035-78, College of Charleston, Charleston, South Carolina; *Hood v. Board of Trustees of Sumter County School District No. 2, Sumter County, South Carolina*, No. 8383 (U.S. Court of Appeals Fourth Circuit, Richmond, Virginia, 1961); and *Statistical Summary of Segregation-Desegregation from 1945 to the Present* (Nashville, TN: Southern Education Reporting Service, 1967).

<sup>243</sup> *U.S. v. Prince George County School Board*, 221 F. Supp. 93, U.S. District Court E.D. Virginia, Richmond Division, June 24, 1963.

<sup>244</sup> On August 22, 1963, the U.S. District Court in Charleston ruled: "[T]he defendants and their agents, servants and employees are hereby restrained and enjoined from refusing admission, assignment or transfer of any other Negro child entitled to attend the schools under their supervision, management or control, on the basis of race or color." Perry and Greenberg were among the plaintiff's legal counselors. See Burke and Gergel, eds., *Perry*; and *Brown v. School District No. 20, Charleston, South Carolina*, No. 7747 (U.S. District Court, Charleston, South Carolina, August 22, 1963).

<sup>245</sup> *New York Times*, August 31, 1963: 6.

Four days later, on September, 3, 1963, the federal government opened the doors to its own newly constructed, fully integrated elementary school on Fort Jackson, South Carolina, for military children who lived on this U.S. Army post near Columbia. With that move, the Kennedy administration, not the state or a local school district, had established the first public school in central South Carolina to have never been segregated.<sup>246</sup> Paradigmatic change was underway regarding school segregation in South Carolina, but Sumter County's school officials ignored the rising tide of change.

Throughout late September and early October of 1963, district officials prepared to respond to the desegregation threat created by the NAACP and Shaw AFB families. The school board found legal representation in the Sumter law firm of Nash and Wilson. Shepard K. Nash and John S. Wilson served as the district's legal team in defense of the status quo.<sup>247</sup>

Nash was lead counsel. He was a native Sumterite and former chairman of the Sumter County Democratic Party.<sup>248</sup> During the previous decade, Nash had tangled in the courtroom with both Perry and Kaye over public school segregation.<sup>249</sup> Nash called

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<sup>246</sup> *Fort Jackson Leader*, September, 5, 2013: 3; and Andrew H. Myers, *Black, White, and Olive Drab: Racial Integration at Fort Jackson, South Carolina, and the Civil Rights Movement* (Charlottesville: Univ. of Virginia Press, 2006), 135.

<sup>247</sup> Sumter School District 2 Meeting Minutes, October 4, 1963.

<sup>248</sup> "Memory Hold the Door," Univ. of South Carolina School of Law, accessed November 13, 2013, [www.law.sc.edu](http://www.law.sc.edu).

<sup>249</sup> Following the Supreme Court's *Brown v. Board* (1954) decision, the Sumter NAACP circulated a petition calling for Sumter School District 17 to adhere to the court's ruling to desegregate. The district referred the matter to its attorney, Nash. The executive committee of Sumter's NAACP later accused Nash and district officials of pressuring signatories to remove their names from the petition. The NAACP made its accusations in an editorial in the local paper. Nash sued the Sumter NAACP for libel in the case *Nash v. Sumter Chapter of NAACP* (1956). Matthew Perry represented the NAACP. Perry feared that an all-white Sumter jury would look unfavorably on the defendants. Consequently, he advised the NAACP to settle out-of-court. The settlement was for ten-thousand dollars. In the 1961 federal desegregation case *Hood v. Board of Trustees of Sumter County School District No. 2, Sumter County, South Carolina*, Nash squared off unsuccessfully against Ira Kaye. For further details on *Nash v. Sumter* case, see: *Sumter Item*, December 22, 1989: 8B. For more information on the *Hood* case, see: *Hood v. Board*.

on his experience as a seasoned attorney and segregationist to build the district's defense. Together with Wilson, he drafted a seven-page rebuttal to allegations raised by the plaintiffs. In it, the two attorneys sounded a familiar white conservative refrain regarding the possibility of forced desegregation. They defended the school district's position by asserting five points.

First, Nash and Wilson denied that the district's all-black schools were unequal to their white counterparts. Second, they refuted the U.S. District Court's jurisdiction in the matter. Third, they accused the plaintiffs of disobeying the district's transfer guidelines. Next, they claimed that administrative alterations to student and teacher assignments in the middle of the school year would cause undue stress throughout the school system. Finally, and most notably, the district's legal team argued that desegregation would upset the cultural, ethnic, and social harmony of Sumter's schools.<sup>250</sup>

Nash submitted this response to the U.S. District Court in Columbia on October 15, 1963. By this time, the Randall children were well into their second academic year in Sumter's segregated schools. The children still lived within view of the all-white Shaw Heights School, but the school remained out of their reach.

The judicial entanglement continued on February 24, 1964, when the plaintiffs' attorneys bombarded their opposition with an exhaustive list of questions regarding the district's racial demographics, student-teacher assignments, financial commitments, and desegregation plans. The plaintiffs' legal team aimed to use their opponents' consistent recalcitrance against them. Perry, Finney, Kaye, and Greenberg raised questions that, if answered truthfully, would expose school district officials to mounting national scrutiny

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<sup>250</sup> Answers on Behalf of Defendants, *Randall*, October 15, 1963.

regarding local segregation of military children and the possibility of the federal government withdrawing funds from Sumter County schools.<sup>251</sup>

Of note, the plaintiffs' attorneys asked school leaders to divulge specific information about resource disparities between black and white schools. This question stabbed at the heart of separate-but-unequal practice. It centered on racial discrimination within resource allocation. This inequality became evident to the Randall children in January of 1963 when they initially attended the district's all-black Ebenezer School in Dalzell. However, the Randall children's frame of reference was based on their most recent school experience in Germany. Now, the plaintiffs' attorneys wanted to highlight resource inequalities within the district that were based, as they argued, solely on race.

Questions concerning resources and the related possibility of having federal funds pulled from the district grabbed school officials' attention. Superintendent Hugh Stoddard was fully aware of the drastic impact on the district if federal funds were removed. Without them, there would be a twenty-five percent deficit in operating expenses for the upcoming 1964-1965 academic year.<sup>252</sup> Nevertheless, Stoddard and his colleagues remained defiant.

On March 7, 1964, district officials had Nash submit an official objection to critical parts of the plaintiffs' line of questioning. Specifically, the district refused to answer any questions on the distribution of resources or teachers. More significantly, the district ignored the plaintiffs' request for information on any obstacles that stood in the

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<sup>251</sup> In January of 1963, the U.S. Department of Health, Education, and Welfare announced that unless state officials reversed public school segregation, it would begin an immediate construction of integrated, federally operated schools on bases in Alabama, Georgia, Mississippi, and South Carolina. Withdrawal of military students from local schools would also mean withdrawal of federal funds from the affected school districts. See Morris J. MacGregor, *Integration of the Armed Forces, 1940-1965* (Washington, D.C.: Center for Military History, 1989), 596.

<sup>252</sup> Sumter School District 2 Meeting Minutes, July 3, 1964.



way of complete desegregation beginning in academic year 1963-1964. Nash cited irrelevance and inappropriateness as reasons for the district's refusal to respond.<sup>253</sup>

District officials followed their objections with specific responses to other questions raised by the plaintiffs. These responses included demographic details about the school district. The district operated seven all-black schools and six all-white schools. Its all-black schools could house five-thousand students. However, there were over fifty-five hundred African American pupils in attendance. On the other hand, there were four-thousand seats available in the district's all-white schools for thirty-four hundred white students in actual attendance.<sup>254</sup> The district's all-black schools were over capacity by at least five-hundred students while the district's all-white schools were under enrolled by six-hundred students.

The defendants' attorneys admitted that there was an overpopulation problem in the district's all-black schools. They provided no explanation or resolution for the situation. Despite the overpopulation challenge, demographics were not the central issue in this case. For the plaintiffs, this suit revolved around the district's consistent resistance to *Brown* implementation. In early March of 1964, the plaintiffs had asked district officials to inform the court about the measures the district had taken since 1954 toward

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<sup>253</sup> Objections to Interrogatories, *Randall*, March 7, 1964.

<sup>254</sup> Sumter County's local numbers pointed to a national trend that began with the U.S. Supreme Court's support of public school desegregation in 1954. In light of this decision, white student populations in the South started to shrink as white citizens took private action to evade the possibility of federally-mandated desegregation. In cities throughout the South, conservative white citizens came together to form all-white private schools. These schools catered to the desires of affluent white parents who wanted to keep their children in segregated schools. The *Randall* case brought this trend to Sumter County, and the school district's defense counsel, John S. Wilson, played a key role in its local development. In early 1964, several months after the *Randall* case began, Wilson met with like-minded white conservatives of Sumter to establishment of an all-white independent private school in Sumter County. The school opened its doors to eighty-six white students in 1967, and was given the name Wilson Hall after the man who led the county school board's legal fight against public school desegregation. See Sumter School District 2 Meeting Minutes, March 4, 1964; and Kevin M. Kruse, *White Flight: Atlanta and the Making of Modern Conservatism* (Princeton, NJ: Princeton Univ. Press, 2005), 169-172.

*Brown* implementation. On March 10, 1964, the school district's attorneys answered this question with an unapologetic and matter-of-fact "none."<sup>255</sup>

Although school officials appeared unmoved by the *Randall* case, the growing battle over school desegregation forced them to adopt innovative means to defend the status quo. They contemplated closing Shaw Heights Schools which served Shaw AFB's white students and Sumter's civilian white children. Additionally, in April of 1964, the school board's attorney advised Superintendent Stoddard to inform Shaw AFB's commander that the district would discontinue educating military children beginning in academic year 1964-1965. This draft proposal asserted two points: 1) that South Carolina law did not require local school districts to educate children who reside on federal property; and 2) that Shaw AFB residents needed to apply for and receive approval from Sumter County to continue to attend its schools.

This proposal ignored the fact that the federal government provided generous funds to Sumter County for educating Shaw AFB's children. It also overlooked the point that by accepting these federal funds, Sumter County entered into a contract with Washington, D.C. to educate base students despite the defendants' assertion that there was no state requirement to do so. Even in light of these shortcomings, district officials approved the resolution in early April of 1964.<sup>256</sup>

Superintendent Stoddard then addressed an official letter to Colonel Harrison M. Harp, Shaw AFB's commander. On May 11, 1964, Stoddard informed Colonel Harp that the district's board of trustees had approved a plan to end its educational support to Shaw

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<sup>255</sup> Answers to Interrogatories, *Randall*, March 10, 1964.

<sup>256</sup> Sumter School District 2 Meeting Minutes, April 14, 1964.

AFB. Stoddard's letter also explained that the school district entertained an idea of renting Shaw Heights School to the U.S. Air Force for the federal government to operate.

The school district's letter caused another rift between the federal government and Sumter County over the segregation of Shaw AFB's children. The U.S. Air Force forwarded the letter to the U.S. Department of Justice. In turn, Terrell L. Glenn, U.S. District Attorney in Columbia, South Carolina, filed suit against the school district's board of trustees on July 2, 1964.<sup>257</sup> This move was in addition to the ongoing *Randall* case.

Glenn argued that the school district's threat to discontinue educational support to military children would violate written contracts between the district and Washington, D.C. regarding federal funding for school construction. Glenn's complaint pointed out that the federal government covered more than half of construction costs for Shaw Heights School when it was built in 1953. Additionally, he alleged that the federal government bore all subsequent costs to expand and renovate the school since its original construction. For these reasons, Glenn urged the court to force Sumter School District 2 to abandon its plans to cease educational support to Shaw AFB. The court agreed, and as a result, school district officials acknowledged their continuing obligation to provide public schools to Shaw AFB's students.<sup>258</sup>

This acknowledgement, however, did not resolve the *Randall* case. The summer of 1964 marked a period of intense legal maneuvers between NAACP attorneys and

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<sup>257</sup> *Columbia State* Newspaper, July 8, 1964: 3.

<sup>258</sup> Sumter School District 2 Meeting Minutes, July 31, 1964. At this meeting, the superintendent drafted a statement that the board of trustees approved. The statement explained: "The Trustees and the Administration of Sumter School District Number Two have no alternative but to comply with the order handed down directing the School District Trustees to continue the education of children residing on Shaw Air Force Base, federal property."

school district officials. On May 20, 1964, the defendants' legal team raised its own questions to the court about the case. The school district's attorneys challenged the plaintiffs' residential status by requesting all plaintiff parents to present their previous year's state income tax returns.<sup>259</sup>

The defendants' legal team was aware that since the plaintiffs were military members, it was likely that they were not South Carolina residents. The school district aimed to counter the petitioners' jurisdictional right to file suit against Sumter County.

Among the NAACP's four attorneys in this case, Jack Greenberg, advising from New York City, was the recognized expert on federal jurisdiction matters.<sup>260</sup> Greenberg and his South Carolina colleagues responded quickly to this jurisdictional challenge. They reminded district officials that their clients were all U.S. citizens on active duty in the military. The NAACP legal team asserted that the plaintiffs had the right to file suit in Columbia's U.S. District Court regardless of their state's residential status because they were on official federal orders in South Carolina.<sup>261</sup>

This response implied that the NAACP's attorney's intended to present their clients and the base on which they worked as national entities exempt from specific state and local requirements. In this case, the plaintiffs sought exemption from local laws requiring public school segregation. The plaintiffs' legal team also suggested that by calling their client's residential status in the question, the defendants endeavored only to bury this case in bureaucratic delay and disruption. Consequently, in late May of 1964,

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<sup>259</sup> Additional Interrogatories on Behalf of Defendants, *Randall*, May 20, 1964.

<sup>260</sup> Jack Greenberg, personal correspondence, October 14, 2013. In this email, Greenberg explained that NAACP attorneys often sought his advice on "whether the court in which the case was filed had jurisdiction."

<sup>261</sup> Objections to Additional Interrogatories Propounded by Defendants, *Randall*, May 22, 1964.

the plaintiffs' attorneys submitted a motion for summary judgment in favor of their clients.<sup>262</sup>

This action brought Judge Robert W. Hemphill to the scene. Judge Hemphill, a native South Carolinian, had served formerly as a state legislator, a state solicitor, and a Democratic member of the U.S. House of Representatives. President Lyndon B. Johnson had appointed Judge Hemphill to the federal bench in Columbia in April of 1964.<sup>263</sup> The judge received initial petitions regarding the *Randall* case as he began his tenure on the bench.

After reviewing documentation from the case, Judge Hemphill summoned plaintiff and defendant attorneys to Columbia for a pre-trial conference on July 14, 1964. During this conference, both parties agreed that they had no further motions or testimony to present.<sup>264</sup> The decision was now in Judge Hemphill's hands.

Twenty-five days after the pre-trial conference, Judge Hemphill announced his ruling. In doing so, he responded to the school district's principal defense about school desegregation being disruptive to Sumter County's cultural, ethnic, and social harmony. The district had earlier asserted that desegregation would cause undue duress in Sumter County's schools because of irreconcilable differences between African American and white students. Defendant attorneys made this argument by explaining, "There are certain ethnic, cultural, racial, intellectual, anthropological, and physical differences

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<sup>262</sup>Motion for Summary Judgments, *Randall*, May 26, 1964.

<sup>263</sup> "Guide to Robert W. Hemphill Papers," South Carolina Political Collections, Univ. of South Carolina, Columbia.

<sup>264</sup> Pre-Trial Order, *Randall*, July 14, 1964.

between Negroes and Whites...that form a sufficient rational basis to allow segregation in the public schools of Sumter County.”<sup>265</sup>

Judge Hemphill characterized the district’s argument as irrelevant and invidious. He invoked precedent and the U.S. Constitution’s Fourteenth Amendment to dismiss the district’s claim. The judge then ruled in favor of the plaintiffs on August 8, 1964.<sup>266</sup>

Judge Hemphill’s decision forced the district to allow the plaintiffs to transfer immediately to previously all-white schools. He took into account administrative and logistical challenges required to fulfill his decision. Consequently, Judge Hemphill mandated that full desegregation would take place in the following school year, 1965-1966. This point expanded the *Randall* case to include all African American students in Sumter School District 2 and not just military students residing on Shaw AFB. Finally, Judge Hemphill required the district to adopt and submit a plan to eliminate fully racial discrimination in its schools.<sup>267</sup>

This decision placed Sumter County School District 2 into a larger landscape of legal and political changes. One month prior to Judge Hemphill’s ruling, the man who appointed him to the federal bench—President Johnson—signed the landmark Civil

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<sup>265</sup> Order, *Randall*, August 8, 1964.

<sup>266</sup> Judge Hemphill’s decision centered on the *Brown v. Board* case of 1954 and the district’s subsequent inaction since that case. He explained, “Despite repeated attempts by plaintiffs to obtain desegregated education, defendants have taken no steps, ten years after the *Brown* decision toward removing the requirement of segregation in the schools which has been held violative [sic] of the constitutional rights of the plaintiffs...The defendants, their agents, servant and employees are hereby restrained and enjoined from refusing the minor plaintiffs herein on the basis of race and color.” Ibid. Judge Hemphill issued no public statement on his decision until two weeks later when he addressed an all-white Kiwanis Club meeting on August 24, 1964. He defended his decision by bringing it into national context—addressing military service and alluding to the ongoing war in Vietnam. Judge Hemphill commented, “Is death or military service more difficult for one man than another? Is it right for one man to vote, send his children to school...if he is asked to die? If you are a man who wants the courts to deal one kind of justice to one man and another kind of justice to another, you are not an American.” See *Columbia State*, August 25, 1964: 4B.

<sup>267</sup> Ibid.

Rights Act of 1964. This legislation prohibited racial, ethnic, national, religious, and national discrimination. The *Randall* case complemented and contributed to the Johnson administration's national social agenda on a local level by building a path on which a small number of military parents could alter the racial and educational dynamics of Sumter County. These changes began on August 27, 1964, when eleven African American children from Shaw AFB entered the doors of previously all-white Shaw Elementary School, Shaw Junior High School, and Hillcrest High School.<sup>268</sup> However, the Randall children were not among those eleven students.

James and Mary Ann Randall never saw the fruits of their legal actions. Their children never boarded a racially integrated bus on Shaw AFB that transported both black and white children to the same schools in Sumter. Instead, the Randalls were hundreds of miles away in August of 1964. Two months earlier, Mr. Randall had received transfer orders to McConnell AFB near Wichita, Kansas, where the children would return to integrated schools.<sup>269</sup>

Although the Randalls were absent by time Judge Hemphill made his decision, their initial actions were essential to the case that bore their name. The Randalls and their co-plaintiffs brought real faces and affected lives to a previously impersonal legal fight that revolved around southern military bases and their relationship with neighboring civilian communities. In Sumter County, South Carolina, this connection helped military parents and their NAACP attorneys bring a legal end to public school segregation.

#### Ironic End of the *Randall* Case

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<sup>268</sup> Ibid, August 27, 1964: 1.

<sup>269</sup> James Randall, personal interview, October 28, 2013.

Since the 1964 *Randall* decision, the federal government continued to review the status of desegregation in Sumter County's two school districts—District 2 and District 17. In July 2011, the two districts merged under the leadership of the new unitary district's superintendent, Randolph Bynum, an African American. On February 14, 2013, Bynum petitioned the federal court in Columbia to dismiss the 1964 *Randall* case. Bynum's rationale centered on assertions that the new unitary school district was fully integrated, that Sumter County's schools had met federal desegregation requirements, that the federal ruling was no longer required, and that local control over desegregation should be returned to the district.

The superintendent presented the district's current racial demographics to the court. The district's enrollment for the 2012–2013 school year was over sixteen-thousand students with over sixty-one percent of them reported as black and over thirty-one percent listed as white. Bynum added that fifty-two percent of the district's faculty and staff were black. Also, the report emphasized that no student or staff assignment was based on race.

Shaw Elementary School, which the Randalls and other African American children could not attend before 1964, had two-hundred-and-twenty-seven black pupils and one-hundred-and-seventy-eight white students in 2012, according to Bynum's information. On July 18, 2013, over a half century after the Randalls submitted their initial complaint, Judge Joseph F. Anderson, Jr., Judge Hemphill's latter-day successor at the U.S. District Court in Columbia, concurred with Bynum and dismissed the *Randall* case.



Judge Anderson ruled, “The District should have full local control over all aspects of its schools. The District has complied in good faith with its desegregation obligations, and the court hereby declares the District to be racially unitary, dissolves the desegregation order, and returns the District to local governance.”<sup>270</sup> With this ruling, the Randall family’s social aspirations of the past merged with Sumter’s racial realities of the present.

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<sup>270</sup>Order of Unitary Status and Dismissal, *Randall*, C.A. No. 3:63-CV-1240, July 18, 2013.

## CHAPTER 7

### CONCLUSION

Colin L. Powell is famous as the first African American to serve as Assistant to the President for National Security Affairs, Chairman of the Joint Chiefs of Staff, and Secretary of State. As he began his long career that led to these groundbreaking achievements, Powell experienced the paradoxical relationship that separated a desegregated federal military base from its neighboring segregated community.

In 1964, then a captain in the U.S. Army, Powell had returned to Fort Benning, near Columbus, Georgia, after serving in Vietnam. During a one-year combat tour in Vietnam, he had led soldiers of diverse backgrounds into war. Upon his return to Georgia, however, Powell was reminded of another struggle. One night, he left Fort Benning and entered Columbus to buy a hamburger at a local drive-in. After waiting several minutes for service, the waitress informed Powell that she would have to serve him in the back of the restaurant because he was black. Powell responded, “I am not *that* hungry.”<sup>271</sup> For Powell, this incident highlighted the divisions between Fort Benning and Columbus. He saw Fort Benning as a healthy community surrounded by the sickness of segregation in Columbus.<sup>272</sup>

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<sup>271</sup> Colin L. Powell with Joseph E. Persico, *My American Journey* (New York: Random House, 1995), 108.

<sup>272</sup> *Ibid.*

In the 1960s, the Kennedy administration, Powell's fellow African American military members, and activists from the National Association for the Advancement of Colored People (NAACP) also recognized that federal military bases were a healthy presence in sick southern communities. To them, these federal installations and military employees represented a legal remedy to the enduring sickness of public school segregation. Separate-but-unequal education endured after the 1954 *Brown* decision because white southern conservatives frustrated and/or ignored its implementation through delay, denial, and defiance. The six desegregation cases undertaken by the U.S. Justice Department, African American military members, and their NAACP attorneys represented a novel way of combatting Jim Crow in southern military communities.

Although there were six separate cases, a common strategy connected them. The plaintiffs, whether the U.S. Justice Department or individual service members and their NAACP legal representatives, directed attention to the vital role military bases played in the economies of affected areas. This economic significance was a means of pursuing special exemption from off-base school segregation laws for military employees and their family members. Additionally, each case directly or indirectly linked military readiness to the quality of treatment military members and their families received from local communities. Military readiness was a critical issue for the Kennedy administration as the Cold War was well underway in the early 1960s.

However, the White House also understood the foreign policy significance of Jim Crow. As the U.S. and the Soviet Union competed for the loyalty of Third World nations, many of which were composed of people of color, the nation was at a disadvantage; one its enemy tried to exploit. The Kennedy administration saw its four

suits in 1962 and 1963 in Prince George County, Virginia; Mobile County, Alabama; Biloxi and Gulfport, Mississippi; and Bossier Parish, Louisiana as a way to demonstrate its commitment to racial equality at home and cold war defense abroad.

African American service members assumed the role of principal plaintiffs in the 1964 *Lemon* case from Bossier Parish and the 1963 the *Randall* case from Sumter, South Carolina. These two cases involved people directly affected by segregation. The *Lemon* and *Randall* cases revealed that African American military parents stood ready to challenge off-base inequality while serving in the segregated South.

Opportunity emanated from the bases on which military parents worked and lived. By the early 1960s, these parents had come to expect equal and civil treatment regarding race while on base—whether in the U.S. or overseas. The *Lemon* and *Randall* cases were an attempt to extend a measure of this expectation to two segregated communities. The plaintiffs' determination and courage, together with the pressure of global and national politics, came together, giving the federal government both the reason and the legal opportunity to back *G.I. Joe v. Jim Crow*.

There were five school districts, five bases, and six cases directly involved in this legal campaign. Of note, the cases spanned the geographic breadth and depth of the South. The first case, which took place in Prince George County, Virginia, set the Kennedy administration at odds with a local school board in the Upper South. The next three cases, also raised by the Kennedy White House, brought the same issue to school districts in the Gulf states of Alabama, Mississippi, and Louisiana. The final two proceedings, initiated by African American military parents and their NAACP attorneys,

renewed the fight in Louisiana with the *Lemon* case and expanded it to the Lower South with the *Randall* case in South Carolina.

Not only did this campaign touch every sub-region of the South, it also involved all but one of the branches of the U.S. military. The *Prince George County* case centered on a U.S. Army post. U.S. Air Force bases took center stage in the *Mobile County*, *Bossier Parish*, *Randall* and *Lemon* cases. Both the U.S. Air Force and U.S. Navy were represented in the *Biloxi and Gulfport* case. The U.S. Marine Corps (part of the U.S. Navy) was the only military service within the U.S. Department of Defense that did not have a base involved in the six federal civil suits to desegregate local schools for military children. Though there was a significant Marine Corps presence in the South during the early 1960s with bases near Beaufort, South Carolina; Jacksonville, North Carolina; and Quantico, Virginia, these bases had integrated federal schools located on them; thus, eliminating the need to bring off-base schools into *Brown* compliance for military children.<sup>273</sup>

The U.S. Supreme Court's *Brown* decision had left the deliberate process of school desegregation to local school districts. As school southern school districts delayed integration, plaintiffs called on federal judges to speed it along. The federal judges that presided over these six cases were prominent actors in judicial episodes that centered on individual, state, and federal rights. These jurists had to consider federal influence in local issues, interpretation of the Fourteenth Amendment, citizenship expectations for military employees, and applicability of the Civil Rights Act of 1964.

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<sup>273</sup> "DoDEA Americas," U.S. Department of Defense Education Activity, accessed January 15, 2016, [www.dodea.edu/Americas/schools-by-area.cfm](http://www.dodea.edu/Americas/schools-by-area.cfm).

Judge John D. Butzner, Jr. heard *Prince George County* case that opened in 1962. He oversaw the nation's first-ever federal case that challenged public school segregation for military children. Judges Daniel H. Thomas, Sidney C. Mize, and Ben C. Dawkins, Jr. supervised the *Mobile County, Biloxi and Gulfport Bossier Parish* cases which opened simultaneously in early 1963. Judge Robert W. Hemphill presided over the *Randall* case which launched in mid-1963. Finally, Judge Dawkins also handled the *Lemon* case which began in 1964. Each jurist left an indelible imprint on judicial philosophy concerning legal relations between federal military bases, military employees, and local communities that host them.

Although these cases raised similar issues, the judges' perspectives on those issues varied. Judge Butzner maintained that it was reasonable for the federal government to pursue its own interests by legal action against a local school district on behalf of federal military employees. Judges Thomas, Mize, and Dawkins, however, viewed the federal government's needs through a narrow lens, and each of them initially rejected the federal government's attempt to link federal interests to the civil rights of military members' children. In fact, Judges Thomas and Mize never wavered from their conservative perspective, and the plaintiffs won only upon appeal to higher courts. On the other hand, Judge Hemphill was philosophically aligned with Judge Butzner and he concluded that military members' children should have a reasonable expectation of Fourteenth Amendment protection in off-base public schools. School segregation, in Judge Hemphill's opinion, contravened that protection.

The Civil Rights Act of 1964 was another factor that influenced how the judges ruled in these cases. This legislation gave explicit power to the U.S. Justice Department

and private citizens to challenge discrimination in federal court. Federal judges who had to rule in discrimination cases prior to the Civil Rights Act of 1964 were more likely to take a conservative position. This timing affected the six cases related to segregation of military children.

The decisions by Judges Butzner, Thomas, Mize, and Dawkins in the *Prince George County, Mobile, Biloxi and Gulfport*, and *Bossier Parish* cases predated the Civil Rights Act of 1964. In June of 1963, Judge Butzner ruled in favor of off-base desegregation for military children despite a lack of clear national legislation on the subject at the time. On the other hand, in February, June, and August of 1963, Judges Thomas, Mize, and Dawkins threw their cases out of court. Ruling before the Civil Rights Act of 1964, all three judges noted that the U.S. Justice Department did not have congressional authority to pursue civil rights cases in federal court. Judge Butzner assumed somewhat of a maverick position on the issue prior to the Civil Rights Act of 1964. In 1963, Judge Butzner's peers in Alabama, Mississippi, and Louisiana were not ready to take such action. However, after the Civil Rights Act of 1964 became law of the land a year later, it had a major impact on the two remaining cases—*Lemon* and *Randall*.

In April of 1965, the Civil Rights Act of 1964 pushed Judge Dawkins to reverse his conservative position from a year earlier in which he dismissed the U.S. Justice Department's case for public school desegregation for military children in Bossier Parish, Louisiana. In the subsequent *Lemon* case, Judge Dawkins confessed that the Civil Rights Act of 1964 left little room for him to legally uphold public school segregation of military children. Eight months earlier, in August of 1964, Judge Hemphill pointed

directly to the Civil Rights Act of 1964 as an influential factor in his decision in favor of public school desegregation for military children in Sumter County, South Carolina.

Indeed, timing affected the judges' perspectives. It also spotlighted the episodic nature of the process throughout these six cases. These battles took place between 1962 and 1964. However, they were the result of a decade-long progression of federal influence on local circumstances for southern military bases and their employees. Overall, Executive Order 9981 of 1948, the U.S. Supreme Court *Brown* decision of 1954, and the Civil Rights Act of 1964, helped these six cases focus federal pressure from all three branches of government into southern military bases and their employees to challenge local school segregation.

The NAACP played an active role throughout this progression and was involved in all six cases. It pushed the Kennedy administration to file the initial suit in 1962 in Virginia—a move that opened the way for the U.S. Justice Department to initiate similar suits in January of 1963 in Alabama, Mississippi, and Louisiana. The NAACP assumed responsibility for follow-on cases in those three states after conservative judges dismissed the U.S. Justice Department's actions. Also, later in 1963 and 1964 in the *Randall* and *Lemon* cases in South Carolina and Louisiana, local NAACP activists collaborated with attorneys from the organization's Legal Defense Fund (LDF) to recruit African American military plaintiffs. National LDF attorneys then worked with local civil rights leaders to represent African American military families in individual suits against off-base school districts.



Overall, these six cases did not bring an end to racial disparity. They did, however, contribute directly and indirectly to bringing an end to *de jure* public school segregation in five southern communities that had resisted change for decades.

## EPILOGUE

### A DISTANT AND CLOSE FLAG

On June 12, 2015, I arrived in Bossier Parish and Barksdale Air Force Base (AFB), Louisiana to conduct a portion of my research for this dissertation. As a retired military officer, I was allowed to stay on Barksdale AFB in its temporary lodging facility and seized the opportunity. Like Colin Powell, I always felt more comfortable on base than off.

I settled into the base fairly late in the afternoon. My research at the base library and in the parish's historical center would begin the next day. So, I decided to pass the rest of the afternoon by acquainting myself with Barksdale through a jog. There was a jogging trail that paralleled the base's perimeter fence. I followed the trail for several miles before nearing a section fence that separated the base from a neighborhood in the civilian community. I could see the backyards of several homes on the other side of the fence.

As I continued down the trail, one particular back yard grabbed my attention. In the distance, I saw a large flag in this yard looming over the fence. As I drew nearer, I noticed that it was the Confederate battle flag. This sight stopped me in my tracks. It reminded me why I, as an African American, always felt more comfortable on base while in the South. This flag, which was flown in view and in defiance of a national military installation, reaffirmed my personal dedication to this project. I was anxious to analyze six historical episodes that highlighted legal and social contradictions between southern

military bases and their neighboring communities and the consequences of those contradictions.

A week later, I was in Mobile, Alabama to begin further research. On my first morning in the Bay City, I awoke to disturbing news that someone in my newly-adopted home state had killed nine churchgoers in Charleston, South Carolina. I discovered later that the flag I saw a week earlier outside Barksdale AFB—a banner which clearly represented legal and social differences between on- and off-base existence in southern military communities in the early 1960s—still inspired white supremacy and racial terrorism in mid-June of 2015.

The murderer claimed that he wanted to ignite a race war. Instead, his heinous act elicited courage and compassion from those he aimed to terrorize and divide. Within weeks, public outcry led to the Confederate battle flag being flown on South Carolina's capitol grounds to come down. The people of South Carolina reacted to tragedy, not with racial violence, but with the collective resolve to remove a symbol of hatred and defiance from the state's most prominent site. Fifty years earlier, that same resolve had catalyzed six legal battles that helped to remove Jim Crow from the public schools of five southern military communities.

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