

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION

JONATHAN HARRIS, by his mother  
and next friend, MRS. RUSSIA  
HARRIS; LARRY HOLDEN, by his  
mother and next friend, MRS.  
VERLA MAE HOLDEN; GERALD JOHNSON,  
by his parents and next friends,  
MRS. CLARA JOHNSON and MR. IRA  
LEE JOHNSON; in behalf of them-  
selves and all others similarly  
situated,

Plaintiffs,

vs.

THE BOARD OF TRUSTEES OF THE  
CLARKSDALE MUNICIPAL SEPARATE  
SCHOOL DISTRICT; SAM KENDRICKS,  
Principal of the Clarksdale  
High School; ROBERT M. ELLARD,  
Superintendent of the Clarksdale  
Municipal Separate School District,

Defendants.

CIVIL ACTION

NO. \_\_\_\_\_

C O M P L A I N T

I

Jurisdiction

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1343, 2201 and 2202. This is an action in Equity authorized by 42 U.S.C. §1983. Plaintiffs seek a preliminary and permanent injunction and a declaratory judgment to secure rights afforded by the First and Fourteenth Amendments to the Constitution of the United States.

## II

### Parties

2. Plaintiffs, Jonathan Harris, Larry Holden and Gerald Johnson, are black children who prior to February 16, 1973, were students in attendance at the Clarksdale High School of the Clarksdale Municipal Separate School District. Each is represented herein by his mother or guardian as reflected in the caption above.

3. Plaintiffs bring this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure. They sue in their own behalf and in behalf of: a) all students, black and white, of the Clarksdale Junior and Senior High Schools who have been and may in the future be denied rights to procedural due process under the rules relating to suspensions and expulsions promulgated by the Clarksdale Municipal Separate School District; b) all other black students of the Clarksdale Municipal Separate School District who have been and will become victims of defendants' racially discriminatory policies and practices relating to the suspension and expulsion of students and the elimination of programs and activities. The members of the classes on whose behalf plaintiffs sue are so numerous as to make it impracticable to bring them all individually before this Court, but there are common questions of law and fact involved and common grievances arising out of common wrongs. A common relief is sought for plaintiffs and for each member of both classes. Plaintiffs fairly and adequately represent the interests of the classes. Defendants have acted on grounds applicable to plaintiffs' classes generally. Moreover, the questions of law and fact common to members of both classes predominate over any question affecting only individual members and a class action is superior to other available methods for adjudication of the controversy and is the most fair and efficient method.

4. Defendant, the Board of Trustees of the Clarksdale Municipal Separate School District, is authorized by the laws of the state of Mississippi to operate and establish policy for the public schools of the Clarksdale Municipal Separate School District. Defendant, Robert M. Ellard, is the Superintendent of the Clarksdale Municipal Separate School District and is employed by defendant Board of Trustees to administer all schools of the district on a day-to-day basis. Defendant, Sam Kendricks, is principal of the Clarksdale High School and is employed by defendant Board of Trustees, upon recommendation from defendant Ellard, to administer the Clarksdale High School. Defendants collectively have the authority and power to remedy the deprivation of rights complained of herein.

### III

#### Facts - Part A

5. During the month of February, 1973, plaintiff Jonathan Harris, acting in his capacity as President of the Student Body and upon the request of many of the black students of Clarksdale High School, sought permission from defendant Sam Kendricks, Principal of Clarksdale High School, to hold a Black History Week Assembly Program for all students of Clarksdale High School.

6. This request for a Black History Week Assembly Program was denied by defendant Sam Kendricks allegedly because, in his view, white students of the school would oppose such a program thereby creating "disruption and dissension" within the student body.

7. Upon defendant Kendricks' refusal to permit a Black History Week Assembly Program, the black students of the High School called for a meeting of all high school students to be held at a local community center to discuss and

determine a course of action; an announcement of that meeting was made by defendant Kendricks over the high school's public address system.

8. On or about February 15, 1973, the students of Clarksdale High School met, as announced, at a local community center and after much discussion determined as a group to hold a Black History Week Assembly program during the second period on February 16, 1973 in the high school gymnasium. The students also developed an elaborate program befitting the celebration and commemoration of Black History Week which included a devotional and readings from Black literature and historical works.

9. Accordingly, February 16, 1973, upon the beginning of the second period, all students who desired to participate in the Black History Week Assembly Program proceeded in an orderly and routine manner to the gymnasium instead of to their second period classes. Approximately 125 students, all of them black, joined in the Program.

10. Early in the program, and during the "devotional" segment, defendant Kendricks entered the gymnasium. At that time, the students were engaging in prayer and utter silence and calm permeated the room. Defendant Kendricks demanded that the students attend their regularly scheduled classes. He asked fifteen to twenty students, two of the named plaintiffs, Jonathan Harris and Larry Holden, to encourage students to return to classes. All students, including named plaintiffs, advised defendant Kendricks that each student must make such a decision on his own and that they felt morally obligated to encourage individual decision and action on the issue.

11. At no time was there any disruption, abusive language, confusion or chaos; the plaintiffs and all of the students present in the gymnasium conducted themselves in

exemplary fashion save for their refusal to acquiesce in defendant Kendricks demand that they discontinue their Black History Assembly Program and attend scheduled classes.

12. Upon the refusal of all students to attend scheduled classes, defendant Kendricks telephoned defendant Ellard, Superintendent of the Clarksdale Municipal Separate School District. Ellard advised Kendricks to obtain the immediate termination of the Program and if necessary to summon the police.

13. Thereupon, there descended upon the Clarksdale High School every police officer of the city of Clarksdale, including those off duty, and including the city's police dog. The police officers directed the students to leave the gymnasium and go home or go back to classes; all students, without exception, peacefully and without any resistance, complied. All students left the school building since the gymnasium doors leading back to regular classes were locked and/or blocked by faculty members.

#### IV

#### Facts - Part B

14. February 17, 1973, the parents of named plaintiffs received a letter from defendant Kendricks which advised them that their children were suspended indefinitely because they had participated in the Black History Week Assembly Program and were, in Kendricks' view, "leaders" who should be singled out for punishment. Originally, 7 students received such letters and indefinite suspensions; later four of the seven were readmitted to the High School without explanation.

15. All remaining Black students of Clarksdale High School who were absent from classes on February 16, 1973 - whether participating in the Program or not - received three day suspensions. Later, upon proof advanced by individual students that they did not participate in the Program, such suspensions were lifted.

16. None of the parents were contacted or consulted prior to the taking of the disciplinary measures referred to in paragraphs 14 and 15 above.

17. The parents of named plaintiffs immediately sought a due process hearing before the school board; they were advised that the Board could convene no earlier than March 8, 1973 - 20 days from the date of the request - and that even that date was in doubt.

18. Only after a telephone inquiry by undersigned counsel to counsel for the school district, was a hearing date set for February 27, 1973.

19. A hearing before the school board was held, in accordance with the agreement of counsel, during which the school district presented the testimony of defendant Kendricks and two white school teachers who were present in the gymnasium during the Assembly Program. The named plaintiffs offered their testimony; other relevant testimony sought to be advanced by plaintiffs was excluded by the Board of Trustees.

20. Three days later the Board of Trustees entered its decision confirming the suspensions and expelling named plaintiffs for the balance of the academic school year; the vote was 4-1, with the only black board member dissenting and voting for the immediate reinstatement of the plaintiff children to the Clarksdale High School.

V

Facts - Part C

21. Throughout the school year defendant Kendricks had authorized students, white and black, to hold assembly programs during the school day, almost all of which were frivolous in comparison to the academically oriented and vitally important request of black students for a Black History Week Assembly Program.

22. Under the former dual school system, black high school students (then attending the all-black Higgins High School) held Black History Week Assembly Programs and were encouraged by their principal to hold such programs. And the termination of such an assembly program coincided with the merger of white and black student bodies and the establishment of a fully unitary public school system in Clarksdale.

23. All three named plaintiffs are (were) outstanding students who had never been subjected to any serious or noteworthy disciplinary action prior to the incident outlined herein.

## VI

### Facts - Part D

24. The Student Handbook records the following regulations relating to "Automatic Suspension" and "Suspensions From School:"

#### AUTOMATIC SUSPENSION

Any pupil who becomes charged with a misdemeanor other than traffic violations and or regulatory ordinances, shall be immediately placed under automatic suspension by the principal. A report shall be made to the superintendent at once, who in turn will bring the matter to the attention of the Board on or before its next scheduled meeting date.

Said suspension shall be in effect until the court of proper jurisdiction acts on the case, or until the Board adjudicates the matter.

#### SUSPENSIONS FROM SCHOOL

Suspension from school can only be made by the principal or assistant principal. Suspension is used when other efforts of discipline and cooperation have failed. NUMBER OF DAYS AND CONDITIONS CAN BE SET BY PRINCIPAL. Other penalties involved in suspension are outlined under "make-up" work.

When a student is suspended from school that student is also suspended from ALL SCHOOL ACTIVITIES of the school. He or she may NOT participate in ANY school activities or attend any school functions.

#### MAKE-UP WORK

All work missed as a result of an unexcused absence must be made up within one week or it will be recorded as an "0" by the teacher. All other make-up work (excused) must be completed within a period of two weeks or it will be recorded as "0" by the teacher. ALL MAKE-UP WORK (excused or unexcused) is the responsibility of the STUDENT who should contact the teacher to arrange a time for this work to be done. It is NOT the responsibility of the teacher to persuade the student to set aside time for this work.

(Emphasis in original)

#### VII

##### Facts - Part E

25. Prior to the establishment of a unitary school system black high school students, with faculty sponsors, conducted many social activities and functions including the holding of senior and junior proms on campus facilities; upon the attainment of a unitary school system such activities were eliminated as school functions and are now held in "private clubs" from which black students are excluded.

#### VIII

##### NAMED PLAINTIFFS' CAUSES OF ACTION

26. The full year expulsion of named plaintiffs, given that their conduct was in no material respect different from that of 122 other students who were not similarly expelled, arbitrarily and irrationally discriminates against named plaintiffs in violation of their rights assured and protected by the Equal Protection and Due Process clauses of the Fourteenth Amendment.



27. The full-year expulsion of named plaintiffs - given the absence of any previous disciplinary record, given the absence of any violent or dangerous behavior or property damage and given the peaceful and orderly conduct of the Black History Week Assembly Program - is excessive, arbitrary and capricious punishment in violation of plaintiffs' rights assured and protected by the Equal Protection and Due Process Clauses of the Fourteenth Amendment.

28. The denial of an education for one full year, absent proof that life and property are endangered and absent proof of recurring and persistent misbehavior is a violation of plaintiffs' rights assured and protected by the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

29. The rules and regulations of the defendant school district provide (paragraph 24, above), that suspensions and expulsions may only be used "when other efforts of discipline and cooperation have failed;" and defendants instituted no action or procedures against named plaintiffs other than the immediate suspensions in violation of general school policy and practice and in violation of rights assured and protected by the Equal Protection Clause of the Fourteenth Amendment.

30. The participation of named plaintiffs in a Black History Assembly Program, conducted in a peaceful and orderly manner, was a form of expression and protest protected by the First and Fourteenth Amendments to the Constitution of the United States.

## IX

### Causes of Action of Named Plaintiffs And Classes

31. Defendants' policy and practice of suspending students for a substantial period without "due process hearings" prior to such suspensions violates plaintiffs' rights

assured and protected by the due process clause of the Fourteenth Amendment.

32. The Board of Trustees of the Clarksdale Municipal Separate School District is unable to serve as an impartial reviewing authority; and hearings before it do not satisfy plaintiffs' rights assured and protected by the Due Process Clause of the Fourteenth Amendment:

a) The Board of Trustees feels morally and professionally obligated to support the decisions of its administrators who have been employed by the Board to make decisions relating to discipline and day-to-day school activities;

b) All school age children of the present members of the Board of Trustees are enrolled in private segregationist academies and board members are unable to make impartial judgments relating to black students and the public school system.

33. The "automatic suspension" rule of the Clarksdale Municipal Separate School District (paragraph 24, above), suspending any child indefinitely upon being charged with a misdemeanor is violative of plaintiffs' rights assured and protected by the Due Process Clause of the Fourteenth Amendment:

a) It requires the suspension of a student for a substantial period of time without a "due process hearing" prior to such suspensions;

b) It punishes students upon the lodging of a complaint rather than upon conviction.

34. Defendants discriminate against black students in the administration of school disciplinary policies and practices in violation of the Equal Protection Clause of the Fourteenth Amendment: virtually all of the students who have been suspended or expelled from the Clarksdale High School

since the establishment of a unitary school system have been black; infractions committed by white students generally result in conferences with parents or "detention hall" assignments.

35. Defendants' decision to prohibit a Black History Week Assembly Program, allegedly because of the potential for "dissension" between white and black students, constituted racial discrimination in violation of rights assured and protected by the Equal Protection Clause of the Fourteenth Amendment and by orders of this Court mandating the establishment of a fully unitary non-discriminatory public school system in Clarksdale.

36. The elimination of school sponsored social activities and programs concurrently with the integration of student bodies is racially discriminatory in violation of rights assured and protected by the Equal Protection Clause of the Fourteenth Amendment.

WHEREFORE, plaintiffs respectfully pray that this Court enter orders:

1. Preliminarily enjoining defendants to readmit named plaintiffs to Clarksdale High School as full time students in good standing, pendente lite; preliminarily enjoining defendants to institute make-up programs to assure that named plaintiffs graduate or successfully complete the school year without penalty;

AND THEREAFTER, upon full hearing:

2. Permanently enjoin defendants as set forth in paragraph one, above;

3. Enter a judgment declaring that defendants' policy and practice of automatically suspending students accused of crimes, without prior hearing and before conviction, is unconstitutional and enjoining further enforcement of that policy or practice;

4. Enter an order enjoining defendants from suspending any student for a period longer than three days without affording the suspended student the right to a hearing prior to such suspension which in all respects comports with the requirements of the due process clause of the Fourteenth Amendment;

5. Enter an order establishing an "impartial" and bi-racial discipline review board, composed of patrons of the district, to hear all charges of misconduct leading to the suspension or expulsion of students for a period of more than three days;

6. Enter an order enjoining defendants to conduct a high school Black History Assembly Program prior to the end of the current school year and during every school year hereafter;

7. Enter an order enjoining defendants from expelling or suspending any student for a period longer than ten days absent proof of behavior dangerous to life or property and/or persistent and recurring misbehavior;

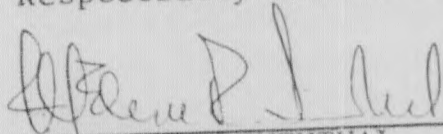
8. Enter an order enjoining defendants from suspending and/or expelling any student unless all other efforts "of discipline and cooperation have failed," such efforts to include conferences with parents, students and "detention hall" assignment.

9. Enter an order enjoining defendants from discriminating on the basis of race in the administration of discipline;

10. Enter an order enjoining defendants to reinstate school sponsored social activities and programs;

11. Grant such additional or alternative relief  
as the Court deems just and equitable.

Respectfully submitted,



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March 20, 1973

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