

A. JURISDICTION

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1343 (3) and (4). This action is authorized by Title 42 U.S.C. Sections 1981 and 1983, seeking a permanent injunction to restrain the defendants, their servants, agents, employees, successors and anyone acting in concert and participation with them from depriving plaintiffs, under color of state law, statute, ordinance, regulation, custom or usage, of rights, privileges, and immunities secured by the Constitution and Statutes of the United States.

2. Jurisdiction of this Court is also invoked pursuant to the provisions of Title 28 U.S.C., Section 1331. This action seeks to redress the deprivation of rights secured under the fourteenth Amendment to the Constitution of the United States. The amount in controversy exceeds the sum or value of Ten Thousand (\$10,000.00) Dollars exclusive of interest and cost.

B. PARTIES

3. The named plaintiffs are black citizens of the United States and of the State of Alabama and are over the age of nineteen years. Plaintiffs reside in Tallapoosa County, Alabama.

4. The defendant Ray Bass is the Director of the Highway Department, State of Alabama. He is named individually and in his official capacity as Director of

that Department.

5. The defendant Highway Department, State of Alabama, is the employer of the plaintiff and the class of people he seeks to represent.

6. The defendant Halycon Vance Ballard is Director of the Personnel Department, State of Alabama. She is named individually and in her official capacity.

7. The defendant Department of Personnel, State of Alabama, serves as the hiring center for employees of the State of Alabama.

8. The defendant George C. Wallace is Governor of the State of Alabama. He is named individually and in his capacity as governor, State of Alabama.

9. Plaintiffs are in the process of preparing a complaint to be filed with the Equal Employment Opportunity Commission in Birmingham alleging race discrimination on the part of their employer, namely the Highway Department, State of Alabama, and its director Ray Bass. As soon as said complaint is filed and the statutory time period has run, so that jurisdiction may be perfected, plaintiffs will move this Court for leave to amend said race discrimination complaint under Title VII into this Complaint.

C. NATURE OF ACTION

10. This action is brought by plaintiffs as a class action, on their own behalf and on the behalf of all others, similarly situated, under the provisions of Rules 23(a) and

23(b)(1) of the Federal Rules of Civil Procedure, for injunctive and declaratory relief and other relief incident and subordinate thereto, as well as for back pay, including costs and attorneys fees.

11. The classes so represented by plaintiffs in this action, and of which plaintiffs are of themselves members, consist of (1) all black employees of the Highway Department, the State of Alabama and (2) all black applicants and prospective applicants for employment with the Highway Department, the State of Alabama.

12. The exact numbers of the individual classes, as hereinabove identified and described, are not known, but the classes are so numerous that joinder of individual members herein is impracticable.

13. There are common questions of law and fact in the action that relate to and affect the rights of each member of the class and the relief sought is common to the entire class, namely,

(a) all black employees of the Highway Department, State of Alabama who have sought job promotions but have been denied such promotions because of discriminatory practices with the labor force; and whether

(b) all black employees of the Highway Department, State of Alabama who have been disproportionately placed in certain classifications during their employment with large numbers of black employees being concentrated in less desirable jobs, and where those black employees have not

been allowed to advance their salaries and positions at the rate to which white employees have been so allowed; and whether

(c) the Highway Department, State of Alabama, pursuant to the reclassification which occurred approximately two years ago, disproportionately placed black employees in lower-paid classifications during said reclassification with large numbers of black employees currently concentrated in the lower-paying jobs, and whether those employees have not been allowed to advance their salaries and positions at the rate to which white employees who were classified in higher professional and managerial positions have been so allowed; and whether

(d) black applicants for employment with the Highway Department, State of Alabama have been denied said employment because of their race; and whether

(e) the Highway Department, State of Alabama has engaged in any pattern or practice of discrimination against any employee or applicant for employment in violation of this Court's previous orders which enjoined the "State of Alabama from engaging in any employment practice. . . which has the purpose or the effect of discriminating against any employee or actual or potential applicant for employment on the basis of race." (U.S. v. Frazier, date of order August 20, 1976).

14. The named plaintiffs are the representative parties of the classes, and are able to, and will, fairly

and adequately protect the interests of the classes.

15. This action is properly maintained as a class action inasmuch as the questions of law and fact, to the members of the classes, predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

D. FACTUAL ALLEGATIONS:

16. Your petitioner Martha Ann Boleware avers that she is a resident of Alexander City, Alabama and an employee of the defendant Highway Department, State of Alabama, at said location. Your petitioner further avers that she began work for said defendant on April, 1978 as a provisional appointee. She became an EA I two to three months later. She has on 7 different occasions applied for promotion to EA II but said applications have always been ignored by the defendants, including defendant Personnel Department, State of Alabama and defendant Ballard until April, 1985. At that time her application for promotion, along with the applications of all other employees, black and white, was sought by defendant Highway Department, State of Alabama. However, petitioner Boleware was not promoted. In 1983, two white females were promoted over petitioner Boleware by the defendants. One of said promotees had been with defendant Highway Department for less time than Ms. Boleware, and the other promotee had been with defendant Highway Department

only a few weeks longer than said petitioner.

17. Your petitioner Ouida Maxwell avers that she is a resident of Alexander City, Alabama and an employee of the defendant Highway Department, State of Alabama, at said location. Your petitioner further avers that she filled out numerous applications for employment, only to be told no openings were available, until she was finally offered a job as clerical aide by defendant Highway Department, starting July 10, 1983. Since that date plaintiff has been laid off, and then rehired several times and has never been allowed to accumulate sufficient time to get beyond a 6 month probationary period and onto permanent status. Plaintiff avers that defendants have a pattern and practice of laying off her and other similarly-situated black employees and then rehiring them, in order to deny them permanent employee status and supervisory time necessary for job promotions.

18. Your petitioners hereby adopt and incorporate by reference the factual allegations set forth in paragraphs 17 through 27 of the above-captioned action, the same as if more fully set forth herein.

PRAYER FOR RELIEF

WHEREFORE, premises considered, your petitioners respectfully pray for all the same relief requested by plaintiff Johnny Reynolds in paragraphs 1 through 6 of his Prayer for Relief in the above-captioned action.

Respectfully submitted,

OUIDA MAXWELL,
MARTHA ANN BOLEWARE,
Plaintiffs,

By 
Julian McPhillips

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Complaint-In Intervention, upon all counsel of record in the above-captioned action on this the 3rd day of July, 1985.


Julian McPhillips