

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

ROBERT B. PHILLIPS, JR. by his)
father and next of friend ROBERT)
B. PHILLIPS; TOLLY WILLIAMS, by)
her mother and next of friend ROSA J.)
WILLIAMS; and DAVID CLARK JR., by)
his father and next of friend DAVID)
CLARK,)

Plaintiffs)

vs.)

PHOENIX UNION HIGH SCHOOLS AND)
JUNIOR COLLEGE DISTRICT: DR.)
TREVOR G. BROWN, MRS. F. A. BONS)
FRANK HAZE BURCH, JOHN E. HERSCHER and)
DR. NORMAN A. ROSS, as members of said)
BOARD OF EDUCATION; DR. E. W. MONTGOMERY,)
as Superintendent; JAMES S. CARTER, as)
Principal of PHOENIX UNION HIGH SCHOOL,)

Defendants)

NO. 72909

ANSWER

Div. 6

Come now the defendants above named by and through
WARREN L. McCARTHY and ROBERT H. RENAUD, County Attorney and
Deputy County Attorney respectively, and for their answer
to the complaint on file herein admit, deny, and allege
as follows:

I

The defendants and each of them admit all of the
allegations contained in Paragraph I of plaintiffs' complaint.

II

The defendants and each of them are without knowledge
or information sufficient to form a belief as to the truth of
the averments contained in Paragraph II of plaintiffs' complaint
and therefore deny the same and require strict proof therefor.

III

The defendants and each of them are without knowledge
or information sufficient to form a belief as to the truth of
the averments contained in Paragraph III of plaintiffs' complaint
and therefore deny the same and require strict proof therefor.

IV

In answer to Paragraph IV of plaintiffs' complaint, the defendants and each of them admit the allegations contained therein.

V

In answer to Paragraph V of plaintiffs' complaint, the defendants and each of them admit the allegations contained in sub-section A of Paragraph V of said complaint. Further answering Paragraph V of plaintiffs' complaint in reference to sub-sections B and C thereof, the defendants and each of them admit all of the allegations contained in sub-sections B and C save those allegations contained in said sub-sections B and C of Paragraph V wherein it is alleged that the minor plaintiffs are denied the equal educational opportunities, advantages and facilities afforded and available to white children of said high school district, and in that respect allege that in all respects the said educational opportunities, advantages and facilities afforded to the minor plaintiffs are equal to those afforded and available to white children of said high school district.

VI

In answer to Paragraph VI of plaintiffs' complaint, the defendants and each of them admit all of the allegations contained in said Paragraph VI of plaintiffs' complaint except the allegation "That plaintiffs named in this paragraph were, and each of them was, denied admission to the said high school, as set forth herein, by the defendants, and by the particular defendant aforesaid, who was principal of said high school, solely because plaintiffs are, and each of them is, a pupil of the African race", and the allegation "and was not authorized by any law or statute in the State of Arizona".

VII

The defendants and each of them admit all of the allegations contained in Paragraph VII of plaintiffs' complaint.

VIII

The defendants and each of them admit all of the allegations contained in Paragraph VIII of plaintiffs' complaint.

IX

In answer to Paragraph IX of plaintiffs' complaint, the defendants and each of them admit the allegations contained therein, except those allegations in sub-section A, as follows: "Defendants, and each of them at all times must enforce and unless restrained as a result of this action, will continue to enforce segregation of African and Caucasian pupils without authority of any law or Statute in the state of Arizona, in the enforcement of this segregation", which the defendants and each of them deny; and all of sub-section B which allegations contained therein, each and every, all and singular, are denied.

X

The defendants and each of them deny all of the allegations contained in Paragraph X of plaintiffs' complaint.

XI

The defendants and each of them deny all of the allegations contained in Paragraph XI of the plaintiffs' complaint.

XII

Further answering plaintiffs' complaint, the defendants and each of them allege that the complaint herein fails to state a claim upon which relief may be granted.

XIII

Further answering plaintiffs' complaint, the defendants and each of them deny all allegations in said complaint not herein specifically admitted.

XIV

As a further and separate defense, defendants allege that Phoenix Union High school District was organized and is functioning under the laws of the State of Arizona and within its boundaries are the several elementary schools within the City of Phoenix, Maricopa County, Arizona, and several elementary schools adjacent to said City; that said Phoenix Union High School District maintains within its district four public high schools, namely, Phoenix Union High School, North Phoenix High School, Carver High School and West Phoenix High School, all of which afford and furnish equal educational facilities for the pupils attending said schools; that for a considerable time there was only one high school in said district, but as the population of said district increased, there were established in said district the three last mentioned high schools; that the majority of the population of the residents of said district and the children eligible to attend the high schools therein are of the white race who reside in the northerly and westerly sections of said school district; that the greater number of persons of the African race, and pupils of that race eligible to attend the high schools of said district reside in the southerly and easterly sections of said district; that in the year 1925 the authorities of said Phoenix Union High School District called two elections, one to select a site for a high school for pupils of the African race and another on the question of whether bonds should be issued and sold to provide funds to purchase a site for and to erect, furnish and equip buildings thereon for said school, so as to provide equal facilities for pupils of the African race. Thereafter two elections were held to vote on said two questions, and at each of said elections a majority of the votes cast were in favor of said two questions. That said bonds were issued and

sold to provide funds to purchase a site for said high school and to erect, furnish and equip buildings thereon for said pupils in accordance with the vote of the electors of said district, and thereafter the school authorities of said district, with funds furnished by said bond issue, purchased a site for said high school and erected, furnished and equipped a building to accommodate pupils of the African race, which school is known as Carver High School, in the southerly and easterly part of said district; that said Carver High School was dedicated, set apart and ever since has been and now is used exclusively for the education of pupils of the negro race, eligible to attend high school.

That the buildings and plant of said Carver High School are equal to the buildings and plant of the other three high schools in said district and the teachers employed in Carver High School for the instruction of pupils therein have the same qualifications as those employed in other high schools of said district; that the course of instruction and education facilities, accommodations and advantages provided for pupils of the negro race at said Carver High School are the same as those provided for and received by pupils in other high schools within said district; that credits earned in said Carver High School are of equal dignity and effects as credits earned in other high schools in said district, and all pupils attending said Carver High School are afforded and given educational facilities, accommodations, advantages and treatment the same as and equal to those given to all races in all schools in said high school district.

That the said segregation of pupils of the negro race from pupils of the other races was instituted and is continued by the school authorities of said district in accordance with the laws of the State of Arizona and regulations of said high school district and that the segregation of pupils of the

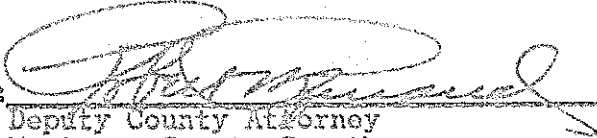
cases by the authorities of said school district is in the due and orderly administration of the school affairs of said district.

XV

That pupils of the negro race are not discriminated against in said Phoenix Union High School District, and pupils of the negro race attending Carver High School are afforded and given the same educational accommodations, advantages and facilities as are given to pupils of the white race attending other high schools in said district.

WHEREFORE, defendants pray that plaintiffs be denied the relief asked for in their complaint or any relief; that plaintiffs take nothing by this action, and that said complaint be dismissed and that the court make such other and further orders as are proper in the premises.

WARREN L. McCARTHY
County Attorney

By: 
Deputy County Attorney
Maricopa County Courthouse
Phoenix, Arizona


Attorneys for Defendants

STATE OF ARIZONA)
) ss.
County of Maricopa)

E. W. Montgomery, being first duly sworn, deposes and says: He is the superintendent of Phoenix Union High School, and one of the defendants in the above entitled cause; that he makes this affidavit for himself and for and on behalf of his co-defendants herein; that he has read the plaintiffs' complaint in this action and the foregoing answer and that all the allegations of said complaint denied in the foregoing answer are to affiant's knowledge untrue except such allegations as are denied for lack of knowledge or information and as to those allegations he believes them to be untrue; that all the allegations contained in the foregoing answer are to affiant's own knowledge true.



Subscribed and sworn to before me this 12th day of August, 1952.


Notary Public, Maricopa County
Arizona

My commission expires
March 15, 1954