

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

FILED
WALTER S. WILSON
CLERK



Shull
DEPUTY

No. 77497

NOV 12 1953

CARL HEARD and FRANK HEARD by
their next of friends and parents
WILLIAM HEARD and EMMA MANOR HEARD,
husband and wife; and CYNTHIA
WILLIAMS, MYRNA RUTH WILLIAMS,
PEARLIE MAE WILLIAMS and FLENOY
WILLIAMS, JR., by their next of
friends and parents FLENOY WILLIAMS
and BEATRICE WILLIAMS, husband and
wife,

Plaintiffs,

vs.

HAROLD DAVIS, as President, GEORGE
T. MONROE, as Clerk, CALVIN MCKNIGHT,
as a Member of the Board of Trustees
of the Wilson School District, a
legally organized public school
district in Maricopa County, State
of Arizona; and G. S. SKIFF, as
Superintendent of the Wilson Schools,

Defendants.

COMPLAINT

COME NOW the plaintiffs, by their attorneys undersigned,
and for their cause of action against the defendants, and each of
them, allege:

I

That the plaintiffs, William Heard and Emma Manor
Heard, are husband and wife, and the owners of real property
situate at 3702 East Henshaw Road in said Wilson School District
and are taxpayers therein and residents thereof; that they are
parents of three children, two of whom attend school in said
Wilson School District, and whose names, ages and grades are as
follows: Carl Heard, aged seven, second grade; Frank Heard, aged
eight, third grade.

That Flenoy Williams and Beatrice Williams are husband
and wife and the owners of real property situate at 1714 East

1 Buchanan Street in said school district and are taxpayers therein
2 and residents thereof; that said plaintiffs are the parents of
3 four minor children who, for reasons hereinafter more fully set
4 forth, have been taken out of the said Wilson Schools and en-
5 rolled in the Immaculate Heart School, a Catholic parochial
6 school; that the names, ages and grades of said children are
7 as follows: Cynthia Williams, aged seven, second grade; Myrna
8 Ruth Williams, aged nine, fourth grade; Pearlle Mae Williams,
9 aged eleven, sixth grade; and Flenoy Williams, Jr., aged thir-
10 teen, sixth grade; that the said plaintiffs are required to pay
11 and are paying the sum of \$8.00 per month to the said Immaculate
12 Heart School for the instruction of their said children.

13 II.

14 That the defendant Harold Davis is President, George
15 T. Monroe is Clerk, and Calvin McKnight is a member of the Board
16 of Trustees of said Wilson School District and constitute such
17 Board of Trustees, having been duly elected thereto; that G. S.
18 Skiff is the Superintendent of the schools of the said Wilson
19 School District and participates actively in the management of
20 said schools and the determination of policies therefor; that
21 the said Wilson School District is a duly organized and estab-
22 lished public school district situate in the County of Maricopa,
23 State of Arizona.

24 III

25 That the defendants maintain and operate in their
26 official capacities, at 3600 East Henshaw Road in said district,
27 a segregated school for Negroes; that said defendants operate
28 and maintain other schools at other locations within said
29 district for non-Negro pupils residing in said district; that
30 in violation of the laws of the State of Arizona and the public
31 responsibility of the said defendants, they, the said defendants,
32 have wholly failed, refused and neglected to admit the Negro

1 children of the said district to the school facilities or instruc-
2 tion provided for all others in accordance with the rights of the
3 Negro children under the Constitutions of the United States and
4 of the State of Arizona.

5 IV

6 That the defendants, and their predecessors in office,
7 now maintain and operate, and for many years last past have main-
8 tained and operated the said segregated school for Negroes; that
9 all Negro elementary school children residing in said district
10 are compelled to attend said segregated school unless the parents
11 of such pupils chose to place them in private schools and pay
12 tuition for their instruction; and that all non-Negro pupils of
13 said district are segregated from Negro pupils and are required
14 to attend such segregated non-Negro schools in the said district;
15 and that the aforesaid segregation of pupils is predicated solely
16 upon color and racial origin.

17 V

18 That the aforesaid segregation of pupils done, main-
19 tained and required by the defendants under the color of law or
20 authority constitutes a continuing violation of Section 1 of the
21 Fourteenth Amendment of the Constitution of the United States
22 providing for the equal protection of the law to all citizens of
23 the United States regardless of race or color, and likewise vio-
24 lates Section 13 of Article II of the Constitution of the State
25 of Arizona, which provides:

26 "No law shall be enacted granting to any
27 citizen, class of citizens, or corpora-
28 tion, other than municipal, privileges or
29 immunities which, upon the same terms,
shall not equally belong to all citizens
or corporations."

30 VI

31 That by reason of the arbitrary segregation of Negro
32 and non-Negro pupils in the said district by the said defendants

1 solely upon the ground of race and color, the plaintiffs and
2 their children have been, and are being, denied equal protection
3 of the laws and their privileges and immunities as citizens of
4 the United States of America have been, and are being, abridged
5 and denied to them, and each and every pupil of said Wilson
6 School District, regardless of race or color, is, by the unlawful
7 and arbitrary action of the defendants, being denied the guaran-
8 ties of the Federal and State Constitutions, and their privileges,
9 rights and immunities as citizens of the United States are being,
10 and unless this Court restrains said defendants, and each of
11 them, will continue to be denied full enjoyment of their rights,
12 privileges and liberties as citizens of the United States.

13 VII

14 Plaintiffs bring this action in their own behalf and
15 in the behalf of all other children of the African or Negro race
16 now attending the segregated school in the Wilson School District,
17 Maricopa County, or attending all and any other private schools
18 but who live within the Wilson School District, Maricopa County,
19 and their parents or next of friends similarly situated and
20 effected with reference to the matters here involved. These
21 individuals are so numerous as to make it impossible to bring
22 them all before this Court. There being common questions of law
23 and fact, and common relief being sought as will hereinafter ap-
24 pear, plaintiffs file this action as a class action pursuant to
25 Section 21-512, Arizona Code Annotated 1939 (Rules of Civil
26 Procedure 20(a)). Plaintiffs also invoke jurisdiction of this
27 Court under Section 26-101 Arizona Code Annotated 1939 in this
28 action in addition to seeking to restrain the action of the
29 defendants herein in segregating groups of pupils as hereinabove
30 set forth.

VIII

1
2 An actual controversy of justiciable nature between
3 plaintiffs and defendants exists; said controversy involves the
4 rights of plaintiffs under certain Arizona statutes, specifically
5 Subsection 2 of Section 54-416, Arizona Code Annotated 1939
6 (Chapter 138, Laws 1952), and Section 54-430, Arizona Code
7 Annotated 1939 (Laws 1912, Chapter 77-54 p. 364, revised statute
8 1913, revised Code 1928, Section 1025) involving the phrase in
9 each statute "They may segregate groups of pupils".

10 IX

11 The questions and controversies between the parties
12 are:

13 (a) Question of whether Chapter 138, 1952 Session
14 Laws, and Section 54-416 Arizona Code Annotated 1939, and
15 Section 54-430, Arizona Code Annotated 1939, empowers the
16 defendants to segregate groups of pupils solely because of
17 race; the only question being involved is whether or not this
18 segregation which is based solely on the fact that the minor
19 plaintiffs are members of the Negro or African race complies
20 with the terms and provisions of the laws and statutes of the
21 State of Arizona.

22 (b) The further question if the Court holds that
23 the statutes in question herein authorize segregation, of
24 whether the policy, custom, practice and usage of the defend-
25 ants, and each of them, in denying on account of race and color
26 the minor plaintiffs and other children of the Negro or African
27 race of elementary school age residing in the Wilson School
28 District, Maricopa County, Arizona, educational opportunities,
29 advantages and facilities in elementary schools, including
30 those which for the purpose of considering this controversy
31 might be specified to be equal to the educational opportunities
32

1 advantages and facilities afforded and available to White
2 children of elementary school age similarly situated, is uncon-
3 stitutional and void as being a denial of the rights guaranteed
4 under the Fourteenth Amendment of the Constitution of the United
5 States and Section 13 of Article 2 of the Constitution of the
6 State of Arizona; it is not admitted for any other purpose that
7 the educational facilities in the Wilson School District afforded
8 the non-segregated and segregated schools are equal in any respect.

9 (c) The further question, if the Court holds that the
10 statutes in question herein authorize segregation, of whether
11 such statutes are constitutional, or of whether such statutes,
12 if they authorize the policy, custom, practice and usage of
13 defendants and each of them in denying on account of race and
14 color the adult plaintiffs and other parents and guardians of
15 children of the African and Negro race of elementary school age
16 similarly situated in Wilson School District of Maricopa County,
17 Arizona, rights and privileges of sending their children to
18 elementary schools in said school district with educational
19 opportunities, advantages and facilities including those herein
20 specified, equal to the educational opportunities, advantages
21 and facilities afforded and available to white and other children
22 of elementary school age, are unconstitutional and void as a
23 denial of the equal protection clause of the Fourteenth Amend-
24 ment to the Constitution of the United States.

25 (d) The further question of whether these statutes,
26 if the Court holds that they do authorize segregation of races
27 in the school system, are unconstitutional and void because of
28 vagueness and whether the said statutes are unconstitutional and
29 void as being an unlawful delegation of powers by the Legislature.

30 X

31 Plaintiffs have petitioned defendants requesting that
32 the said defendants cease discriminating and segregating against

1 children of the African and Negro race of elementary school age
2 attending the schools in Wilson School District, Maricopa County,
3 Arizona, and the defendants have failed and refused to cease said
4 discrimination and segregation, and the class they represent
5 solely because of race and/or color, in violation of their rights
6 to equal protection of the laws as provided by the Fourteenth
7 Amendment to the Constitution of the United States, and the equal
8 operation of the laws as required by the Constitution of the
9 State of Arizona.

10 XI

11 Plaintiffs and others similarly situated are suffering
12 irreparable injury, and are threatened by irreparable injury in
13 the future, by reason of the acts herein complained of. They
14 have no plain, adequate or complete remedy to redress the wrongs
15 and illegal acts herein complained of other than this suit for
16 declaration of rights and an injunction. Any other remedy to
17 which plaintiffs and those similarly situated could be remitted
18 would be attended by such uncertainties and delays as to deny
19 substantial relief, would involve a multiplicity of suits, cause
20 further irreparable injury, and occasion damage and inconvenience
21 not only to plaintiffs and those similarly situated, but to
22 defendants as governmental agencies.

23 WHEREFORE, plaintiffs pray judgment as follows:

24 1. That upon filing of this complaint as soon as may
25 appear proper and convenient, the Court advance this cause on
26 the docket and order a speedy hearing on this action according
27 to law.

28 2. That a declaratory judgment be made and entered
29 herein ordering, adjudicating and decreeing that segregation
30 of Negro and non-Negro pupils of the Wilson School District on
31 the basis of race or color constitutes a violation of the
32

1 constitutional rights and guarantees as citizens of the State of
2 Arizona and of the United States of America and is unlawful and
3 without authority of any valid and subsisting law.

4 3. Or in the alternative, a declaratory judgment that
5 if there is any law of the State of Arizona, or more specifically
6 if Section 54-416, Arizona Code Annotated 1939, Chapter 138,
7 Session Laws 1952, and Section 54-430, Arizona Code Annotated
8 1939, are held to permit segregation as aforesaid, then said
9 laws and statutes are unconstitutional in that they are void for
10 want of certainty, or they constitute an unlawful delegation of
11 legislative powers by the legislature as an administrative body,
12 and that therefore the custom and practice and usage of segrega-
13 tion as aforesaid is unconstitutional.

14 4. That a mandatory injunction issue herein command-
15 ing and counseling the defendants, upon pain and punishment for
16 the contempt of this Court, providing that the defendant shall
17 take forthwith such steps as may be reasonably necessary and
18 proper to abolish racial segregation and desegregate all schools
19 of said district within three days from date of judgment or to
20 show cause why they and each of them should not be punished for
21 contempt of Court.

22 5. For such other and further relief as to this Court
23 may seem just and proper in the premises, and for the costs and
24 disbursements of this action as herein incurred.

25 PARKER & MUECKE

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