

# TRANSCRIPT OF RECORD

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## Supreme Court of the United States

OCTOBER TERM, 1952 53

No. ~~413~~ 4

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SPOTTSWOOD THOMAS BOLLING, ET AL.,  
PETITIONERS,

*vs.*

C. MELVIN SHARPE, ET AL.

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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PETITION FOR CERTIORARI FILED OCTOBER 24, 1952

CERTIORARI GRANTED NOVEMBER 10, 1952



# APPENDIX







## JOINT APPENDIX

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### UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4949-50

SPOTTSWOOD THOMAS BOLLING, a minor by Sarah  
Bolling, his mother and next friend,  
WANAMAKER VON BOLLING, a minor, by Sarah Boll-  
ing, his mother and next friend,  
SARAH LOUISE BRISCOE, a minor, by William Briscoe,  
her father and next friend,  
ADRIENNE JENNINGS, a minor, by James C. Jennings,  
her father and next best friend,  
BARBARA JENNINGS, a minor, by James C. Jennings,  
her father and next best friend,  
SARAH BOLLING, personally, 1732 Stanton Terrace,  
Southeast, Washington, D. C.,  
WILLIAM BRISCOE, personally, 1232 Eaton Road, South-  
east, Washington, D. C.,  
JAMES C. JENNINGS, personally, 1139 Stevens Road,  
Southeast, Washington, D. C., and  
CONSOLIDATED PARENT GROUP, INC., a corporation,  
1113 Montello Avenue, Northeast, Washington, D. C.,  
Plaintiffs,

vs.

C. MELVIN SHARPE, 929 E Street, Northwest, Washing-  
ton, D. C.,  
ADELBERT W. LEE, 3211 Pennsylvania Ave., Southeast,  
Washington, D. C.,  
LENORE W. SMITH, 3249 Newark Street, Northwest,  
Washington, D. C.  
JAMES A. GANNON, 1915 Biltmore Street, Northwest,  
Washington, D. C.

VELMA G. WILLIAMS, 2700 Georgia Avenue, Northwest,  
Washington, D. C.,  
ALBERT E. STEINEM, Colorado Building, Washington,  
D. C.,  
ELVIRIA Z. MAGDEBURGER, 1612 Missouri Avenue,  
Northwest, Washington, D. C.,  
PHILLIP T. JOHNSON, 1742 Sixth Street, Northwest,  
Washington, D. C.,  
WOOLSEY W. HALL, 1330 Wallach Place, Northwest,  
Washington, D. C., being and constituting the Board of  
Education of the District of Columbia, and  
HOBART M. CORNING, Superintendent of Schools, Frank-  
lin Administration Building,  
NORMAN J. NELSON, First Assistant Superintendent of  
Schools, Divisions 1-9, Franklin Administration Building,  
GARNET C. WILKINSON, First Assistant Superintendent  
of Schools, Divisions 10-13, Franklin Administration  
Building,  
LAWSON J. CANTRELL, Associate Superintendent, Divi-  
sions 1-9, Franklin Administration Building, and  
ELEANOR P. McAULIFFE, Principal, Sousa Junior High  
School, Defendants.

### COMPLAINT

1. This is an action for an interlocutory injunction and a permanent injunction restraining defendants and each and every one of them from excluding minor plaintiffs from enrollment and instruction in the Sousa Junior High School solely because of their race or color, and from denying minor plaintiffs admission as students in said Sousa Junior High School solely because of their race or color, and from applying and so construing Statutes enacted by the Congress of the United States, providing for education of children in the District of Columbia, so as to require the exclusion of these minor plaintiffs from the Sousa Junior High School,



and the denial of their admission thereto solely because of their race or color, and restraining the defendants and each and every one of them from taking steps which may lead to the criminal prosecution of the adult plaintiffs for failure to send their children, minor plaintiffs in this cause, to other schools in the District designated by the defendants as a part of the exclusion of these minor plaintiffs from the Sousa Junior High School solely on account of race or color, and seeking a declaratory judgment to the effect that Statutes enacted by Congress regulating public education in the District of Columbia do not require the exclusion of these plaintiffs from said Sousa Junior High School on the ground of race or color alone.

2. (a) The jurisdiction of this Court is invoked under Title 28, United States Code, section 1331. This action arises under the due process of law clause of the Fifth Amendment to the Constitution of the United States; Article I, section 9, clause 3, of the Constitution of the United States, relating to the Bill of Attainder; and the Charter of the United Nations, Chapter I, Article I, section 3 and Chapter IX, Articles 55 and 56, relating to the promotion, encouragement and observance of human rights without racial distinctions, as hereinafter more fully appears. The matter in controversy exceeds the sum or value of Three Thousand (\$3,000) Dollars, exclusive of interests and costs.

2. (b) The jurisdiction of this Court is also invoked under Title 28, United States Code, section 1343, which provides for the original jurisdiction of this Court in suits involving civil rights. This action is authorized by Title 8, United States Code, section 43, to be commenced by any citizen of the United States, or other person within the jurisdiction thereof, to redress the deprivation of the rights, privileges and immunities secured by the Constitution and laws of the United States, and Title 8, United States Code, section 41, provides for the equal rights of citizens and of

all other persons within the jurisdiction of the United States, as hereinafter more fully appears.

2. (c) The jurisdiction of this Court is also invoked under the general jurisdiction provision of the District of Columbia Code (1940), Title 11, section 301, and the jurisdiction of this Court as a Court of the United States under District of Columbia Code (1940), Title 11, section 305.

2. (d) The jurisdiction of this Court is also invoked under Title 28, United States Code, sections 2201 and 2202, relating to declaratory judgments.

3. Minor plaintiffs, Spottswood Thomas Bolling, Wanamaker Von Bolling, Sarah Louise Briscoe, Adrienne Jennings and Barbara Jennings, are Negroes, are residents of and domiciled in, the District of Columbia, are within the statutory age limits of eligibility to attend the public schools of said District of Columbia, possess all qualifications and satisfy all requirements for admission to the junior high schools in said District, and do now attend a junior high school in said District.

4. Adult Plaintiffs, Sarah Bolling, William Briscoe and James C. Jennings, are residents of, and domiciled in, the District of Columbia, are parents of minor plaintiffs, are taxpayers of the United States and of the District of Columbia, are required by law to send their respective children to the public schools of said District, and are subject to criminal prosecution for failure so to do. The Consolidated Parent Group, Inc., is a corporation organized under the laws of the District of Columbia which has for its objective, as outlined in its Constitution, "to seek, by every lawful means, to promote abolition of racial segregation and other discriminatory practices now invoked upon minority groups in the public schools and recreational areas of the District of Columbia; and to engage, as a non-profit organization, in educating the community towards these goals."

5. All plaintiffs bring this action in their own behalf, and, there being common questions of law and fact affecting the rights of all Negro citizens of the United States residing in the District of Columbia similarly situated, who are so numerous as to make it impracticable to bring all before the Court, and a common relief being sought, as will hereinafter more fully appear, bring this action pursuant to Rule 23 of the Federal Rules of Civil Procedure, as a class suit on behalf of themselves and of all Negro citizens of the United States residing in the District of Columbia similarly situated and affected, as will hereinafter more fully appear. The interests of all members of the class above referred to are fairly and adequately represented in this suit.

6. (a) Defendants C. Melvin Sharpe, Adelbert W. Lee, Lenore W. Smith, James A. Gannon, Velma G. Williams, Albert E. Steinem, Elviria Z. Magdeburger, Phillip T. Johnson and Woolsey W. Hall now constitute the Board of Education of the District of Columbia. The Board of Education of the District of Columbia has, under law, control of the public schools of the District of Columbia, and is empowered to determine all questions of policy relating to the schools, to appoint specified executive officers and define their duties, and to direct expenditures. (District of Columbia Code, Title 31, sections 101 and 103, June 20, 1906, 34 Stat. 316, 317, Chapter 3446, section 2; January 26, 1929, 45 Stat. 1139, Chapter 105).

6. (b) Defendant Hobart M. Corning is the superintendent of all the public schools in the District of Columbia, who, under law, has direction of, and supervision in, all matters pertaining to the instruction in all the schools under the Board of Education, controls personnel in all the schools, and performs such other duties necessary for the operation of the public school system as may be authorized by the Board of Education. (District of Columbia Code, Title 31, sections 105 and 106, June 20, 1906, 34 Stat. 317, Chapter

3446, section 3; April 22, 1932, 47 Stat. 134, Chapter 131, Section 1).

6. (c) Defendant Norman J. Nelson is first assistant superintendent of schools, Division 1-9, who, under law, has general supervision over the white schools of the District of Columbia, under the direction of the superintendent of schools. (Act of July 7, 1947, Public No. 163, 80th Congress, 1st Session, as amended by Act of October 6, 1949, Public No. 353, 81st Congress, 1st Session.)

6. (d) Defendant Garnet C. Wilkinson is first assistant superintendent of schools, Division 10-13, who, under law, has sole charge of all employees, classes and schools in which colored children are taught, under the direction of the superintendent of schools. (Act of July 7, 1947, Public No. 163, 80th Congress, 1st Session, as amended by Act of October 6, 1949, Public No. 353, 81st Congress, 1st Session.)

6. (e) Defendant Lawson J. Cantrell is associate superintendent of schools, Divisions 1-9, who has immediate charge of, and responsibility for, the general direction and supervision of instruction, organization and management of the white junior and vocational high schools of the District of Columbia, under the direction of the first assistant superintendent of schools, Division 1-9, including Sousa Junior High School.

6. (f) Defendant Eleanor P. McAuliffe is principal of Sousa Junior High School and has direct administrative and supervisory jurisdiction of pupils, teachers, and clerical, custodial and maintenance personnel, as well as the operation of the school, under the direction of the Associate Superintendent of schools, Division 1-9, who, under law, has junior and vocational high schools of the District of Columbia.

6. (g) All defendants are sued in their official capacities.

7. On the 11th day of September, 1950, the minor plaintiffs, possessing all qualifications for admission to the Sousa Junior High School, presented themselves at the said junior high school for registration therein, within the time and at the place specified for such registration, and were refused admission by defendant Eleanor P. McAuliffe, Principal of Sousa Junior High School, solely because of their race or color.

On the 27th day of October, 1950, the minor plaintiffs, through their parents and attorneys, requested defendant Lawson J. Cantrell to admit said minor plaintiffs to Sousa Junior High School and were refused admission by the said defendant, solely because of their race or color.

On the 31st day of October, 1950, the minor plaintiffs, through their attorneys, requested defendant Norman J. Nelson to admit said minor plaintiffs to Sousa Junior High School and were refused admission by the said defendant, solely because of their race or color.

On the 31st day of October, 1950, the minor plaintiffs, through their attorneys, requested defendant Hobart M. Corning to admit said minor plaintiffs to Sousa Junior High School and were refused admission by the said defendant, solely because of their race or color.

On the 31st day of October, 1950, the minor plaintiffs appealed through their attorneys, to the Board of Education of the District of Columbia, the administrative body having the final authority on admission to public schools in the District of Columbia, and requested admission to Sousa Junior High School.

On November 1, 1950, the defendant Board voted to uphold the actions of its subordinates described above, and to deny and exclude minor plaintiffs from enrollment and instruction in Sousa Junior High School solely because of their race or color.

8. The defendants, and each of them, have pursued and are pursuing, the policy, practice, custom and usage of deny-

ing minor plaintiffs and other Negro children similarly situated admission to and excluding them from attendance as pupils at the Sousa Junior High School, and from enjoyment of the educational opportunities afforded therein solely because of their race or color, thus depriving minor plaintiffs and other Negro children similarly situated of their liberty and property without due process of law in violation of the Fifth Amendment to the Constitution of the United States.

9. The defendants, and each of them, pursued and are pursuing, the policy, practice, custom and usage of denying minor plaintiffs and other Negro children similarly situated admission to and excluding them from attendance as pupils at the Sousa Junior High School, and from enjoyment of the educational opportunities afforded therein solely because of their race or color, in violation of Title 8, United States Code, section 41, which provides that all persons within the jurisdiction of the United States shall have the same right in every State and Territory to the full and equal benefits of all laws and proceedings for the security of persons and property as is enjoyed by white persons, and shall be subjected to like punishment, pains, penalties, taxes, licenses and exactions of every kind, and to no other.

10. The defendants, and each of them, have pursued and are pursuing, the policy, practice, custom and usage of denying minor plaintiffs, and other Negro children similarly situated, admission to and excluding them from attendance as pupils at the Sousa Junior High School, and from enjoyment of the educational opportunities afforded therein solely because of their race or color, in violation of Title 8, United States Code, section 43, which provides for a civil action for the deprivation of any rights, privileges or immunities secured by the Constitution and laws.

11. The defendants, and each of them, are construing and applying Acts of Congress so as to require them to deny to

the minor plaintiffs, and other Negro children similarly situated, admission to and to exclude them from attendance as pupils at the Sousa Junior High School, for no other reason than because of their race or color, thus depriving minor plaintiffs of their liberty and property without due process of law in violation of the Fifth Amendment to the Constitution of the United States.

12. The defendants, and each of them, are construing and applying Acts of Congress so as to require them to deny to the minor plaintiffs, and other Negro children similarly situated, admission to and to exclude them from attendance as pupils at the Sousa Junior High School for no other reason than because of their race or color, in violation of Title 8, United States Code, section 41, which provides that all persons within the jurisdiction of the United States shall have the same right in every State and Territory to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subjected to like punishment, pains, penalties, taxes, licenses and exactions of every kind, and to no other.

13. The defendants, and each of them, are construing and applying Acts of Congress so as to require them to deny to the minor plaintiffs, and other Negro children similarly situated, admission to and to exclude them from attendance as pupils at the Sousa Junior High School for no other reason than because of their race or color, in violation of Title 8, United States Code, Section 43, which provides for a civil action for the deprivation of any rights, privileges or immunities secured by the Constitution and laws.

14. The defendants, and each of them, are construing and applying Acts of Congress so as to require them to deny to the minor plaintiffs, and other Negro children similarly situated, admission to and to exclude them from attendance as pupils at the Sousa Junior High School for no other reason than because of their race or color, in violation of Article I,

Section 9, Clause 3, of the Constitution of the United States which forbids a Bill of Attainder.

15. The defendants, and each of them, have pursued, and continue to pursue, the policy, practice, custom and usage of excluding minor plaintiffs and other Negro children similarly situated from attendance at, and denying them admission to, the Sousa Junior High School and the educational opportunities afforded therein, in violation of the Charter of the United Nations, Chapter I, Article I, section 3, which submits that the purpose of the United Nations is directed to the solution of economic, social, cultural, and humanitarian problems, and includes promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion; and Chapter IX, Article 55, which provides that the subscribers of the Charter with respect to the enumerated principles shall promote, respect and observe human rights and fundamental freedoms without racial, linguistic, religious or sex distinctions; and Chapter IX, Article 56, which pledges all member signatories to take joint and separate action for the achievement of the purposes set forth in the foregoing sections. 59 Statutes 1035 ff, U.S. Code, Congressional Service, 79th Congress, 1945, p. 964 et seq.

16. A present actual case or controversy exists between plaintiffs and defendants. Plaintiffs, and other Negroes similarly situated, on whose behalf this suit is brought, are suffering irreparable injury in the future by reason of the acts of defendants hereinbefore set forth. They have no plain, adequate or complete remedy to redress the wrongs or illegal acts hereinbefore set forth other than this action for an injunction. Any other remedy to which plaintiffs, and other Negroes similarly situated, could be remitted would be attended by such uncertainties and delays as to deny substantial relief, would involve a multiplicity of suits, and would cause further irreparable injury, damage,



vexation and inconvenience to plaintiffs and other Negroes similarly situated.

WHEREFORE, the plaintiffs respectfully pray:

1. That this Court enter a declaratory judgment pursuant to Rule 57 of the Federal Rules of Civil Procedure, stating that the defendants are without right in construing the statutes having to do with public education in the District of Columbia so as to require said defendants to exclude the minor plaintiffs from attendance at the Sousa Junior High School and denying to them the right of attendance at the Sousa Junior High School in violation of their rights as secured to them by the due process of law clause of the Fifth Amendment to the Constitution of the United States, by Title 8, United States Code, sections 41 and 43, and by Article I, section 9, clause 3, of the Constitution of the United States, prohibiting legislation in the nature of a Bill of Attainder and by the Charter of the United Nations, Chapter I, Article I, Section 3, Article IX, Sections 55 and 56, and further stating that the said defendants are required by the Constitution and laws of the United States to admit said minor plaintiffs to Sousa Junior High School and to refrain from any distinction with respect to them because of their race or color.

2. That this Court enter an interlocutory injunction restraining defendants, and each of them, their successors in office, and their agents and employees from precluding the admission of minor plaintiffs, and other Negro children similarly situated to the Sousa Junior High School, for no other reason than because of their race or color, upon the grounds that said refusal of admission as applied to minor plaintiffs, or other Negro children similarly situated, in whose behalf they sue, denies them their privileges and immunities as citizens of the United States and is in violation of their rights as enunciated under the due process of law clause of the Fifth Amendment to the Constitution of the United

States, Title 8, United States Code, sections 41 and 43, Article I, section 9, clause 3, of the constitution of the United States, and the Charter of the United Nations, Chapter I, Article I, Section 3, Article IX, Sections 55 and 56.

3. That this Court enter an interlocutory injunction requiring defendants, and each of them, their successors in office, and their agents and employees to admit the minor plaintiffs to attendance at the Sousa Junior High School, and other Negroes similarly situated to said Sousa Junior High School in conformity with their rights as secured to them by the due process of law clause of the Fifth Amendment to the Constitution of the United States, Title 8, United States Code, Sections 41 and 43, Article I, Section 9, Clause 3, of the Constitution of the United States, and the Charter of the United Nations, Chapter I, Article I, Section 3, Article IX, Sections 55 and 56.

And plaintiffs respectfully pray further that upon a full hearing hereof:

4. That this Court enter a permanent injunction restraining defendants, and each of them, their successors in office, and their agents and employees from precluding the admission of minor plaintiffs and other Negro children similarly situated to the Sousa Junior High School for no other reason than because of their race and color, upon the grounds that said refusal of admission as applied to minor plaintiffs or other Negroes similarly situated, in whose behalf they sue, denies them their privileges and immunities as citizens of the United States, and is in violation of their rights as enunciated under the due process of law clause of the Fifth Amendment to the Constitution of the United States, Title 8, United States Code, Sections 41 and 43, Article I, Section 9, clause 3, of the Constitution of the United States, and the Charter of the United Nations, Chapter I, Article I, Section 3, Article IX, Sections 55 and 56.

5. That this Court enter a permanent injunction requiring defendants, and each of them, their successors in office, and their agents and employees to admit the minor plain-

tiffs to attendance to the Sousa Junior High School in conformity with the rights as secured to them by the due process of law clause of the Fifth Amendment to the Constitution of the United States, Title 8, United States Code, Sections 41 and 43, and Article I, Section 9, clause 3, of the Constitution of the United States, and the Charter of the United Nations, Chapter I, Article I, Section 3, Article IX, Section 55 and 56.

6. That this Court allow plaintiffs their costs herein, and grant them such further, other, additional or alternative relief as may appear to the Court to be equitable and just in the premises.

Sarah Bolling, personally, and as mother and next of friend of Spottswood Thomas Bolling and Wana-maker Von Bolling, minors.

William Briscoe, personally, and as father and next of friend of Sarah Louise Briscoe, minor.

James C. Jennings, personally, and as father and next of friend of Adrienne Jennings and Barbara Jennings, minors.

Gardner L. Bishop, President, Consolidated Parent Group, Incorporated.

Plaintiffs.

George E. C. Hayes, 613 F Street, Northwest, Washington, D. C. National 2702.

Harry B. Merican, 1815 17th Street, Northwest, Washington, D. C.

James M. Nabrit, Jr., 330 College Street, Northwest, Washington, D. C.

Attorneys for the plaintiffs.

Julian R. Dugas, Sr.

George M. Johnson

Herbert O. Reid, Sr.

James A. Washington, Jr.

Of Counsel.

## DISTRICT OF COLUMBIA, SS:

We, Sarah Bolling, William Briscoe, James C. Jennings and Gardner L. Bishop, personally and respectfully in our representative capacities, as hereinbefore indicated, being first duly sworn, depose and state that we have read the foregoing Complaint by us subscribed and know the contents thereof, and that all matters stated therein to our own personal knowledge are true, and those alleged upon information and belief we believe to be true.

Sarah Bolling, personally, and as mother and next of friend of Spottwood Thomas Bolling and Wanamaker Von Bolling, minors.

William Briscoe, personally, and as father and next of friend of Sarah Louise Briscoe, minor.

James C. Jennings, personally, and as father and next of friend of Adrienne Jennings and Barbara Jennings, minors.

Gardner L. Bishop, President, Consolidated Parent Group, Incorporated.

Subscribed and sworn to before me this 7th day of November, 1950.

Don Lockett Young, Notary Public, D. C.

Filed Nov. 9, 1950. Harry M. Hull, Clerk

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF COLUMBIA

Civil Action No. 4949-50

SPOTTSWOOD THOMAS BOLLING, a minor, by Sarah Bolling, his mother and next friend,  
WANAMAKER VON BOLLING, a minor, by Sarah Bolling, his mother and next friend,

SARAH LOUIS BRISCOE, a minor, by William Briscoe,  
 her father and next friend,  
 ADRIENNE JENNINGS, a minor, by James C. Jennings,  
 her father and next friend,  
 BARBARA JENNINGS, a minor, by James C. Jennings,  
 her father and next friend,  
 SARAH BOLLING, personally, 1732 Stanton Terrace,  
 Southeast, Washington, D. C.,  
 WILLIAM BRISCOE, personally, 1323 Eaton Road, South-  
 east, Washington, D. C.,  
 JAMES C. JENNINGS, personally, 1139 Stevens Road,  
 Southeast, Washington, D. C.,

and

CONSOLIDATED PARENT GROUP, INC., a corporation,  
 1113 Montello Avenue, Northeast, Washington, D. C.,  
 Plaintiffs,

vs.

C. MELVIN SHARPE, 929 E Street, Northwest, Wash-  
 ington, D. C.,  
 ADELBERT W. LEE, 3211 Pennsylvania Ave., Southeast,  
 Washington, D. C.,  
 LENORE W. SMITH, 3249 Howard Street, Northwest,  
 Washington, D. C.,  
 JAMES A. GANNON, 1915 Biltmore Street, Northwest,  
 Washington, D. C.,  
 VELMA G. WILLIAMS, 2700 Georgia Avenue, Northwest,  
 Washington, D. C.,  
 ALBERT E. STEINEM, Colorado Building, Washing-  
 ton, D. C.,  
 ELVIRIA Z. MAGDEBURGER, 1612 Missouri Avenue,  
 Northwest, Washington, D. C.,  
 PHILIP T. JOHNSON, 1742 Sixth Street, Northwest,  
 Washington, D. C.,

WOOLSEY W. HALL, 1330 Wallach Place, Northwest,  
Washington, D. C.,

being and constituting the Board of Education of the  
District of Columbia

and

HOBART M. CORNING, Superintendent of Schools, Frank-  
lin Administration Building,

NORMAN J. NELSON, First Assistant Superintendent of  
Schools, Divisions 1-9, Franklin Administration Building,

GARNET C. WILKINSON, First Assistant Superintend-  
ent of Schools, Divisions 10-13, Franklin Administration  
Building,

LAWSON J. CANTRELL, Associate Superintendent, Divi-  
sions 1-9, Frankling Administration Building,

and

ELEANOR P. McAULIFFE, Principal, Sousa Junior High  
School,

Defendants.

### **MOTION FOR INTERLOCUTORY INJUNCTION**

The plaintiffs, by their attorneys, George E. C. Hayes, Harry B. Merican and James M. Nabrit, Jr., move this Court for an order granting an interlocutory injunction against the defendants, their successors in office, their agents, employees and servants, attorneys, and all persons in active concert or participation with them, pending this suit, and until further order of this Court, in accordance with the prayers numbered 2 and 3 as set forth in the complaint filed herein.

In support of this motion the plaintiffs attach their verified complaint, and in addition, state:

1. Unless restrained, the defendant will continue to ex-

clude the plaintiffs, and other Negro children on whose behalf they sue, from admission to Sousa Junior High School, solely because of their race or color.

2. Irreparable injury, loss and damage has been caused the minor plaintiffs by the defendants' acts of excluding said minor plaintiffs from, and denying them admission to, the Sousa Junior High School on September 11, 1950, the opening date for the public schools of the District of Columbia; and the defendants, by continuing to exclude minor plaintiffs from attendance at, and admission to, the Sousa Junior High School, are causing further irreparable injury, loss and damage to the minor plaintiffs by denying to them the educational instruction and opportunities to which they are constitutionally entitled during the current school year.

3. If the defendants continue to exclude minor plaintiffs from, and deny them admission to, the Sousa Junior High School, and the educational opportunities afforded therein any judgment this Court may later render on final determination of this action will be ineffective to repair the injury, damage and loss currently being suffered, and the final judgment of this Court will not therefore give the minor plaintiffs the full and complete remedy to which they are entitled for a violation of their rights under the Constitution and laws of the United States.

4. If this interlocutory injunction be granted, the injury, if any, to the defendants, if final judgment be in their favor, will be inconsequential and may adequately be indemnified by bond.

George E. C. Hayes, 613 F Street, N. W.; Harry B. Merican, 1815 17th St., N. W.; James M. Nabrit, Jr., 330 College Street, N. W., Attorneys for plaintiffs.

**EXHIBIT 3**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

---

**Civil Action No. 4949-50**

---

SPOTTSWOOD THOMAS BOLLING, ET AL.,  
*Plaintiffs,*

v.

C. MELVIN SHARPE, ET AL.,  
*Defendants.*

---

**MOTION TO DISMISS**

The defendants move to dismiss the above-entitled cause on the ground that the complaint fails to state a claim upon which relief can be granted.

(s) Vernon E. West, Corporation Counsel, D. C.;  
(s) Oliver Gasch, Assistant Corporation Counsel,  
D. C.; (s) Milton D. Korman, Assistant Corpora-  
tion Counsel, D. C.



**EXHIBIT 1**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

---

**Civil Action No. 4949-50**

---

SPOTTSWOOD THOMAS BOLLING, ET AL.,  
*Plaintiffs,*

v.

C. MELVIN SHARPE, ET AL.,  
*Defendants.*

---

**ORDER**

Upon consideration of the complaint, of the motion of the defendants to dismiss the above-entitled cause, of the memoranda of points and authorities in support of and in opposition to said motion, and of the arguments of counsel for the plaintiffs and for the defendants, it is, by the Court, this 9th day of April, 1951,

ORDERED, that the above-entitled cause be, and it is hereby, finally dismissed.

(s) Walter M. Bastian, Judge.

Copy of the foregoing form of Order mailed to George E. C. Hayes, Esq., attorney for plaintiffs, 613 F Street, N.W., Washington, D. C., this 9th day of April, 1951.

Milton D. Korman, Assistant Corporation Counsel, D. C., attorney for defendants.

Filed Apr. 10, 1951. Harry M. Hull, Clerk.

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF COLUMBIA

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Civil No. 4949-50

---

SPOTTSWOOD THOMAS BOLLING, et al.,  
*Plaintiffs,*

· vs.

C. MELVIN SHARPE, et al.,  
*Defendants.*

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**NOTICE OF APPEAL**

Notice is hereby given this 10th day of April, 1951, that the plaintiffs, Spottswood Thomas Bolling, et al., hereby appeal to the United States Court of Appeals for the District of Columbia from the judgment of this Court entered on the 9th day of April, 1951, in favor of the defendants, C. Melvin Sharpe, et al., against said Spottswood Thomas Bolling, et al.

George E. C. Hayes, attorney for plaintiffs.

Serve: Milton D. Korman, Esq., Assistant Corporation Counsel, D. C., attorney for defendants.

SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1952

No. 413

SPOTTSWOOD THOMAS BOLLING, et al., Petitioners,

vs.

C. MELVIN SHARPE, et al.

ORDER ALLOWING CERTIORARI—Filed November 10, 1952

The petition herein for a writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit is granted. Case is assigned for argument immediately following No. 191.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

(4926)