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IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

NO. 15,927

NATHANIEL JACKSON, a Minor, by his Father and Next Friend, W. D. JACKSON, ET AL,
Appellants,

VS.

O. C. RAWDON, as President of the Board of Trustees, Mansfield Independent School District, et al,
Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS

APPELLEES' BRIEF

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COMMERCIAL RECORDER, FORT WORTH, TEXAS—5-14-56—30.

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TO THE HONORABLE
UNITED STATES COURT OF APPEALS:

Appellees are the administrative officers of a rural independent school district in a farming community in Tarrant County, Texas, and have, to the best of their ability, administered the affairs of such school district in complete obedience to all laws of the land for many years.

Through the medium of the press and other modern means of communication, appellees were informed of the decision of the Supreme Court of the United States in the Brown case (*Brown et al v. Board of Education et al*, 347 U.S. 483; 74 S.Ct. 686 (1954), 349 U.S. 294, 75 S.Ct. 753 (1955)), and upon later receiving a copy of such opinion, read, digested and as best they could, understood the meaning of such a decision. Accordingly they set about forthwith to obey the demands and teachings as were present in such ruling. It was, however, quite a shock to such persons, because the opinion in the Brown case completely reversed the former decision of the Supreme Court which had stood as the law of the land for approximately fifty years. At the same time, appellees were cognizant of the laws of the State of Texas which, in unmistakable words made it a crime for a school board such as that of the Mansfield Independent School District, to integrate the clases of people spoken of in the Supreme Court ruling.

Appellees, upon reading the decision and being informed that they must take steps to comply, began a serious study of local problems and a serious study of the means of solving such problems, to the end that the least possible friction could be averted and to the end that violence and tempers would be curbed. As we view the language of the Brown case, supra, we perceive from it the same meaning as did the school board, to-wit, that it was up to the local school boards, with as much haste as possible, to seek out the problems involved in integration, sooth as best they could the ruffled tempers of the more irate, and to allow the matter to work itself out gradually, rather than to split a community wide open and thereby damage the relationships that had formerly existed between friends and neighbors.

The Brown case contains, to both the trained and the untrained mind, clear and unequivocal mandates, particularly that part reading as follows:

> "Full implementation of these constitutional principles may require solution of varied local school problems. School authorities have the primary responsibility for elucidating, assessing, and solving these problems; courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles. Because of their proximity to local conditions and the possible need for further hearings, the courts which originally heard these cases can best perform this

judicial appraisal. Accordingly, we believe it appropriate to remand the cases to those courts.

"In fashioning and effectuating the decrees, the courts will be guided by equitable principles. Traditionally, equity has been characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs. These cases call for the exercise of these traditional attributes of equity power. * * *"

This language was read and understood by these appellees, and forthwith they did find themselves confronted with problems, the solution of which was not an easy one. They began a system of conversations, talks, meetings and education of the people affected in their community. The appointed a committee to act as a clearing house. The School Board, in its own meetings, received the problems and began a serious effort to obey the mandate of the Supreme Court, and found that in their honest opinion, with this decision coming down in May 1955, that the time was too short to integrate at the next term of school, beginning in September 1955. The understandable language of the Supreme Court in its mandate to them was in simple terms:

1. That they, as the local administrators of the Mansfield Independent School District, were to determine their own local problems.

2. They were told that as the Governing Body of the School District, they had the primary responsibility for finding out their problems, evaluating and solving them.

3. They were told that their actions in determining and solving their problems would be subject to scrutiny of their local Federal District Court upon demand by either group.

4. They were told that their local court, because of proximity and judicial knowledge of local problems, would be the judge as to whether or not their actions toward integration were in the nature of procrastination or were in good faith, and were further told that their local court would be the final arbiter on the question of good faith.

These appellees, knowing the thoughts and ideas of their friends and neighbors by virtue of having lived in the small community for substantially their lifetimes, and having had expressed to them these thoughts and ideas, set about, by talks, meetings and thoughtful purpose, to bring to their community the knowledge that the Brown case was the law of the land and that same had to be obeyed as long as it remained the law of the land, and appellees found in their tribulations extremists on both sides of the case, which is the cause in all instances of the disruption of the affairs of any community.

This Honorable Court judicially knows, and the lower court at the time of the proceeding there, judicially knew that an established social law of more than fifty years standing could not be abruptly overturned without upsetting a great majority of the people in this country, and particularly in the South. The Supreme Court must have realized this situation, for there was over a year's difference between the time of the original opinion of the Supreme Court and the final order with respect thereto. Had the Supreme Court not taken cognizance of the problems that would arise by a forced integration, it had the power to and could have abruptly ended segregation by the stroke of a pen and could have fixed a time within which all persons must comply with the rule. The Supreme Court did neither of these things, in the 1954 or the 1955 decisions, but, as stated in its opinion, advised that the rules of equity must apply in obeying its mandate, and prescribed certain rules which they themselves called flexible in admonishing compliance with its order.

This court, as did the court below, knows of violence and regretable incidents occurring by reason of the action of pressure groups on both sides of the question where hasty action has been taken or suggested.

Appellants in their brief make light of the prayers of appellees, wherein Divine guidance was sought in the solution of their problems (Appellants' brief, page 10). Certainly, the seeking of Divine guidance is a

manifestation of good faith, as it is from that source that all good originates.

The local trial court, under the mandate of the Supreme Court, has on substantial and uncontradicted evidence held that appellees have acted and are acting in good faith to comply with the edict of the Supreme Court. Had the Supreme Court wished to place non-segregation in immediate effect, it could, as above set forth, have done so by establishing a deadline. Therefore, the Supreme Court itself recognized that there would be many and varied problems and many and varied jurisdictions and therefore decreed that the enforcement of its rule be accomplished on a sane, sensible and thoughtful basis, and by its very pronouncement left the issue of good faith working toward the ultimate end to the local trial courts in each community.

Since the trial court in its wisdom and upon the record in the case has determined that appellees have complied and are complying with both the letter and the spirit of the law, the judgment in this case should not be disturbed.

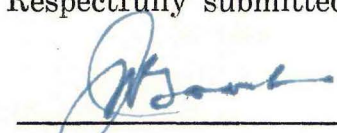
Appellants seem to have ample talent, time and finances for the advancement of their cause, and, without any cause whatsoever, seem to be impatient, domineering and demanding, so it goes without saying that they can and will express themselves again by the refiling of their suit if perchance they think the

acts of appellees have changed from good faith to procrastination.

It is without dispute that the individual plaintiffs in the case below had little or no interest in integration for themselves alone. It does not take either testimony or imagination to reveal that the pressure in this and similar cases comes from a highly organized minority who find fault with the equity principles prescribed by the Supreme Court leading toward compliance.

We respectfully submit that the decision of the trial court was correct.

Respectfully submitted,



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Certificate of Service

I, J. A. Gooch, hereby certify that I have this the 21 day of May, 1956, placed copies of appellees' brief in the United States Mail, postage paid, addressed to the following attorneys for appellants:

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