IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF MISSISSIPPI

DELTA DIVISION

JONATHAN HARRIS, by his mother and next friend, MRS. RUSSIA HARRIS; LARRY HOLDEN, by his mother and next friend, MRS. VERLA MAE HOLDEN; GERALD JOHNSON, by his parents and next friends, MRS. CLARA JOHNSON and MR. IRA LEE JOHNSON; in behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

THE BOARD OF TRUSTEES OF THE CLARKSDALE MUNICIPAL SEPARATE SCHOOL DISTRICT; SAM KENDRICKS, Principal of the Clarksdale High School; ROBERT M. ELLARD, Superintendent of the Clarksdale Municipal Separate School District,

Defendants.

CIVIL ACTION

NO. _____

MOTION FOR PRELIMINARY INJUNCTION
OR IN THE ALTERNATIVE
MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiffs respectfully move this Court to enter an order enjoining defendants to readmit named plaintiffs, Jonathan Harris, Larry Holden and Gerald Johnson, to the Clarksdale High School without loss of academic credit or penalty, pendente lite, and until this Court has had an opportunity to fully try and determine the merits. In support we would show:

I

1. The causes of action recorded in the Complaint filed concurrently with this motion advance substantial claims of conduct violating plaintiffs' rights assured and protected by the First and Fourteenth Amendments and plaintiffs' prospects for success on the merits are excellent. Black Students of No. Fort Meyers Jr.-Sr. H.S. v. Williams, 470 F.2d 957 (5th Cir. 1972); Williams v. Dade County School Board, 441 F.2d 299 (5th Cir. 1971).

2. Named plaintiffs have never been charged with any conduct which endangered life or property or which materially disrupted school programs and activities. Indeed, named plaintiffs are outstanding students, ranking in the top ten percent of their respective classes who have never, prior to this incident, been suspended or expelled for any significant infraction of school policy or regulation.

3. Named plaintiff Jonathan Harris is a senior who, prior to the subject incident, expected to graduate at the end of the current school year and who has already received several offers of scholarship aid to pursue a "pre-med" college career.

4. Unless this Court enters an order reinstating plaintiffs pendente lite, they will suffer irreparable injury arising out of their failure to complete an academic school year and, in the case of senior Jonathan Harris, his failure to obtain his high school diploma.

The granting of an injunction, pendente lite, for school children whose right to an education will be irreparably lost absent such relief, has been mandated by Holt v. Tift County Board of Education, 5th Cir. No. 72-1225,

February 16, 1972 (unreported and attached to this motion); Woods v. Wright, 334 F.2d 369 (5th Cir. 1964).

II

We further move this Court to enter an order preliminarily enjoining defendants to reinstate plaintiffs to the Clarksdale High School for the following reasons:

1. The hearing before the Board of Trustees of the Clarksdale Municipal Separate School District violated plaintiffs' rights guaranteed by the Due Process Clause of the Fourteenth Amendment: the said trustees are professionally obligated to "rubber stamp" the decisions of Clarksdale school administrators who are employed by the Board of Trustees and administer the schools on a day to day basis; at least one of the school board members assumed the posture of advocate in support of the expulsion prior to and during the submission of evidence; the white board members are aligned with the private racist academies of Clarksdale and are incapable of rendering impartial judgments relating to black students; not a single black witness was presented by defendants at the hearing; testimony relevant to the controversy and advanced by plaintiffs was arbitrarily excluded by the Board of Trustees.

2. The full year expulsion of named plaintiffs, given that their conduct was in no material respect different from that of 122 other students who were not similarly expelled, arbitrarily and irrationally discriminates against named plaintiffs in violation of their rights assured and protected by the Equal Protection and Due Process Clauses of the Fourteenth Amendment.

3. The full-year expulsion of named plaintiffs - given the absence of any previous disciplinary record, given the absence of any violent or dangerous behavior or property damage and given the peaceful and orderly conduct of the Black History Week Assembly Program - is excessive, arbitrary and capricious punishment in violation of plaintiffs' rights assured and protected by the Equal Protection and Due Process Clauses of the Fourteenth Amendment.

4. The denial of an education for one full year, absent proof that life and property are endangered and absent proof of recurring and persistent misbehavior is a violation of plaintiffs' rights assured and protected by the Due Process And Equal Protection Clauses of the Fourteenth Amendment.

5. The rules and regulations of the defendant school district provide (paragraph 24, Complaint), that suspensions and expulsions may only be used "when other efforts of discipline and cooperation have failed;" and defendants instituted no action or procedures against named plaintiffs other than the immediate suspensions in violation of general school policy and practice and in violation of rights assured and protected by the Equal Protection Clause of the Fourteenth Amendment.

6. The participation of named plaintiffs in a [illegible] History Assembly Program, conducted in a peaceful and [illegible] manner, was a form of expression and protest protected by the First and Fourteenth Amendments to the Constitution of the United States.

Respectfully submitted,

March 20, 1973

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