

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

INDIA LYNCH, by her parent, SHAWN KING *
LYNCH; WENDELL PRIDE, JR., by his parent, *
WENDELL PRIDE; IVY ROSE BALL, by her *
parent, MIRANDA BALL; SLADE BERRYMAN *
and CANNON BERRYMAN, by their parent, *
TYLER BERRYMAN; ROCHESTER *
ANDERSON and CEZANNE ANDERSON, by *
their parent, STELLA ANDERSON; SHARNAY *
BROOKS, by her parent, MICHAEL BROOKS; *
ZEKEIAH ORMOND, by his parent, BARBARA *
L. ORMOND; ADRIAN WIDEMON, by his *
parent, ADA WIDEMON JONES, individually *
and on behalf of others similarly situated, *

Plaintiffs, *

v. *

Civil Action No.
CV-08-S-0450-NE

THE STATE OF ALABAMA; BOB RILEY, in his *
official capacity as Governor of Alabama; and *
TIM RUSSELL, in his official capacity as *
Commissioner of Revenue, *

Defendants. *

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Plaintiffs India Lynch et al., through undersigned counsel, pursuant to Rule
56, Fed.R.Civ.P., move for summary judgment with respect to all their claims and
granting them the full relief they seek in their complaint, Doc. 1. As grounds for

their motion, plaintiffs would show as follows:

1. There is no genuine issue with respect to any material fact, and plaintiffs are entitled to judgment as a matter of law.

2. Pursuant to the ALND Initial Order Governing All Further Proceedings, Appendix II,

<http://www.alnd.uscourts.gov/Local/Court%20Forms/Sample%20Appendix%20II%20Summary%20Judgment.pdf>, copies of the evidentiary materials upon which plaintiffs rely are attached to this motion, and a brief containing, in separately identified sections, (i) a statement of allegedly undisputed relevant material facts and (ii) a discussion of relevant legal authorities is being filed contemporaneously with this motion.

WHEREFORE, plaintiffs pray that the Court will enter summary judgment certifying them as representatives of the plaintiff class of all public school students and citizens of Alabama who are injured by the racially discriminatory property tax provisions in the Alabama Constitution and the subclasses of similarly situated African-American and white public school students and citizens of Alabama and granting them the following relief:

A. A declaratory judgment that §§ 214, 215, 216, and 269, as amended, and Amendments 325 and 373 to § 217 of the Official Recompilation of the

Constitution of Alabama of 1901, as amended, and the statutes and regulations that implement their restrictions, violate the rights of plaintiffs and the class they seek to represent guaranteed by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., and the Equal Protection Clause of the Fourteenth Amendment.

B. An injunction prohibiting defendants, their political subdivisions, departments, officers, agents, attorneys, employees and those acting in concert with them or at their direction from enforcing §§ 214, 215, 216, and 269, as amended, and Amendments 325 and 373 to § 217 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, and the statutes and regulations that implement these restrictions in the Alabama Constitution.

C. An award of their costs incurred in prosecuting this action, including an award of attorneys' fees and expenses, pursuant to 42 U.S.C. § 1988.

D. Such other and further equitable relief as the Court may deem just and equitable.

Plaintiffs further pray that this Court will stay issuance of the prohibitory injunction requested in paragraph B. *supra* for a period of one year to give the Governor and Legislature an opportunity to adopt appropriate relief. See *Weissinger v. Boswell*, 330 F. Supp. 615, 625 (M.D. Ala. 1971) (3-judge court).

Respectfully submitted this 14th day of April, 2008,

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CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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jmitchell@maynardcooper.com

I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Governor Bob Riley
c/o Ken Wallis
State Capitol
600 Dexter Avenue
Montgomery, AL 36130

Respectfully submitted,

s/ James U. Blacksher
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c/o Ken Wallis
State Capitol
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Montgomery, AL 36130

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