

Wood, Jones, Drinkard Sued In Federal Court By Negroes

BY NORMAN REEDER
Progress Editor

A Civil suit has been filed against Autauga County Sheriff Philip Wood, District Attorney C. W. Jones, and County Attorney Edward W. Drinkard by 45 Negroes.

SPECIAL AND CONSTITUTIONAL AMENDMENT ELECTION
DECEMBER 5, 1967
Further details regarding each amendment may be had from the Ballot in the Act. The Act number appears after each amendment. Regular Session 1967 session indicated.

AMENDMENT NO. 1
Autauga County, Ala. To amend the Constitution of the State of Alabama, to provide for the establishment of a county auditor.

AMENDMENT NO. 2
To amend the Constitution of the State of Alabama, to provide for the establishment of a county auditor.

AMENDMENT NO. 3
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AMENDMENT NO. 4
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immediately." The plaintiffs claim that the law itself, Section 407, Code of Alabama, Title 14 is unconstitutional under the first and fourteenth amendments and deprives the defendants of their rights under the Federal Constitution.

The plaintiffs in the case are Charlie Lewis, James Harris, O'Neal E. Nunnally, Thomas Smith, Julia Robinson, David Willis, Will Hoot Robery, and Stanley E. Wise, on behalf of themselves and others similarly situated.

The case was filed No. 548 in the United States District Court, Montgomery, Frank M. Johnson, Jr., Judge. The men were arrested and charged with civil disobedience during racial disturbances back in June, and are now filing suit to strike down the State Law under which they were arrested.

The preliminary investigation, according to Sheriff Wood, indicated at that time that the charge of assault with intent to murder would probably be made, after investigation by the Grand Jury. The matter is still not closed and has been continued on the Grand Jury docket.

The sheriff's assembly charges stem from the fact that evidence at the time of the shooting, according to officials, showed that state were coming from the house where the meeting was being held and two law enforcement officers and a dog handler, were wounded in the incident.

The dog handler was brought in to track down those responsible for the first volley of shots at police and the chase ended at the house where the arrest were made.

The suit does not list a dollar amount of damages against the defendants and says only that the "damages" in controversy exceeds the sum or value of \$10,000. The reason given for this is that the Federal Court will not proceed on suits of less than \$10,000.

The plaintiffs' motion for a temporary restraining order enjoining the defendants from enforcing the State Law, without order to be dissolved without any hearing on the same, was ordered to be and was issued by the court, the day the suit was filed.

Drinkard said, however, that he, as solicitor, would file a motion in county court that the case be continued pending determination of the validity of the state law.

The defendants have 30 days including the day of the serving of the suit, to file an answer in Federal District Court.

The only known Prattville Negroes in the suit are Julia Robinson and James E. Harris. The others are thought to be out-of-county and out-of-state residents present for the rally.

Of the 45 persons investigated at the time of the incident, 10 cases were made. Addresses given at the time of the arrests of those involved in the suit, are as follows:

Charlie Lewis, Prattville; James E. Harris, Iron City;

Gus, Nunnally, Selma; Thomas Lewis, his name as Grant and no address at the time; Stanley John Robinson, Prattville; Will Henry Robery, Selma; Stanley E. Wise, Alabama, Ga.; and Harvey Willis, who was not mentioned as having been arrested.

This is Wood's second suit arising from the incident in Happy Hollow in June of 1967, the first being a suit against him and Prattville Police for the sum of \$100,000 for personal and property damage.

Drinkard said last week that "The great injustice of the whole thing, is that a small minority of citizens are wearing a hardship on the officials and the taxpayers in performing their duties, defending law suits of this type which involve the expenditure of quite a lot of time and money, and many are not even citizens of this state."

As it stands, Drinkard, Wood, and Jones are barred by and within the limits of the law and must now defend the law instead of State Law personnel.

Since a State of Alabama law is at stake, it was deemed strange that the State Attorney General was not added to the suit so he and his department could defend the "State" law.

The Church may be seen at the location, an estimated four miles from Prattville and directly (Officials say it can easily be converted into a nice home).

A Church For Sale

A Church on U.S. 31 in Augusta Heights, known as the Augusta Heights Methodist Protestant Church, has announced that anyone interested in buying the church may contact Loren McGinnis on the Oak Grove Community.

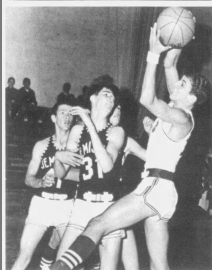
The Church may be seen at the location, an estimated four miles from Prattville and directly (Officials say it can easily be converted into a nice home).

Kids

The following series of pictures of six months to two years old Progress and photographed by



He'll Santa Claus, how are you? My name is Mary Poppins and I have been a very sweet girl all year, and have been helping people out and being very good.



LIONS WIN—The Autauga County Lions came up with two big basketball wins last week by defeating Jenkins (Friday night 57-45), and then coming back Friday night to defeat Catholic High of Montgomery 51-38 for their second big win. Hillsville is next.

Law Banning Illegal Groups Is Contested

A three-judge federal court was asked by a group of Negro plaintiffs this week to declare Alabama's unlawful assembly statute unconstitutional.

U.S. Judges Walter P. Gevin, Virgil Pittman and Frank M. Johnson Jr. took the case under advisement after hearing the facts surrounding the arrests of 10 Negroes June 12, 1967, in Prattville.

Autauga County Sheriff Phillip Wood made the arrests after a night of racial violence and after the arrest of black Power advocate Stokely Carmichael who was in Prattville to address a meeting of Negroes.

None of those arrested for unlawful assembly have come to trial as yet in Autauga County.

Sheriff Wood said at this week's hearing that he arrested 10 of some 45 persons who came out of the home of Negro leader Dan Houser the morning of June 12 because he believed they were the leaders of the racial disturbance.

He said he determined the 10 to be leaders by their actions and dress.

The other witness who testified at the hearing, 18-year-old Nitricia Hasdott of Prattville, told of the meeting of the Autauga County Improvement Association, the arrival of Carmichael, some shouts of "Black Power!" and the arrest of Carmichael by Prattville city police.

She said the meeting wasn't disorderly.

Attorneys Solomon Seay Jr. for the plaintiffs and Leslie Hall of the Attorney-General's office for the defendants declined to make oral arguments on the constitutional question but said they would file written briefs.

Prattville police and Negro civil rights groups are under an injunction issued by Judge Johnson in January to prevent a recurrence of activities which led to last summer's racial violence.

Plaintiffs in the case to be decided by the three-judge court are Charlie Devine, James E. Harris, Ulysses Z. Nunnally, Theophilus Smith, Julius Robinson, Haver Willis, Will Henry Rogers and Stanley R. Wise.

Sheriff Wood and county attorney Edward W. Drinkard were named as defendants in the action which seeks an injunction forbidding the trial of the plaintiffs for unlawful assembly.

Judges Uphold Prattville Arrests

By JUDITH HELMS

A three-judge federal panel has refused to enjoin the prosecution of a group of Negroes arrested in Prattville last June for unlawful assembly.

Plaintiffs were arrested by Autauga County Sheriff Phillip Wood in the early morning of June 12, 1967, after a night of racial unrest precipitated by the earlier arrest of Black Power advocate Stokely Carmichael.

They filed suit in U.S. District Court seeking an injunction against criminal prosecution by Autauga County authorities and also asked that the law under which they were arrested be declared unconstitutional.

U.S. Circuit Judge Walter Gewin and District Judges Frank M. Johnson Jr. and Virgil Pittman, who issued an order

and opinion in the case today, ruled that "this constitutional statute (the unlawful assembly law) was constitutionally applied by the Sheriff of Autauga County."

The judges' opinion recapped events leading up to the arrests: an afternoon meeting of two Autauga County Negro civil rights organizations, the arrest of speaker Carmichael, the trek of a large number of participants to the house of Dan Houser and a night filled with gunfire, some from the Houser house.

The opinion noted that Carmichael started his speech by saying, "We advocate that all black people get some guns and learn to use them. The only way to get Kennedy Hill (white Prattville policeman Kenneth

Hill whom Negroes blamed for previous racial unrest) off the force is to organize the black power in this area and use your guns. Black power! Black power! Black power! Black power!"

By the time the arrests were made early the next morning outside the Houser residence, the judges said "the situation was extremely tense, the city was almost an armed camp and an explosive situation existed which could have easily erupted into a riot."

In another case involving the Prattville incident with petitions by Houser and by police, Judge Johnson declared that both sides shared the blame for the uprising.

The three-judge court today quoted Judge Johnson in that

order as saying, "The use of firearms as a means of social protest is not a constitutionally protected form of expression."

The panel also said that "where, as in this case, there is violence such as the shootings, the police are not in the name of freedom of assembly powerless to prevent a breach of the peace."

"From the evidence in this case it is clear that there was no harassment, intimidation or oppression of these plaintiffs," the judges continued, "for they were arrested for their violation of the state statute prohibiting such unlawful assemblies."

Plaintiffs had attacked the unlawful assembly statute as being not only unconstitutional in its application to them but

because of its "vagueness and overbreadth."

The federal judges declined to accept any of these grounds as valid in the case.

Suit was filed by Charlie Devine, James E. Harris, Ulysses Z. Nunnally, Theophilus Smith, Julius Robinson, Haver Willis, Will Henry Rogers and Stanley R. Wise individually and as a class action for "all other similarly situated."

The plaintiffs were among some 43 people who came out of the Houser home at the request of Sheriff Wood, 10 of whom were placed under arrest.

Wood had said during the previous case before Judge Johnson that he felt the 10 he arrested were leaders among the larger group.

Lawmen Win Suit Filed By Negroes

A suit to halt their prosecution by ten Negroes charged with unlawful assembly during a racial disturbance in Prattville last summer was denied recently by a three-judge-federal court.

The Negroes claimed the unlawful assembly is unconstitutional. They were arrested June 12, 1967, after shots were fired around the house of Dan Houser, a local civil rights leader.

Law enforcement officers had broken up a civil rights meeting in Prattville earlier in the day and arrested Black Power advocate Stokely Carmichael and then when a police car called into the neighborhood was racked with shotgun and rifle fire, police moved to the Houser neighborhood in force.

The action was over around 3 a.m. the next morning when the Alabama National Guard moved in and surrounded the house. Guardsmen and City police surrounded the house, aided by State Troopers, and demanded that all come out. They did.

It was at this time when City Police and State Troopers began to pick out ten of those inside to be arrested and turned them over to Sheriff Philip Wood.

In denying the Negroes' suit Circuit Judge Walter Gewin and District Judges Frank M. Johnson Jr., and Virgil Pittman ruled that "This constitutional statute was constitutionally applied by the sheriff of Autauga County."

They quoted Johnson's opinion from an earlier suit demanding from the incident in which he said:

"From the evidence in this case it is clear that there was no harassment, intimidation or oppression of these plaintiffs, for they were arrested for their violation of the state statute prohibiting such unlawful assemblies."

Tri-Hi-Y Note

Meetings of the Sr. Tri-Hi-Y will be discontinued during the summer months. The Jr. Tri-Hi-Y will have special meetings the first and last Monday nights of June, July, and August. Regular meetings will be announced later.

Notice

It's not too late to enter the Lions-Spinners 4th of July Talent Contest. Everyone is invited to participate.