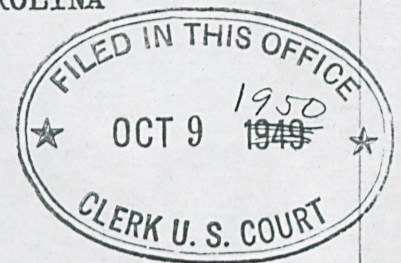


IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION



HAROLD THOMAS EPPS and
ROBERT DAVIS GLASS, et al.,

Plaintiffs

vs.

WILLIAM DONALD CARMICHAEL, JR., President
of the University of North Carolina;
HENRY P. BRANDIS, JR., Dean of the Law
School of the University of North Carolina;
LEE ROY WELLS ARMSTRONG, Director of
Admissions of the University of North
Carolina; ARCH T. ALLEN, Secretary of the
Board of Trustees of the University of
North Carolina; and the UNIVERSITY OF
NORTH CAROLINA, a Body Incorporate,

Defendants

FINDINGS OF FACT

1. This action was originally commenced by Harold T. Epps and Robert D. Glass seeking an injunction to restrain defendants from refusing to admit them to the University of North Carolina School of Law because of their race and color. Floyd B. McKissick, Solomon Revis, Harvey Beech, Walter Nevin, Percy B. Gilliard, James Lassiter and J. Kenneth Lee were permitted to intervene as parties-plaintiff, while this action was pending in this Court.

2. Harold T. Epps, having graduated from the School of Law of the North Carolina College at Durham, was permitted to withdraw as a plaintiff without prejudice, as were Robert D. Glass, Harvey Beech, Walter Nevin and Percy B. Gilliard for reasons set forth in the record.

3. Plaintiffs are all classified as Negroes under the

laws of North Carolina. They are citizens and residents of the State and possess all the lawful qualifications requisite for admission to the School of Law of the University of North Carolina. After due and timely application for admission thereto, their applications were rejected solely because of plaintiffs' race and color, pursuant to a long-standing university custom, policy and practice of refusing to admit or to accept as students members of the Negro race.

4. The University of North Carolina, located at Chapel Hill, North Carolina, is maintained and operated by the state out of public funds as a part of the State University System for the higher education of the youth of North Carolina. (Constitution of North Carolina, Article 9, Section 7; G.S. 116-1) Its School of Law had its beginning in 1845, but was not formalized into a school with a Dean as part of the University until about 1900. It is maintained and operated as a public institution for the training of qualified white residents and non-residents who desire to study law. It will hereafter be referred to as the University Law School. Control is vested in a Board of Trustees, the President of the University and the Dean and faculty of the School of Law.

5. The North Carolina College at Durham is maintained and operated by the state out of public funds for the higher education of Negro youths of the state. A School of Law was established as a part of this institution in 1940 and is maintained and operated as a public institution for the training of qualified Negro residents and non-residents who desire to study law. It will hereafter be referred to as the College Law School.

6. Defendants, William D. Carmichael, Jr., Acting President of the University; Henry P. Brandis, Jr., Dean of the Law School of the University; Lee Roy Wells Armstrong, Director of Admissions of the University and Arch T. Allen, Secretary of

the Board of Trustees of the University of North Carolina, are administrative officers of the University and of the state and are charged with the overall responsibility for the promulgation and enforcement of the rules, regulations, policies, customs and practices which control the operations of the University Law School.

7. Plaintiffs are presently enrolled as students in the College Law School at the North Carolina College at Durham.

8. With respect to tangible and material facilities, there are vast differences between the College Law School at Durham and the University Law School at Chapel Hill.

(a) The University Law School is a part of a real university which maintains and operates various schools and colleges offering many types of degrees up to and including the Ph.D. degree in a wide variety of fields. The College Law School, on the other hand, is not associated with a university but only with a college of somewhat expanded facilities offering degrees up to and including the Master of Arts and Master of Science degrees and a Master of Science degree in Public Health, Home Economics and Library Science.

(b) The University Law School has been fully accredited by the American Bar Association for a long time and has been a member of the Association of American Law Schools since 1925. The College Law School secured provisional accreditation from the American Bar Association in February 1950 and is now seeking accreditation from the Association of American Law Schools. It apparently meets the minimum standards of both accrediting agencies.

(c) The University Law School is manned by a faculty of ten men--nine full professors and one assistant professor. Some of the members of the faculty are nationally recognized authorities in their fields. The College Law School

has a full-time faculty of five men, four of whom are designated as assistant professors, the Dean being designated as a full professor, none of whom are nationally recognized authorities in their fields. A member of the faculty from the University Law School and from the Law School at Duke University teaches one course per semester.

(d) The University Law School faculty is one of wide experience and training. Some of its members have engaged in the private practice of the law, have had valuable experience in working for governmental agencies, have written and published a considerable number of articles on various phases of the law, and are presently serving as advisers to the State Legislature as members of legislative commissions. The College Law School faculty is one of the limited experience and training. Only one of its members has engaged in the private practice of the law, and only the Dean has ever worked for a governmental agency. None are members of the State's legislative commissions, none have written any law review articles nor engaged in other creative activity.

(e) The University Law School operates a summer session in addition to its regular school term, whereas the College Law School has no summer school.

(f) The University Law School has a total enrollment of 280 students and offers degrees of LL.B. and J.D. It regularly publishes a law review edited by students and is affiliated with the Order of Coif. Its curriculum for 1950-51 offers some 39 courses of instruction. The College Law School has a total enrollment of only 28 students and offers a LL.B. degree. It has no law review, nor Order of Coif affiliation and its curriculum for 1950-51 offers only 28 courses of instruction.

(g) The law library at the University Law School contains some 65,000 volumes of extensive scope and variety with a full-time librarian, full-time assistant librarian and several trained part-time assistants in addition to student part-time help. Temporarily, while the new annex is being added to the Law School, the evidence shows that some 40,000 of these volumes in the library are not now available to the students but will be available in December when the annex is completed. The College Law School has a library of some 30,000 volumes, with a full-time librarian who is assisted by part-time student help. Only 24,000 volumes are now on the shelf available for student use.

(h) The University Law School selects its students from members of racial groups constituting approximately 75% of the population of the State of North Carolina. Its student body is widely diversified and approximates a cross section of the population of the State in terms of ancestry, culture, point of view, background and economic status. The College Law School must select its students from members of one racial group constituting approximately 25% of the state's population. In terms of ancestry, culture, point of view, background and economic status, its student body is not and cannot be diversified as that of the University Law School.

(i) The alumni of the University Law School occupy some of the most distinguished positions in the private practice of law and in the public life of the state. The alumni of the College Law School have not reached any comparable positions of eminence either in the private practice of law or in the public life of the state.

9. In terms of the intangible measurements--tradition, prestige and reputation--the University Law School ranks as one of the leading law schools in the country. The College Law School

has little tradition, no prestige or reputation.

CONCLUSIONS OF LAW

1. This Court has jurisdiction of this action under Article III and the Fourteenth Amendment to the Constitution of the United States, and under Title 28, United States Code, Sections 1331, 1343, 2201 and 2202, and under Title 8, United State Code, Sections 41 and 43.

2. There is an actual controversy between the parties hereto.

3. The Constitution and laws of the United States, specifically the Fourteenth Amendment thereof, require that the State of North Carolina provide for persons classified as Negroes the same opportunities for legal education and on the same terms as such education is provided for all other persons.

4. This is a class action within the meaning of Rule 23A of the Federal Rules of Civil Procedure in that the character of the rights sought to be enforced is several and individual and there is in common questions of law and fact affecting the rights involved, and common relief is sought.

5. The College Law School does not afford educational opportunities or advantages equal or substantially equal to those afforded at the University Law School. The fact that the College Law School has been set up and is limited to only those classified as Negroes, whereas the University Law School is open to all other persons is, in itself, a denial of the equal protection of the laws within the meaning of the Fourteenth Amendment.

6. There is no state institution other than the University Law School where plaintiffs may secure educational opportunities and advantages equal to those afforded white

persons at the University Law School.

7. Plaintiffs are entitled to a declaration that the policy, custom, usage and practice of the defendants in refusing to admit as students plaintiffs, and other qualified members of the class they represent, while accepting other persons, is a denial of the equal protection of the laws within the meaning of the Fourteenth Amendment to the Constitution of the United States.

8. Plaintiffs and the class they represent are entitled to be admitted to the University Law School subject only to the same conditions, rules and regulations applicable to all other students.

9. Plaintiffs are entitled to a permanent injunction against defendants, the President, Board of Trustees and the officials of the University Law School enjoining them from refusing to admit plaintiffs, and the members of the class they represent, to the University Law School at Chapel Hill because of their race and color.

10. Plaintiffs will be allowed their costs.