

# New Trial May Clarify Court Action On Buses

COLUMBIA, S. C. — (INS) — Federal district court at Columbia, S. C., apparently is going to have to decide, probably starting next month, whether racial segregation on intrastate buses is legal.

The district court is expected to schedule for its June term a hearing of the now-famous case of Sarah Mae Flemming, versus the South Carolina Electric and Gas co., a public bus operator.

The U.S. Supreme Court on April 23rd dismissed an appeal in the case. The action immediately was interpreted as outlawing segregation on buses operated inside states.

Some southern bus companies even painted out "white" and "colored" signs. Then lawyers, judges and public service commissioners said the high court actually rendered no decision on bus segregation.

## SUED FOR \$25,000

Miss Flemming had sued the company for \$25,000. She had been removed from a bus for refusing to move out of an area reserved for white passengers.

She asked damages because, she claimed, the Supreme Court's 1954 decision, declaring segregation in public schools unconstitutional also applied to intrastate buses.

But Federal District Judge George Bell Timmerman threw the suit out before judging on the damage claim itself. He said Miss Flemming had no case because South Carolina's law requiring segregation on intrastate buses was constitutional.

Thus she had been removed from a bus for violating a constitutional law, all of which was perfectly proper.

## DECISION REVERSED

The federal court of appeals reversed that decision. It said the Supreme Court's historic 1954 school anti-segregation decision

applied. The appellate court sent the case back to the district court for further proceedings.

Then the bus company appealed this decision to the U.S. Supreme Court.

On April 23, the high court dismissed the bus company's appeal, citing *Slacker vs. O'Conner*.

That litigation established the precedent a final judgement had to be entered before an appeal could be taken to the Supreme Court. But the suit of Sarah Mae Flemming for damages still had not been decided by the district court.

## THREE VIEWS

Attorney took three general views of the Supreme Court dismissal: 1) Philip Wittenberg, Miss Flemming's attorney, claimed the court's action in effect sustained the appellate court position that segregation on intrastate buses is illegal.

"When the Supreme Court dismissed the case," he said, "it left the appellate court ruling in effect,

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and therefore my client has a legitimate case on the grounds that her civil rights were violated."

2) Frank Gray, attorney for the company, said the doctrine of "separate but equal" facilities for Negroes and white, overthrown in the public schools case, "is still controlling (for buses) until, and unless it is specifically overthrown by the Supreme Court."

"The district court's decision, he said, was correct and the plaintiff 'has no case.'"

3) South Carolina Atty. General T. C. Collison took a different tack. He said since the Supreme Court returned the case to the district court, it threw out the decision of the appeals court.

Since there had been no final disposition of the case in district court, he contended, the state's racial segregation laws were not not affected "one way or the other."

## SEE NO CHANGE

The South Carolina Public Service commission said: "The Supreme Court's action . . . merely means that the case is not yet ripe for its decision.

Therefore, its action in dismissing the appeal has no effect on the validity or enforceability of the laws of this state dealing with segregation of passengers on intrastate buses or intrastate railroads."

Two of three circuit court judges hearing a suit in Montgomery, Ala., where Negroes have long been boycotting segregated buses, commented similarly in remarks to the bench.

They did not consider the Supreme Court had ruled one way or another on segregation on intrastate buses.

The South Carolina Gas and Electric co. had until Saturday to file a petition for a rehearing on its dismissed appeal to the U.S. Supreme Court.

Now the case is scheduled to come up at the June term of the federal district court at Columbia for a final judgement on the merits or Miss Flemming's suit for damages.