No. 248 - Sept. T. 1960

U. S. Supreme Court

William L. Griffin
et al.

vs.

State

Opinion, Mandate
U. S. S. Ct.

and

Final Order of
this Court.

Filed July 31, 1964

SUPREME COURT OF THE UNITED STATES

No. 6.—October Term, 1963.

William L. Griffin et al., Petitioners, *v.* State of Maryland.	On Writ of Certiorari to the Court of Appeals of Maryland.

[June 22, 1964.]

Mr. Chief Justice Warren delivered the opinion of the Court.

Petitioners were convicted of criminal trespass for refusing to leave a privately owned and operated amusement park in the State of Maryland at the command of an employee of the amusement park acting under color of his authority as a deputy sheriff. For the reasons set forth hereinafter we hold that these convictions are violative of the Fourteenth Amendment and must be set aside.

The Glen Echo Amusement Park is located in Montgomery County, Maryland, near Washington, D. C. Though the park through its advertisements sought the patronage of the general public, it was (until recently) the park's policy to exclude Negroes who wished to patronize its facilities. No signs at the park apprised persons of this policy or otherwise indicated that all comers were not welcome. No tickets of admission were required. In protest against the park's policy of segregation a number of whites and Negroes picketed the park on June 30, 1960. The petitioners, five young Negroes, were participating in the protest. Hopeful that the management might change its policy, they entered the park, and encountering no resistance from the park employees, boarded the carousel. They possessed transferrable tickets, previously purchased by others, entitling the holder to ride on the carousel.

At that time the park employed one Collins as a special policeman by arrangement with the National Detective

Agency. Although Collins was formally retained and paid by the agency and wore its uniform, he was subject to the control and direction of the park management. Apparently at the request of the park, Collins had been deputized as a sheriff of Montgomery County.[1] He wore, on the outside of his uniform, a deputy sheriff's badge.

When Collins saw the petitioners sitting on the carousel waiting for the ride to begin, he reported their presence to the park manager. The manager told Collins that petitioners were to be arrested for trespassing if they would not leave the park. Collins then went up to the petitioners and told them that it was the park's policy "not to have colored people on the rides, or in the park." He ordered petitioners to leave within five minutes. They declined to do so, pointing out that they had tickets for the carousel. There was no evidence that any of the petitioners were disorderly. At the end of the five-minute period Collins, as he testified, "went to each defendant and told them that the time was up and that they were under arrest for trespassing." Collins transported the petitioners to the Montgomery County police station. There he filled out a form titled "application for a warrant by police officer." The application stated:

> "Francis J. Collins, being first duly sworn, on oath doth depose and say: That he is a member of the

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[1] The Maryland Court of Appeals opinion below stated that Collins was deputized at the request of the park management pursuant to § 2–91 of the Montgomery County Code of 1955 which provides that the sheriff "on application of any corporation or individual, may appoint special deputy sheriffs for duty in connection with the property of . . . such corporation or individual; such special deputy sheriffs to be paid wholly by the corporation or person on whose account their appointments are made. Such special deputy sheriffs . . . shall have the same power and authority as deputy sheriffs possess within the area to which they are appointed and in no other area." 225 Md. 422, 430, 171 A. 2d 717, 721.

> Montgomery *deputy sheriff* Department and as such, on the 30th day of June, 1960, at about the hour of 8:45 P. M. he did observe the defendant William L. Griffin in Glen Echo Park which is private property [.] [O]n order of Kebar Inc. owners of Glen Echo Park the def[endant] was asked to leave the park and after giving him reasonable time to comply the def[endant] refused to leave [and] he was placed under arrest for trespassing . . . .
>
> "Whereas, Francis J. Collins doth further depose and say that he, as a member of the Montgomery County Police Department believes that ———— ———— is violating Sec. 577 Article 27 of the Annotated Code of Maryland.
>
> Francis J. Collins."

Md. Ann. Code, 1957 (Cum. Supp. 1961), Art. 27, § 577, is a criminal trespass statute.[2] On the same day a Maryland Justice of the Peace issued a warrant which charged that petitioner Griffin "[d]id enter upon and pass over the land and premises of Glen Echo Park . . . after having been told by the Deputy Sheriff for Glen Echo Park, to leave the Property, and after giving him a reasonable time to comply, he did not leave . . . contrary to the . . . [Maryland criminal trespass statute] and against the peace, government and dignity of the State." The warrant recited that the complaint had been made by "Collins

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[2] That section provides:

"Any person . . . who shall enter upon or cross over the land, premises or private property of any person . . . after having been duly notified by the owner or his agent not to do so shall be deemed guilty of a misdemeanor . . . provided . . . [however] that nothing in this section shall be construed to include within its provisions the entry upon or crossing over any land when such entry or crossing is done under a bona fide claim of right or ownership of said land, it being the intention of this section only to prohibit any wanton trespass upon the private land of others."

Deputy Sheriff." An amended warrant was later filed. It stated that the complaint had been made by "Collins, Deputy Sheriff" but charged Griffin with unlawfully entering the park after having been told not to do so by "an Agent" of the corporation which operated the park. Presumably identical documents were filed with respect to the other petitioners.

Petitioners were tried and convicted of criminal trespass in the Circuit Court of Montgomery County. Each was sentenced to pay a fine of $100. The Maryland Court of Appeals affirmed the convictions. 225 Md. 422, 171 A. 2d 717. That court, rejecting the petitioners' constitutional claims, reasoned as follows:

> "[T]he appellants in this case . . . were arrested for criminal trespass committed in the presence of a special deputy sheriff of Montgomery County (who was also the agent of the park operator) after they had been duly notified to leave but refused to do so. It follows—since the offense for which these appellants were arrested was a misdemeanor committed in the presence of the park officer who had a right to arrest them, either in his private capacity as an agent or employee of the operator of the park or in his limited capacity as a special deputy sheriff in the amusement park . . .—the arrest of these appellants for a criminal trespass in this manner was no more than if a regular police officer had been called upon to make the arrest for a crime committed in his presence . . . . [T]he arrest and conviction of these appellants for a criminal trespass as a result of the enforcement by the operator of the park of its lawful policy of segregation, did not constitute such action as may fairly be said to be that of the State." 225 Md., at 431, 171 A. 2d, at 721.

We granted certiorari, 370 U. S. 935, and set the case for reargument. 373 U. S. 920.

Collins—in ordering the petitioners to leave the park and in arresting and instituting prosecutions against them—purported to exercise the authority of a deputy sheriff. He wore a sheriff's badge and consistently identified himself as a deputy sheriff rather than as an employee of the park. Though an amended warrant was filed stating that petitioners had committed an offense because they entered the park after an "agent" of the park told them not to do so, this change has little, if any, bearing on the character of the authority which Collins initially purported to exercise. If an individual is possessed of state authority and purports to act under that authority, his action is state action. It is irrelevant that he might have taken the same action had he acted in a purely private capacity or that the particular action which he took was not authorized by state law. *Screws* v. *United States,* 325 U. S. 91; and see cases cited, at p. 247, of *Peterson* v. *City of Greenville,* 373 U. S. 244. Thus, it is clear that Collins' action was state action. See *Williams* v. *United States,* 341 U. S. 97; see also *Labor Board* v. *Jones & Laughlin Steel Corp.,* 331 U. S. 416, 429. The only question remaining in this case is whether Collins' action denied petitioners the equal protection of the laws secured to them by the Fourteenth Amendment. If it did, these convictions are invalid.

It cannot be disputed that if the State of Maryland had operated the amusement park on behalf of the owner thereof, and had enforced the owner's policy of racial segregation against petitioners, petitioners would have been deprived of the equal protection of the laws. *Pennsylvania* v. *Board of Trusts,* 353 U. S. 230; cf. *Burton* v. *Wilmington Parking Authority,* 365 U. S. 715. In the *Board of Trusts* case we were confronted with the following situation. Stephen Girard by will had left a fund in trust to establish a college. He had provided in his will, in effect, that only "poor white male orphans" were to be

admitted. The fund was administered by the Board of Directors of City Trusts of the City of Philadelphia as trustee. In accord with the provisions of the will it denied admission to two Negro applicants who were otherwise qualified. We held:

> "The Board which operates Girard College is an agency of the State of Pennsylvania. Therefore, even though the Board was acting as a trustee, its refusal to admit Foust and Felder to the college because they were Negroes was discrimination by the State. Such discrimination is forbidden by the Fourteenth Amendment. *Brown* v. *Board of Education,* 347 U. S. 483." 353 U. S., at 231.

The *Board of Trusts* case must be taken to establish that to the extent that the State undertakes an obligation to enforce a private policy of racial segregation, the State is charged with racial discrimination and violates the Fourteenth Amendment.

It is argued that the State may nevertheless constitutionally enforce an owner's desire to exclude particular persons from his premises even if the owner's desire is in turn motivated by a discriminatory purpose. The State, it is said, is not really enforcing a policy of segregation since the owner's ultimate purpose is immaterial to the State. In this case it cannot be said that Collins was simply enforcing the park management's desire to exclude designated individuals from the premises. The president of the corporation which owned and managed the park testified that he had instructed Collins to enforce the park's policy of racial segregation. Collins was told to exclude Negroes from the park and escort them from the park if they entered. He was instructed to arrest Negroes for trespassing if they did not leave the park when he ordered them to do so. In short, Collins, as stated by the Maryland Court of Appeals, was "then under contract to

protect and enforce . . . [the] racial segregation policy of the operator of the amusement park . . . ." 225 Md., at 430, 171 A. 2d, at 720. Pursuant to this obligation Collins ordered petitioners to leave and arrested them, as he testified, because they were Negroes. This was state action forbidden by the Fourteenth Amendment.

Reversed.

MR. JUSTICE DOUGLAS would reverse for the reasons stated in his opinion in *Bell* v. *Maryland, ante,* p. —.

SUPREME COURT OF THE UNITED STATES

No 6.—October Term, 1963.

William L. Griffin et al., Petitioners, *v.* State of Maryland. | On Writ of Certiorari to the Court of Appeals of Maryland.

[June 22, 1964.]

Mr. Justice Clark, concurring.

I join the Court's opinion with the understanding that it merely holds, under the peculiar facts here, that the State "must be recognized as a joint participant in the challenged activity." See *Burton* v. *Wilmington Parking Authority*, 365 U. S. 715, 725 (1961). Deputy Sheriff Collins, an agent of the State, was regularly employed by Glen Echo in the enforcement of its segregation policy. I cannot, therefore, say as does my Brother Harlan, that the situation "is no different from what it would have been had the arrests been made by a regular policeman dispatched from police headquarters." Here Collins, the deputy sheriff, ordered petitioners to leave the park before any charges were filed. Upon refusal, Collins, the deputy sheriff, made the arrest and then took petitioners to the police station where he filed the charges and secured the warrant. If Collins had not been a police officer, if he had ordered the appellants off the premises and filed the charges of criminal trespass and, if then, for the first time, the police had come on the scene to serve a warrant issued in due course by a magistrate, based on the charges filed, that might be a different case. That case we do not pass upon.

SUPREME COURT OF THE UNITED STATES

No. 6.—October Term, 1963.

William L. Griffin et al., Petitioners, *v.* State of Maryland.	On Writ of Certiorari to the Court of Appeals of Maryland.

[June 22, 1964.]

Mr. Justice Harlan, whom Mr. Justice Black and Mr. Justice White join, dissenting.

The pivotal issue in this case is whether petitioners' exclusion from Glen Echo, a private amusement park, was the product of state action. I accept the premise that in arresting these petitioners Collins was exercising his authority as deputy sheriff rather than his right as an individual under Maryland law, see 225 Md., at 431, 171 A. 2d, at 721, to arrest them for a misdemeanor being committed in his presence. It seems clear to me, however, that the involvement of the State is no different from what it would have been had the arrests been made by a regular policeman dispatched from police headquarters.

I believe, therefore, that this case is controlled by the principles discussed in Mr. Justice Black's opinion in *Bell* v. *Maryland, post,* p. ——, decided today, and accordingly would affirm the judgment below.

WILLIAM L. GRIFFIN, ET AL.	*	IN THE
v.	*	COURT OF APPEALS
STATE OF MARYLAND	*	OF MARYLAND
		No. 248, September Term, 1960

* *

The judgment of this Court (225 Md. 422, 171 A. 2d 717) having been reversed by the Supreme Court of the United States on the 22nd day of June, 1964 (U.S. , 84 S. Ct. 1770), the costs in that Court, amounting to $588.94, having been awarded against the State of Maryland, it is ORDERED this 31st day of July, 1964, by the Court of Appeals of Maryland, that pursuant to the judgment of the Supreme Court of the United States reversing the aforesaid judgment of this Court, the judgment of the Circuit Court for Montgomery County against William L. Griffin, Marvous Saunders, Michael Proctor, Cecil T. Washington, Jr. and Gwendolyn Greene (designated in the opinion of this Court above cited as "the Griffin appellants") is reversed without a new trial, the costs (other than those above stated to have been awarded by the Supreme Court) to be paid by Montgomery County.

Frederick W. Brune
Chief Judge

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C. 20543

July 17, 1964

J. Lloyd Young, Esquire
Clerk, Court of Appeals of Maryland
Annapolis, Maryland

RE: Griffin et al. v. Maryland, No. 6,
October Term, 1963 (Your No. 248)

Dear Mr. Young:

Enclosed is the mandate of this Court in the above-entitled case.

Kindly acknowledge receipt on the enclosed copy of this letter.

Very truly yours,

JOHN F. DAVIS, Clerk

By Evelyn R. Limstrong

(Mrs) Evelyn R. Limstrong
Assistant

Enclosure

FILED JUL 20 1964
J. LLOYD YOUNG, CLERK
COURT OF APPEALS OF MARYLAND

United States of America, ss:

THE PRESIDENT OF THE UNITED STATES OF AMERICA

To the Honorable the Judges of
the Court of Appeals of the
State of Maryland,

GREETINGS:

WHEREAS, lately in the Court of Appeals of the State of Maryland, there came before you a cause between William L. Griffin, et al. and State of Maryland, No. 248, September Term, 1960, wherein the judgment of the said Court of Appeals was duly entered on the 8th day of June A. D. 1961, as appears by an inspection of the transcript of the record of the said Court of Appeals which was brought into the SUPREME COURT OF THE UNITED STATES by virtue of a writ of certiorari as provided by act of Congress.

AND WHEREAS, in the October Term, 1963, the said cause came on to be heard before the SUPREME COURT OF THE UNITED STATES on the said transcript of record, and was argued by counsel:

ON CONSIDERATION WHEREOF, it was ordered and adjudged on June 22, 1964, by this Court that the judgment of the said Court of Appeals in this cause be reversed with costs, and that this cause be remanded to the Court of Appeals of the State of Maryland for further proceedings not inconsistent with the opinion of this Court.

IT WAS FURTHER ORDERED that William L. Griffin, et al., recover from the State of Maryland Five Hundred and Eighty-eight Dollars and Ninety-four Cents ($588.94) for their costs herein expended.

NOW, THEREFORE, THE CAUSE IS REMANDED to you in order that such proceedings may be had in the said cause, in conformity with the judgment of this Court above stated, as accord with right and justice, and the Constitution and laws of the United States, the said writ of certiorari notwithstanding.

Witness the Honorable EARL WARREN, Chief Justice of the United States, the seventeenth -------- day of July -------- , in the year of our Lord one thousand nine hundred and sixty-four.

Costs of William L. Griffin, et al.:

Clerk's costs	$ 224.76
Printing of the record ..	364.18
	$ 588.94

John F. Davis
Clerk of the Supreme Court of the United States

No. 6, October Term, 1963

William L. Griffin, et al.,

vs

Maryland

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON 25, D. C.

June 24, 1964

RE: GRIFFIN, ET AL. v. MARYLAND,
No. 6, OCT. TERM, 1963
(Your No. 248) - 1960

July 17

Dear Sir:

The enclosed opinion of this Court in the above case was announced on the date indicated.

The judgment or mandate will issue after the expiration of 25 days from the date of the opinion, or if a timely petition for rehearing is filed, from the date of the order thereon. When the 25-day period expires in vacation, the filing of a petition for rehearing will not stay the issuance of the judgment or mandate. (See Rule 59).

Very truly yours,

JOHN F. DAVIS, Clerk
By

Chief Deputy.

Encl.

J. Lloyd Young, Clerk
Court of Appeals of Maryland
Annapolis, Md.

Read 6/26/64

Office of the Clerk.
Supreme Court of the United States.
Washington 25, D. C.

June 28, 1962

RE: GRIFFIN, ET AL. v. MARYLAND,
No. 287, OCT. TERM, 1961
(Your No. 248)

Dear Sir:

I am enclosing a certified copy of the order of this Court granting certiorari in the above-entitled case.

Very truly yours,

JOHN F. DAVIS, Clerk

By Edward Fairbank

Assistant

Enclosure

J. Lloyd Young, Clerk
Court of Appeals of Maryland
Annapolis, Md.

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Supreme Court of the United States

No. 287--------, *October Term, 19*61

William L. Griffin, et al.,

Petitioners,

vs.

Maryland

ORDER ALLOWING CERTIORARI. Filed June 25----------, 1962.

The petition herein for a writ of certiorari to the ~~Supreme~~ Court of Appeals of the State of Maryland ---- is granted, and the case is transferred to the summary calendar. The case is set for argument to follow No. 85.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Frankfurter took no part in the consideration or decision of this petition.

A true copy JOHN F. DAVIS
Test:
Clerk of the Supreme Court of the United States
BY ---------- *Chief Deputy*

Supreme Court of the United States

~~OCTOBER~~ SEPT. TERM, 19 60

Term No. 248

Filed June 29 1960, 19....

Form 16 (1-58) 10M