AARON ET AL. *v.* COOPER ET AL., MEMBERS OF THE BOARD OF DIRECTORS OF THE LITTLE ROCK, ARKANSAS, INDEPENDENT SCHOOL DISTRICT, ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

No. 1095. Decided June 30, 1958.

A Federal District Court entered an order authorizing public school officials of Little Rock, Ark., to suspend until January 1961 a plan of racial integration previously approved by that Court and affirmed by the Court of Appeals; and it denied a stay of its suspension order pending appeal. After an appeal to the Court of Appeals had been docketed and application for a stay had been made to that Court, petitioners applied to this Court for a writ of certiorari to review the order of the District Court before the Court of Appeals had had an opportunity to act on the petition for a stay or to hear the appeal. *Held:* The writ is denied on the assumption that the Court of Appeals will act upon the application for a stay or the appeal in ample time to permit arrangements to be made for the next school year. Pp. 566–567.

Thurgood Marshall, Wiley A. Branton, Constance Baker Motley and *Jack Greenberg* for petitioners.

PER CURIAM.

On June 21, 1958, the District Court for the Eastern District of Arkansas entered an order authorizing the members of the School Board of Little Rock, Arkansas, and the Superintendent of Schools, to suspend until January 1961 a plan of integration theretofore approved by that court in August 1956, *Aaron* v. *Cooper,* 143 F. Supp. 855, and affirmed by the Court of Appeals for the Eighth Circuit in April 1957. 243 F. 2d 361. On June 23, 1958, the District Court denied an application for a stay of execution of its order. An appeal was docketed in the

Court of Appeals for the Eighth Circuit on June 24, 1958, and there is pending in that court an application for a stay of the District Court's order.

By the present petition this Court is asked to bring the case here before the Court of Appeals has had an opportunity to act upon the petition for a stay or to hear the appeal. The power of the Court to do so has been exercised but rarely, and the issues and circumstances relevant to the present petition do not warrant its exercise now. The order that the District Court suspended has, in different postures, been before the Court of Appeals for the Eighth Circuit three times already. *Aaron* v. *Cooper,* 243 F. 2d 361; *Thomason* v. *Cooper,* 254 F. 2d 808 (April 28, 1958); *Faubus* v. *United States,* 254 F. 2d 797 (April 28, 1958). That court is the regular court for reviewing orders of the District Court here concerned, and the appeal and the petition for a stay are matters properly to be adjudicated by it in the first instance.

We have no doubt that the Court of Appeals will recognize the vital importance of the time element in this litigation, and that it will act upon the application for a stay or the appeal in ample time to permit arrangements to be made for the next school year.

Accordingly, the petition for certiorari is

Denied.