

FILED IN CHAMBERS
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MAR 03 2008

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAMES N. HATTEN, Clerk
By: *J. Hatten* Deputy Clerk

UNITED STATES OF AMERICA)	
Plaintiff,)	
)	
CHARLIE RIDLEY, et al.,)	
)	1:69-cv-12972
v.)	(Walker County School District)
)	
STATE OF GEORGIA, et al.,)	
Defendants.)	
_____)	

AGREED ORDER OF DISMISSAL

In March 2007, the United States initiated a review of the Walker County School District ("District"). Based on a review of the information provided by the District and other data, the United States advised the District that, in its view, the District has fulfilled its affirmative desegregation obligations under the Fourteenth Amendment and applicable federal law, entitling the District to a declaration of unitary status and termination of the litigation. As indicated by the signatures of counsel below, the parties respectfully request that the Court approve this Agreed Order of Dismissal, declaring that the District has achieved unitary status and terminate jurisdiction over this case.

I. PROCEDURAL HISTORY

This case was originally filed on August 1, 1969, by the United States against the State of Georgia, 81 public school districts, and officials of the state. United States v. State of Georgia, et al., C.A. No. 12972 (N.D. Ga.). Charles Ridley, Jr., and others subsequently joined this action as Plaintiff-Intervenors to address statewide issues on behalf of black students. The United States and Intervenors alleged that Defendants operated a racially dual system of public education in violation

of the Fourteenth Amendment and Title IV of the Civil Rights Act of 1964, 42 U.S.C. § 2000c-6. The Court entered a number of orders for the purpose of effecting desegregation in the named school districts, including a detailed regulatory injunction entered on December 17, 1969, requiring each of the individual school districts to establish a fully desegregated school system in compliance with Brown v. Board of Education, 347 U.S. 483 (1954). On September 5, 1972, in compliance with directions by the Fifth Circuit Court of Appeals, the court issued an order adding as parties defendant each school district in the state.

By Order of July 23, 1973, the Court held that several school districts, including the Walker County School System, had made significant progress towards reaching unitary status. Order of 7/23/73, at 3-4. Accordingly, the Court dissolved the detailed regulatory injunction and replaced it with a permanent injunction that required each of these school districts to take no action tending to racially segregate students or faculty by or within schools, and which addressed student transfers, transportation, school construction, consolidation and site selection, and teacher hiring, assignment, promotion, dismissal, and pay. Id. at 6-7. The injunction required that “[a]ll school construction, school consolidation and site selection (including the location of any temporary classrooms) in the system shall be done in a manner which will prevent the reoccurrence of the dual school structure.” Id. at 7. Finally, the Court placed these school districts on the inactive docket, subject to being reactivated on application by any party or on the Court's own motion. Id. at 8.

II. LEGAL ANALYSIS

It has long been recognized that the goal of a school desegregation case is to convert promptly a *de jure* segregated school system to a system without "white" schools or "black" schools, but just schools. Green v. County Sch. Bd. of New Kent County, 391 U.S. 430, 442 (1968). The

standard established by the Supreme Court for determining whether a school district has achieved unitary status, thus warranting termination of judicial supervision, is: (1) whether the school district has fully and satisfactorily complied with the court's desegregation orders for a reasonable period of time; (2) whether the school district has eliminated the vestiges of past *de jure* discrimination to the extent practicable; and (3) whether the school district has demonstrated a good faith commitment to the whole of the court's order and to those provisions of the law and the Constitution which were the predicate for judicial intervention in the first instance. See *Missouri v. Jenkins*, 515 U.S. 70, 87-89 (1995); *Freeman v. Pitts*, 503 U. S. 467, 491-92, 498 (1992); *Board of Educ. of Oklahoma City Pub. Sch. v. Dowell*, 498 U.S. 237, 248-50 (1991).

The Supreme Court has identified six areas, commonly known as the "*Green* factors," which must be addressed as part of the determination of whether a school district has fulfilled its duties and eliminated vestiges of the prior dual school system to the extent practicable: (1) student assignment; (2) faculty; (3) staff; (4) transportation; (5) extracurricular activities; and (6) facilities. *Green*, 391 U.S. at 435; see *Dowell*, 498 U.S. at 250. But the *Green* factors are not intended to be a "rigid framework;" the Supreme Court has approved consideration of other indicia, such as "quality of education," as important factors in determining whether the District has fulfilled its desegregation obligations. *Freeman*, 503 U.S. at 492-93. Regardless, "[t]he measure of a desegregation plan is its effectiveness." *Davis v. Bd. of Sch. Comm'rs*, 402 U.S. 33, 37 (1971).

III. STIPULATED FACTS

A. Student Assignment. The District currently operates fourteen schools: Chattanooga Valley Elementary (Pre K - 5), Cherokee Ridge Elementary (Pre K - 5), Fairyland Elementary School (Pre K - 5), Gilbert Elementary School (Pre K - 5), Naomi Elementary School (Pre K - 5),

North Lafayette Elementary School (Pre K - 5), Rock Spring Elementary School (Pre K - 5), Rossville Elementary School (Pre K - 5), Stone Creek Elementary School (Pre K - 5), Chattanooga Valley Middle School (6-8), Lafayette Middle School (6-8), Rossville Middle School (6-8), Lafayette High School (9-12), and Ridgeland High School (9 - 12).

The District enrolls approximately 9,179 students, just over five (5) percent of whom are black. No school in the District enrolls more than seven (7) percent black students. Classroom assignments are made on a non-discriminatory basis. The District reported 733 net inter-district transfers, none of which appear to be problematic.

B. Faculty and Staff. The District employs approximately 652 teachers, 17 of whom are black. Faculty and staff are assigned to the district's schools on a non-discriminatory basis.

C. Extra-Curricular Activities. Extra-curricular activities are provided on a non-discriminatory basis.

D. Facilities and Transportation. These school system operations are provided on a non-discriminatory basis.

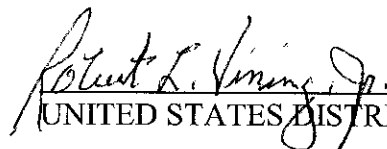
In sum, there is no evidence that vestiges of segregation remain in any facet of the District's operations.

IV. CONCLUSION

Based on the information and data provided by the District, and on all the surrounding facts, the District has complied with the Court's desegregation orders for a reasonable period of time and has eliminated the vestiges of past *de jure* discrimination to the extent practicable. The Court concludes, therefore, that the Walker County School District has met the legal standards for a declaration of unitary status, and that it is entitled to dismissal of this action.

Accordingly, it is hereby ORDERED that all prior injunctions in this case are DISSOLVED, jurisdiction is TERMINATED, and this case is DISMISSED WITH PREJUDICE.

ENTERED THIS 3rd DAY OF March, 2008.


UNITED STATES DISTRICT JUDGE

APPROVED:

FOR THE UNITED STATES

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