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DEC 17 1969

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

By: *Claude J. Goza*, Clerk  
*Deputy Clerk*

UNITED STATES OF AMERICA )

vs. )

CIVIL ACTION

THE STATE OF GEORGIA; THE )  
GEORGIA STATE BOARD OF )  
EDUCATION; JAMES S. PETERS, )  
Chairman; ROBERT B. WRIGHT, )  
JR., ROY HENDRICKS, MRS. )  
RALPH HOBBS, JOHN A. RICHARDSON, )  
DAVID F. RICE, HENRY STEWART, )  
JAMES DEWAR, CLIFF KIMSEY, JR., )  
and WILLIAM L. PRESTON, Members; )  
and JACK P. NIX, State Superintendent )  
of Schools )

NUMBER 12972

ORDER OF THE COURT

Having concluded by separate orders entered on December 15, 1969, that we unquestionably have jurisdiction, and that all necessary parties are before us, we proceed to consider the duty of the Defendant and the individual school districts as recently illuminated by Carter v. West Feliciana Parish School Brd., \_\_\_\_\_ U. S. \_\_\_\_\_ (No. 944, December 13, 1969); Alexander v. Holmes County Board of Education, \_\_\_\_\_ U. S. \_\_\_\_\_ (No. 632, October 29, 1969); and Singleton v. Jackson Municipal Separate School District, \_\_\_\_\_ F.2d \_\_\_\_\_ (5th Cir., No. 26285, December 1, 1969).

It is now abundantly clear, to all save those who adamantly refuse to see or hear, that the supreme law of these United States provides that dual school systems must be completely abolished. United States v. Montgomery County Brd. of Ed., 23 L. Ed.2d 213 (1969). In this case, it is the task of this court to determine how the application of this law affects the State Board of Education and the schools of this State as a whole. While the mandate of the law is plain, what is not clear is just what is required of the local school systems. The lack of

administrators, school patrons, and citizens generally. The court firmly believes that whatever is required ought to be required as uniformly as possible. In this respect, the higher courts have not yet issued definitive rules as to just what steps are legally required of each local school district.

The question is not the legality of any HEW guidelines nor the right of any school district to federal funds. Nor does the point of dispute here require the court to mold some accommodation between the two. The aim and ultimate requirement of the law clearly exists in the decisions of the Supreme Court, the Fifth Circuit and other courts, and the results are demanded there, without regard to any federal legislation or federal appropriation whatsoever.

It is obvious to this court that the task cannot be accomplished by mass litigation, school district by school district, and even schoolhouse by schoolhouse, through the separate school districts and schools of this state -- unless all other legal business is to cease. The federal district courts have neither the numbers, the time, the capacity, nor the expertise to hear such litigation. Moreover, the prospect of courts acting as administrators or "super school boards" is contrary to the concept of the judge's traditional role, and is anathema to our system of local public education. Nor are the courts unmindful of the tremendous effect of housing patterns on school desegregation, particularly in urban areas. Even in enlightened school districts, the problem is compounded by racial population shifts and the concomitant resegregation of normal school attendance zones. In all candor, the eventual solution of the housing problem may well solve the school problem, but such solution is, at this time, not imminent.

Meanwhile, it is incumbent upon this court to provide direction to all concerned. Because of the enormity of the

problems and the complexity of the details, the court adopts a plan to test results alone. This method appears to be the only practical approach open, and perhaps affords an opportunity to create some order in an emotional and confusing situation.

The ultimate question presented by this suit is: "When is a school district considered in compliance with law." Stated another way, when has a school district deemed to have abolished a dual school system and when has it not? The court subscribes to the idea that the question is best answered by judicial definition of an integrated, non-dual school district, or "unitary" system. Defining terminology is necessary, important and the beginning point for all such investigation. In this connection and for purposes of the order which follows, the court adopts the following definitions:

School district. School district shall mean any combination of schools administered by a county, municipal, independent or area school board and a central administrative office, and considered an integral unit for the allocation of state funds and administrative purposes by the State School Board and the State Superintendent of Schools.<sup>1</sup>

Minority race. Minority race shall mean the race, black or white, which constitutes less than half of the total pupil enrollment, in any school district for any one regular school year, but shall not apply to any summer school or adult or special education courses afforded by the various school districts.

Minority quotient. Minority quotient shall mean that percentage representing the proportion which the number of students

<sup>1</sup>As presently constituted, there are 192 school districts or systems in Georgia: the 159 county school systems and the 33 so-called "independent" city school systems in the larger incorporated municipalities of the state. However, consolidation of such city systems into existing county school systems have proven, in most cases, to be advantageous economically and educationally. Consequently, the definition is prospective to include any future consolidations.

of a minority race bears to the entire pupil enrollment in any school district.<sup>2</sup>

Faculty and Staff. Faculty and staff shall mean all professional and certificated employees of a school district employed in an administrative or teaching capacity, whether paid by state or local funds, but shall not include custodial, maintenance or lunch room employees, or school bus drivers of such district.

Faculty quotient. Faculty quotient shall mean that percentage representing the proportion which the number of faculty and staff members of one race, less than half, bears to the total number of faculty and staff, as defined above, in any school district.<sup>3</sup>

School Activities. School activities shall mean any endeavor, other than academic, participated in by pupils or faculty and staff of any school district in a student or faculty capacity such as athletics, music, or any competition, meeting, or performance involving one or more schools.

Equality of standards. Equality of standards shall mean a uniform system of pay, employment, and selection for faculty and a uniform system of curriculum offerings, testing, and assignment of pupils within a school district.

Integrated school facility. An integrated school facility shall mean any schoolhouse or school complex administered by a single school principal and containing one or more school grades, and in which:

<sup>2</sup>For example, if a particular district has 2000 pupils of which 60% are white and 40% are black, the minority quotient for such district is 40.

<sup>3</sup>For example, if the same district has 75% white faculty and staff members, and 25% black, the faculty quotient for such district is 25.

(1) the ratio of minority to majority pupil population is within 50% to 150% of the minority quotient,<sup>4</sup> and each grade therein has assigned to it pupils of both races enrolled in such grade within the school;<sup>5</sup> and

(2) the ratio of faculty and staff assigned to such facility on a full-time basis is 50% to 150% of the faculty quotient;<sup>6</sup> system-wide personnel are to be counted in such ratio proportionately to the number of schools served; and

(3) there exists "equality of standards," and

(4) "school activities" are open to all pupils and faculty and staff, regardless of race.

Integrated school district. The object of this order is to eliminate the dual school system. To that end and subject to the court's approval in instances where the following does not produce such result, each system involved shall provide for an integrated school district for the school year 1970-71 and each school year thereafter in which:

(1) in each and every school facility,

(a) the ratio of faculty and staff assigned to such facility on a full-time basis is 50% to 150% of the faculty quotient; system-wide personnel are to be counted in such ratio proportionately to the number of schools served; and

(b) there exists "equality of standards," and

(c) "school activities" are open to all pupils and faculty and staff, regardless of race; and

(2) three fourths of all pupils in a minority race are enrolled in integrated school facilities as hereinbefore defined

<sup>4</sup>For example, an integrated school facility where the minority quotient is 40 must have 50% to 150% of the quotient enrolled. In a school facility of 400, this would mean a spread of 80 to 240 pupils of the minority race.

<sup>5</sup>For example, if there are four grades within a bona fide attendance area, and fortuitously only 3 of such grades have students of the minority race, such facility shall not thereby lose its qualification as an integrated facility, provided the other standards are met.

<sup>6</sup>In the same example, if there are 20 faculty members and the faculty quotient is 40, this would mean a spread of 4 to 12 faculty members of the minority race.

for the school year 1970-1971;<sup>7</sup> and each school year thereafter;  
and

(3) No geographic attendance zone shall be drawn on the basis of race so as to provide that children enrolled in the same grade of one race within such attendance zone attend a certain school and children of another race within such attendance zone attend another school, even though such pupils comprise less than 25% of the total enrollment in the district.

(4) a bona fide plan exists permitting a student attending a school in which his race is in the majority to choose to attend another school, where space is available under the standards enunciated in *United States v. Jefferson County*, 372 F.2d 836 (5th Cir. 1966) and where his race is in the minority.

Provided a plan achieves the result of a unitary school system no particular plan is required; thus, it should be noted that the abandonment of school buildings is neither required nor prohibited; the rezoning of school attendance areas is neither required nor prohibited; "Freedom of Choice" is neither required nor prohibited; the bussing<sup>8</sup> of pupils is neither required nor prohibited; the "pairing" of schools is neither required nor prohibited; neighborhood schools are neither required nor prohibited. All of these are but means at the disposal of every local school board to achieve the necessary results. What is desirable for one community may not be feasible for another, and it is the privilege of every local board to exercise wise discretion to find the means best suited to the needs of its own pupils and patrons.

How best to monitor the progress? The state school board and state superintendent's office are vested with vast powers to inspect, to standardize, to recommend, and, moreover,

<sup>7</sup>Such figures compare favorably with unified school systems throughout the country.

<sup>8</sup>Strangely enough, the 33 "independent" city school systems receive no funds for transportation of pupils and consequently provide no bussing whatsoever.

to check the reliability of reported figures of each district. The personnel are already available there, the information is already available there, and, above all, the educational expertise is constantly available there. What might be complicated and obtuse to the court, is simple and mundane to such professional educators. By the simple process of withholding state funds<sup>9</sup> under the orders of this court to all districts not in compliance with these findings, uniformity can soon be achieved.

It is hoped that each of the systems involved through the state board will proceed to effectuate the results hereinafter directed as soon as possible, and that thereby, our people and teachers can more rapidly devote all of their energies to the job of educating our children, from which some have long departed in some quest for legalisms.

To that end, IT IS HEREBY ORDERED AND DIRECTED until the further order of the Court:

A. That with respect to the school districts hereinafter enumerated the State Board of Education acting through the State Superintendent of Schools and the State Department of Education is hereby temporarily enjoined from the payment of any public funds except on the following conditions:

- (1) The school districts described in Appendix A attached hereto are deemed to be initially affected by this Order; all other districts within the State having already come under separate Court orders or having satisfied the administrative requirements of a unitary system.
- (2) The State Board is hereby directed to obtain desegregation plans from each of such affected districts, complying with the standards

<sup>9</sup>Which account for a large percentage of all funds for public education in the state.

hereinbefore prescribed by the Court, on or before March 1, 1969.<sup>10</sup> Each plan shall show the anticipated enrollment, by race and grade, for each school.

(3) The State Board is hereby directed to process and review all of such plans with the aid and assistance of representatives of the Atlanta Regional Office of the Division of Equal Educational Opportunities of the Office of Education, Department of Health, Education and Welfare, and on or before April 1, 1970, to report their respective findings to the Court, specifically stating whether the plan of each school district complies with the standards established above by the Court.

(4) Where any plan submitted on or before April 1, 1970, does not comply with the above standards, the State Board is further directed to endeavor to secure such compliance on or before May 1, 1970.

(5) Each of such plans shall be fully implemented and effectuated no later than September 1, 1970. To that end, the local units will submit a report similar to the one attached to this order as Appendix B to the State Department of Education, with copies to the Atlanta Regional Office, Department of Health, Education and Welfare, on or before October 10, 1970, and October 10 each year

<sup>10</sup>In this connection, we are not mindful of the dates stated in Singleton, et al v. Jackson Municipal School District, et al, supra, and subsequent orders. However, that litigation involved school districts already before the courts for as long as four years, while this is the first hearing affecting any district involved here. Further, the resources of all parties concerned could not possibly comply with any shorter time schedule. Lastly, even if the parties could, the manpower of this court could not effectuate relief in the 80 districts simultaneously as would otherwise be required.



thereafter, showing the enrollment by race and grade of each school operated by the local unit. On or before November 1, 1970, and on or before November 1 of each succeeding year, said office shall report to the Court its findings as to compliance by each affected district for such action as may be deemed appropriate under the circumstances.

B. No funds shall be paid by the State to any affected district which has not submitted a plan by March 1, 1970, as provided in A (2) above, or whose plan is not found by May 1, 1970, to be in compliance by the Board as prescribed in A (4) above; or which plan is found by the Court not to have been implemented on September 1, 1970, as directed by the Court's Orders thereafter.

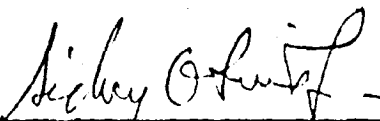
C. The districts involved having been ordered to desegregate and to establish a unitary public school system, such districts as are not now eligible for federal funds may now reapply for the same and, upon proper application, such funds shall be restored forthwith.

D. Interested parties are directed to the opinion in the case of Singleton, et al v. Jackson Municipal School District, et al, supra, as to proper policies in effectuating changes in existing systems.

E. Let a copy of this opinion and order be served by the Clerk by certified mail upon the Superintendent of Schools of each affected district.

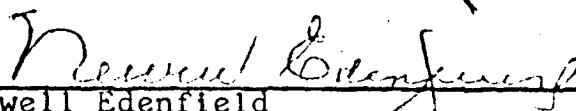
IT IS SO ORDERED.

This the 17th day of December, 1969.



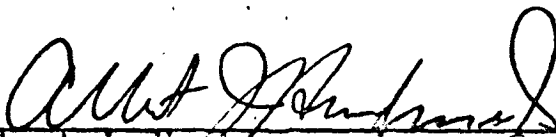
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Sidney O. Smith, Jr.  
United States District Judge



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Newell Edenfield  
United States District Judge



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Albert J. Henderson, Jr.  
United States District Judge

APPENDIX A

(Based on Depositions on Written Interrogatories Under Rule 31)

<u>Name of System</u>	<u>Number of Students</u>		<u>% of Negro Students in System in All-Negro Schools</u>	<u># of Schools</u>	<u>All-White Schools</u>	<u>All-Negro Schools</u>	<u># of Sub-standard Schools</u>
	<u>White</u>	<u>Negro</u>					
AMERICUS CITY	1543	1884	90.2	6	0	2	0
APPLING	2643	1022	90.4	7	4	2	2
ATKINSON <sup>1/</sup>							
BAKER	351	711	92.5	3	0	2	3
BARROW <sup>2/</sup> (Winder City)	979	14	86.5	8	3	0	2
BLECKLEY	630	239	82.0	2	0	1	0
BROOKS	1542	2131	99.9	9	4	4	1
BRYAN	1187	725	67.3	4	0	1	3
BUTTS <sup>1/</sup>							
CALHOUN <sup>1/</sup>							

Name of System	Number of Students		% of Negro Students in System in <u>All-Negro Schools</u>	# of <u>Schools</u>	<u>All-White Schools</u>	<u>All-Negro Schools</u>	# of Sub-standard <u>Schools</u>
	White	Negro					
CAMDEN	1922	1302	95.0	8	0	4	1
CANDLER	966	703	87.4	3	0	1	1
CHARLTON	1080	728	90.2	3	2	1	1
CHATTAHOOCHEE	76	292	100	2	1	1	2
CLAY	285	797	95.6	3	0	2	2
COCHRAN CITY	884	469	34.1	4	0	1	1
COLUMBIA	4530	1633	92.1	11	0	4	1
COOK	1893	1310	86.2	6	0	2	0
COWETA	4951	3223	92.5	19	2	8	2
CRAWFORD	555	1066	98.8	2	0	1	2
DECATUR CITY <sup>1/</sup>							
DOOLY <sup>1/</sup>							
DUBLIN CITY	2307	1692	80.0	9	0	3	0
EARLY	1414	2049	99.8	4	0	2	0
ECHOLS	310	182	100	2	1	1	2

<u>Name of System</u>	<u>Number of Students</u>		<u>% of Negro Students in System in All-Negro Schools</u>	<u># of Schools</u>	<u>All-White Schools</u>	<u>All-Negro Schools</u>	<u># of Sub-standard Schools</u>
	<u>White</u>	<u>Negro</u>					
ELBERT	2441	1806	93.6	11	0	4	2
GRADY	2422	2130	91.3	8	0	3	3
HANCOCK	258	2391	93.6	4	0	3	1
HARRIS	464	1773	94.1	11	1	2	4
HART	2535	1217	96.7	7	3	1	2
HAWKINSVILLE CITY (Pulaski Co.)	<sup>3/</sup> 1249	1013	93.7	4	0	2	0
HOGANSVILLE CITY	779	417	72.9	3	0	1	0
IRWIN	1052	1004	86.8	4	0	2	2
JASPER	613	921	93.1	4	0	2	2
JEFF DAVIS	2011	549	82.3	5	1	1	1
JEFFERSON	1510	3147	96.3	10	1	6	4
JENKINS	1091	1293	100	3	2	1	0
JONES	1661	1411	94.6	7	0	4	2
LA GRANGE CITY	3321	2158	93.6	13	1	4	0

<u>Name of System</u>	<u>Number of Students</u>		<u>% of Negro Students in System in All-Negro Schools</u>	<u># of Schools</u>	<u>All-White Schools</u>	<u>All-Negro Schools</u>	<u># of Sub-standard Schools</u>
	<u>White</u>	<u>Negro</u>					
LAMAR	1355	1291	88.8	5	0	1	2
LEE	860	1056	96.7	2	0	1	1
MACON	874	2706	94.7	6	0	4	2
MARION	720	909	98.3	2	0	1	2
MCDUFFIE	2193	1863	98.3	6	1	2	0
MCINTOSH	895	1229	97.2	4	0	3	2
MERIWETHER	2060	2812	93.9	11	0	6	5
MILLER	1086	686	100	3	2	1	1
MITCHELL	1331	2219	97.7	7	0	5	2
MONROE	1139	1516	97.7	4	0	2	0
MONTGOMERY	851	704	98.4	2	0	1	1
MORGAN	1409	1551	96.2	3	0	1	0
NEWTON	3985	2462	86.3	10	2	4	2
PEACH	1846	2514	81.7	9	0	3	0

<u>Name of System</u>	<u>Number of Students</u>		<u>% of Negro Students in System in All-Negro Schools</u>	<u># of Schools</u>	<u>All-White Schools</u>	<u>All-Negro Schools</u>	<u># of Sub-standard Schools</u>
	<u>White</u>	<u>Negro</u>					
PELHAM CITY 3/	980	890	92.6	3	0	1	1
PULASKI_ (Hawkinsville City)	1249	1013	93.7	4	0	2	0
PUTNAM	969	1390	97.5	4	0	2	0
QUITMAN 1/	204	453	96.9	2	0	1	2
RANDOLPH							
ROME CITY	4454	2035	4/	16	1	4/	1
SCHLEY	340	493	95.1	8	0	1	2
SEMINOLE	1140	848	100	3	1	2	0
SUMTER	954	1748	92.6	8	3	4	4
TATTNALL 1/	2272	1235	100	7	4	3	1
TAYLOR							
TERRELL	939	2313	99.3	7	0	5	0
THOMAS	2260	1955	94.4	9	0	5	3
TOOMBS 1/	1878	759	100	4	3	1	2
TREUTLEN							

<u>Name of System</u>	<u>Number of Students</u>		<u>% of Negro Students in System in Al.-Negro Schools</u>	<u># of Schools</u>	<u>All-White Schools</u>	<u>All-Negro Schools</u>	<u># of Sub-standard Schools</u>
	<u>White</u>	<u>Negro</u>					
TROUP	2118	1393	91.7	9	0	2	4
TURNER	1242	1123	98.1	4	0	1	1
TWIGGS	879	1619	92.2	6	0	3	2
VIDALIA CITY	1519	931	94.3	5	0	2	1
WALKER	10457	799	5/	25	4	5/	3
WARREN	533	1323	98.8	3	0	2	1
WAYNE	3754	1316	90.6	9	1	2	1
WEST POINT CITY	549	689	96.8	4	0	2	2
WILCOX	1057	808	87.2	5	0	1	1
WILKES	1122	1627	99.3	5	0	3	0
WILKINSON	983	1489	99.0	4	0	2	0



<u>Name of System</u>	<u>Number of Students</u>		<u>% of Negro Students in System in All-Negro Schools</u>	<u># of Schools</u>	<u>All-White Schools</u>	<u>All-Negro Schools</u>	<u># of Sub-standard Schools</u>
	<u>White</u>	<u>Negro</u>					
WINDER CITY <sup>2/</sup> (Barrow Co.)	2618	853	86.5	8	0	1	2
WORTH <sup>1/</sup>							
<b>TOTALS</b>	<b>116578</b>	<b>96021</b>		<b>445</b>	<b>48</b>	<b>162</b>	<b>103</b>

1/ 1969 statistics unavailable

2/ Statistics for Barrow Co. and Winder City are combined

3/ Statistics for Hawkinsville City and pulaski Co. are combined

4/ There is 1 partially desegregated Negro school in Rome City attended by 15 white kindergarten children and 273 Negroes

5/ There is 1 partially desegregated Negro school in Walker Co. attended by 37 whites and 223 Negroes.

LOCAL SCHOOL SYSTEM REPORTING FORM

U. S. v. Georgia

Name of System

Enrollment

White

Negro

Resident Pupils Enrolled

Resident Pupils Enrolled in  
Another System

Name of System(s) Where  
Resident Pupils Enrolled

Name of Other Systems

Full-Time Professional Staff

— Assigned to One School

— Assigned to More Than One  
School

Name of School

Location

Grade

Enrollment

White    Negro

K  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12