

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

BRENDA K. MONROE, et al.,)
)
 Plaintiffs,)
)
 and)
)
 UNITED STATES OF AMERICA,)
)
 Amicus Curiae,)
)
 v.)
)
 BOARD OF COMMISSIONERS OF)
 THE CITY OF JACKSON, TEN-)
 NESSEE, et al.,)
)
 Defendants.)
)

CIVIL ACTION NO. 1327

PROPOSED FINDINGS OF FACT AND CONCLUSIONS
OF LAW AND MEMORANDUM OF THE UNITED STATES
IN SUPPORT OF ITS PROPOSED FINDINGS
OF FACT AND CONCLUSIONS OF LAW

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Plaintiffs,)

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UNITED STATES OF AMERICA,)

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v.)

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PROPOSED FINDINGS OF FACT
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PROPOSED FINDINGS OF FACT

1. The City of Jackson School District is a school district created and existing under the laws of the State of Tennessee.

2. The Board of Commissioners of the City of Jackson and the Superintendent of Schools are responsible under Tennessee law for the operation of the school system.

3. On June 19, 1963, the district court found that the City of Jackson School District was a dual school system based on race and granted private plaintiffs' motion for summary judgment.

4. By order of July 30, 1970, the district court ordered the school district to seek the assistance of the Title IV Educational Opportunities Planning Center for the University of Tennessee in revising the elementary school attendance zone lines so as to promote further desegregation.

5. The Title IV Center submitted its report to the district court on December 15, 1970. The report concluded "that no zoning approach based on unitary geographic zones would likely yield significant changes from 1970-71 in terms of the racial composition of any elementary school in the system." As a result, the Title IV Center proposed only minor modifications in the existing elementary attendance zones. However, the report suggested the use of two additional desegregation techniques, the establishment of non-contiguous elementary zones and the pairing of several elementary schools.

6. On March 17, 1971, the district court ordered the implementation of the geographic zoning plan submitted by the school district with the zone modifications suggested by the Title IV Center for the 1971-72 school year.

7. On appeal to the Court of Appeals for the Sixth Circuit, the private plaintiffs contended that the district court was required to order the implementation of either the pairing or non-contiguous zoning plan

recommended by the Title IV Center since either alternative would result in greater elementary school desegregation.

8. On January 7, 1972, the Court of Appeals for the Sixth Circuit remanded the case back to this Court to consider whether the present elementary school student assignment plan meets the judicial requirements of Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (1970); Robinson v. Shelby County Board of Education, 442 F.2d 255 (6th Cir., 1971); and Davis v. School District of Pontiac, 443 F.2d 573 (6th Cir., 1971).

9. On remand from the Sixth Circuit, an evidentiary hearing was held on August 29-30, 1972, at which time the private plaintiffs raised the following additional issues:

a. Whether the present junior high school student assignment plan meets current judicial standards and has eliminated all vestiges of the dual school structure with respect to the Jackson Junior High School. (TR p. 8)

b. Whether the operation of the consolidated Jackson Central-Merry High School meets current judicial standards as to the use of the buildings and principal assignments. (TR p. 8)

c. Whether the school district has failed to assign teachers in the district in accordance with this Court's order of July 30, 1970, and has failed to assign elementary school principals in accordance with this Court's order of May 28, 1969. (TR p. 9-10).

d. Whether the school district has failed to hire black teachers in a non-discriminatory manner. (TR p. 9).

10. The predominantly black Merry Senior High School and the predominantly white Jackson Central High School were consolidated to form the Jackson Central-Merry High School for the 1970-71 school year pursuant to the district court order of August 23, 1970.

11. For the 1970-71 school year, the East Campus of the Jackson Central-Merry High School, the former Merry High School, served all 10th grade students in the district. (TR p. 58). The West Campus, the former Jackson Central High School, served all 11th and 12th grade students in the district. (TR p. 58).

12. The Jackson Central-Merry High School has been departmentalized since the 1971-72 school year. All social studies, English and art courses are taught on the East Campus. (TR pp. 183-84). Vocational, home economics and gym courses are taught on both campuses. The remainder of the courses are taught on the West Campus. (TR pp. 71, 184) All aspects of the school are desegregated. (TR pp. 58-59, 76)

13. Upon the consolidation of the two high schools, the white principal of the former Jackson Central High School became the administrative head of the Jackson Central-Merry High School. (TR pp. 166, 231). The black principal of the former Merry High School became the associate principal of the school. (TR pp. 166, 231). Both have co-responsibilities in all administrative affairs, except in those matters requiring the designation of one person, in which case the white principal is so designated. (TR p. 166). The record does not reflect the basis on which the school district made the designation.

14. The I.B. Tigrett Junior High School was constructed in 1956. (Post Trial Exhibit No. 3). While the date of construction of the original Jackson Junior High School is unknown, the school was reconstructed in 1964. (Post Trial Exhibit No. 3). Prior to the 1963-64 school year, both schools were maintained solely for white students. (District Court order of June 19, 1963).

15. The Merry Junior High was constructed in 1957 (Post Trial Exhibit No. 3) and was housed in the same building with the Merry Senior High School. (TR pp. 57, 64). Prior to the 1963-64 school year, it was maintained solely for black students. (District Court order of June 19, 1963).

16. From the 1963-64 through the 1969-70 school years, students were assigned to each junior high school on the basis of geographic attendance zones established for the 1963-64 school year. (TR pp. 49, 52, 90). From the 1963-64 through the 1968-69 school year students were permitted to transfer from the junior high school designated for their residence to any other junior high school in the district. The free transfer option was eliminated after the 1968-69 school year (District Court order of May 28, 1969). The student enrollments, by race, for each junior high school in the district from the 1963-64 through 1970-71 school years were as follows:

<u>Year</u>	<u>Tigrett Jr. H.S.</u>		<u>Merry Jr. H.S.</u>		<u>Jackson Jr. H.S.</u>	
	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>
1963-64	0	640	716	0	1	405
1964-65	0	677	729	0	1	417
1965-66	6	748	632	0	102	426
1966-67	7	762	647	0	133	337
1967-68	8	818	629	0	140	348
1968-69	16	797	627	0	162	368
1969-70	61	906	496	8	327	351
1970-71	45	892	556	36	315	300

17. By order of June 23, 1970, the district court approved the closing of the Merry Junior High and the construction of the Parkway Junior High School for the 1971-72 school year. The district court also approved

the establishment of new junior high school attendance zones for the 1971-72 school year. However, only minor modifications were made in the junior high school attendance zones for the 1970-71 school year. (TR p. 56). The student enrollments, by race, for each of three junior high schools for the 1971-72 and 1972-73 school years are as follows:

<u>Year</u>	<u>Tigrett Jr. H.S.</u>		<u>Jackson Jr. H.S.</u>		<u>Parkway Jr. H.S.</u>	
	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>
1971-72	200	373	300	274	340	511
1972-73	314	443	267	245	306	476

18. The Alexander Elementary School was constructed in 1951, the Highland Park Elementary School in 1960, the Parkview Elementary School in 1951, and the West Jackson Elementary School in 1940. (Post Trial Exhibit No. 3). While the construction date of the original Whitehall Elementary is unknown, the school was reconstructed in 1966. (Post Trial Exhibit No. 3). Prior to the 1963-64 school year, each of the above schools was maintained solely for white students. (District Court order of June 19, 1963).

19. The Lincoln Elementary School was constructed in 1954, the South Jackson Elementary School in 1936 and the Washington-Douglas Elementary School in 1952. (Post Trial Exhibit No. 3). Prior to the 1963-64 school year, each of the above schools was maintained solely for black students. (District Court order of June 19, 1963, TR pp. 82, 124-27).

20. From the 1963-64 through the 1969-70 school year, students were assigned to each of the elementary schools on the basis of the geographic attendance zones established for the 1963-64 school year. (TR p. 52). However, students were permitted to transfer from the elementary school designated for their residence to any other elementary school in the district during this period. The student enrollments, by race, for each elementary school in the district from the 1963-64 through the 1968-69 school years were as follows:

<u>School</u>	<u>1963-64</u>		<u>1964-65</u>		<u>1965-66</u>		<u>1966-67</u>		<u>1967-68</u>		<u>1968-69</u>	
	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>
Alexander	34	617	89	566	147	505	152	497	158	519	183	571
Highland Park	1	516	0	583	3	693	3	765	3	761	3	752
Lincoln	812	0	805	0	724	0	669	0	603	0	559	0
Parkview	0	600	1	597	31	613	45	548	111	478	171	457
South Jackson	534	0	548	0	548	0	492	0	508	0	435	0
Washington-Douglas	415	0	427	0	377	0	450	0	420	0	393	0
West Jackson	0	353	8	402	98	373	83	357	86	332	101	289
Whitehall	4	269	16	282	27	289	39	280	67	311	85	327

21. The Andrew Jackson Elementary School was opened in the northwest section of the district for the 1969-70 school year pursuant to the district court order of September 13, 1968. The attendance zones for the other elementary schools were not affected by its opening. (TR pp. 53, 63)

22. Slight modifications in the elementary school attendance zones were made for the 1971-72 school year in accordance with the district court order of March 17, 1971. (TR pp. 63, 88-90) However, the attendance zones for the 1971-72 and 1972-73 school years are essentially the same as those established for the 1963-64 school year (TR pp. 88-90).

23. The school district constructed four classroom additions at the Whitehall Elementary School for the 1972-73 school year pursuant to the district court order of April 7, 1972.

24. The student enrollments, by race, for each elementary school in the district for the 1969-70 through 1972-73 school years are as follows:

<u>School</u>	<u>1969-70</u>		<u>1970-71</u>		<u>1971-72</u>		<u>1972-73</u>	
	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>	<u>B</u>	<u>W</u>
Alexander	155	415	141	408	204	384	200	355
Andrew Jackson	0	486	15	495	15	445	24	459
Highland Park	2	549	13	502	10	508	12	473
Lincoln	504	0	569	0	542	6	584	7
Parkview	252	431	235	382	274	349	274	328
South Jackson	350	4	349	8	281	8	266	0
Washington-Douglas	392	3	365	0	273	17	246	4
West Jackson	118	293	147	291	195	243	157	216
Whitehall	77	264	116	264	217	210	244	179

25. Approximately 55% of the black elementary school students in the district attend the predominantly black Lincoln, Washington-Douglas and South Jackson elementary schools for the 1972-73 school year.

26. The school district has assigned the three black elementary school principals in the district to the Lincoln, South Jackson, and Washington-Douglas Elementary School. (TR p. 164). The other six elementary schools in the district have white principals. (October 13, 1972 Report to the Court)

27. The Lincoln, South Jackson and Washington-Douglas elementary schools have retained their racial identifiability as black schools. The Highland Park Elementary School has retained its racial identifiability as a white school.

28. The school district does not operate a transportation system. (TR p. 163).

29. The faculty assignments, by race, for each school in the district for the 1972-73 school year are as follows:

<u>School</u>	<u>B</u>	<u>W</u>	<u>T</u>	<u>% B</u>
Jackson Central-Merry	24	56	80	30.0%
Jackson Junior H.S.	8	19	27	29.6%
Parkway Junior H.S.	11	25	36	30.5%
Tigrett Junior H.S.	10	24	34	29.4%
Alexander Elem.	7	20	27	25.9%
Andrew Jackson Elem.	6	14	20	30.0%
Highland Park Elem.	7	15	22	31.8%
Lincoln Elem.	12	18	30	40%
Parkview Elem.	8	21	29	27.5%
South Jackson Elem.	7	12	19	36.8%
Washington-Douglas Elem.	7	11	18	38.8%
West Jackson Elem.	6	15	21	28.6%
Whitehall Elem.	<u>6</u>	<u>16</u>	<u>22</u>	<u>27.3%</u>
TOTALS	68	157	225	30.2%

30. Black students comprise approximately 46% of the student enrollment of the school district for the 1972-73 school year. However, blacks comprise only approximately 30% of the teaching positions in the district.

PROPOSED CONCLUSIONS OF LAW

1. School authorities should make every effort to achieve the greatest possible degree of actual desegregation and will thus necessarily be concerned with the elimination of one race schools. Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (1971) at p. 12.

2. Where the school authority's proposed plan for conversion from a dual to a unitary system contemplates the continued existence of some schools that are all or predominantly of one race, they have the burden of showing that such school assignments are genuinely nondiscriminatory. Swann v. Charlotte-Mecklenburg Board of Education, supra, at p. 12. See also, Northcross v. Board of Education of Memphis, Nos. 72-17-3-31 (6th Cir., August 29, 1972)

3. A school district's remedial plan to eliminate all vestiges of a dual school system is to be judged by its effectiveness. Swann v. Charlotte-Mecklenburg Board of Education, supra; Northcross v. Board of Education of Memphis, supra; Kelly v. Metropolitan County Board of Education of Nashville, 436 F.2d 856 (6th Cir., 1970); Robinson v. Shelby County Board of Education, 442 F.2d 255 (6th Cir., 1971).

4. The Lincoln, South Jackson and Washington-Douglas elementary schools were constructed and maintained for black students and presently serve 55% of the black elementary students in the district. The Highland Park Elementary School was constructed and maintained for whites. These schools have retained their racial identifiability as black and white schools, respectively. The school district has failed to overcome the Swann presumption by showing that such school assignments are genuinely nondiscriminatory.

5. There may be several alternatives available to the school district to eliminate the racial identifiability of the Lincoln, South Jackson, Washington-Douglas and Highland Park elementary schools. United States v. T.E.A. (Austin I.S.D.), per J. Bell, 467 F.2d 848 (5th Cir. 1972)(en banc) at 883-89.

6. Where a geographic zoning plan does not effectively desegregate a school district, the school district has the duty to develop a desegregation plan that works. Green v. School Board of New Kent County, 391 U.S. 430 (1968).

7. Geographic zoning, like any other attendance plan adopted by a school board, is acceptable only if it tends to disestablish rather than reinforce the dual system of segregated schools. United States v. Greenwood Municipal Separate School District, 406 F.2d 1086 (5th Cir. 1969).

8. Where there has been a history of imposed segregation of the schools, it is to adopt a plan which, out of context, might be nondiscriminatory but which does not do as much to disestablish segregation as an alternative proposal which is feasible and pedagogically sound. Robinson v. Shelby County Board of Education, supra.

9. Geographic attendance zone lines may not, consistent with Fourteenth Amendment mandates, be drawn to conform to the racial compositions of the neighborhoods in a school district. Northcross v. Board of Education of Memphis, supra; Robinson v. Shelby County Board of Education, supra; Kelley v. Metropolitan County Board of Education of Nashville, supra.

10. School policy has a substantial impact on residential patterns as well as vice versa. United States v. Board of School Commissioners of the City of Indianapolis, No. 72-1031 (7th Cir., February 1, 1973).

11. The possibility that whites may leave the system if any further desegregation is required is not a valid reason for delaying desegregation of a school system. Monroe v. Board of Commissioners of the City of Jackson, 391 U.S. 450 (1968).

12. The senior high school and the three junior high schools in the district have been completely desegregated in accordance with Swann. At the high school level, the consolidated Jackson Central-Merry Senior High School is fully utilizing the facilities of the former predominantly white Jackson Central High School and the former predominantly black Merry Senior High School. At the junior high school level, no school is predominantly black.

13. The teacher assignments, by race, to each school in the district fall within the 10% margin allowed by the district court order of July 30, 1970.

14. The three black elementary school principals have been assigned to the three predominantly black elementary schools in the district in violation of the district court order of May 28, 1969 which provides that principals are to be assigned in furtherance of a goal of removing the racial identifiability of schools.

15. The determination of whether the former white principal of the Jackson Central High School or the former black principal of the former Merry Senior High School should be designated as the head of the consolidated Jackson-Central High School should be made on the basis of non-racial, objective criteria. Singleton v. Jackson Municipal Separate School District, 419 F.2d 1211 (5th Cir., 1969); United States v. Texas Education Agency, 459 F.2d 600 (5th Cir., 1972).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Proposed Findings of Fact and Conclusions of Law and Memorandum of the United States in Support of Its Proposed Findings of Fact and Conclusions of Law have been served on all counsel of record by mailing same, postage prepaid to:

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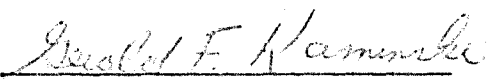
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Done this 13th day of March 1973.


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