

JUN 25 2009

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

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

UNITED STATES OF AMERICA :
Plaintiff, :

CHARLIE RIDLEY, et al., :

v. :

STATE OF GEORGIA, et al, :
Defendants :

CIVIL ACTION NO. 1:69-CV-12972
(Newton County School District)

AGREED ORDER OF DISMISSAL

In July, 2007, Newton County School District ("District") requested that the United States review the School District's compliance with its desegregation obligations under the Fourteenth Amendment and applicable federal law. 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 obligations, 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 originally filed on August 1, 1969, by the United States against the State of Georgia, 81 public school districts, including NCSD, 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. § 2000-6. 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 party defendants (if not already made parties) 79 school districts in the state.

By Order of July 23, 1973, the Court ordered several school districts, including the Newton County School District, to continue to comply with all requirements of the Court's Order of December 17, 1969, subject to subsequent

modifications of the Order. **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.

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 twelve elementary schools: East Newton, Fairview, Ficquett, Heard Mixon, Livingston, Mansfield, Middle Ridge, Oak Hill, Palmer Stone, Porterdale, Rocky Plains and West

Newton; four middle schools: Clements, Cousins, Indian Creek, and Veteran's Memorial; three high schools: Alcovy, Eastside and Newton; and, one alternative school: Sharp Learning Center.

The District currently enrolls approximately 18,695 students, approximately 50% of whom are black. School and classroom assignments are made on a non-discriminatory basis. The District reported 122 inter-district transfers into the District, none of which appear to be problematic.

B. Faculty and Staff. The District currently employs approximately 1,489 educationally certified employees, 421 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.

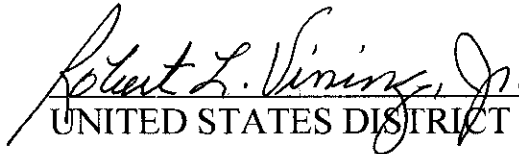
IV. CONCLUSION

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 Newton 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 25TH day of June, 2008.


UNITED STATES DISTRICT JUDGE

**APPROVED FOR THE NEWTON COUNTY
SCHOOL DISTRICT**


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APPROVED FOR THE UNITED STATES

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A handwritten signature in black ink, appearing to read "Franz R. Marshall", written over a horizontal line.

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