



516 F.2d 974 (1975)

UNITED STATES of America, Plaintiff-Appellant,
v.
HINDS COUNTY SCHOOL BOARD et al., Defendants-Appellees.
UNITED STATES of America, Plaintiff-Appellant,
v.
COVINGTON COUNTY SCHOOL DISTRICT et al., Defendants-Appellees.

Nos. 28030 & 28042.

United States Court of Appeals, Fifth Circuit.

July 21, 1975.

Jack Greenberg, New York City, Melvyn R. Leventhal, Jackson, Miss., David L. Norman, Deputy Asst. Atty. Gen., Thomas M. Keeling, Civ. Rights Div., U.S. Dept of Justice, Washington, D.C., for U.S.

Aubrey A. Calhoun, Mt. Olive, Miss., for Hinds County.

Before BELL, THORNBERRY and MORGAN, Circuit Judges.

PER CURIAM:

The Covington County School District was desegregated under our order of November 7, 1969. *United States v. Hinds County School Board*, 5 Cir., 1969, 423 F.2d 1264. It was one of a large group of school districts covered by the same order. At the time it had 1,998 white students and 1,629 black students in attendance. On April 15, 1975, there were 1,831 white students and 1,301 black students in the system. Their assignment for attendance purposes is reflected in the following chart:

SCHOOL	WHITE	BLACK
Collins Elementary School	381	269
Collins Jr. High School	256	346
Collins High School	152	180
Mt. Olive Attendance Center	345	397
Seminary Attendance Center	697	108
Hopewell Attendance Center	0	276

The assignments as are shown in this chart are in line with our original desegregation order except with respect to the Hopewell Attendance Center. All students in the Hopewell Attendance Center area were to attend this school. It was projected at the time of our order, and as a basis of the order, that there would be approximately 25 white students in attendance at the school. The school is

located near one corner of rural Covington County, and in an area having a predominantly black population. It was a black school in the segregated system.

This suit was originally brought by the Department of Justice. The Department has now discovered that the white students in the Hopewell area have not been attending the Hopewell Attendance Center.

975*975 The fact that no white students are attending Hopewell has been apparent from the semiannual reports required from the school district under our order of March 30, 1970. See United States v. Hinds County School Board, 5 Cir., 1970, 433 F.2d 611, 618-19. What was not apparent, and what the Department has recently established, is that the few white students in the area not attending private schools have been permitted to attend other schools in the system.

This state of affairs brought on a motion by the Department for supplemental relief. Issue has been joined and a record developed to the point where the matter may be determined. We require corrective action as hereafter outlined.

It is the position of the defendant school officials that our order was not understood as requiring strict neighborhood assignment of students. They contend that they understood that they could assign students on the basis of the school bus routes which were in effect at the time of the 1969 order. It is admitted that this resulted in some white students residing in the Hopewell area continuing to attend the Collins and Mount Olive schools. In addition, there is testimony that some of the prospective white students in the area are attending private schools.

We have examined our original order and have concluded that it does not explicitly require a strict neighborhood assignment plan. It should be clear to even the casual reader, however, that we did not approve assignment on the basis of school bus routes designed for a segregated school system. In any event, we now hold that the plan of desegregation contained in our November 7, 1969 order for the Covington County School District was intended to require a strict neighborhood student assignment system. See the discussion in Ellis v. Board of Public Instruction of Orange County, Florida, 5 Cir., 1970, 423 F.2d 203, of such an assignment system.

The defendant school district must promptly modify its assignment system to implement strict neighborhood assignment at the Hopewell Attendance Center. It appears that the school zones involved will be those of Collins, Hopewell, and Mount Olive. The zone lines must be located equidistant between Hopewell and Collins and between Hopewell and Mount Olive. The school bus routes must be modified accordingly. All students in grades 1-6 who reside in the Hopewell zone as so drawn must be assigned to the Hopewell school.

It is so ordered.