

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

FILED
U.S. DISTRICT COURT
MIDDLE GEORGIA

08 JUN 30 AM 10:04

SDeC
DEPUTY CLERK

UNITED STATES OF AMERICA)
Plaintiff,)
v.)
THE BOARD OF EDUCATION OF)
VALDOSTA CITY, GEORGIA, et al.)
Defendants.)

CIVIL ACTION NO. 861

CONSENT DECREE

The United States and the Board of Education of Valdosta City have engaged in extended discussions and exchange of information regarding the Board's compliance with its desegregation obligations. Based on an analysis of the information provided by the Valdosta City School District, the semi-annual reports filed with this court and other data, the parties agree that defendants have fulfilled their affirmative desegregation obligations under the Fourteenth Amendment and applicable federal law in all areas except faculty and staff. The parties agree that defendants are entitled to a partial declaration of unitary status and termination of this litigation in all other areas. The parties have negotiated a plan of action to address the issues related to the area of faculty and staff. As indicated by the signatures of counsel below, the parties respectfully request that the court approve this Consent Decree.

I. PROCEDURAL HISTORY

The Board of Education of Valdosta City previously operated a *de jure* segregated school system in which students and faculty were assigned to schools based on race. This school

RECEIVED

JUL - 2 2008

desegregation suit was initiated by the United States against the Board of Education of Valdosta City (Board) on November 30, 1970. On April 1, 1971, the Board was enjoined from discriminating in the operation of the Valdosta City School District (District) and was ordered to implement the desegregation plan that provided for eight grade 1-6 elementary schools and three unitary secondary schools (one grade 7-8 junior high school, one 9th grade school and one grade 10-12 high school were in operation for the 1970-71 school year) as well as provisions for desegregation of faculty and other areas of school operation.

On April 10, 1979, this court addressed concerns raised by the United States about the continued existence of racially identifiable elementary schools, and entered an order dividing the District into an eastern and a western zone and pairing elementary schools so that each zone contained two lower elementary schools (K-4). The order also provided for three upper elementary schools (5-6), but this was modified to two schools in the February 9, 1981 order so that there was a single upper elementary school in each zone. *See also United States v. Bd. of Educ. of Valdosta, Georgia*, 576 F.2d 37, 38 (5th Cir. 1978). The desegregation plan was further modified in 1993 with approval of a second junior high school and reconfiguration of the elementary schools so that two K-3 schools, one grade 4-5 school and one junior high school (now referred to as a middle school) would operate in each zone.

II. SCHOOL DISTRICT PROFILE

With the addition of PK classes at one of the elementary schools in each zone, the Board continues to operate two lower elementary, one upper elementary schools and one middle school in each zone as well as a single high school for the District as reported in the fall and spring reports

submitted to this court in compliance with the 1971 order. The Fall 2007 student enrollment data and faculty and staff information are shown in Attachment A.

III. LEGAL STANDARDS

It has long been recognized that the goal of a school desegregation case is to convert promptly from a *de jure* segregated school system to a system without "white" schools or "black" schools, but just schools. *Green v. County School Bd. Of New Kent*, 391 U.S. 430, 442, 88 S. Ct. 1689, 1696 (1968). The success of this effort leads to the goal of ultimately returning control to the local school board since "local autonomy of school districts is a vital national tradition." *Freeman v. Pitts*, 503 U.S. 467, 490, 112 S.Ct. 1430, 1445 (1992) (quoting *Dayton Bd. of Education v. Brinkman*, 433 U.S. 406, 410, 97 S.Ct. 2766, 2770 (1977)).

The ultimate inquiry concerning whether a school district operating under a school desegregation order to dismantle a *de jure* segregated school system should be declared unitary is whether the school district has complied in good faith with the desegregation decree, and whether the vestiges of prior *de jure* segregation have been eliminated to the extent practicable. *NAACP, Jacksonville Branch v. Duval County Sch. Bd.*, 273 F.3d 960, 966 (11th Cir. 2001) (citing *Missouri v. Jenkins*, 515 U.S. 70, 88, 115 S.Ct. 2038, 2049 (1995), and quoting *Freeman v. Pitts*, 503 U.S. 467, 492, 112 S.Ct. 1430, 1445 (1992)); see also *Manning v. Sch. Bd. of Hillsborough County*, 244 F.3d 927, 942 (11th Cir. 2001); *Lockett v. Bd. of Educ. of Muscogee County*, 111 F.3d 839, 843 (11th Cir. 1997).

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. Courts may allow partial or incremental dismissal of a school desegregation case before full compliance has been achieved in every area of school operations, that is, retaining jurisdiction over those areas not yet in full compliance and terminating jurisdiction over those areas in which compliance was found. *Freeman v. Pitts*, 503 U.S. 467, 490-91, 112 S.Ct. 1430, 1445, 118 L.Ed.2d 108 (1992).

IV. STIPULATED FACTS

A. Student Assignment. In 1970, the year the complaint was filed, there were 7,803 students enrolled in the District's 13 schools, 3,575 or 46 percent of whom were black. Of the seven elementary schools, two were 99 percent black, one was 93 percent black and the remaining four ranged from two percent to 30 percent black. By 1982, following implementation of the 1979 order and 1981 modification pairing the elementary schools, the Board operated eight schools plus a small education center. Student enrollment declined to 6,840 students of whom 4,013 or 59 percent were black and 2,769 or 40 percent were white. Student enrollment at the elementary schools ranged from 42 to 86 percent black.

The Board currently operates its nine schools and assigns students as prescribed in the 1979, 1981 and 1993 orders. There were 7,067 students enrolled in the District in the 2007-08 school year, 5,386 or 76 percent of whom are black and 1,251 or 18 percent of whom are white (See Attachment A.

B. Facilities. The Board operates the District's facilities in a nondiscriminatory manner. As noted in the semi-annual reports, it has continually maintained and upgraded its facilities and made additions and renovations at all of its schools. Since the Newbern Middle School was built

in 1994, the Board made substantial improvements to the high school, including a ninth-grade wing in 1999 and a fine arts building and football stadium in 2004. Since 2000, new facilities have replaced or are in the process of being built for all other schools in the District except Southeast and S.L. Mason, both of which are scheduled for replacement.

C. Transportation. The Board maintains nondiscriminatory transportation policies and practices and operates a unitary student transportation system.

D. Extra-Curricular Activities. The District offers a broad array of opportunities for students to participate in student activities. Extra-curricular activities are provided and operated on a non-discriminatory basis.

The parties concur that the Board has complied in good faith with the orders of this court and has eliminated the vestiges of the prior dual system to the extent practicable in the areas of student assignment, facilities, transportation and extra-curricular activities and has met the standards entitling it to a declaration of unitary status and termination of jurisdiction in these areas.

The parties further concur that the Board has not yet met the standards entitling it to a declaration of unitary status and termination of jurisdiction in the areas of faculty and staff. The parties wish to resolve this issue without litigation and have negotiated the terms of this agreement so that the Board can meet its obligations and attain unitary status as set forth in this consent order.

IV. ORDER

The parties to this Consent Decree agree that the prior orders of this court shall continue in full force and effect except to the extent that they are modified by this Order.

Based on the information and data provided by the District in the semi-annual reports, and on all the surrounding facts, the court finds that the District has complied with the court's

desegregation orders for a reasonable period of time, has eliminated the vestiges of past *de jure* discrimination to the extent practicable and is operating a unitary school system in the areas of student assignment, transportation, extracurricular activities and facilities. The court concludes, therefore, that the Board of Education of the City of Valdosta has met the legal standards for a declaration of partial unitary status and is entitled to dismissal of this action in these areas. *Freeman v. Pitts*, 503 U.S. 467, 492, 112 S.Ct. 1430, 1445 (1992).

It is therefore ORDERED, ADJUDGED and DECREED that the Board of Education of Valdosta City has achieved partial unitary status in the areas of student assignment, transportation, extracurricular activities and facilities. No further need remains for the court to retain jurisdiction over these four areas of the District's activities. Accordingly, all injunctions or portions thereof pertaining to student assignment, transportation, extracurricular activities and facilities are hereby dissolved. These functions are appropriately returned to the control of the local governing body, the Board of Education of Valdosta City.

The Board agrees and is ordered to implement in good faith the following provisions related to faculty and staff:

A. Personnel Policies and Procedures. Within 45 days of the date of this Order, the Board will complete a review and evaluation of its current personnel policies and procedures related to the recruitment, hiring and assignment of faculty, administrators and certificated staff members. Within 90 days of the date of this Order, the Board will develop a new personnel plan which it will provide to the United States for comment, and if any substantive issues are raised, the parties will work to resolve them, but if unsuccessful within 30 days, will seek the assistance of this court. The parties



agree that the plan will include the provisions related to training, recruitment, hiring procedures and assignment of faculty and staff.

The Board, acting through the Superintendent, will insure that all principals, other administrators, faculty and certificated staff and faculty are informed of the provisions of this Decree, and of the criteria and procedures for disseminating application forms, receiving and processing applications, selecting candidates from among applicants, conducting interviews, and for making the final recommendation to the Board that the selectee be hired.

B. Maintenance of Applications. The Board will create a database of all applications received by position, by race (to the extent indicated), by the date the application was received, by highest degree, by rank and type of certificate, and by areas of endorsement for all applications received on or after July 15, 2008. Applications will be kept for a three-year period from the date of submission and the applicant will be considered for any and all vacancies (for which he or she qualifies) occurring during the period of retention unless he or she indicates no further interest in employment with the Board. The Board shall retain all applications and written records evidencing review of the applications in a central location in an orderly fashion, and shall produce them for inspection by the United States upon request and reasonable notice.

C. Assignment of Faculty and Certificated Staff. The Board will develop and implement a strategy to ensure that no school is identified as a white or a black school by the race of the faculty assigned thereto. All school-based faculty and certificated staff will be assigned on a non-discriminatory basis such that the proportion of minority faculty and certificated staff at each school is within 15 percent of the ratio district-wide average by the 2010-11 school year. To this end, the Board will develop an affirmative recruitment strategy to encourage applications for or transfers to

teaching positions at all schools in the District. To the extent that affirmative recruitment efforts do not succeed at achieving the goal by the 2009-10 school year, the Board will implement further actions in order to address this issue, to include but not limited to, the reassignment of faculty.

B. Monitoring and Reporting.

The Board shall submit to the court and to the United States annual reports fully detailing its efforts with respect to Section IV of this Consent Decree. These reports shall be submitted each year by October 15th with the first report due October 15, 2008. The Superintendent shall certify in writing that all of the information contained in each annual report is true and correct to the best of his/her information, knowledge, and belief and that a copy of the report has been furnished to the Board. This certification shall be included with each annual report. The United States shall review the information submitted in each annual report and any comments, recommendations, and objections concerning the information contained in these annual reports shall be made in writing in a timely manner. These reports shall include the following information:

1. A narrative of the Board's efforts over the past year to address the recruitment, hiring and assignment of faculty and certificated staff;
2. For each school and for the entire District, the following information:
 - a. The number and percentage of students, by race/ethnicity;
 - b. The number and percentage of teachers, by race/ethnicity;
 - c. The number and percentage of certificated staff, by race/ethnicity;
 - d. The number and percentage of principals and assistant principals, by race/ethnicity; and position, at each school in the District; and
 - e. The certificated staff of the central office, by position and race;

3. A list of all recruitment trips, including schools visited and job/career fairs and date of visit;
4. A list of the vacancies occurring/created and filled for school-based administrators, faculty and certificated staff, by school, and by position, and for each vacancy, the following information:
 - a. The number of applicants for each vacancy, by race, ethnicity, position, school, and whether applicant was an employee of the District at the time of application and, if so, position and school where employed;
 - b. Identification of the individuals to whom offers were made to fill each vacancy, by position, school, race, ethnicity, and whether the person was an existing employee of the District at the time of the offer, and if an employee, identify the departing school and position; and
 - c. Identification of the individuals hired to fill each vacancy, by position, school, race, ethnicity, and whether the person was an existing employee of the school at the time of the hire, and if so, identify the departing school and position.
5. Any material modifications to the written hiring and assignment practices and procedures, and the reasons for each such modification;

V. REVIEW AND TERMINATION

The consent decree sets forth in detail the areas to be addressed and the actions to be undertaken by the Board. In other words, this consent decree represents "a roadmap to the end of judicial supervision" of the Valdosta City school system. *See, NAACP v. Duval County Sch. Bd.,*

273 F.3d 960, 963 (11th Cir. 2001). No sooner than 45 days after filing of the third annual report, the Defendant Board may move for dismissal of this case. If the United States has any objections shall file any objection that they may have to the dismissal within forty-five (45) days from the filing of the Defendants' motion. The court shall thereafter schedule appropriate proceedings, make appropriate findings, and render appropriate orders with respect to the school district's unitary status in this final area, in accordance with applicable law.

ENTERED THIS 26 DAY OF June, 2008.


UNITED STATES DISTRICT JUDGE




APPROVED:

FOR THE UNITED STATES:


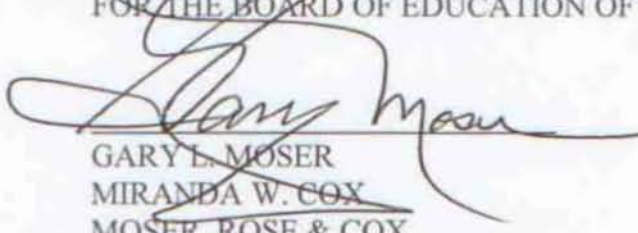
FRANK MAXWELL WOOD
United States Attorney

GRACE CHUNG BECKER
Acting Assistant Attorney General
Civil Rights Division



PAULINE A. MILLER
Attorneys
United States Department of Justice
Civil Rights Division
Educational Opportunities Section
Patrick Henry Building, Suite 4300
950 Pennsylvania Avenue, NW
Washington, DC 20530
Tel: (202) 514-4092
Fax: (202) 514-8337
Email: pauline.a.miller@usdoj.gov

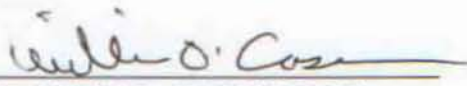
FOR THE BOARD OF EDUCATION OF VALDOSTA CITY:

GARY L. MOSER
MIRANDA W. COX
MOSER, ROSE & COX
Post Office Box 1451
Valdosta, Georgia 31603-1451
Tel: 229-244-1527
Fax: 229-244-9788
Email: miranda@moserrose.com
State Bar 516512



RICKY ROWE, Chairman



WILLIAM O. CASON, D.Ed,
Superintendent

ATTACHMENT A

FALL 2007 STUDENT, FACULTY AND STAFF DATA

School	Grades	Students				Teachers				Certified Staff			
		No. B	No. W	TOT	% B	No. B	No. W	TOT	% B	No. B	No. W	TOT	% B
EAST ZONE	K-8												
J.L. Lomax	PK-3	537	16	577	93%	14	15	30	47%	4	15.5	19.5	20%
W.G. Nunn	K-3	685	40	759	90%	13	36	50	26%	1	17	18	5%
Southeast	4-5	423	3	441	96%	16	7	23	70%	3	5.5	8.5	35%
Newbern MS	6-8	619	15	656	94%	28	18	46	61%	7.3	0.3	7.6	85%
WEST ZONE	K-8												
Sallas Mahone	PK-3	300	269	650	46%	4	31	35	11%	0	18	18	0%
S.L. Mason	K-3	471	149	656	72%	5	33	38	13%	1	11.5	12.5	9%
West Gordon	4-5	388	147	574	67%	6	20	26	23%	4	10	14	28%
Valdosta MS	6-8	611	254	943	65%	13	30	43	30%	2	20	22	9%
PK-8 TOTALS						99	190 (65%)	291	34%				
Valdosta HS	9-12	1362	370	1836	74%	19	68	89	21%	17	23	42	40%
DISTRICT-WIDE TOTALS		5386	1251 (18%)	7067	76%	118	258 (68%)	380	31%	39.3	120.8	160.1	24.5%