

MR. RAY: Thank you, sir.

JUDGE RIVES: Mr. Hall, you may be excused.

MR. SMITH: Call Mr. Carter. Tim, this witness hasn't been sworn.

THE CLERK: Please raise your right hand. Do you solemnly swear that the testimony you give in this cause to be the truth, the whole truth, and nothing but the truth, so help you, God?

WITNESS O. B. CARTER: I do.

THE CLERK: Please be seated.

O. B. CARTER, witness for Defendants, having been duly sworn, testified as follows:

DIRECT EXAMINATION:

BY MR. SMITH:

Q This is O. B. Carter?

A That's right.

Q Mr. Carter, you are from the City of Eufaula --

A That's right.

Q -- is this correct?

A That's right.

Q What position do you hold in the City of Eufaula?

A I am Superintendent of the City Schools of Eufaula.

Q How long have you been Superintendent of the City School System in Eufaula?

A Since '51.

- Q Is Eufaula located in Barbour County?
- A That's right.
- Q And is Barbour County the home of Governor George C. Wallace?
- A That's right.
- Q Did you attend any of the meetings held or called by either the State Superintendent of Education or Governor Wallace in September of '65 and March and June of '66?
- A Yes, I attended both of them.
- Q You attended -- well, actually, I think there was one in '65 and then two, that would be in the months of March and June of '66; you attend two meetings or three?
- A I attended all the meetings the Governor called or the State Superintendent called.
- Q You attended all of the meetings?
- A All the meetings.
- Q Now, Mr. Carter, has the Eufaula City Board of Education adopted a freedom of choice desegregation plan?
- A They have.
- Q Has this plan been filed with the U. S. Office of Education in Washington?
- A That's right.
- Q I show you Defendants' Exhibit 64, and ask you quickly, sir, if you can identify this as being your freedom of choice plan?
- A That is.

MR. SMITH: We offer Defendants' Exhibit 64.

JUDGE PITTMAN: What year was that for, Mr. Smith?

WITNESS: '65-66.

MR. SMITH: It was adopted.

WITNESS: And it was approved in September, '65.

Q It was approved in September of 19---

A '65.

Q ---65?

A Right; presented in May, '65.

Q Now, have you implemented this plan; have you put it into effect?

A Yes.

Q Mr. Carter, for the court's benefit, would you state your opinion, if you know accurately, the number of pupils within the Eufaula system?

A We have approximately twenty-five or twenty-six hundred enrolled in our system.

Q Enrolled within the system?

A That's right.

Q Now, do I understand correctly that the Eufaula City System is different entirely from the Barbour County System?

A That's right.

Q Of this number of pupils, how many are Negro, and how many are white?

A About, I would say, fifty-five, forty-five.

Q And the percentage, for the record, would be fifty-five --

A Five, whites, and about forty-five, Negroes.

Q I see; how many schools do you have within the system?

A We have four.

Q And of these four schools, are some attended predominantly by Negro pupils and some predominantly by white pupils?

A That's right.

Q Could you tell the court the number attended -- predominantly attended by Negro pupils?

A How many Negro pupils in the predominantly white schools, or --

Q No, sir; first of all, do you have schools that are attended predominantly by Negro pupils?

A That's right.

Q How many such schools do you have?

A We have two of those.

Q Two; and then you have two --

A Two.

Q -- that are attended predominantly by --

A That's right.

Q -- white pupils?

A That's right; that's right.

Q Now, in the implementation of the freedom of choice plan, have you permitted Negro pupils to attend previously all white schools?

A Yes.

Q How many Negro pupils attend the elementary white schools, or previously white schools in Eufaula?

- A We have twenty.
- Q You have twenty?
- A Twenty.
- Q How many Negro pupils attend the previously white Eufaula High School?
- A Thirty-eight.
- Q Thirty-eight?
- A Yes.
- Q Is this -- would these figures be as of today?
- A As of today.
- Q As of today?
- A That's right.
- Q Now, in the meetings that you mentioned previously you attended here in Montgomery, did Governor Wallace make any statements to the assembled group in regard to the guidelines?
- A Yes; in one meeting, he talked about the guidelines. He said he thought that the guidelines were beyond the Civil Rights Act of '64, had gone beyond the Civil Rights Act of '64; I think that was in essence what he was trying to say.
- Q All right, sir. Mr. Carter, has your Board Chairman executed, or in 1965 did he execute, form 441?
- A At that time we had signed 441.
- Q Did you send it to the U. S. Office of Education in Washington?
- A That's right.
- Q Subsequent to that, did your Board Chairman sign 441-B?

A Yes.

Q And was this form sent to the U. S. Office of Education --

A That's right.

Q -- in Washington?

A That's right.

MR. SMITH: I have no further questions.

JUDGE RIVES: Any further questions by the plaintiffs?

Any questions by the defendants?

CROSS EXAMINATION:

BY MR. GRAY:

Q Mr. Carter, do you have any Negro teachers teaching white children in Eufaula?

A We have a group of team teachers teaching remedial reading.

Q Do you have Negro teachers who are teaching white children?

A They operate the machines in the remedial reading classes; we have controlled reading machines, and they operate the machines.

Q Now, what -- what grade is this?

A This is in our high school and our elementary schools, both, and throughout our school system.

Q Now, is this particular teacher assigned to -- that is the Eufaula High School, isn't it?

A Yes.

Q Now, this -- is -- is a Negro teacher assigned to the Eufaula High School to teach there?

A They are assigned to the team, and they go from school to school

A Yes.

Q And was this form sent to the U. S. Office of Education --

A That's right.

Q -- in Washington?

A That's right.

MR. SMITH: I have no further questions.

JUDGE RIVES: Any further questions by the plaintiffs?
Any questions by the defendants?

CROSS EXAMINATION:

BY MR. GRAY:

Q Mr. Carter, do you have any Negro teachers teaching white children in Eufaula?

A We have a group of team teachers teaching remedial reading.

Q Do you have Negro teachers who are teaching white children?

A They operate the machines in the remedial reading classes; we have controlled reading machines, and they operate the machines.

Q Now, what -- what grade is this?

A This is in our high school and our elementary schools, both, and throughout our school system.

Q Now, is this particular teacher assigned to -- that is the Eufaula High School, isn't it?

A Yes.

Q Now, this -- is -- is a Negro teacher assigned to the Eufaula High School to teach there?

A They are assigned to the team, and they go from school to school

and teach as a team in the school.

Q How many teams?

A We have one team --

Q How many --

A -- for high school, and one for the elementary school.

Q All right; how many people consist of a team?

A We have four on each team.

Q And how many whites and how many colored?

A We have two whites and two colored on each team.

Q And do they have a regular -- is either one of the schools the headquarters of the teams, or do they have an office?

A Well, we have a Supervisor of all the teams, and they are -- they go from school to school, I guess the Western Heights Elementary School, which is an all white school, the Supervisor -- I guess that is the headquarters, because most of our equipment and our material stays there in that school.

Q All right; now, is the Supervisor white or colored?

A She is white.

Q So there is a white Supervisor, and what does the other -- what are the responsibilities of the Supervisor of the reading team?

A Well, she supervises the instructional program of these teams; she goes in and assists with the operating the machines; she knows how to operate the machines; and we have what we call the -- I forget the -- I forget the technical name of the reading program, but she supervises it, and she is well trained

in that program; she supervises that type of program. This year we had so many new people -- pupils that we had a two-weeks workshop prior to the time we started, and she supervised and instructed them in operating the machines and instructing in carrying out the program; so she supervises the program now to see that they are doing the type of training -- of course, these people, as you understand, that come to us, so many times are not trained people to teach remedial reading.

Q What you mean, the teacher is not trained?

A They are elementary school teachers or teachers in English or grammar, but they are not trained to teach remedial reading sometimes because of the fact they are not available in the State, and we have to take those people and coach them and train them, and she supervises that type of training.

Q Now, that is true of Negro and white elementary teachers?

A That's right.

Q Now, do these -- the students that they teach, is it a particular class?

A That's right; people that we feel like need remedial reading most.

Q A special --

A Special --

Q -- part of your special program?

A Special -- special program; that's right.

Q Now, do you have special teacher units for this special program?

A That's right; these people teach these people in special classes.

- Q And does the Eufaula City System has a total of eight special teacher units for the read -- remedial reading program?
- A And Mrs. House will be the ninth one; she supervises, and they are all paid out of Title One money.
- Q This is paid out of Title One money?
- A That's right.
- Q Now, then, these people are not a part of your regular teaching staff?
- A Well, I would say this; if we didn't have Title One money, we wouldn't be able to finance them nor have the program.
- Q Now, is this the first year you have had this type program?
- A This is the second year.
- Q Second year?
- A Well, it is really a year and a half; we didn't start it until about the second semester of last year.
- Q Now, when you started the program, did you have two Negroes on the team?
- A I think we only had maybe one Negro and two -- on the team last year we had only one; it was very difficult for us to get enough people to fill the positions, because we started in the middle of the year, and teachers weren't available.
- Q Now, this team rotates to all the schools in the City?
- A They rotate to all these special classes in the City; we have one in the high school, one in the -- each -- each school has a -- has a - a group that -- that they rotate and teach; not all

the pupils in the school, it is just the special people that need the remedial reading.

Q How often does this class meet?

A They are taught every day.

Q How long during the day?

A One period in the high school for each group, and then the elementary school, we don't have periods, I imagine about the length of an elementary school period in the grammar school, I say about thirty-five or forty minutes.

Q And how many -- do they go to both schools during the day?

A That's right; that's right.

Q Now, are these people assigned any other jobs --

A No.

Q -- other than that?

A That is all they do.

Q Now, in your regular teaching program at Van Buren -- I think that is the name --

A Van Buren High School -- Elementary School; McCoo High School.

Q -- the elementary school?

A That's right.

Q That is the Negro elementary school?

A That's right.

Q You have no white students in that school?

A No, we do not.

Q Do you have any white teachers in that school?

- A Only the team teaching group that go there and teach.
Q No regular white teachers?
A No.
Q Then you have Eufaula High School --
A That's right.
Q -- which is the white high school, but you have -- the formerly white high school?
A That's right.
Q Now, do you have any Negro --

JUDGE RIVES: Now, he is testifying to the whole system that that is only teachers he has; no use going through each school separately.

- Q Do you recall, sir, attending the meeting -- . Now, in your special reading classes that meet at Eufaula High School --
A (Nodded to indicate affirmative reply)
Q -- are only Negro students in that class?
A No, they are -- I think they are all white in that class; I don't think we have any remedial reading Negroes in the class.
Q At the --
A At the Eufaula High School.
Q -- high school?
A I think they are all white students.
Q What about the formerly white elementary school?
A We might have some in that; I wouldn't be right sure; I couldn't tell you for sure; we might have one or two in those classes;

- A Only the team teaching group that go there and teach.
Q No regular white teachers?
A No.
Q Then you have Eufaula High School --
A That's right.
Q -- which is the white high school, but you have -- the formerly white high school?
A That's right.
Q Now, do you have any Negro --

JUDGE RIVES: Now, he is testifying to the whole system that that is only teachers he has; no use going through each school separately.

- Q Do you recall, sir, attending the meeting -- . Now, in your special reading classes that meet at Eufaula High School --
A (Nodded to indicate affirmative reply)
Q -- are only Negro students in that class?
A No, they are -- I think they are all white in that class; I don't think we have any remedial reading Negroes in the class.
Q At the --
A At the Eufaula High School.
Q -- high school?
A I think they are all white students.
Q What about the formerly white elementary school?
A We might have some in that; I wouldn't be right sure; I couldn't tell you for sure; we might have one or two in those classes;

we have twenty in the schools, and we have one or two in remedial reading classes; I couldn't be sure.

Q One or two Negroes or one or two whites?

A One or two Negroes in the all -- formerly all white elementary school, we might have one or two in the remedial reading class; I am not right sure.

Q Approximately what is the size of those classes?

A We are not allowed to have those over fifteen; we keep them real small.

MR. GRAY: That's all.

JUDGE RIVES: Any further questions?

MR. REEVES: None for us.

JUDGE RIVES: Mr. Barrett?

MR. BARRETT: One or two, your honor.

JUDGE RIVES: All right, sir.

BY MR. BARRETT:

Q Mr. Carter, you testified on direct examination that you had attended several meetings regarding the guidelines; is that right?

A As far as I can recall, I attended all the meetings the State Superintendent or the Governor called; sometimes they were called jointly, sometimes they were called separately; I don't recall missing one of them.

Q Yes, sir. At those meetings, was faculty desegregation a major topic of discussion?

A No, it wasn't; I don't think that -- I don't recall that that was

discussed as a subject.

MR. BARRETT: Thank you.

JUDGE RIVES: Any further questions from Mr. Carter?
If not, you may come down, Mr. Carter.

MR. SMITH: May this witness be excused?

JUDGE RIVES: Yes, he may be excused.

MR. SMITH: Thank you, Mr. Carter.

JUDGE RIVES: Call your next witness.

MR. SATTERFIELD: May it please the court, we call
Mr. James F. Moore, Jr.

THE CLERK: Have you been sworn?

WITNESS JAMES F. MOORE, JR.: No.

THE CLERK: Please raise your right hand. Do you
solemnly swear that the testimony you give in this cause to be the
truth, the whole truth, and nothing but the truth, so help you, God?

WITNESS JAMES F. MOORE, JR.: I do.

THE CLERK: Please be seated.

JAMES F. MOORE, JR., witness for Defendants, having been duly sworn,
testified as follows:

DIRECT EXAMINATION:

BY MR. SATTERFIELD:

- Q What is your name, please, sir?
A James F. Moore, Jr.
Q And what is your official capacity?

- A I am --
- Q In connection with education?
- A I am Superintendent of Education in Muscle Shoals, Alabama.
- Q And for what period of time have you held that position?
- A Since June 1, 1958.
- Q Would you tell us, please, sir, whether or not your Board executed the original form 441?
- A The original form 441; yes.
- Q And generally, what was done in -- thereafter in connection with a plan of desegregation; what type of plan was adopted?
- A We filed a combination zone and freedom of choice.
- Q Uh, huh; was that approved by the Commissioner of Education of the United States?
- A Yes, sir.
- Q And how long did you carry that on?
- A We are still carrying it on.
- Q Now, during this period of time, have you been visited by any representatives of HEW or the Commissioner of Education, and if so, by whom and about how often?
- A Mr. Satterfield, I don't know whether I can tell you by whom, because we had a lot of visitors and frequently.
- Q Yes; you remember whether Mr. Crowder came to see you, Mr. Gene Crowder?
- A I -- yes, Mr. Crowder came; yes.
- Q A Mr. Richard Fairley?

- A No.
- Q How about Mrs. Marie Barry?
- A Yes.
- Q And David Barus?
- A No, he has not been to see me; no.
- Q Robert Day; have you --
- A Yes.
- Q Now, in addition to these visits, about how frequently did you have telephone calls from representatives of the HEW or the Commissioner?
- A I would say once a week, Mr. Satterfield, or more frequently.
- Q Beg your pardon?
- A More frequently than once a week.
- Q Is that during this -- an average during this entire period?
- A Yes.
- Q Now, Mr. Moore, what occurred, what has occurred, with reference to form 441-B; has that been executed?
- A No, it has not.
- Q I see. And what is the present status of your schools concerning the receipt of federal financial assistance?
- A We are still receiving federal financial assistance.
- Q Has anything been done, is anything being done now, with reference to future receipts thereof?
- A Yes, sir; we are on the deferred list, and we have received notices to file for a twenty-day hearing.

MR. SATTERFIELD: I ask that this be marked as Exhibit, please.

THE CLERK: Defendants' Exhibit number 65 for identification.

MR. SATTERFIELD: I ask that you put these together and mark that as an Exhibit.

THE CLERK: Defendants' Exhibit number 66 for identification.

Q I hand you Defendants' Exhibit number 65, and ask if you received that letter, or the original of that, of which that is a copy?

A Yes, sir.

MR. SATTERFIELD: And to save the court's time, I call the court's attention to the fact this is a letter in connection with deferral.

Q I hand you here Defendants' Exhibit number 66, and which contains a number of documents, and ask, to save time, whether or not this was received by you in connection with the proposed hearing on the matter of compliance?

A Yes, sir; request for admission of fact; yes, sir.

Q Also, these other documents have been received by you in that connection, have they not? Let me have the letter -- so sorry.

A Yes, sir.

MR. ARONSON: Mr. Satterfield, may we see that, please?

MR. SATTERFIELD: You had it --

MR. ARONSON: No, I didn't.

(Mr. Satterfield had inaudible conference with Mr. Aronson)

THE CLERK: Mr. Satterfield.

MR. SATTERFIELD: Thank you. May it please the court, I had passed it to some of the counsel before lunch; I thought all had seen it, but apparently they had not; they have asked to see it at this time.

Q Now, prior to the requirement that you execute form 441-B, had any requirements or requests been made of you for any change in your freedom of choice plan?

A No, sir.

Q Ask you to answer a little louder?

A No, sir.

Q I see.

A No, sir; they had not.

Q So far as you know -- you know, other than as -- as alleged in these various documents, have you been -- have you violated any of the requirements of HEW concerning the receipt of federal financial assistance, other than failing to execute this form?

A Not to my knowledge.

Q Now, I ask that you turn to Exhibit -- Defendants' Exhibit 66, and that portion thereof consisting of requests for admissions of fact and genuineness of documents, entitled, "In the matter of Muscle Shoals City Board of Education and State Board of Education of Alabama, and hereinafter called -- hereinafter called

agency," being shown to be before the Commissioner of Education, Department of Health, Education, and Welfare; there are included therein some fifty-two requests for admissions; I ask that you turn only to request eighteen, nineteen, twenty, and twenty-one, and read them to the court for the benefit of the record, please?

A Yes, sir. This is item --

Q Little louder, so the court can --

A This is item number eighteen; "Pupils enrolled in the respondents' schools have one or more athletic teams which practice on grounds owned or managed by respondent school district." Nineteen, "Such team or teams play games with other teams." Twenty, "No such team composed exclusively of Negro students has since January 3, 1965, played any game with a team having any white player." Twenty-one, "No such team composed predominantly of white students has since January 3, 1965, played any game with a team composed predominantly of Negroes."

Q Thank you. Then as to one more, would you turn to number forty-three of the same document --

A Yes, sir.

Q -- and read it to the court?

JUDGE RIVES: Are those questions or statements?

MR. SATTERFIELD: That is a demand for admissions and requests for admissions --

JUDGE RIVES: Oh.

MR. SATTERFIELD: -- filed against the -- .

Q Yes, sir?

A This is item number forty-three; "During the current school year respondent school district has programmed and supported extra-curricular activities which are participated in separately by white and Negro students."

MR. SATTERFIELD: I have no more questions.

JUDGE RIVES: Are there any further questions from the plaintiffs -- from the defendants to Mr. Moore?

MR. BILLINGSLEY: Yes, sir.

JUDGE RIVES: Are there any questions from the plaintiffs?

MR. ARONSON: Yes, your honor, if I may. I would like the Exhibit containing the requests for admissions, if I might have it; I don't have the number.

CROSS EXAMINATION:

BY MR. ARONSON:

Q Mr. Moore, did you -- did you testify that you submitted a 441, but that you did not submit a 441-B; is that true?

A That is true.

Q Can you tell us why you did not submit a 441-B?

A Because the Board told me not to.

Q Do you know the reason for the Board reaching that decision?

A Yes; I think I might say that I could tell you, and that is the last paragraph in the 441-B, which gives the HEW or Health, Education, and Welfare Department the right for judicial

Q Yes, sir?

A This is item number forty-three; "During the current school year respondent school district has programmed and supported extra-curricular activities which are participated in separately by white and Negro students."

MR. SATTERFIELD: I have no more questions.

JUDGE RIVES: Are there any further questions from the plaintiffs -- from the defendants to Mr. Moore?

MR. BILLINGSLEY: Yes, sir.

JUDGE RIVES: Are there any questions from the plaintiffs?

MR. ARONSON: Yes, your honor, if I may. I would like the Exhibit containing the requests for admissions, if I might have it; I don't have the number.

CROSS EXAMINATION:

BY MR. ARONSON:

Q Mr. Moore, did you -- did you testify that you submitted a 441, but that you did not submit a 441-B; is that true?

A That is true.

Q Can you tell us why you did not submit a 441-B?

A Because the Board told me not to.

Q Do you know the reason for the Board reaching that decision?

A Yes; I think I might say that I could tell you, and that is the last paragraph in the 441-B, which gives the HEW or Health, Education, and Welfare Department the right for judicial

enforcement.

Q May I ask you speak up just a little bit, please?

A Judicial enforcement, the statement that gave HEW the right for judicial enforcement.

Q What does that mean exactly; I am not --

A I think that means that if we do not follow --

JUDGE PITTMAN: Can you point that out in the 441-B; do you have a 441-B? See what you are talking about.

MR. ARONSON: We -- we do, your honor; I was just asking for his -- I believe in Government -- the Government presentation, 19 -- HEW form 441-B is here.

WITNESS: It is the last paragraph.

JUDGE RIVES: We have an illustrated booklet.

JUDGE PITTMAN: Will you just point out what you have reference to?

WITNESS: Yes, sir. It is this sentence here, "The applicant recognizes and agrees that such federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States or the State agency through which the federal financial assistance is extended jointly or severally shall have the right to seek judicial enforcement of this assurance."

Q It was because of that provision that the Muscle Shoals District--

A Primarily; yes.

Q And what other reasons, if there were others?

A I think that was the primary reason; yes.

Q Now, is the Muscle Shoals District a self-contained district within a county, sir?

A Yes.

Q How many students, approximately, are presently enrolled in the Muscle Shoals schools? ^{ut}

A About eighteen hundred, two thousand.

Q And of that eighteen hundred to two thousand students, approximately how many are Negro and how many are white?

A We have about a hundred Negro children, and I would say seventeen ^{te} hundred white.

Q And how many schools do you have, sir?

A Four.

Q And of those schools, are any of them Negro schools?

A Yes.

Q How many?

A One.

Q And three remaining are white?

A Right; predominantly white.

Q Predominantly white?

A (Nodded to indicate affirmative reply)

Q And you just have one hundred students enrolled in your Negro school?

A No; we only have thirty-eight Negro students enrolled in one school.

- Q And where are the remaining sixty-two, taking your figure of a hundred as the total number of Negro pupils?
- A They are in the predominantly white schools.
- Q May I ask what grades these thirty-eight students are spread out through?
- A One through nine.
- Q One through nine; and what happened to the students in ten, eleven, and twelve?
- A They are assigned to the Muscle Shoals High School, which is the only high school we have.
- Q May I ask as a school -- ask you as a school administrator if you find it economical to maintain a school with thirty-eight pupils in a district with the number of students that you have, sir?
- A I doubt if we are economical, but if we are going to follow our freedom of choice plan, we will have to operate it.
- Q Do you feel there is any inhibition on you as a Superintendent, or, to your knowledge, does the Board feel that it is without the power to close the Negro school?
- A I -- I don't -- I don't know; I don't know what you mean by the question; repeat it?
- Q Has your Board ever discussed closing the Negro school?

MR. SATTERFIELD: Object to what may have been discussed.

JUDGE RIVES: Yes, I think that is more or less

arguing with the witness. We have got the facts; we can draw the conclusions.

MR. ARONSON: Thank you, your honor.

Q You have any Negro teachers teaching in any of your white schools?

A No, I do not.

Q You have any white teachers teaching in your Negro school?

A No, I do not.

Q Do you have an athletic program at your Negro school?

A No, we do not.

Q Now, with respect to these requests for admissions that were submitted to you -- let me ask before getting to that, do you have -- do you have a staff that assists you, sir?

A Yes.

Q And are there any Negroes employed on it?

A No.

MR. ARONSON: If the court will indulge me for one moment, your honor.

Q Have you answered these requests for admissions?

A No.

Q You have not?

A No.

Q Do you envision -- strike that, please. You say that you have a combination freedom of choice and geographic plan; could you briefly describe for the court how that plan works, sir?

A Yes; on the west side of town we have one elementary school

which goes one through six. When we first started the school system in 1958, we drew a line along Harding Avenue, which runs north and south, to prevent overcrowding at either of the two white elementary schools. That line has been established since 1958; it has not been changed. When we put our freedom of choice plan in on the east side of town, east of the Harding Avenue, we gave those children in one through six grades the freedom of choice to attend either a predominantly white school or a predominantly Negro school. And we also gave the seventh, eighth, and ninth graders a choice to either attend a predominantly white or a predominantly Negro school, and we assigned all students in the tenth, eleventh, and twelfth grades to the high school.

- Q All right; focusing on grades one through eight, is it -- and is your high school a four-grade or a three-grade?
- A Six; seven through twelve.
- Q And you assigned all students in the high school in grades seven through twelve?
- A Right -- no, no; we did not; tenth, eleventh, and twelfth --
- Q All right.
- A -- we gave them a choice to attend either that school, seventh, eighth, and ninth, or to attend a predominantly Negro school.
- Q All right; and were grades -- with reference to grades one through six, putting the Negro students aside for a moment, I -- you -- the students on the east side of town were assigned to the

elementary school on the east side of town --

A Right.

Q -- and students, white, on the west side of town were assigned to the West Side Elementary School; is that correct?

A Right.

Q Where is the Negro elementary school, on the east or west side?

A West side.

Q Where is it?

A No, I am sorry; east side.

Q It is on the east side, and I take it that the majority, if not all -- do all Negroes in the town in grades one through six live on the east side?

A To my knowledge; yes.

Q And so what you have done, then, is you have assigned the white students still on the west side of town to their school, the white elementary school, and which what you have done on the east side, is said to have one white and Negro alike, you have a freedom of choice to attend either the Negro or the white school?

A That is correct.

Q In your estimation, Superintendent Moore, what would it take to remove the dual system from Muscle Shoals?

MR. SATTERFIELD: May it please the court, we have not objected during the afternoon --

JUDGE RIVES: Well, I think the court can see all it would take them is to do away with that school that has thirty-eight

pupils. I don't think you need to go into that; the court can draw some conclusions.

MR. ARONSON: All right, your honor; if I might ask one more question.

Q Can you conceive of that school being closed in the very near future absent a court order, Mr. Moore?

A Repeat it?

MR. SATTERFIELD: Object to that, may it please the court; that is wholly immaterial.

JUDGE RIVES: Yes, sir; we sustain the objection.

MR. ARONSON: If the court will indulge me for one moment.

Q Do you maintain a transportation system within Muscle Shoals?

A We do not.

MR. ARONSON: No further questions of this witness at this time.

JUDGE RIVES: Any further questions by anyone of this witness?

MR. BARRETT: I would like to clear up one point, your honor.

JUDGE RIVES: Mr. Barrett.

BY MR. BARRETT:

Q Mr. Moore, you said that your school district --

MR. BILLINGSLEY: Your honor, were we supposed to be next?

MR. BARRETT: I beg your pardon; I didn't realize --
JUDGE RIVES: All right, sir.

BY MR. BILLINGSLEY:

Q I believe your name is Mr. Moore, is it not?

A (Nodded to indicate affirmative reply)

Q Mr. Moore, how many members do you have on your Board of Education --

A Five.

Q -- in Muscle Shoals?

A Five members.

Q All of them are members of the white race?

A Yes, sir.

Q Are they appointed or elected?

A Appointed.

Q I see. I believe that Muscle Shoals School System started in 1956, did it not?

A '58.

Q In '58?

A (Nodded to indicate affirmative reply)

Q Did you have any Negro schools at that time?

A We did not.

Q When did you build your first Negro school?

A It must have been 1960, '59, somewhere along in there.

Q I see. Now, this school was built to accommodate Negro students, was it not?

A It was.

Q And how many grades did you have at that institution?

A One through nine.

Q One through nine?

A Yes.

Q Well, what happened to the students who went to grades ten, eleven, and twelve?

A They attended --

JUDGE RIVES: Already testified --

MR. BILLINGSLEY: Sir?

JUDGE RIVES: He has already testified to that, if you have been listening.

MR. BILLINGSLEY: I withdraw that, then.

Q How many Negro teachers do you have in your school system?

A At the present --

Q Yes?

A -- five.

Q Five; and those five are all students -- I mean teachers at Webster School?

A That is correct.

Q And these five, I believe you testified, teach approximately thirty-eight students --

A That is correct.

Q -- is that right? Now, how many you have -- you still have nine grades in Muscle Shoals School System?

A In the Webster School; is it nine grades in the Webster School; is that what you asked?

Q Yes?

A There are nine grades there, but there are not students in each grade.

Q Well, give us the grades where you have students?

A I don't know whether I can do that or not; I believe there is students in the -- not students in the sixth and seventh grades there, I believe there are students in the eighth and ninth, and one, two, three, four, and five; I could be -- I could stand corrected on that.

JUDGE RIVES: Is that a school attended fully by Negroes?

WITNESS: Yes, sir.

Q How many students do you have in the first grade?

A I don't have any idea.

Q Did you bring the information with you with reference to the number of students in the -- that are presently attending Webster School?

A I may.

Q Will you see if you can find it for us, please?

A There are nine in the first grade.

Q Nine in the first grade; all right; second grade?

A Eight.

Q Eight; third grade?

- A Seven.
- Q Fourth grade?
- A Two.
- Q Fifth grade?
- A Seven.
- Q Eighth grade?
- A Eighth, did you say?
- Q Yes?
- A One.
- Q Ninth grade?
- A None; zero.
- Q Sixth grade?
- A Zero.
- Q Seventh?
- A Two.
- Q Two; in other words, you have one teacher teaching one student in the eighth grade; is that right?
- A I am not certain how the schedule works out there.
- Q You don't know how it works at all?
- A Oh, I -- I would imagine that since there are five teachers out there, that for thirty-eight --
- Q Well, just looking at your records, you -- you -- your best information would be that one teacher is probably teaching one child?
- A One teacher is probably teaching the seventh and eighth grade; I

would say that.

- Q In other words, one teacher is teaching three children?
A Yes.

JUDGE RIVES: How many did you say were in the fourth grade?

WITNESS: Two.

- JUDGE RIVES: Two in the fourth grade.
Q Do you -- do you have with you information as to how many students are being taught by each teacher present -- presently at the Webster School?
A No, I don't have that information.
Q Where would that information be available?
A I could get it from the principal; he would know.
Q I see; and what is the name of the principal?
A Charles Carter.
Q I see. Now, did -- did you transfer any teachers for the school year of '65-66, Negro teachers?
A No.
Q How many Negro teachers did you have in your school system for the year of 19--- wait a minute; I believe I want to ask you for '66-67, did you transfer any teachers from the -- from the Webster School; how many teachers did you have in the Webster School during the school year of 1965-66?
A The most I have ever had is seven.
Q Seven? That is the largest number you have had. And how many

you say you -- you have now?

A Five.

Q Five; what happened to the other two teachers?

A They got other jobs in other school systems.

Q You sent them to other school systems, did you not?

A No, I did not.

Q Isn't it a matter of fact that you made contact outside of your school system and contacted other Superintendents of other school systems asking them to hire these two teachers; didn't you do that?

A The only thing that I have did was to attempt to get those teachers jobs that wanted jobs in other school systems.

Q I see. You did not try to make any arrangements for them to work within the confines of the Muscle Shoals School System, did you?

A No.

Q Do you know one Mr. Stan -- Ossie Stanley?

A Yes.

Q Did you terminate his services?

A Yes.

Q Did you give him a reason why you terminated his services?

A He had a defense contract.

Q He did what?

A He had a defense contract.

Q Well, didn't you terminate his contract before he got the defense

contract?

A I am talking about a defense certificate.

Q A defense certificate?

A Yes.

Q Is that the reason you terminated him?

A Yes.

Q How many years had he been with your --

A He had been there four years.

Q I see. Do you know a Mrs. Elaine Phillips?

A Yes.

MR. SMITH: We object to this, if the court please;
I don't think it has any relevance.

JUDGE RIVES: I don't see any relevance to the case
we have before us.

MR. BILLINGSLEY: All right; I withdraw that.

Q How -- how -- how are these students transported to school?

A They furnish their own transportation --

Q I see.

A -- or ride a public bus.

Q I see. Do you have bus service for white students?

A Yes.

Q To the white schools?

A (Nodded to indicate affirmative reply) Public bus service.

Q Have you ever provided bus service for Negro students?

A No.

Q But you have always provided it for white students, have you not?

JUDGE JOHNSON: Said it was public system, Counselor.

MR. BILLINGSLEY: I thought I understood him to say, your honor, that he had bus --

JUDGE JOHNSON: He hasn't said that either time any lawyer examined him.

MR. BILLINGSLEY: All right, sir.

JUDGE JOHNSON: Said it was a public system.

MR. BILLINGSLEY: I see. I believe that is all.

JUDGE RIVES: Any further questions from Mr. Moore?

MR. BARRETT: Yes; there was one point, your honor.

JUDGE RIVES: Mr. Barrett.

BY MR. BARRETT:

Q Mr. Moore, you said that federal funds were still being paid in connection with programs in your school system; is that right?

A Yes, sir; that is correct.

Q But that your system has been put on the deferral list?

A Yes, sir.

Q Is it correct that that means that if your Board makes new applications for new programs, action by the Department of Health, Education, and Welfare, action for those programs, will be deferred --

A That is my understanding.

Q -- until a determination can be made as to whether your district is in compliance; is that correct?

MR. MADDOX: If it please the court, we are going to have to object.

JUDGE RIVES: I am sorry; I didn't catch that question.

MR. MADDOX: I believe he is asking the witness if he knows what the term, "Deferral," means, which the Commissioner uses.

MR. BARRETT: If the court please, I am asking the witness his understanding of the word, the phrase he used, of being placed on the deferred list by the Department of Health, Education, and Welfare.

JUDGE RIVES: I think that is a proper question; we overrule the objection.

A I think that you are correct in that if we apply for new monies or additional funds that we did not receive last year, we would not get them; is that what you asked me?

Q That is correct; or action on your application --

A Yes.

Q -- would be delayed --

A Right.

Q -- until a determination could be made as to whether you were in compliance?

A That is my understanding.

Q But continuing programs would continue to flow to the district?

A Yes, sir.

MR. BARRETT: Thank you.

JUDGE RIVES: Any further questions from Mr. Moore?

By anybody?

MR. ARONSON: No, your honor.

JUDGE RIVES: Mr. Moore, you may be excused and go home, if you like.

WITNESS: Thank you, sir.

JUDGE RIVES: I would like to ask counsel on both sides if you have lists of your depositions, the witnesses who testified by deposition; do you have lists available which you could furnish to the court of the witnesses who testified by deposition?

MR. SMITH: Yes, sir; we just have two.

JUDGE RIVES: Well, could you prepare by tomorrow morning a list of those who testified by deposition for us; and likewise, the plaintiffs' counsel, prepare list --

MR. BARRETT: Yes, your honor.

JUDGE RIVES: -- prepare list of the witnesses who testified by deposition.

MR. ARONSON: Yes, your honor.

JUDGE GROOMS: Are we hearing any witnesses now whose depositions have been taken?

MR. ADAMS: Yes, sir.

JUDGE RIVES: Frankly, that is one reason we want a list.

MR. SATTERFIELD: May it please the court, there are several of these, we understand -- we did not -- I did not participate, I understand several of them, depositions were taken by the opposing

parties, they were not at that time cross examined except very shortly in a cursory manner, as is usual in discovery depositions.

JUDGE RIVES: The court at this time will take a ten minute recess.

(At which time, 3:45 p.m., a recess was had until 3:55 p.m., at which time the trial continued)

JUDGE RIVES: Mr. Smith and Mr. Satterfield haven't come back in yet.

MR. MADDOX: We will proceed, your honor.

JUDGE RIVES: All right.

MR. MADDOX: Mr. J. R. Snellgrove.

THE CLERK: Have you been sworn?

WITNESS J. R. SMELLGROVE: Yes; yes.

THE CLERK: Please be seated.

J. R. SNELLGROVE, witness for Defendants, having been duly sworn, testified as follows:

DIRECT EXAMINATION:

BY MR. MADDOX:

Q Mr. Snellgrove, you are the -- excuse me.

JUDGE RIVES: I understand, gentlemen, you think it might expedite the conclusion of this case if we stop at this point.

MR. SATTERFIELD: May it please the court, we have conferred, and we believe we would be able to prove most of what we feel is desirable by the use of certain records, which we believe

counsel would be willing to authen---- admit authentication; they are not those from Washington, but they are records of these gentlemen.

JUDGE RIVES: I see.

MR. SATTERFIELD: I feel sure that most of this thing, this testimony, could be done away with, and if agreeable with the court, I believe that if it thought proper to recess now, we could save the use of, oh, a number of witnesses, and probably would not have to use over two or perhaps three, if that many, additional witnesses; not over -- I don't think it would be over three, probably two or three witnesses.

JUDGE RIVES: And then how -- would the plaintiffs expect to call many witnesses on rebuttal?

MR. GRAY: No, sir; your honor; we don't expect to call many witnesses, if any.

MR. REEVES: That would be true for us, too, sir.

MR. BARRETT: None for the Government.

(Court conferred)

JUDGE RIVES: Gentlemen, in the hope that you may be able to reach an understanding by which the case will be expedited, the court will accede to counsel's suggestion and take a recess for today and reconvene tomorrow morning at nine o'clock.

MR. SATTERFIELD: Thank you; we will certainly do our best to expedite the matter.

JUDGE RIVES: Court will recess then until tomorrow

morning at nine o'clock.

(At which time, 4:00 p.m., a recess was had until
9:00 a.m., December 2, 1966)

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

I, Glynn Henderson, Official Court Reporter of the United States District Court for the Middle District of Alabama, do hereby certify that the foregoing 234 pages contain a true and correct transcript of proceedings had before the said Court held in the City of Montgomery, Alabama, December 1, 1966, in the matters therein stated.

In testimony whereof I hereunto set my hand on this the 12th day
of December, 1966.

Glynn Henderson
Official Court Reporter.