

2009 WL 1231497

Only the Westlaw citation is currently available.
United States District Court, M.D. Alabama,
Northern Division
and Eastern Division.

Anthony T. LEE, et al., Plaintiffs,
UNITED STATES of America, Plaintiff–Intervenor
and Amicus Curiae,
National Education Association, Inc.,
Plaintiff–Intervenor,

v.

Lee County Board of Education, Russell County
Board of Education, Tallapoosa County Board of
Education, Alexander City Board of Education,
Auburn City Board of Education, Opelika City
Board of Education, Phenix City Board of
Education, Roanoke City Board of Education,
Butler County Board of Education, Covington
County Board of Education, Elmore County Board
of Education, Crenshaw County Board of
Education, et al., Defendants.

Civil Action Nos. 3:70cv845–MHT,
3:70cv848–MHT, 3:70cv849–MHT,
3:70cv850–MHT, 3:70cv851–MHT,
3:70cv853–MHT, 3:70cv854–MHT,
3:70cv855–MHT, 2:70cv3099–MHT,
2:70cv3102–MHT, 2:70cv3103–MHT,
2:66cv2455–MHT.

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April 28, 2009.

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OPINION ON STATE–WIDE FACILITIES ISSUE

MYRON H. THOMPSON, District Judge.

*1 On April 20, 2006, in these local school-desegregation cases, this court wrote that, “The parties have submitted to the court a proposed consent decree on the state-wide facilities issue that is ‘fair, adequate, and reasonable,’ ... is not illegal or against public policy, ... and thus meets the requirement of Rule 23 of the Federal Rules of Civil Procedure.” *Lee v. Lee County Bd. of Educ.*, 2006 WL 1041994 *1 (M.D.Ala.2006) (citation omitted). The court therefore approved the consent decree. *Id.*

The 2006 consent decree contained the following provision regarding termination:

“33. The Court shall continue to retain jurisdiction of this matter to ensure full compliance with the terms and conditions of this decree until the date that is twenty-four (24) months after either (1) the beginning of implementation of the training by the State Department of Education or (2) the beginning of implementation of the collection, review and approval process by the State Department of Education, whichever shall last occur. This date shall be referred to as the ‘projected termination date.’ The State Department of Education shall file a certification with the Court confirming the latter implementation date and thus establishing the projected termination date. On the projected termination date, this action shall

be placed on the Court's administrative active docket. At any time prior to that date, any party may move the Court to reinstate the action to the active docket for resolution of any relevant issues and for the entry of appropriate relief. If no such motion is filed prior to the projected termination date, the statewide facilities issues portion of this action shall be automatically dismissed with prejudice, in its entirety, as of that date, and this decree shall be forever terminated."

Id. at *9.

On April 13, 2009, all parties filed a joint notice of compliance stating that they "submit that the Decree has been complied with in full and that they are in agreement that the statewide facilities issue is due to be dismissed with prejudice." Based on the representations made by the parties in the notice as well as the representations made during an on-the-record conference on April 27, 2009 (including that a fairness hearing is not warranted because one was held prior to the approval of the consent decree), the court agrees that there has been full compliance with the consent decree and that the state-wide facilities issue should be dismissed.

An appropriate judgment will be issued.

JUDGMENT ON STATE-WIDE FACILITIES ISSUE

In accordance with the opinion entered this date, it is the ORDER, JUDGMENT, and DECREE of the court as follows:

- (1) The court DECLARES that there has been full compliance with the facilities consent decree entered on April 20, 2006.
- (2) All outstanding orders and injunctions as they pertain to the state-wide facilities issue are dissolved.
- (3) The state-wide facilities issue is dismissed with prejudice.

*2 The clerk of the court is DIRECTED to enter this document on the civil docket as a final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

All Citations

Not Reported in F.Supp.2d, 2009 WL 1231497