

WEST PALM BEACH
CIVIL DOCKET
UNITED STATES DISTRICT COURT

NON-JURY
 Jury demand date:

70 1069 -Civ-CF

U. S. Form No. 100A Nov.

TITLE OF CASE

UNITED STATES OF AMERICA,

vs

HENDRY COUNTY SCHOOL DISTRICT
 and CLARENCE J. CHAPMAN, Super-
 Intendent of Schools, Hendry County
 School District, Florida; SAINT
 LUCIE COUNTY SCHOOL DISTRICT, and
 J. WALTER HEDG, Superintendent of
 Schools, Saint Lucie County School
 District, Florida,

vs

JANET POWELL DIXON, et al., and HADLEY CIVIC
 IMPROVEMENT ASSOCIATION. (shall be limited in
 scope to issues existing in original action.)

Intervening Pliffs.

Civil Rights Act: suit to enjoin defts. from
 operating a dual system of schools based on
 race.

ATTORNEYS

For plaintiff:

CLEMENS HAGGLUND
 Asst. U.S. Atty.
 Miami, Florida

JOHN N. MITCHELL, Atty. Gen.
 JERRIS LEONARD, Asst. Atty. Gen.
 BRIAN K. LANDSBERG, Dept. Justice
 MARTIN D. BUCKLEY, Dept. Justice

WILLIAM S. FINGER
 Florida Rural Legal Services, Inc.
 100 S. W. Ave. N.
 Belle Glade, Fla.

Mr. (Atty. Intervening Pliffs.)

Finger replaced 6/29/74 by

WILLIAM H. ARBUZZI, same address.

For defendant:

JAMES E. GARNER
 Post Office Drawer 1407
 Fort Myers, Florida 33902

W. George Allen
 116 S.E. 6th Court
 Fort Lauderdale, Florida 33301
 222-0001
 Intervening Pliffs.

OWEN L. LUCKEY, JR., ESQ.
 P.O. Box 805
 Labelle, Florida 33935
 Atty for Defts.

5/7/74-\$250.00 deposited in the Registry
 by W. George Allen for Appeal
 Bond.

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DEB.
J.S. 5 mailed	Clerk	Jul 17 1970	Govt.		
J.S. 6 mailed	Marshal	5/3 1974	Allen	5.00	
Basis of Action:	Pocket fee	4/2/77	12345 (extra)		5.00
	Witness fees				
Action arose at:	Depositions				

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1970	PROCEEDINGS	JS-5 X Cards	Date Order or Judgment Noted
July 9	Complaint.		
9	Summons Issued, copies to file.		
9	Application for Order Pendente Lite.		
9	ORDER Pendente Lite: U.S. & Defts. to report to Court on or before 7/17/70 as to collaboration to reach an agreement, etc. (7/9/70-CA)		
16	Writ (Order Pendente Lite) ret. executed on 7/11/70 as to Clarence J. Chapman, Supt.		
16A	Summons returned executed as to Clarence J. Chapman on 7/11/70.		
17	Report of the United States (pursuant to the Order pendente lite).		
17	Report of Conference between Officials of the U.S. Office of Education and Clarence J. Chapman, Superintendent of Schools, Hendry County School District.		
17	ORDER of Severance: Court takes notice that Hendry County School Dist. and Saint Lucie County School Dist. are in separate trial divisions of this Court. Proceedings relating to Hendry County School District are hereby severed and transferred to Chief Judge C.B. Fulton and Clerk of this Court is directed to prepare & maintain duplicate files with separate case numbers as to each School District Deft. (7/14/70-CA & CF).		
21	Desegregation Plan for the Hendry County School District, filed by Govt.		1
24	Proposed Plan of Defendants for Operating a Unitary School System within the Hendry County School District.		2
24	Order regarding preliminary measures to be taken by Hendry County Schools. (See Order for Details) (CF-7/14/70)		3
Aug. 5	Order: that this cause be set for trial 8/12/70 at 10:00 AM. (CF-8/5/70)		4
11	Letter from Charles Miner to C.B. Fulton re copy of memo.		5
11	Statistical and Other Data Relative to the Operation of the Public School System in Hendry County, Florida, by Defn.		6
12	Non-Jury trial before Court commences and concludes. CBF		7
28	Transcript of Proceedings of 8/12/70.		8
Sept. 2	Memo Opinion serving as Finding of Facts and Conclusions of Law, and naming members of bi-racial committee. (8/29/70-CBF)		9
21	Minutes of the Hendry County BiRacial Committee on 9/20/70.		10
Nov. 6	Letter from Hendry County School Board to Judge Fulton re information concerning desegregation.		11
1971			
June 29	Motion of Pltf for supplemental relief.		12
July 9	Order directing BiRacial Committee to submit a report. (7/8/71-CF)		13
16	ORDER: The County Superintendent is Ordered to Supply to Dept. of Justice all Material Now Available Re Unitary School System in Hendry County, including Material Supplied by BiRacial Com. (2) Department of Justice must file by July 30, 1971, Specific Objections to the School Plan now in force, with Specific Recommendations supported by memorandum. (3) A Hearing will be conducted in the East Courtroom in the U.S. Courthouse, Miami, August 5, 1971 at 1:30. (7/16/71-CF).		14
27	Hendry County BiRacial Committee Report with exhibits attached.		15
29	Ordered thereupon, the submissions which have been ordered need not be filed, and the hearing on August 5, 1971 is cancelled.		16
Aug. 6	Memo Opinion: Hendry Co. Board of Pub. Instruct. shall implement certain specified provisions beginning with the 71-72 school year - see Order. BiRacial Committee shall continue to meet; all previous orders of this Court shall continue in full force. Jurisdiction is retained. (CF-8/4/71) R104		17
17	Letter from Harlem Community Parents to Judge Fulton.		18

continued

USA V HENDRY COUNTY SCHOOL DISTRICT, ET AL.

70-1069-Civ-CF

U.S. 110A Rev. Civil Docket (Continuation)

DATE	PROCEEDINGS	Date Order or Judgment Entered
1971		
Sept. 3	Motion to Intervene and for Reconsideration of Final Order, Complaint attached, by Harlem Civic Improvement Association.	19
3	Memo in support of above motion.	20
17	Motion to Strike, by Defts.	21
17	Memo supporting motion to strike.	22
22	Order: a conference will be held 9/27/71 @ 3 PM at the Middle School in the Clewiston area between Court and counsel and certain administrative personnel, and the Biracial Committee. At this juncture, Court declines to strike the motion to Intervene and the complaint filed therewith. The so-called complaint will be considered as a statement of the position of those who seek to Intervene. Counsel shall submit to Court at Clewiston conference a memo setting forth their positions. No continuances will be permitted. (CBF-9/22/71)	23
28	Memo in response to Order of 9/22/71, by Defts.	24
28	Memo of USA re Order of 9/22/71.	25
28	Memo re jurisdiction and facts, and etc., by Intervening Pltfs.	26
Oct. 1	Report on responses, by Day Care Center.	27
1	Memo in response to direction to Court's instruction of 9/27/71, (Defts.)	28
1	Supplemental Memo of USA as requested by Court 9/27/71.	29
5	Supplemental Memo of Intervening Pltfs. per request of Court 9/27/71.	30
5	Supplemental Memo for Motion to Intervene by Intervening Pltfs.	31
1	Memo of Defts. in response to direction of Court on 9/27/71.	
1	Letter from Biracial committee following meeting called by Judge Fulton on 9/27/71.	32
Nov. 3	Memo, Opinion and Order: Motion to Strike filed by Defts. is denied. Motion to Intervene filed on behalf of Harlem Civic Improvement Assoc. and individually named applicants is granted but intervention shall be limited in scope to issues existing in original action and Memo, Opinion and Order of 8/2/71 is ratified and Hendry County Schools and C.J. Chapman shall continue to operate school system as per that order. All previous orders of this court except herein modified shall be in full force. (10/29/71-CF)HDC.	33
22	Appearance As Attorney of Record, for The Harlem Civic Improvement Association of Harlem Community, Hendry County, Fla., 11-19-71, W. George Allen.	34
1972		
FEB. 28	Statistical report for first semester of calendar year 1972, of C.J. Chapman, Supt of Schools in Hendry Co., in compliance with Court's order dated 9/4/71.	35
28	ORDER: Accepting statistical report from Supt of Schools. (CF-R-109-2/28/72).	36
Mar. 21	Letter to Judge Fulton from Harlem Academy Day Care Center dated 3-8-72, Re: believes Center is providing a real need.	37
June 1	Order: Bi-Racial Committee will submit a further report, that will cover the period of the second semester, after which the Court will enter a further appropriate order. (CF-6/1/72)	38
June 14	Motion for Further Relief. (Pltfs.)	39
14	Memo. In Support of Pltfs. Motion for Further Relief.	40
July 7	Memo. In Support of Motion to Strike. (Defts.)	41
7	Motion to Strike. (Defts.)	42
7	Notice of Taking Deposition of Janet Powell Dixon and Orvell Lewis.	43
Sept. 23	Approval of said bids & construction in excess of \$500.00. (Intervening Pltfs.)	44

DATE	PROCEEDINGS	Date Order or Judgment Made
July 20	Motion in Opposition to Motion to Strike. (Plff. Janet P. Dixon)	44
Aug. 9	Awarded Notice of Taking Depositions of Janet Lowell Dixon, Orvell Lewis. (All 18-19-20)	45
Aug. 14	Order: Counsel shall appear before the Court at 9:00 AM on Wed. 8/23/72. (CF-8/14/72)	46
21	Report from Bi-racial Committee on second semester.	47
24	Order: for a conference with counsel and for hearing upon pending motions. (See Order (CF-8/14/72))	48
14	Order: the report of the bi-racial committee is approved. (CF- 8/14/72)	49
Sept. 1	Motion and Report for Approval on Proposed Expenditures for Improvement in excess of Five Hundred (\$500.00) dollars. (Demand Public Instruction of Henry Co.)	50
Sept. 14	Notice of Appearance of William B. Flyer, Intervening Plffs	51
Sept. 15	Transcript conference dated 8-24-72.	52
Sept. 15	ORDERED: Motion & report for approval of proposed expenditures for improvements in excess of \$500 hereby accepted the report and approved the proposed expenditures for improvements. (9-15-72-CF)	53
Sept. 20	Approval of Intervening Plffs.	54
Sept. 22	Ltr. to Judge Fulton dated 9-14-72 from C.J. Chapman, Supt. re: Student Enrollment.	55
Sept. 22	Ltr. to Judge Fulton dated 9-14-72 from A.A. Hanson, re: Report Scholarship Program.	56
Sept. 22	ORDERED: School Board shall supplement report showing present capacity of Clewiston Elementary School, project expected enrollment for current school year. In addition, shall supplement its report of the school busing program in Henry County. (9-22-72-CF)	57
Sept. 26	Ltr. to Judge Fulton dated 8-29-72 from James F. Garner re: report of attendance picture, at Clewiston Elementary School.	58
Sept. 27	Ltr. to Judge Fulton dated 9-19-72 from Andrew J. Burdick re: approval of expenditures for constructing roof.	59
Sept. 28	Issues. (Intervening Plffs.)	60
Sept. 28	Response to later filing plffs filing of Issues & renewal of Motion to Strike. (Def'ta. Board of Public Instructions of Henry County & Clarence J. Chapman, Supt. of Schools, Henry County, Fla.)	61
Oct. 3	Letter to Judge Fulton from Superintendent of Schools in compliance with Order of 9/22/72.	62
Dec. 13	ORDER: The order which this Court entered which converted Harlem Academy to school uses other than elementary school classes was in response to joint action and request of the School Board and the government. That order was entered by this Court with some slight reluctance. The Court has since been persuaded that the entry of that order was entirely proper and that its implementation has promoted the total integration of the Clewiston area of the Henry County Schools. It appears that the intervenors can and will represent not only the Harlem Tenant Assn. and the Harlem Civic Improvement Assn. but all others in the Black community who have any active interest in the 3 issues that have been posed by the intervenors for special consideration. The intervenors admit that they are not architects or school planners and that they simply request that a study be made in order to determine whether Harlem Academy is now being utilized for its best use.	

CONTINUED.

USA vs. Henry County School District, et al

70-1069-C14-CF

D.C. 110A Rev. Civil Docket Continuation

DATE 1972	MEMORANDUM	Date Order or Judgment Made
Dec. 13	ORDER: (continued from previous page) As soon after the convening of the new semester as is practicable, a further hearing will be conducted upon the 3 separate issues submitted. Immediately upon receipt of the School Board report, counsel for the government and intervenors shall prepare and submit memoranda dealing with the 3 issues. The School Board shall have 10 days thereafter to submit and serve copies of a reply memorandum. Immediately thereafter, the Court will serve notice for a hearing date, unless all differences can be negotiated and settled between the parties. (12/13/72-CDF).	63
1973 Feb. 7.	Letter of report from Superintendent of Schools, George H. Steele, to Hon. Charles B. Fulton dated 1/24/73 Re: School Board Report.	64
Mar. 5 20	Response of the United States pursuant to the Order dated 12/13/72. Letter with attachments dated 2/1/73 to Hon C.B.F. from Bi-Racial Committee Re: Information is being supplied as directed by the Court Order 12/13/73 from the Bi-Racial Committee at the close of the first semester from Schools Wide in Henry County.	65 66
Apr. 24	ORDER: That hearing will be conducted upon Pltf-Intervenor's Motion for further relief the defts. motion to strike on 4/3/73 at 1:30 P.M. at the U.S. Ct. House, Miami. (4/24/73-CF).	67
Apr. 30	Response of Intervening Pltfs.	68
May. 3	Letter to Charles B. Fulton from Superintendent of Schools, Re: Amendment to the report on suspensions that was supplied to the Court in the 1/23/73 report.	69
3	Letter to Charles B. Fulton from Raymond H. Burgess, County Extension Director, dated 5/2/73, Re: Henry County Bi-Racial Committee.	70
29	Memo of Defts. on the 3 issues raised on the hearing of 5/3/73.	71
29	Memo of the US, submitted as directed at the hearing held 5/3/73.	72
31	Memo of Pltfs, Harlem Civic Improvement Association, (Intervening Pltfs).	73
Jun. 26	Motion and Report for Approval for Proposed Expenditure for Improvements in Excess of \$500.00 (Def't).	74
July 8	Response of the United States.	75
11	ORDER: Def't's Motion for Approval for Proposed Expenditure for Improvements in Excess of \$500.00 is GRANTED and leave is given to Def'ts. to arrange for construction of the two portable classrooms as requested. (7/11/73-CF).	76
16	Response of the Intervening Pltfs.	77
Sept. 19	ORDER: That Def't's Motion to Strike is DENIED; that the Intervening Pltfs' Motion for further relief is DENIED; that the School Board shall file within 60 days after the beginning of the current and following semesters separate and detailed statements in accordance with this Order; jurisdiction of this cause is retained for the purpose of hereafter entering such Orders as may be indicated. (9/17/73-CF).	78

(CONTINUED)

DATE	PROCEEDINGS	Date Order or Judgment Made
1973		
Oct. 26	Motion and Report for Approval for Proposed Expenditure for Improvements In Excess of \$500,00 (Def'ts).	79
26	Memo of Law in support of above mentioned Motion (Def'ts).	80
Nov. 2	Letter to Judge Milton from George H. Steele, Superintendent of Schools, Hendry County, concerning enrollment statistics.	81
2	Opposition to Def'ts' Motion and Report for Approval for Proposed Expenditure for Improvements In Excess of \$500,00 (Intervening Pltfs).	82
29	ORDER. That a hearing upon Def'ts' Motion for approval of the proposed construction of a new elementary school shall be conducted on 2/7/74. 12:00 p.m. at West Palm Beach, Florida. Counsel for the parties shall file full and complete memoranda of law and facts on or before 1/18/74 setting forth in detail the studies, surveys and reports indicating the necessity for a new elementary school in the Hendry County school system and counsel's arguments in support or opposition thereto, and including a complete discussion of the law applicable to the construction of new educational facilities in desegregation cases and the factors to be considered by the Court. (11/29/73-CF).	83
1974		
Jan. 18	Memo submitted as directed by the Order of the Court of 11/29/73 (Def'ts).	84
21	Memo submitted as directed by the order of this Court of 11/29/73 (Pltfs).	85
31	Memo submitted as directed by the Order of this Court of 11/29/73 (Pltfs-Intervener).	86
March 2	ORDER: That the proposed construction of a new elementary school in Westview upon the proposed site adjacent to the Clewiston Middle School is hereby approved, and the location of the school is hereby GRANTED. Upon completion of the new school the school board shall continue to provide free transportation to students living within a two mile radius of the elementary school facility. (1/31/74-CF).	
May 3	Notice of Appeal from order entered March 5, 1974. (Intervening Pltfs.) (Copies sent G. Gordon Harrison, S.J. Flanagan, Wm.S. Finger, ISCA, Court Reporter).	88
3	Cash Cost on Appeal Bond in amt. of \$250.00. (Appellants' Attorney).	89
3	Motion for stay of March 5, 1974 order pending appeal. (Int. Pltfs.).	90
3	Memo in support of above motion. (Intervening-Plaintiffs).	91
3	Designation of portions of transcript to be included in appellate record.	92
3	Designation to Reporter. (Intervening-Plaintiffs).	93
16	Memo. of law in opposition to Intervening pltfs' motion for stay. (Def'ts.)	94
16	Motion to dismiss appeal. (Appellees)	95
16	Memo. of law in support of above motion. (Appellees)	96
17	Memo. of law in opposition to motion to dismiss. (Intervening pltfs.)	97
May 31	ORDER. The Motion of the School Board to Dismiss the appeal is DENIED. (5/31/74-CF) (Motion for Stay pending appeal is denied).	
June 12	Transcript of Trial proceedings on 2/1/74. (Pages 1-177)	98
12	Record on Appeal transmitted to U.S. Court of Appeals (8 volumes) with exhibits.	99
26	Notice of Appearance of William H. Abbuhl in place of William S. Finger for Intervening Plt's.	100
July 1	ORDER OF TRANSFER to the West Palm Beach Jury Division. The Clerk shall transfer all papers relating to case to Clerk's Office at WBP. Commencing with the 15th day of July, 1974, all pleadings pertaining thereto shall be directed to and filed in the WPB Jury Division. The letters "WPB" should be prefixed to the assigned case number on each paper hereinafter filed. (7/1/74-CF).	101

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U.S.A.

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vs.

HENDRY COUNTY SCHOOL DISTRICT, et al,

D. C. 1984 Rev. Civil Jacket Continuation

DATE	PROCEEDINGS	Date Order or Judgment Noted
1974		
Nov. 18	OPINION U.S.C.A.: The decision of the U. S. District Court is hereby affirmed. (11-11-74-EWM) Issued as and for the Mandate. Exhibits returned. Record on appeal to be returned shortly. R135	102
20	Original record on appeal (4 vol.) ret'd to U. S. District Ct.	---
Dec. 12	ORDER TO SHOW CAUSE: A hearing shall be conducted on 1/6/75 @ 2:30 P.M. in W. P. D. to permit the parties to show cause why this action should not be dismissed. (12/10/74-CF)	103
12	ORDER ON MANDATE: The mandate of the U.S.C.A. is made the order of this Court. The Board of Public Instruction of Hendry County is authorized to construct a new elementary school in Clewiston upon a site adjacent to the Clewiston Middle School. (12/9/74-CF)	104
30	Notice not to contest dismissal of this cause. (Intervening Pltfa.)	105
1975		
Jan. 6	Notice of the appearance of Owen L. Luckey, Jr., Esq. as atty of record for the Defts.	106
8	Response to Court's Order to show cause. (USA)	107
2	Motion for leave to withdraw as counsel for Deft., Board of Public Instruction of Hendry County. (James F. Garner, Esq. & G. Gordon Harrison, Esq. of the firm of Paveas, Shields, Garner, Haverfield & Klutts.)	108
13	ORDER: That #1. The detailed regulatory injunction issued by this Court Aug. 9, 1971 is dissolved. #2. The deft. school dist. is permanently enjoined from operating a dual system of racially identifiable schools. In addition, operation of deft. school District shall be subject to the provisions as specified in this Order. #3. This cause is hereby dismissed, with jurisdiction being retained to hereafter enter such Orders as may be necessary to enforce the provision of this Order. (1/13/75-CF)	109
17	ORDER: Motion to withdraw as counsel for deft Board of Public Inst. of Hendry County by James F. Garner & G. Gordon Harrison is granted. (1/17/75-CF)	110
1978		
March 7	Notice - Clerk to counsel re appeal bond monies in registry.	111
June 22	Exhibit Disposition Record - Exhibits destroyed 5/30/78.	112
Aug. 8	Petition for Return of Cash Bond in the sum of \$250.00. (Intervening Pltfa.)	113
1978		
Dec. 21	ORDER: Cash supersedeas bond posted on 5/7/74 is DISCHARGED and clerk of court directed to return said funds to W. George Allen. (12/20/78 CBF). MR179	114