

489 F.2d 966
United States Court of Appeals, Fourth Circuit.

James E. SWANN et al., Appellees,
v.
CHARLOTTE-MECKLENBURG BOARD OF
EDUCATION et al., Appellant.

No. 73-2048. | Argued Jan. 8, 1974. | Decided Jan.
15, 1974.

School desegregation case. The United States District Court for the Western District of North Carolina, at Charlotte, James B. McMillan, J., 362 F.Supp. 1223, entered order directing that school board modify plan for operation of schools for 1973-74 school year and directing that by March 1, 1974, the school board submit a plan for operation of schools for the 1974-1975 school year, and the school board appealed, but disclaimed any wish to change assignment plan during remainder of 1973-74 school year. The Court of Appeals held that appeal as to the 1974-75 school year was premature where the board had not yet developed and presented final plan for that year.

Appeal dismissed.

Attorneys and Law Firms

*967 William W. Sturges, Charlotte, N.C. (Weinstein, Sturges, Odom, Bigger & Jonas, William J. Waggoner, Waggoner, Hasty & Kratt, Charlotte, N.C., on brief), for appellants.

Julius L. Chambers, Charlotte, N.C. (Chambers, Stein, Ferguson & Lanning, Charlotte, N.C., Jack Greenberg, James M. Nabrit, III, and Norman Chachkin, New York City, on brief), for appellees.

Before HAYNSWORTH, Chief Judge, and WINTER, BUTZNER, RUSSELL, FIELD and WIDENER, Circuit Judges, sitting en banc.

Opinion

PER CURIAM:

In this latest chapter in this now famous school case, the

School Board appeals from an order entered on June 19, 1973, directing that it modify its plan for the operation of its schools for the 1973-74 school year, and directing that by March 1, 1974 the School Board submit a plan for the operation of the schools for the 1974-75 school year.

The appeal was processed routinely, the briefs having been filed in November and December 1973. The School Board, meanwhile, took appropriate steps to put itself into compliance with the requirements of the District Court's order with respect to the school year 1973-74. On oral argument in this Court, counsel for the School Board disclaims any purpose or wish on the part of the School Board to change the assignment plan in any respect during the current school year. It thus appears that the only matter in practical dispute between the parties is the plan for the school year 1974-75, which has not yet been produced by the School Board.

[1] [2] We cannot anticipate the content of the School Board's plan for the school year 1974-75, and this Court does not sit to render decisions on abstract legal propositions or advisory opinions. All requisite and appropriate judicial review may be had after the School Board has developed and presented its final plan for the 1974-75 school year, which is due to be presented by March 1.

If either party should desire review in this Court of any order which may be entered by the District Court with respect to the School Board's plan for the 1974-75 school year, an expedited appeal should be had and brief filing schedules should be established with the aid of the Clerk of this Court without the necessity of any letter press printing. For its part, this Court will undertake to hear and decide the appeal promptly, so that all legal issues may be resolved at this level in ample time for the opening of the schools for the 1974-75 years.

Since it appears that the Board's compliance with the District Court's order for the current school year has mooted any issue with respect to this year and since the appeal with respect to the plan for the school year 1974-75 is premature, we conclude the appeal must be dismissed. In taking this action, we intimate no view on the merits of any of the legal propositions tendered for decision.

Appeal dismissed.