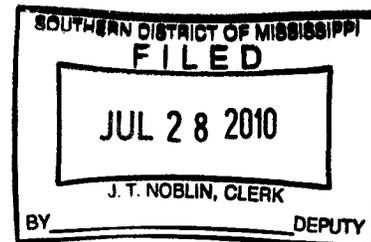


THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION



UNITED STATES OF AMERICA

PLAINTIFF

v.

CIVIL ACTION NO. 3983(J)

AMITE COUNTY SCHOOL DISTRICT

DEFENDANT

MOTION TO MODIFY DESEGREGATION PLAN

Expedited Hearing Requested

Defendant Amite County School District (the "District"), by its counsel, moves the Court to modify the District's existing desegregation plan by closing Gloster Elementary School, which serves students in grades K-8 who reside in the Gloster Elementary attendance zone, and beginning with school year 2010-11 reassigning Gloster students in grades K-6 to attend Liberty Elementary School and Gloster students in grades 7 and 8 to attend Amite County High School. This modification will result in all students in grades K-6 in the District attending Liberty Elementary School and all students in grades 7-12 in the District attending Amite County High School, thereby improving desegregation in the District.

The District presents the following reasons in support of its motion:

1. The District operates under a 1969 desegregation plan ordered by the Fifth Circuit Court of Appeals dated November 7, 1969 ("Order"). The Order enjoins the District from operating a dual school system based on race or color and requiring the District to operate a unitary school system within which no person is effectively excluded from any school because of race or color. The Fifth Circuit ordered the immediate

implementation of a desegregation plan (the "Plan") prepared by the United States Department of Health, Education, and Welfare. The Order allowed modifications to the Plan after consideration by United States District Court Judge Dan M. Russell, Jr., subject to further order by the Fifth Circuit Court of Appeals.

2. At present, the District operates four schools: (a) Gloster Elementary School serving K-8 students who reside in its attendance zone, (b) Liberty Elementary School serving K-8 students who reside in its attendance zone, (c) Amite County High School serving all students in grades 9-12 in the District, and (d) the Vocational Center serving all students in the District. A total of 1,206 students were enrolled in the District for school year 2009-10, of which 1,001 (83%) were black and 205 (17%) were non-black.

3. The Board of Education of the District decided to consolidate students at a single elementary school for grades K-6 and a single high school for grades 7-12. In the judgment of the Board, its decision was required because of continuing decreases in state funding for public schools and to address a recommendation by the Mississippi Department of Education to reduce the District's budget for school year 2010-2011 by 15%-17%, an estimated \$725,000. The Board's decision was not made because of any racial reasons.

4. Closure of Gloster Elementary and reassignment of its students to attend Liberty Elementary and Amite County High School will result in cost savings to the District. The District estimates that the closure and consolidation will save approximately \$600,000.00 per school year. These savings result from a decrease in the District's future operational expenses and capital expenses, personnel costs by a small

reduction in force of elementary teaching and non-certified staff, and reduced transportation costs from eliminating a single bus route. The reduction in faculty force results from elimination of four positions caused by a white teacher retirement, a white teacher resignation, termination of a black teacher, and the death of a black coach. To facilitate the consolidation, the District non-renewed one white assistant principal and one white counselor for school year 2010-11.

5. For school year 2009-10, Gloster Elementary had enrollment of 330 (K-8) students, 85.6% of whom were black, 13.7% white, and 0.7% other. For the same school year, Liberty Elementary had enrollment of 540 (K-8) students, 78.4% of whom were black, 20.1% white, and 1.5% other. The District selected Gloster Elementary for closure because its enrollment is smaller than Liberty's and Gloster's enrollment has been declining over the years. In addition, Gloster is an older facility than Liberty and in need of costly repairs to correct leaks and foundation problems. Liberty Elementary currently has unused classroom space that will allow the school to absorb Gloster students without additions to the building.

6. The students in grades K-6 who attend Gloster will be moved to Liberty Elementary School, which will be reconfigured to serve grades K-6. All students in the District who are in grades K-6 will attend Liberty Elementary School. The District plans to change the name of the school from Liberty Elementary to Amite County Elementary School, reflecting its service to all elementary school students in the District.

7. All students in grades 7-8 who currently attend either Gloster Elementary School or Liberty Elementary School will be reassigned to the high school campus, which will then serve all of the District's students in grades 7-12. Under the proposed

modification, all students in the District who are in grades 7-8 and 9-12 will attend Amite County High School.

8. The proposed modification will not hinder desegregation nor serve to perpetuate or re-establish the dual school system. In fact, the proposed modification will enhance desegregation because all of the District's students in grades K-6 will attend the same facility and all of the District's students in grades 7-12 will attend the same facility.

9. That the proposed modification results in improved desegregation is shown by the data in the following chart for students in grades K-6:

	2009-2010 black student enrollment	2009-2010 non-black student enrollment	2010-2011 black student enrollment (projected)	2010-2011 non- black student enrollment (projected)
Gloster Elementary	282 (85.6 %)	48 (14.4%)	Closed	Closed
Liberty Elementary (renamed Amite County Elementary)	423 (78.4%)	117 (21.6%)	490 (81%)	115 (19%)
Amite County High School	299 (89%)	37 (11%)	424 (86%)	69 (14%)

10. The proposed modification will not affect to any significant extent the racial composition of the faculty and staff in the District's schools:

	2009-2010 black faculty members	2009-2010 Non-black faculty members	2010-2011 black faculty members (projected)	2010-2011 non-black faculty members (projected)
Gloster Elementary	65.5%	34.5%	Closed	Closed
Liberty Elementary (renamed Amite County Elementary)	58%	42%	59%	41%
Amite County High School	66%	34%	70%	30%

11. The proposed modification will not have a negative or racially discriminatory effect on bus transportation in the District. Most affected bus routes will be shortened by the relocation of students to Amite County High School and Liberty Elementary School.

12. The District's decision to close Gloster Elementary School is not prohibited by law: "[S]chools may be closed for non-racial reasons." *Mims v. Duval County Sch. Bd.*, 447 F.2d 1330, 1331 (5th Cir. 1971). The District must close Gloster Elementary for economic reasons unrelated to race. The District must reduce expenditures in light of its budget deficit resulting from reduced funding, and consolidation of the District's school facilities is an effective method to do so without compromising the quality of education or desegregation efforts in the District. Additionally, the District has fulfilled its responsibility to "see to it that future school construction and abandonment are not used and do not serve to perpetuate or re-establish the dual system" by analyzing the impact of the closures on the racial composition of each school, as shown above. *Swann v. Charlotte Mecklenburg Bd. of Educ.*, 402 U.S. 1, 21 (1971).

13. It is important that the District inform parents and students of any changes to the attendance zones and school assignments as soon as possible in preparation for the commencement of the 2010-2011 school year, which is rapidly approaching. Thus, the District respectfully requests that this motion be heard expeditiously and be brought before the Court as soon as practicable.

WHEREFORE, PREMISES CONSIDERED, the Amite County School District respectfully requests that the Court hold an expedited hearing on this matter and enter an

Order allowing the District to modify its desegregation plan to permit the closure of Gloster Elementary School and reconfiguration of the District's schools to place all K-6 students at Liberty Elementary School, to be renamed Amite County Elementary School, and to place all 7-12 students at the Amite County High School Campus for the coming 2010-2011 school year.

Respectfully submitted this the 28th day of July, 2010.

**AMITE COUNTY
SCHOOL DISTRICT**

Holmes S. Adams
One of Its Attorneys

OF COUNSEL:

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CERTIFICATE OF SERVICE

I, Holmes S. Adams, do hereby certify that I have this date served a true and correct copy of this document by certified and regular U. S. mail, postage paid, to the following:

Ms. Amy Berman
U.S. Department of Justice
Civil Rights Division
Educational Opportunities Section
601 D Street, N.W., Suite 4300
Washington, D.C. 20004

This the 28th day of July, 2010.

Holmes S. Adams
Holmes S. Adams