

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
TEXAS EDUCATION AGENCY, *et al.*)
(MADISONVILLE CONSOLIDATED)
INDEPENDENT SCHOOL DISTRICT),)
)
Defendants.)

CIVIL ACTION NO. CA-H-70-832
Honorable Lynn Hughes

JOINT MOTION TO APPROVE AGREED ORDER FOR DISMISSAL

The parties come before the Court seeking approval of an Agreed Order for Dismissal entered into between Defendant Madisonville Consolidated Independent School District (“MCISD”) and Plaintiff United States, and would respectfully show the Court the following:

1. The United States initiated a case review of this desegregation lawsuit in December 2006, and requested and reviewed data from MCISD regarding its compliance with applicable federal law and the November 6, 1970 Consent Decree in this case.
2. As part of its review, the United States evaluated MCISD’s data, interviewed District personnel, conducted a site visit to District facilities, and considered relevant demographic and census information.
3. The parties agree that based on the factual record in this case and consistent with the standards set forth by the Supreme Court in *Missouri v. Jenkins*, 515 U.S. 70 (1995), *Freeman v. Pitts*, 503 U. S. 467 (1992), and *Board of Education of Oklahoma City Public*

Schools v. Dowell, 498 U.S. 237 (1991), MCISD has satisfactorily and in good faith complied with the remedial provisions of this Court's orders, as well as applicable federal law, and is entitled to a declaration of unitary status.

WHEREFORE, for the reasons stated above, the parties respectfully request that the Court approve the accompanying proposed Agreed Order for Dismissal.

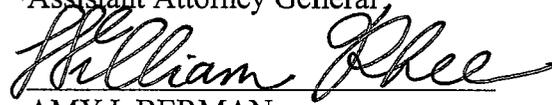
Respectfully submitted,

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Defendants.)

CIVIL ACTION NO. CA-H-70-832

Honorable Lynn Hughes

AGREED ORDER FOR DISMISSAL

The United States, pursuant to the Court’s December 14, 2006 Order, initiated a review of the Madisonville Consolidated Independent School District (“MCISD” or the “District”), which included an information request to the District, interviews with District personnel, and a site visit to District facilities. Based on a review of the information and data provided by MCISD, the United States advised the District that, in its view, MCISD has fulfilled its affirmative desegregation obligations under the Fourteenth Amendment and applicable federal law, entitling MCISD to a declaration of unitary status. As indicated by the signatures of counsel below, the parties respectfully request that the Court approve this Agreed Order for Dismissal, declaring that MCISD has achieved unitary status and dismissing this case against MCISD.

I. PROCEDURAL HISTORY

The United States initiated this school desegregation suit against the Texas Education Agency and MCISD on August 7, 1970 in the United States District Court for the Southern District of Texas.

On November 6, 1970, this Court approved a desegregation plan that, among other things, required MCISD to (1) assign faculty and staff who work directly with children so that the ratio of black to white teachers in each school is “substantially the same” as the ratio of black to white teachers in the entire school system, with no more than a 10% variance in each school; (2) operate a non-segregated and otherwise non-discriminatory student transportation system; (3) consider the effect that school construction, school consolidation, and site selection have on the desegregation process; (4) implement an inter-district student transfer policy where the cumulative effect of such transfers will not reduce desegregation; (5) conduct all curricular and extracurricular activities on a non-discriminatory basis; and (6) submit bi-annual reports to the Court. Consent Decree, Nov. 6, 1970 (“1970 Decree”).

On June 30, 1998, this Court found that MCISD had “substantially complied with the reporting requirements” of the 1970 Decree and vacated the reporting requirement.

Supplemental Decree, June 30, 1998, at 1-2.

In December 2006, pursuant to the Court’s December 14, 2006 Order, the United States initiated a review of the case to assess the status of MCISD’s desegregation efforts and requested information from the District regarding, among other things, student assignment, faculty/staff assignment and hiring, transportation policies, extracurricular activities, and facilities. The United States also interviewed District personnel and visited each of the District’s facilities.

II. STIPULATED FACTS

A. Student Assignment.

In the 2006-07 school year, MCISD operated four schools in which it enrolled a total of 2,252 students of whom 21% were black, 26% were Hispanic, 52% were white, and 1% were "other." The current enrollment of the District's schools is illustrated below:

**MCISD Student Enrollment
2006-07 School Year**

<i>Schools</i>	<i>Black</i>	<i>White</i>	<i>Hispanic</i>	<i>Other</i>	<i>Total</i>
Madisonville Elementary School (PK-2)	169 (25%)	301 (45%)	191 (29%)	5 (1%)	666
Madisonville Intermediate School (3-5)	107 (21%)	270 (53%)	128 (25%)	3 (1%)	508
Madisonville Junior High School (6-8)	95 (19%)	258 (53%)	131 (27%)	5 (1%)	489
Madisonville High School (9-12)	111 (19%)	339 (57%)	136 (23%)	3 (1%)	589
District-Wide	482 (21%)	1,168 (52%)	586 (26%)	16 (1%)	2,252

Source: District-supplied data (PIEMS) for 2006-07 school year.

MCISD has dismantled its former dual system; it currently has no racially identifiable schools. With only four campuses consisting of a single grade structure, there is no distinction made according to race when placing students, and the student assignment at each school reflects the district-wide average. Classroom assignments are made on a non-discriminatory basis.

B. Faculty and Staff Assignment.

In the 2006-07 school year, MCISD employed 161 teachers of whom 3% were black, 96% were white, and 1% were Hispanic. MCISD has complied with the 10% variance provision of the 1970 Decree and assigns faculty and staff such that no school is racially identifiable by virtue of its faculty assignments.

C. Transportation.

There is no evidence of discrimination in student transportation. MCISD provides transportation according to state guidelines and without regard to race.

D. Extracurricular Activities.

There is no evidence of discrimination in extracurricular activities.

E. Facilities.

As MCISD operates a single-grade structure system, there is no evidence of discrimination in school construction, school consolidation, or site selection.

In sum, there is no evidence that vestiges of segregation remain in any facet of the MCISD's operations.

III. LEGAL ANALYSIS

It has long been recognized that the goal of a school desegregation case is to convert promptly a *de jure* segregated school system to a system without "white" schools or "black" schools, but just schools. *Green v. County Sch. Bd. of New Kent County, Va.*, 391 U.S. 430, 442 (1968). The standard established by the Supreme Court for determining whether a school district has achieved unitary status, thus warranting termination of judicial supervision, is: (1) whether the school district has fully and satisfactorily complied with the court's desegregation orders for a reasonable period of time; (2) whether the school district has eliminated the vestiges of past *de jure* discrimination to the extent practicable; and (3) whether the school district has demonstrated a good faith commitment to the whole of the court's order and to those provisions of the law and the Constitution which were the predicate for judicial intervention in the first instance. *See Missouri v. Jenkins*, 515 U.S. 70, 87-89 (1995); *Freeman v. Pitts*, 503 U.S. 467, 491-92, 498

(1992); *Bd. of Educ. of Okla. City Pub. Sch. v. Dowell*, 498 U.S. 237, 248-50 (1991).

The Supreme Court has identified six areas, commonly known as the “*Green* factors,” which must be addressed as part of the determination of whether a school district has fulfilled its duties and eliminated vestiges of the prior dual school system to the extent practicable:

(1) student assignment; (2) faculty; (3) staff; (4) transportation; (5) extracurricular activities; and (6) facilities. *Green*, 391 U.S. at 435. *See Dowell*, 498 U.S. at 250; *Jenkins*, 122 F.3d at 591, n.3. The *Green* factors, however, were not intended to be a “rigid framework.” The Supreme Court has approved consideration of other indicia, such as “quality of education,” as important factors in determining whether a district has fulfilled its desegregation obligations. *See Freeman*, 503 U.S. at 492-93.

Based on the information and data provided by MCISD and on all the surrounding facts, the District has complied with the Court’s desegregation orders for a reasonable period of time and has eliminated the vestiges of past *de jure* discrimination to the extent practicable. *Freeman*, 503 U.S. at 491-92, 498; *Dowell*, 498 U.S. at 250; *Jenkins*, 515 U.S. at 87-89. Furthermore, the compliance by MCISD demonstrates a good faith commitment to the whole of this Court’s orders and to those provisions of the law and the Constitution that were predicate for judicial intervention in the first instance. *Freeman*, 503 U.S. at 491. The Court concludes, therefore, that MCISD has met the legal standards for a declaration of unitary status, and that it is entitled to dismissal of this action.

Accordingly, it is hereby ORDERED that MCISD is hereby declared UNITARY, all prior injunctions in this case are DISSOLVED, jurisdiction is TERMINATED, and this case is DISMISSED WITH PREJUDICE against the MCISD. The case remains in place as to all other defendants.

ENTERED THIS _____ DAY OF _____, 2007.

United States District Judge

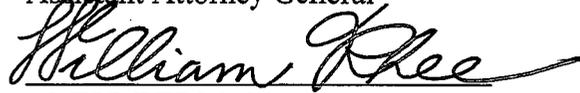
The following signatures of the parties indicate their consent to the form and content of this order.

FOR THE UNITED STATES:

DONALD J. DEGABRIELLE, JR.
United States Attorney

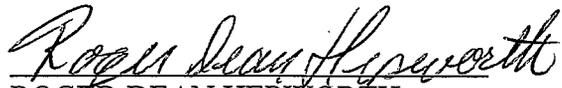
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