

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

SEP 11 2006

DAVID J. MALAND, CLERK
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UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
V.)
)
TEXAS EDUCATION AGENCY, ET AL.,)
)
Defendant.)
_____)

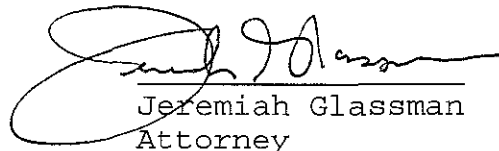
Civil Action No. 6822
(San Augustine Independent
School District)

1:70CW6822

MOTION TO APPROVE AGREED ORDER OF DISMISSAL

For the reasons set forth in the attached proposed AGREED ORDER OF DISMISSAL, which has been signed by a counsel for the United States and a representative of the defendant school district, and which outlines the history of the case, contains stipulated facts, and provides legal analysis, it is requested that the Court approve and enter the proposed order.

Respectfully submitted,



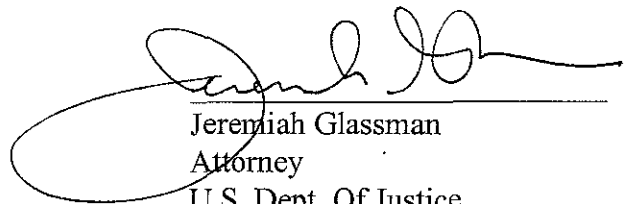
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CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the forgoing "Motion to Approve Agreed Order of Dismissal" to be placed in the United States mail, postage prepaid, addressed as follows:

Interim Superintendent Harold Haigle
200 High School Drive
San Augustine ISD
San Augustine, TX 75972

Done this 5 day of September, 2006.



Jeremiah Glassman
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

UNITED STATES OF AMERICA)
Plaintiff,)

v.)

Civil Action No. 6822

TEXAS EDUCATION AGENCY)
(SAN AUGUSTINE ISD))
_____)

AGREED ORDER OF DISMISSAL

In 2006, United States initiated reviews of the San Augustine ISD ("District"). Based on the information provided by the District and other data, the United States advised the District that, in its view, the District has fulfilled its affirmative desegregation obligations under the Fourteenth Amendment and applicable federal law, entitling the District to a declaration of unitary status and termination of the litigation. As indicated by the signatures below, the parties respectfully request that the Court approve this Agreed Order of Dismissal, declaring that the District has achieved unitary status and terminate jurisdiction over this case.

I. PROCEDURAL HISTORY

This desegregation lawsuit was filed on August 7, 1970, by the United States in the United States District Court for the Eastern District of Texas, Tyler Division and on proper motion the case was severed and the venue changed to the Beaumont Division. On August 27 and August 28, 1970, a hearing was held on an order which required defendant San Augustine Independent School District and its Superintendent to collaborate with the Texas Education Agency and the Office of Education of the United States Department of Health, Education and

Welfare to develop a plan of desegregation for the 1970-71 school year. On August 31, 1970 the Court ordered the defendants to immediately implement the collaborative plan of desegregation as amended. The plan required that all students in grades 1-4 be assigned to the San Augustine Elementary School complex; students in grades 5 through 8 as well as special education students and kindergarten students be assigned to Lincoln School complex; and all students in grades 9 through 12 be assigned to the San Augustine High School complex. Faculty and staff were also desegregated. Order, August 31, 1970.

II. **STIPULATED FACTS**

A. Student Assignment

Prior to the implementation of the desegregation plan, San Augustine operated four schools: Lincoln Elementary School served grades 1-6 and enrolled 367 students, all of whom were African-American; San Augustine Elementary School served grades 1-6 and enrolled 422 white students and 28 African-American students; Lincoln High School served grades 7-12 and enrolled 335 student all of who were African-American; and, San Augustine High School served grades 7-12 and enrolled 350 white students and 38 African-American students. The faculty also was completely segregated by race.

Following the implementation of the desegregation plan, for the 1970-71 school year, students and faculty were desegregated. San Augustine Elementary School served grades 1-4 and enrolled 271 white students and 256 African-American students; the Lincoln School complex served grades 5-8 as well as special education and kindergarten and enrolled 287 white students and 278 African-American students; San Augustine High School served grades 9-12 and enrolled 239 white students and 239 African-American students.

Today, the district operates four schools: San Augustine Elementary School grades (EE, PK , K-4), San Augustine Intermediate School (grades 5-8), San Augustine High School (grades 9-12), and Accelerated Learning Center (grades 9-12). For the 2005-06 school year, the district enrolled 988 students of whom 535 (54%) were African-American, 108 (11%) Hispanic, and 340 (34%) white. These percentages were reflected in the elementary school (53% African-American, 13% Hispanic, 33% white), the intermediate school (56% African-American, 11% Hispanic, 31% white), and the high school (57% African-American, 7% Hispanic, 35% white). The Accelerated Learning Center, which serves as an alternative school for students with discipline issues and has other programs, enrolled only 23 students of whom 1 was African-American, 2 were Hispanic and 20 were white.

B. Faculty and Staff

Upon implementation of the desegregation plan for the 1970-71 school year, faculty and staff were desegregated. Each school served distinct and unduplicated grade levels and the faculty ratios at each reflected the districtwide faculty ratio for the grades served.

For the 2005-06 school year, the District employed approximately 123 staff of whom 30% were African-American. Twenty percent (20%) of the teachers employed were African-American.

C. Extra-Curricular Activities.

There is no evidence of discrimination in extra-curricular activities.

D. Facilities and Transportation.

There is no evidence of discrimination in these school system 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*, 391 U.S. at 442. 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); *Board of Educ. of Oklahoma 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. But the *Green* factors are 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 the District has fulfilled its desegregation obligations. *Freeman*, 503 U.S. at 492-93.

Based on the information and data provided by the District, 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. The Court concludes, therefore, that the San Augustine ISD 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 all prior injunctions in this case are DISSOLVED, jurisdiction is TERMINATED, and this case is DISMISSED WITH PREJUDICE.

ENTERED THIS _____ DAY OF _____, 2006.

UNITED STATES DISTRICT JUDGE

APPROVED:

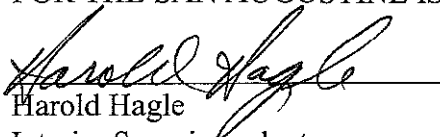
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