

John Dear  
Assistant Attorney General  
Civil Rights Division

July 20, 1967

DJ. 169-55-15

Maceo Hubbard, Chief  
Eastern Section

#32-007-4

Singleton v. Anson County School Board

We are ready to intervene in the above-titled private suit pursuant to Title IX of the Civil Rights Act of 1964.

The complaint in intervention prays:

1. That defendant be required to assign all students to schools according to a system of geographic zoning or according to some other nondiscriminatory means not dependent on choice.

2. That defendant provide for the desegregation of faculties and staff.

3. That defendant be required to take all necessary steps to equalize the discrepancies in the facilities formerly available only to the Negroes.

General Background

Anson County is in Southern North Carolina, 30 to 40 miles southeast of Charlotte. The population is evenly divided between whites and Negroes, but student registration is about 60% Negro and 40% white. There have been many racial incidents in the recent past involving bombings, terrorizing and threatening of Negroes who, in the exercise of freedom of choice, have chosen to send their children to white schools.

The Anson County Board of Education was created from the legislative merger of separate school districts in Morven City, Wadesboro City and Anson

cc: Records  
Gallagher  
Cannon  
Chron.  
Trial File  
Schwelb

Hubbard

County on July 1, 1957. These three units had had a tradition of formal and informal cooperation. For example, the three districts had a joint freedom of choice program in 1956-57. Informal discussions were frequently had between the school superintendents on common problems. While it is not known what specific reasons motivated the unification, it seems probable that the motive was nonracial.

Statistics 1956-57

Student Enrollment

	Enrolled School Age Population		Elem. W Schools (1-8)		Elem. N Schools		Sec. W Schools		Sec. N Schools		
	Total	W	W	N	W	N	W	N	W	N	
Anson County	3824	1384	2050	908	22	0	1394	476	33	0	611
Morven	942	237	705	145	0	0	466	72	14	0	228
Wadesboro	2255	1159	1096	824	57	0	681	545	54	0	304
Trville	6621	2700	3381	1897	79	0	2541	1694	101	0	1140
Percentages		41%	59%	90%	4%	0	100%	89.4%	10.4%	0	100%

The figures above show that there were 3,861 Negro students and 2,705 white students enrolled in the county schools. This represents a 90% Negro proportion. However, in formerly white elementary schools only 4% of the pupils were Negro. County-wide the white high schools maintained nearly a 90% white student body. Similarly the Negro elementary and secondary schools continued to be 100% Negro.

### Faculty Desegregation

During 1966-67, there was no significant faculty desegregation in any of the three systems in Anson County. No white classroom teacher was teaching in any Negro school. One Negro teacher was employed in Anson High School in the Anson system and Wadesboro High School in the Wadesboro system, and a Negro Librarian was assigned to predominantly white Morven High School in the Morven system. There were a few part-time staff members (e.g. nurses, speech therapists) spending a few hours a week at schools of both races in Wadesboro and, to a lesser extent, in Anson County. Of more than 250 classroom teachers, only two were desegregated, and the Negro schools were fully racially identifiable by the composition of their faculty.

In negotiations in the spring of 1967, the prospective defendants advised that they would try to secure substantial faculty desegregation for 1967-68 but could not assign teachers involuntarily "like cattle." How much faculty desegregation has actually been accomplished for 1967-68 is unknown.

### School Locations

In general, the schools in Anson County are so located that almost every Negro school is within a short distance of a predominantly white school offering the same grades. In Coppage v. Franklin County Board of Education, our expert witness testified that such a system has no educational advantages, serious disadvantages, and is explicable only in racial terms. The Court reached the same conclusion in Lee v. Mason County Board of Education, 267 F. Supp. 458, 472 (D.C. Ala. 1967).

### Disparities

	Student-Teacher Ratio	Pupils Classroom	Library Volumes Per Pupil	Total Value Per Pupil	Accreditation
White Schools	23.8	20.9	11.3	\$977	7 acc. 1 not
Negro Schools	25.6	29.1	6.5	\$445	7 acc. 5 not

A comparison between the white and Negro schools indicates a nearly identical student-teacher ratio, but there are greater discrepancies in this ratio in particular areas. For example, in the City of Morven the predominantly white school has a student-teacher ratio of 17.9, but the Negro school, within a distance of one mile, shows a student-teacher ratio of 27.6 (See Appendix A).

A further breakdown of the facilities shows larger disparities. In pupils per classroom the Negro schools have a rate which is nearly 50% higher than the white schools. In library volumes per pupil, the discrepancy is again nearly 50%. In Morven, this disparity is 16.2 volumes per white student and 3.3 volumes per Negro student. The value of the facilities per pupil is over 50% less in Negro schools. Over 40% of the Negro schools are not accredited, while all but one of the white schools are. A more complete school-by-school breakdown is included within Appendix A and B.

Anson - Morven - Wadesboro School System - School Year 1966-67

In the Spring of 1966, the three school districts adopted a joint freedom of choice plan for desegregating their schools. Letters were mailed to parents informing them that the community had adopted a desegregation program for the 1966-67 school year. The plan established a 30-day choice period in which parents could choose to send their children to any school within the three systems in the county. One hundred and eighty Negroes chose to go to formerly all white schools and were officially enrolled. A breakdown of those selecting shows that fifty-five attended in the Anson County system which has a total resident school age population of 3, 445, fourteen in Morven which has 948 resident pupils, and one hundred and eleven in Wadesboro which has 2,288 pupils.

Schools opened August 29, 1966. On September 3, at about 1:30 a.m., the home of Clyde Owens, a Negro, whose two children attended formerly all-white Morven High, was bombed. Subsequently, he received two telephone calls threatening his children. The news of this led to an attempted exodus of Negroes from the predominantly white schools, prompted in large measure, if not totally, by a petition for retransfer circulated by Norwood Teal, white and a member of the Klan and signed by Negro parents. Yet on November 9, 1966, twelve of the fourteen Negroes registered at Morven remained. The School Board took no action on the petition. However, it has subsequently been reported that Owens' two children did in fact retransfer back to the Negro McRae High School. Further information on how many

were similarly intimidated to retrack the decision to integrate white schools is unavailable.

In order to meet HEW guidelines, the Morven School Board, on September 8, 1966, ordered the involuntary transfer of 77 Negro students to Morven High, effective on September 12th. The night before the students were to appear at their new school the homes of the parents of two of the transferred students were bombed. On Monday, the 12th., none of those reassigned appeared. Interviews with the parents of students whom the Morven City Board of Education sought to transfer indicated that the great majority would have been willing to have their children attend an integrated school, but the bombings and implications of further reprisals made them fearful that they might similarly be victimized.

#### Further Acts of Intimidation - Obstacles to Freedom of Choice

A pattern of harassment and terrorism against Negroes has been revealed by acts other than the bombings of Negro homes.

April 3, 1966, a Negro was shot and wounded after a Klan rally.

July, 1966, the car of Reverend McRae (Negro) was shot into. McRae has been active in the integration movement in the county.

September 3, 1966, a Morven poolroom, integrated the previous summer, was damaged by an explosion.

September 18, 1966, twenty Klansmen visited a Wadesboro High School classroom.

September 25, 1966, Klan held a rally four miles west of Polkton, North Carolina; four hundred people attended.

October 19, 1966, the home of Fred Christian, Jr., (Negro) was scene of attempted bombing. Christian raced from his house and removed the fuse from two sticks of dynamite thrown at his home.

October 17, 1966, Mrs. Dorothea Hardison (Negro) stated that Horwood Teal (white) and an alleged Klan member had told her husband that if her two children did not retransfer to the Negro school from the predominantly white school they now attended, there would be more trouble than the bombings in September. Her husband then signed a petition to the school board requesting retransfer. Ellis Broadie stated he signed the petition for the same reason and under the same pressure.

October 31, 1966, the home of Mrs. J. B. Gaddy and Leroy Bennett (Negroes) received two rifle bullets and one shotgun blast.

December 11, 1966, a Negro soldier's car was bombed. He is married to a white woman.

February 26, 1967, explosion in front of Baxter Townley McKee's home. He was chairman of the Anson County School Board.

March 4, 1967, Klan Street Walk.

March 6, 1967, three shootings into Negro homes, one into a Negro's car.

March 18, 1967, Negro soldier shot in the back after racial incident at Bowman's Restaurant.

June 18, 1967, Klan and NAACP Marches.

June 24, 1967, NAACP rally on Salisbury Street subjected to darkening of street lights.

These incidents and the bombings of Negro homes have made "freedom of choice" in Anson County unworkable.

#### Desegregation Plan for the School Year 1967-68

The combined Boards of Education which were merged as of July 1st., into the Anson County Board of Education, worked out a desegregation plan which would:

(1) totally integrate grades 11 and 12; all students in these grades in the county would attend the new Bowman High School.

(2) maintain segregation in grades 8 through 10 as students in those grades would attend the same school they attended the year before with Negro students with minor exceptions assigned to Negro schools and with white students assigned to white schools.

(3) open grades 1 through 7 on a freedom of choice basis.

On June 28th., the homes of school board members William Wildermuth, Glenn Martin, Gene Edward Tucker and James Padcock were subject to bombing attacks. The Pee Dee Oil Company, the business of acting Board Chairman Hardison was substantially damaged the same night by a similar attack. As a consequence of these attacks three of the seven Board members resigned.

#### Private Litigation

On July 3, 1967, forty-six Negro students, by their parents or guardians, sued to enjoin the Anson County School Board from following a practice which discriminates against them and members of their class on the basis of race in the operation of the Anson County Schools. Specifically the plaintiffs complain that Negro students, teachers and principals have been and are assigned to various schools on the basis of race. Moreover, Negro parents state that the harassment, threats and implications of further reprisals have inhibited and prevented them from the free use of the freedom of choice plan.

#### The Law

Thirteen years after the Supreme Court's decision in Brown v. Board of Education, 347 U. S. 403 (1954) public schools in Anson County, North Carolina remain almost totally segregated. While there has been an increase in the number of Negro pupils attending predominantly white schools, the number continues to be small. Some of the

white schools continue to have only white students and white teachers. All the Negro schools have 100% Negro faculties and student bodies. There has been little or no staff or faculty desegregation in those schools having token integration. (See Appendix B). Thus well into the second decade after the 1954 Brown decision, Anson County still maintains what are in effect two distinct school systems.

Recent cases have held faculty desegregation to be a necessary ingredient for a valid plan of desegregation. See Bradley v. School Board, 382 U.S. 198 (1965). There is virtually no staff or faculty desegregation in either system.

The plan adopted by the Anson County Board of Education for 1967-68, requires students in grades 8 through 10 to attend the school they attended during 1966-67. This has the effect of maintaining a segregated or nearly segregated school system for those grades. Out of 1,773 students registered in grades 7 - 9 in 1966-67 and who in all probability will account for those in grades 8 - 10 in 1967-68, only 51 Negroes were registered in predominantly white schools.

The freedom of choice aspect of the plan where parents can send their children in grades 1 - 7 to any school in the county may similarly have the effect of maintaining a dual and predominantly segregated school system. Evidence that this will result is seen from the impact of the September 12, 1966 bombings on Negroes involuntarily transferred to the white Norven High School. As may be recalled, none of the 77 Negroes sought to be transferred appeared at the appointed time.

"Freedom of Choice" is a means to the abolition of the system of segregation and its effects. Where it proves ineffective, other means must be used to achieve this end. Bowman v. Charles City County, F2d (4th Cir. 1957). Where there has been a history of intimidation, harassment and terrorism against Negroes, "freedom of choice" is unworkable. But the school officials



still have the continuing affirmative duty to take whatever action may be necessary to create a "unitary, non-racial system." U.S. v. Jefferson County, 372 F.2d, 836 (5th Cir. 1966).

It is clear that the pattern of bombings and shootings has made progress towards a "unitary, non-racial system" by the use of "freedom of choice" an impossibility in Anson County. While "freedom of choice" has not been held inherently invalid by the Fourth Circuit, Bradley, supra, it has more recently been observed that such a plan is meaningless in many cases because people are in fear of reprisals should they attempt to exercise a choice. Cropper v. Newport News General Hospital, F.2d (4th Cir. March 5, 1967).

For "free choice" to be acceptable it must be truly free. Where it is illusory by reason of intimidation, some other type of desegregation plan will be required. Kelly v. Board of Education of Nashville, 279 F.2d 209, 229-30 (6th Cir. 1966). Where there has been no residential segregation and both races are dispersed generally throughout the county, geographical zoning would appear to be a desirable basis for a plan of desegregation. There is no direct authority for this proposition, but there has been some intimidation that this would be acceptable. See: Judge Sobeloff, concurring in Bozman, supra.

In similar circumstances of intimidation and consequent necessary challenge to free choice, we intervened in January, 1966, in Croppers v. Virginia County School Board in the Eastern District of North Carolina. No permanent Order has yet been entered in that case, and the School District is still operating under freedom of choice. Here the strong evidence of intimidation, including the very recent intimidation of School Board members, makes the case an appealing one for the pursuit of a further development of the law, as well as for the immediate relief necessary to secure these school children the equal protection of the law.

Appendix A

Anson - Morven - Wadesboro School Systems 1966-67

<u>Anson</u>	<u>(Grades)</u>	<u>Students enrolled</u>	<u>W/M</u>	<u>Teachers</u>	<u>Ratio</u>
Anson High	(9-12)	509	476/33		
Ansonville Elem	(1-8)	253	245/8	23	22.2
East Polkton	(1-12)	437	All Negro	11.6	31.0
Henry Grove	(1-12)	640	All Negro	18.2	24.0
Tiltsville Elem	(1-8)	251	All Negro	24.4	26.2
Peachland Elem	(1-8)	239	270/11	19.6	26.5
Polkton Elem	(1-8)	187	All White	9.6	26.9
West Ansonville	(1-12)	514	154/3	6.6	25.9
West Deep Creek	(1-12)	414	All Negro	21.2	24.3
			All Negro	17.3	23.9
Anson Average Ratio					24.2
Ratio for white schools					28.9
Ratio for Negro schools					24.6
<u>Morven</u>					
Morven High	(1-12)	251	237/14	14	17.9
Elem	(1-12)	691	All Negro	23	27.6
Morven Average Ratio					24.6
<u>Wadesboro</u>					
Wadesboro High	(1-12)	626	546/80	27	23.5
J.A. Paison	(1-12)	985	All Negro	36	27.3
Central Elem	(1-6)	644	613/31	22	29.3
Wadesboro Average Ratio					26.7
Ratio for Negro school					27.3
Ratio for white school					26.4
County Wide Average Ratio		24.5			
Average Negro School Ratio		25.6			
Average white School Ratio		23.8			

Appendix A (Con't)

Comparison Between The Various Schools (Figures 1965-66)

	<u>Pupils per classroom</u>	<u>Library volumes per pupil</u>	<u>Total value per pupil</u>	<u>Acres per pupil</u>	<u>Accreditation Elem</u>	<u>Sec</u>
<u>Anson</u>						
Anson High*	13.8	7.7	\$1,817	.0633	--	'60
Ansonville Elem*	23.5	13.7	\$ 539	.0328	'43	--
East Polkton(W)	28.7	8.9	\$ 625	.0703	'55	'42
Henry Grove(W)	39.2	10.3	\$ 347	.0478	not acc	'39
Pilesville*	15.4	8.8	\$ 606	not given	'41	--
Peschland(W)	21.1	11.7	\$ 746	.0257	'56	--
Polkton Elem(W)	11.8	12.3	\$1,215	.0523	not acc	--
West Ansonville(W)	29.1	5.1	\$ 187	.0650	not acc	'33
West Deep Creek(W)	24.2	5.5	not given	.0759	not acc	not acc
<u>Morven</u>						
Morven High*	15.8	16.2	\$1,011	.0422	'42	'24
McVae(W)	25.7	3.3	\$ 506	.0311	not acc	'42
<u>Wadesboro</u>						
Central*	23.2	8.6	\$ 651	.0129	'56	--
JR Faison(W)	27.4	5.6	\$ 459	not given	'59	'30
Wadesboro*	25.5	11.5	\$1,133	not given	'56	'20
<hr/>						
Overall average	24	9.3	\$ 773	.0471		
W or predominantly W	20.1	11.3	\$ 977	.0383		
N	29.1	6.5	\$ 445	.0577		

Accreditation

Totals

Elem

Sec

6 acc 5 not

8 acc 1 not

4 acc 1 not

3 acc 0 not

2 acc 4 not

5 acc 1 not

\* Means formerly white and now over 90% white.

Appendix B

**Anson County - Faculty & Staff**

<u>Anson High</u>	<u>Total</u>	<u>White</u>	<u>Negro</u>
Secondary Teachers	23	22	1
Principals	1	1	
Supervisors, Librarians, Psychologists, Guidance Personal	1.1		1.1
<u>Anson Elem.</u>			
Elem. Teachers	11.6	11.1	.5
Principals	.5	.5	
Supervisors etc.	.1		.1
<u>East Polkton (H)</u>			
Elem. Teachers	12.2	.5	12
Secondary Teachers	6		6
Principals	1		1
Supervisors etc.	.8	.5	.3
<u>Henry Grove (H)</u>			
Elem. Teachers	16.4	.2	16.2
Secondary Teachers	8		8
Principals	1		1
Supervisors etc.	.3		.3
<u>Lilesville Elem.</u>			
Elem. Teachers	10.6	10.1	.5
Principals	.5	.5	
Supervisors etc.	.1		.1
<u>Peachland (W)</u>			
Elem. Teachers	9.6	9.6	
Principals	.5	.5	
Supervisors etc.	.1		.1
<u>Polkton</u>			
Elem. Teachers	6.6	6.4	.2
Principals	.5	.5	
Supervisors	.1		.1

Anson County (continued)

	<u>Total</u>	<u>White</u>	<u>Negro</u>
<u>West Ansonville (H)</u>			
Elem. Teachers	14.2		14.2
Secondary Teachers	7		7
Principals	1		1
Supervisors etc.	.8		.3
<u>West Deep Creek (H)</u>			
Elem. Teachers	10.3	.3	.3
Secondary Teachers	7	.1	10.2
Principals	1		7
Supervisors etc.	1		1
<u>Morven City</u>			
<u>McRae High (H)</u>			
Elem. Teachers	17		17
Secondary Teachers	8		8
Principals	1		1
Supervisors etc.	1		1
<u>Morven High</u>			
Elem. Teachers	7		
Secondary Teachers	7	7	
Principals		7	
Supervisors etc.	1		
<u>Wadesboro</u>			
<u>Wadesboro High</u>			
Elem. Teachers	8	8	
Secondary Teachers	19	18	1
Principals	1	1	
Supervisors etc.	2	1-3/4	1/3
<u>J. R. Faison (H)</u>			
Elem. Teachers	25		25
Secondary Teachers	11		11
Principals	1		1
Supervisors etc.	2-2/3	1/3	2-1/3
<u>Central Elem.</u>			
Elem. Teachers	22	22	
Principals	1	1	
Supervisors etc.	2-1/3	1	1-1/3