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IN THE UNITED STATES DISTRICT COURT FOR THE

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

DELORES ROSS, a minor by her next Friend, Mary Alice Benjamin, et al., Plaintiffs,	CIVIL ACTION NO. 10444
UNITED STATES OF AMERICA, by RAMSEY CLARK, Attorney General of the United States, Plaintiff-Intervenor,	MOTION FOR SUPPLEMENTAL RELIEF
v.	
ROBERT ECKELS, as President of the Board of Trustees of the Houston Independent School District, et al., Defendants.	

The United States, plaintiff-intervenor, moves this Court for an order supplementing the orders of August 12, 1960, and October 27, 1965, by requiring the defendants to adopt and implement a school desegregation plan that accords with the standards established by the Court of Appeals for the Fifth Circuit in United States, et al., v. Jefferson County Board of Education (No. 23345, decided December 29, 1966, and on rehearing en banc March 29, 1967), and state as grounds for this motion:

1. The previous orders of this Court of August 12, 1960, and October 27, 1965, are not in accord with existing judicial standards for freedom-of-choice student assignment plans in that they do not provide for an annual freedom of choice for all students, a procedure to insure the nonracial assignment of students who fail to exercise that choice, a procedure to insure the nonracial assignment of students whose choices are denied because enrollment exceeds capacity at the schools of their choice, and appropriate notice to parents and students fully informing them of their right to choose, the choice procedures, the course to be followed where enrollment exceeds capacity at any particular school, and the availability of school bus transportation. Nor do the previous orders of this Court specifically require the defendants to desegregate the faculty, to reorganize the school transportation system so that it is designed to serve a unitary, nonracial school system, or to take steps to insure that the physical facilities, equipment, course of instruction, and instructional materials in schools traditionally maintained for Negroes are of a quality equal to that provided in schools traditionally maintained for whites.

2. The defendants have not taken adequate steps to reorganize the dual school system

based on race into a unitary, nonracial school system, in that they have failed to establish and implement a plan for nonracial assignment of students; they continue to assign teachers to schools on a racially segregated basis and have failed to establish and implement a plan for correcting the effects of their policy of assigning teachers to schools on a racially segregated basis; they continue to operate and maintain a school transportation system designed to serve the dual school system based on race and have failed to establish a school transportation system that will serve a unitary, nonracial school system; and they have failed to take other steps necessary to eliminate all vestiges of a dual school system based on race and to correct the existing effects of past racial discriminatory action in the operation of the Houston Independent School District.

This motion will be based upon all other pleadings, documents and other papers on file in this case and upon oral testimony and other evidence to be offered on the hearing.

John Doar

JOHN DOAR
Assistant Attorney General

MORTON L. SUSMAN
United States Attorney

Gerald W. Jones

GERALD W. JONES, Attorney
Department of Justice

It does not establish an adequate program for the desegregation of the faculty

2. The desegregation plan adopted by the defendants on May 25, 1967, is inadequate under existing judicial standards for freedom-of-choice plans in that: (b) it fails to establish a procedure for the nonracial assignment of students who fail to exercise that choice; (b) it fails to establish priorities to determining which choices shall be honored when enrollment exceeds capacity at any school; (d) it fails to establish procedures or criteria for the nonracial assignment of students whose choices cannot be honored because enrollment exceeds capacity at the schools of their choice; (e) it fails to establish methods and procedures for adequately informing parents and students of their right to choose, the choice procedures, the course to be followed where enrollment exceeds capacity at any particular school, and the availability of school bus transportation; (e) it does not commit the defendants to reorganize the bus routes so that, to the maximum extent feasible in light of the geographic distribution of students, the school transportation system will serve each student choosing any school in the district, nor does it provide that each student choosing either the formerly white or the formerly Negro school nearest his residence must be transported to the school to which he is assigned, whether or not it is his first choice, if that school is sufficiently distant from his home

last revision

to make him eligible for transportation under generally applicable transportation rules; (f) it does not commit the defendants to take prompt steps to insure that the physical facilities, equipment, course of instruction, and instructional materials in schools traditionally maintained for Negroes are of a quality equal to that provided in schools traditionally maintained for whites, nor does it commit the defendants to establishing remedial education programs for students who had previously attended segregated schools in order to overcome past inadequacies in their education; and (g) it ~~does not establish an adequate program for the desegregation of the faculty~~ makes no provision for insuring that new schools are constructed and existing schools expanded with the objective of eradicating the vestiges of the dual system.

to the extent consistent with the proper operation of the school system as a whole,

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GERALD W. JONES, Attorney
Department of Justice

1. The previous orders of this Court of August 12, 1960, and October 27, 1965, are not in accord with existing judicial standards for freedom-of-choice student assignment plans in that they do not provide for an annual freedom of choice for all students, a procedure to insure the nonracial assignment of students who fail to exercise that choice, priorities for determining which choices shall be honored when enrollment exceeds capacity at any school, a procedure to insure the nonracial assignment of students whose choices can not be honored because enrollment exceeds capacity at the schools of their choice, and appropriate notice to parents and students fully informing them of their right to choose, the choice procedures, the course to be followed where enrollment exceeds capacity at any particular school, and the availability of school bus transportation. Nor do the previous orders of this Court specifically require the defendants to desegregate the faculty, to reorganize the school transportation system so that it is designed to serve a unitary, nonracial school system, or to take steps to insure that the physical facilities, equipment, course of instruction, and instructional materials in schools traditionally maintained for Negroes are of a quality equal to that provided in schools traditionally maintained for whites.

This motion is made pursuant to Section 902 of the Civil Rights Act of 1964, 42 U.S.C. 2000h-2, and Rule 24 of the Federal Rules of Civil Procedure, and in support of the motion, we state that, within the meaning of Section 902 of the Civil Rights Act of 1964, this is a case seeking relief from the denial of equal protection of the laws under the Fourteenth Amendment on account of race, that the Attorney General has certified that the case is of general public importance, and that this motion for intervention is timely.

Ramsey Clark

RAMSEY CLARK
Attorney General

John Doar

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2. The desegregation plan adopted by ~~the school board~~ ~~[illegible] not taken adequate~~ ~~[illegible] the dual school system~~ defendants on May 25, 1967 is inadequate under existing ~~constitutional~~ judicial standards for freedom-of-choice plans in that: (a) it fails to establish a procedure for the nonracial assignment of students who fail to exercise that choice, (b) it fails to establish ~~a procedure to insure~~ the nonracial assignment of students whose choices cannot be honored because enrollment

= priorities to determining which choices shall be honored when enrollment exceeds capacity at any school, (c) it fails to establish ~~a procedure~~ procedure or criteria for the

exceeds capacity at the schools of their choice & it does provide for adequate notice to parents and students ~~informing them~~ of their right to choose, the choice procedures, the course to be followed when enrollment exceeds capacity at any particular school and the availability of school bus transportation.

~~based on race in a unitary, nonracial school system, the [illegible] respecting the segregation of faculties~~ in that they have failed to establish and implement a plan for nonracial assignment of students; they continue to assign teachers to schools on a racially segregated basis and have failed to establish and implement a plan for correcting the effects of their policy of assigning teachers to schools on a racially segregated basis; they continue to operate and maintain a school transportation system designed to serve the dual school system based on race and have failed to establish a school transportation system that will serve a unitary, nonracial school system; and they have failed to take other steps necessary to eliminate all vestiges of a dual school system based on race and to correct the existing effects of past racial discriminatory action in the operation of the Houston Independent School District.

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(C). It does not commit the defendants to reroute the bus routes to the maximum extent feasible in light of the geographic distribution of students so as to serve each student choosing any school in the system, nor does it provide that each student choosing either the formerly white or the formerly Negro school nearest his residence must be transported to the school to which he is assigned, ~~under it~~ ~~does not state~~, whether or not it is his first choice, if that school is sufficiently distant from his home to make him eligible for transportation under generally applicable transportation rules.

(E) It does not commit the defendants to take prompt steps to insure that the physical facilities, equipment, courses of instruction, and instructional materials in schools traditionally maintained for Negroes are of a quality equal to that provided in schools traditionally maintained for whites, ~~nor does it~~ nor does it commit the defendants to establishing remedial education programs ~~for others~~ for students who had previously attended segregated schools to overcome past inadequacies in their education.

(F). It does establish an adequate plan for the desegregation of the faculty.

2. The desegregation plan adopted by the defendants on May 25, 1967, is inadequate under existing judicial standards for freedom-of-choice plans in that: (a) it fails to establish a procedure for the nonracial assignment of students who fail to exercise that choice; (b) it fails to establish priorities to determining which choices shall be honored when enrollment exceeds capacity at any school; (c) it fails to establish procedures or criteria for the nonracial assignment of students whose choices cannot be honored because enrollment exceeds capacity at the schools of their choice; (d) it fails to establish methods and procedures for adequately informing parents and students of their right to choose, the choice procedures, the course to be followed where enrollment exceeds capacity at any particular school, and the availability of school bus transportation; (e) it does not commit the defendants to reorganize the bus routes so that, to the maximum extent feasible in light of the geographic distribution of students, the school transportation system will serve each student choosing any school in the district, nor does it provide that each student choosing either the formerly white or the formerly Negro school nearest his residence must be transported to the school to which he is assigned, whether or not it is his first choice, if that school is sufficiently distant from his home to make him eligible for transportation under generally applicable transportation rules;

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P 2 in that their plan does not meet constitutional standards for the non-racial assignment of students. The S.B. plan ~~fails to meet const'l standards for + does~~ fails to ~~do~~ ~~take~~ adequate ~~steps to~~ provide steps for the nonracial assignment of teachers + ~~staff~~ and to undo the effects of past racial assignments; The ~~S~~ plan adopted by the S.B. ~~fails to meet~~ provide ~~for~~ adequate ~~to~~ steps designed ~~to end~~ to serve a unitary non racial school system in accordance with const'l standards.

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