

*Important
School desegregation
opinion*

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

CLAUDE BERNARD ROBINSON
and JULIA D. ROBINSON, infants,
by Melvin Robinson, their father
and next friend, et al.,

Plaintiffs,

CIVIL ACTION NO. 4916

v.

THE SHELBY COUNTY BOARD
OF EDUCATION, ET AL.,

Defendants,

UNITED STATES OF AMERICA
by RAMSEY CLARK, Acting
Attorney General,

Plaintiff-Intervenor.

ORDER

The United States having on January 16, 1967, applied to this Court for an Order to Show Cause why the defendants should not be adjudged in civil contempt of the permanent injunction of May 20, 1966; this Court having entered an Order requiring the defendants to show cause as prayed for in the application on January 19, 1967; the United States and each of the defendants having entered into and filed a stipulation that the Court may consider and determine the application upon the basis of the facts alleged in the application and the affidavit and exhibits attached thereto; the matter having regularly come on for hearing on January 19, 1967, and both the United States and the defendants having appeared by and through their respective counsel; and the Court being of the view that the facts as stipulated show that the defendants and each of them have not complied and are not complying with the permanent injunction of May 20, 1966, in certain particulars set forth in the application;

Now, therefore, it is ORDERED that the defendants and each of them shall bring themselves into compliance with the permanent injunction of May 20, 1966, by the following:

A. The defendants shall forthwith deliver written notice to the parents of each Negro student, whose application to enroll in Whitehaven Elementary School for the 1966-67 school year was rejected, that such student may choose to enroll in any school in his attendance zone for the second semester of the 1966-67 school year in which there is available space. Such notice shall include a form on which the parent may indicate his choice and shall advise him that transportation will be available to the school of his choice in accordance with the rules and regulations of the Shelby County School System applicable to all students. Those students for whom a choice of school is submitted pursuant to this paragraph shall be enrolled in and allowed to attend the school of their choice for the second semester.

B. Each Negro student presently enrolled in the Shelby County School System who is not now enrolled in and attending the school of his first choice for the 1966-67 school year, other than the Negro students already provided for in the preceding paragraph, shall be reassigned by the defendants to the school of his original choice for the second semester of the 1966-67 school year unless the parents of such student shall request in writing that he not be reassigned. The parents of each such student shall be notified in writing of such reassignment and of their right to continue the present assignment if they indicate such desire in writing. Students reassigned pursuant to this provision shall be provided bus transportation to the school they originally chose to attend, provided the school is more than one and one-half miles from their home. Notice of the availability of transportation shall be given in writing at the same time that notice of reassignment is given.

C. The defendants shall adopt and implement a plan for giving each student full notice of the availability of transportation, the location of school bus routes, bus stops and schedules, prior to the commencement of each school year.

D. The defendants shall desegregate the faculty of each school in the Shelby County School System in accordance with the schedule and procedures herein set out. The faculty of a school will be considered desegregated when the ratio of white teachers to Negro teachers in the school is the same, with reasonable leeway of approximately ten percent (10%), as the ratio of white teachers to Negro teachers in the whole number of certified personnel in the Shelby County Public School System. A teacher of a race whose representation on the faculty of any particular school is less than would be required by this ratio will be referred to in the following paragraphs of this order as being of the "under-represented race." The procedures and schedule to be followed by the defendants in achieving faculty desegregation shall be as follows:

(1) Each faculty vacancy shall be filled by transferring from within the system a teacher whose race is under-represented in the faculty in which the vacancy exists; provided that if there is no such teacher within the system educationally qualified to fill the vacancy, the defendants shall fill the vacancy by employing a new teacher of the race that is under-represented in the school. A teacher of the race that is over-represented in the school shall be employed by or assigned to a vacancy only if a teacher of the opposite race can neither be transferred nor employed without seriously impairing the educational program.

(2) The defendants shall develop and put into effect a program to recruit white teachers for employment in public schools of Shelby County traditionally staffed by Negro teachers and to recruit Negro teachers for employment in schools traditionally staffed by white teachers. In deciding which among various applicants shall be employed, the defendants shall base their decision solely on qualifications apart from race or color, provided that no teacher shall be employed who is unwilling to teach students of another race and to serve on a faculty including teachers of another race.

(3) The defendant George H. Barnes and his staff shall, commencing forthwith and for a period of not more than 120 days from the date of this order, review all personnel files of teachers and other professional staff employed by the Shelby County School System for the purpose of identifying teachers and other staff members to be reassigned to schools in which their race is under-represented and they shall effect such transfers for the 1967-68 school year in all cases in which the transfer can be accomplished without seriously impairing the educational program.

(4) The defendants shall for the second semester of the 1966-67 school year and for each school year thereafter make assignments and reassignments, to the extent consistent with sound educational policy, to achieve the maximum desegregation of faculty possible for each such term or school year, and they shall achieve at least some desegregation of regular classroom teachers in each school in the

Shelby County School System by the commencement of the 1967-68 school year.

(5) The assignment and reassignment of teachers, which is herein required in order to distribute white and Negro teachers among the various schools in the Shelby County School System on a proportionate basis as set forth herein, shall be accomplished in a manner whereby the abilities, experience, specialities, and other qualifications of both white and Negro teachers in the system will be, insofar as administratively feasible, distributed evenly among the various schools of the system. In this connection it should be the purpose of the defendants to provide equal educational opportunities to all students in the system.

(6) The defendants will be in compliance with the provisions of this Court's Order of May 20, 1966, insofar as its provisions relate to the desegregation of faculty, when the assignment of teachers to each school within the system is such that neither white nor Negro teachers are under-represented in any school and the schools have operated for a full school year in accordance with this requirement.

E. The defendant George H. Barnes, as Superintendent of Schools of Shelby County, shall file with the Clerk and serve upon the parties the following reports until such time as the defendants have fully complied with the requirements of this order:

(1) Prior to filling any faculty vacancy with a teacher of a race that is over-represented in the faculty of the school in which the vacancy exists, a report

to this Court for its determination and Order that they have so complied and, if this Court so determines, this Order shall be vacated.

detailing the efforts of the defendants to transfer or employ a teacher of the opposite race and the reasons why the defendants have concluded that the employment of a teacher of the race already over-represented is necessary to avoid seriously impairing the educational program.

(2) A report on August 1 of each year detailing:

(a) The number of teachers by race in each school at the conclusion of the preceding school year.

(b) The number of teachers by race assigned to each school for the coming school year.

(c) The number of vacancies filled in each school since this order or since the preceding report pursuant to this order.

(d) The number of such vacancies that were filled by a teacher of a race over-represented on the faculty and the name and address of each such teacher.

(3) A report on October 1 of each year supplementing and bringing up-to-date the information required in the report of August 1 just described.

(4) Within 120 days after the entry of this order, a report describing the program formulated and implemented by the defendants to recruit white teachers for employment in schools traditionally staffed by Negroes and Negro teachers for employment in schools traditionally staffed by white teachers, together with a description of results of this program.

The defendants may at any time, upon a showing that they have fully complied with all of the requirements of this Order, apply

to this Court for its determination and Order that they have so complied and, if this Court so determines, this Order shall thereupon be vacated.

Signed this 19th day of January, 1967.

/s/ BAILEY BROWN
UNITED STATES DISTRICT JUDGE