

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

H(2324)P3
FILED

APR 25 1983

CRATON LIDDELL, et al.,

Plaintiffs

vs.

THE BOARD OF EDUCATION OF THE CITY
OF ST. LOUIS, MISSOURI, et al.,

Defendants.

EYVON MENDENHALL, CLERK
U. S. DISTRICT COURT
E. DISTRICT OF MO.

No. 72-100 C(4)

LIDDELL, et al. SUPPLEMENTAL MEMORANDUM

Pursuant to this Court's order, and in the interest of judicial economy, Liddell plaintiffs join and adopt the pre-hearing memorandum of The Board of Education of the City of St. Louis, et al., and Earline Caldwell, et al., reserving, however, the right to individually supplement said memorandum.

SUMMARY OF ADDITIONAL EVIDENCE

A. Liddell, et al., Plaintiff's Case

1. The Liddell Plaintiffs' additional evidence will show that they filed this action February 18, 1972 against the City of St. Louis Board of Education and State of Missouri, alleging discrimination in the operation of the public schools of the City of St. Louis School District.

2. Liddell evidence would further show that these plaintiffs have a judgment against the Board of Education of the City of St. Louis, et al., and the State of Missouri, Liddell vs. Board of Education 620 F.2d 1277 (8th Cir.) March, 1980.

That the state by constitution is mandated to furnish gratuitous public education for persons between the age of six (6) and twenty-one (21). The evidence of Liddell plaintiffs would further demonstrate that school districts are subdivisions of and agents of the State of Missouri for the purpose of aiding the state in the delivery of gratuitous public education as required by law.

"This is not deemed or considered a prohibited delegation of legislative powers." State ex rel. vs. Andrae, 116 S.W. 561, 564 (Mo.)

"The county boards of education who devise the plans for reorganization, the State Board of Education, a constitutional body who must approve the plans and the voters of the district are delegated agents of the Legislature to administer this act." S.B. 307. State vs. Holmes, 231 S.W.2d 191. See also Morrilton etc. vs. U.S., 606 F.2d, 222, 230 (1979).

3. Plaintiffs, Liddell, et al. evidence would further demonstrate that in spite of its judgment against City of St. Louis Board of Education and the State of Missouri: The great majority of schools in North St. Louis remain from 90 to 100 per cent segregated, both in pupil and teacher populations. H()82

4. The evidence would establish that other than issuing directives or making public statements, the State of Missouri both prior to and after the favorable judgment of the Liddell Plaintiffs, did not take affirmative steps to relieve the segregative conditions and the vestige of government imposed segregation which existed and still exist in the schools in the North of the City of St. Louis School District operated by the Board of Education of the City of St. Louis.

5. The evidence would further show that the Liddell plaintiffs joined in the cross-complaint of the St. Louis City Board of Education by its supplemental pleading H(1027)82 for further relief against the State of Missouri and the suburban school districts situated in the County of St. Louis, State of Missouri.

B. REMEDY - The Settlement Agreement

6. The evidence would further show that the Liddell, et al., plaintiffs joined in the Master's submission of the proposed settlement agreement subject to the Court's determination that it is fair, reasonable, and adequate under all the circumstances at a FRCP Rule 23(e) fairness hearing.

7. The evidence would further show that the Liddell, et al. plaintiffs filed a report prepared by its witness, a school expert, which critiques the present City Board's Magnet School Program and recommends the effective school (SIP)¹Program and proposes a School Improvement Program for the City of St. Louis School District and the county schools for the improvement of the delivery of educational processes in the City Districts and county Districts.

8. The evidence would further show that the SIP Program is a development of and Application of the SHAL Program, a Prototype now in use in 12 schools in the North St. Louis portion of the City of St. Louis school district, and with adequate funding,

¹/ SIP: School Improvement Program
Parts of which are included in the appendix to the settlement.

development and application will give to the all black schools in the St. Louis school system a quality of education that should leave them second to none.

9. Further, the evidence would show that the SHAL Program and the SIP Programs address most of the concerns of the Liddell, et al. plaintiffs class on the quality education component of the Master's submission.

10. Further, the Liddell plaintiffs would show that this Court has the authority to order the implementation of the SIP Program and the funding necessary for making it a permanent part of the educational program of the City of St. Louis School District.

C. POWER TO ORDER FUNDING

11. Further, the Liddell, et al. plaintiffs respectfully suggest and submit that this Court has the power to order the State Defendants or the individual districts as agents of the State of Missouri to levy and apply the necessary funding to put into operation this proposed settlement agreement without an authorizing or repealing vote of the people. This Court in ordering the levy is exercising a power pursuant to the supremacy clause of the U.S. Constitution, Art. VI and outside the reach of any reserved powers in Art. X of the Ammendments to the U.S. Constitution. Therefore, the State legislature or any School District in levying an additional tax for funding this proposed settlement pursuant to this Court's order would be exercising a federal function and not a state function subject to any approval by the people of the state or the school district.

In addition to the above, see Liddell vs. Board of Education 491 F. Supp. 351 (1980) E.D.Mo. 1980; and U.S. vs. Missouri, 515 Fed. 2d 1365, 1372-73 (Cert. Den. 420 U.S. 951) 1975.

D. CONCLUSION

These plaintiffs respectfully state that this Court has the powers necessary to protect its jurisdiction and order the necessary funding to put this settlement into operation.

Therefore, the settlement should be approved.

Respectfully submitted,

William P. Russell

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CERTIFICATE OF SERVICE

Copy of the foregoing mailed
to all counsel of record
this 25th day of April, 1983.

William P. Russell
WILLIAM P. RUSSELL