

ATTACHMENT C

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

TERESA D. THOMAS, et al.,
Plaintiffs

UNITED STATES OF AMERICA,
Plaintiff-Intervenor

vs.

ST. MARTIN PARISH SCHOOL
BOARD, et al.,
Defendants

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CIVIL ACTION NO. 6:65-cv-11314

JUDGE ELIZABETH E. FOOTE

CONSENT ORDER REGARDING
TRANSPORTATION

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I. INTRODUCTION

On September 23 and 24, 2015, Plaintiffs and Plaintiff-Intervenor, United States of America (“United States”), (collectively, “Plaintiff Parties”) and Defendant, St. Martin Parish School Board (the “Board”), engaged in a good faith mediation conducted by the Honorable Karen Hayes, United States Magistrate Judge for the Western District of Louisiana. As a result of the mediation and ongoing negotiations, the parties have voluntarily agreed, as indicated by the signatures of their counsel below, to enter into the instant Consent Order regarding how to proceed with regard to transportation in the above-captioned matter.

Upon review of the agreed upon terms, set forth below, the Court concludes that the entry of this Consent Order is consistent with the Fourteenth Amendment to the Constitution of the United States of America, Title IV of the Civil Rights Act of 1964, and other federal law.

IT IS, THEREFORE, ORDERED, ADJUDGED, and DECREED as follows:

II. BACKGROUND

In 1965, Plaintiffs successfully sued the Board to enjoin its maintenance of *de jure* racially segregated schools.¹ In 1969, the Fifth Circuit, following the United States Supreme Court’s decision in *Green v. School Board of New Kent County*,² held that the freedom of choice plan operating in St. Martin Parish did not satisfy the obligations imposed by the Constitution.³ On remand, this Court approved a school desegregation plan and ordered that it be implemented for kindergarten through eighth grade starting in September 1969 and for grades nine through twelve starting in the fall of 1970 (“1969 Decree”).⁴ The 1969 Decree called for the establishment of school attendance zones, pairing schools, desegregating faculty and other staff, creating a majority-to-minority (“M-to-M”) transfer policy, and the filing of periodic reports

¹ Doc. 1 at 1.

² 391 U.S. 430 (1968).

³ *Hall v. St. Helena Parish Sch. Bd.*, 417 F.2d 801, 809 (5th Cir. 1969).

⁴ Doc. 25-3, Item 7 at 14-24.

with the Court. In 1974, after nine years of active litigation, the case was placed on the inactive docket.⁵

In 2012, the District Court determined that this case remained open.⁶ The Fifth Circuit Court of Appeals affirmed that decision.⁷ On remand, the case returned to active litigation. Evidentiary hearings have been scheduled for January 19-21, 2016 and February 16-18, 2016.⁸

The St. Martin Parish School District (the "District") currently serves over 8,000 students, and operates sixteen (16) schools, housing grades pre-kindergarten through high school. By grade level (elementary school, junior high school, high school), black student enrollment ranged from 45% to 46% in the 2014-2015 school year.

Since 2012, the parties have engaged in extensive discovery—including document production, the submission of expert reports, multiple site visits, and depositions of Board members and personnel—to examine all of the St. Martin Parish School District operations. In conjunction with this comprehensive discovery, the parties have met numerous times to discuss concerns, clarify positions, and identify solutions. This Consent Order is the result of the parties' collective settlement negotiations.

III. LEGAL STANDARDS

The ultimate goal of every desegregation case, including this one, is the elimination of the vestiges of past segregation in all aspects of school operations to the extent practicable and, ultimately, a declaration that the school district has achieved unitary status.⁹ Federal court supervision of a local school system is intended to remedy the constitutional violation and, after unitary status has been achieved, to return control of the school system to the locally elected

⁵ Doc. 25-2 at 1-4.

⁶ Doc. 58.

⁷ Doc. 67.

⁸ Docs. 86 and 145.

⁹ *Freeman v. Pitts*, 503 U.S. 467, 489 (1992).

Board.¹⁰

The United States Supreme Court has described six areas of operation that must be free from racial discrimination before full unitary status can be achieved: (1) student assignment; (2) faculty assignment; (3) staff assignment; (4) extracurricular activities; (5) facilities; and (6) transportation.¹¹ Each of these “*Green* factors” may be considered individually, and a school district may achieve partial unitary status as to these factors one at a time such that federal judicial supervision is relinquished incrementally.¹² A court may also consider other ancillary factors.¹³

In order to secure a declaration of unitary status as to any one (or more) of the *Green* factors, the Board must demonstrate, as to each specific factor, that it has complied in good faith with the desegregation decree for a reasonable period of time and that the vestiges of past discrimination have been eliminated to the extent practicable.¹⁴ For each area of operation, if the facts reveal no continued racial discrimination, and if the Board has made good faith efforts to comply with the desegregation decree and made affirmative efforts to eliminate the vestiges of the prior discrimination, this Court may declare that factor unitary, but retain continuing jurisdiction over the remaining factors until such time as unitary status is achieved in the remaining areas.¹⁵

IV. AGREED REMEDIAL MEASURES REGARDING TRANSPORTATION

The parties have agreed to certain remedial measures designed to eliminate the vestiges of the prior discrimination and address the Plaintiff Parties’ concerns regarding certain aspects of

¹⁰ *Freeman*, 503 U.S. at 489.

¹¹ *Green*, 391 U.S. at 435.

¹² *Freeman*, 503 U.S. at 489-91.

¹³ *Id.* at 492.

¹⁴ *Bd. of Educ. v. Dowell*, 498 U.S. 237, 249-50 (1991). *See also Flax v. Potts*, 915 F.2d 155, 158 (5th Cir. 1990); *Monteilth v. St. Landry Pub. Sch. Bd.*, 848 F.2d 625, 629 (5th Cir. 1988).

¹⁵ *Freeman*, 503 U.S. at 490-91.

the Board's operations in the area of transportation. The Court finds that the relief detailed below will address such concerns and, if fully and properly implemented over a reasonable period of time, will likely result in the achievement of unitary status and dismissal.

A. Transportation

Plaintiffs and the United States have expressed concerns regarding the District's bus routes, which have existed for decades without adjustment based on desegregation considerations. The District has not conducted a review of its bus routes to determine whether (i) one-race buses/bus routes exist, or (ii) practicable adjustments exist that would eliminate one-race buses/bus routes. Although disagreeing with the conclusion that it has not already achieved unitary status with regard to transportation, the Board has agreed to the terms below in order to resolve the parties' dispute as to transportation.

1. Legal Standards

The law requires that "[t]he transportation system, in those school districts having transportation systems, shall be completely re-examined regularly by the superintendent, his staff, and the school board." *Singleton v. Jackson Mun. Separate Sch. Dist.*, 419 F.2d 1211, 1218 (5th Cir. 1969). "Bus routes and the assignment of students to buses [sha]ll be designed to insure the transportation of all eligible pupils on a non-segregated and otherwise non-discriminatory basis." *Id.*

2. Agreed Remedial Measures

The parties have agreed to the following terms as an appropriate remedial measure designed to achieve unitary status in the area of transportation:

- (i) Until the District is declared unitary in the area of transportation, the Board will retain Mike Hefner, or an agreed-upon expert consultant, who will provide expert consultation and assistance in the identification, review, adjustment, and elimination of one-race bus routes;

- (ii) The Board will create a five (5) member bi-racial Transportation Committee, consisting of a bus driver from each transportation area (Cecilia, Breaux Bridge/Parks, St. Martinville/Catahoula, Stephenville) and the Transportation Director who will serve as the Transportation Committee's facilitator. The Transportation Committee shall at all times be comprised of at least 2 black and 2 white members and be responsible for the following:
- a. By March 1, 2016 and by January 1 of each subsequent year, the Transportation Committee shall meet and review, with expert consultation and assistance (i.e. Mr. Hefner's consultation and assistance), the current routes to (i) identify one-race buses or one-race bus routes and (ii) determine whether practicable adjustments exist to eliminate such one-race buses or one-race bus routes, with consideration of geographical concerns and travel time. This review shall include analyses of the geographical routes, the demographics of the route, the race of the student riders, and the school pick-up and drop-off location(s) for each student.
 - b. By May 1, 2016 and before March 1 of each subsequent year, the Transportation Committee shall provide a report to the Superintendent, which report shall be provided within 15 days to the Plaintiff Parties, detailing its considerations and findings and recommending route changes as appropriate to eliminate such one-race buses/bus routes as deemed practicable in consideration of geographical concerns and travel time. The Transportation Committee's recommendations for route changes will be implemented for the following school year, absent objection by the Plaintiff Parties. In the event a recommendation is not accepted, the Superintendent shall provide a detailed explanation and justification to the Plaintiff Parties before April 1 of that year.

- c. The Transportation Committee shall meet on May 15, August 15 and November 15 of each year during the pendency of this litigation to (i) review the bus routes, including the race of the student riders, geographical concerns, and travel time, and (ii) address all concerns raised by the Plaintiff Parties.
 - d. The Transportation Committee shall, within 15 days of all meetings, provide a Summary Report to the Superintendent and the Board detailing the substance of said meeting, including minute entries and all recommendation(s).
 - e. The Transportation Committee shall maintain records of all meetings, including minutes and documentation of considerations, alternatives, and results.
- (iii) Beginning November 15, 2016 and each year thereafter, the Board will file with the Court an Annual Report, detailing all considerations, findings and recommendations of the Transportation Committee for the prior one-year period, including all Summary Reports. At the time the Annual Report is filed, the Board will provide Plaintiff Parties with (but not file) the rider lists (via excel file) and the bus route maps/descriptions. If no specific objections are made within forty-five (45) days of receipt of each Annual Report, such objections will be deemed waived and a presumption of compliance for the preceding one-year reporting period will be applied. The parties will meet and confer (either via telephone, videoconference, or in person) about each objection within 14 business days of service of the objection. In the event that the parties reach an impasse as to either (a) whether an objection has merit, or (b) how to remedy any concerns raised in an objection, then any party may move the Court to resolve the dispute so long as the motion is made within 45 days of service of the objection.

3. Final Termination

The parties agree that full compliance with Section IV.A.2 above will support a finding that the District has complied with both the letter and the spirit of the orders governing this matter as they pertain to transportation, and that the vestiges of segregation in the area of transportation have been eliminated to the extent practicable.¹⁶ Ninety (90) days subsequent to filing the November 15, 2018 Annual Report, the Board may move for unitary status and dismissal regarding transportation and/or the Plaintiff Parties may move for further relief or to enforce the Consent Order on transportation. The applicable provisions of the Federal Rules of Civil Procedure and the Local Rules of this Court will apply to any such motion. In the absence of a motion in opposition to unitary status, a motion to enforce the Consent Order, or a motion for further relief by the Plaintiff Parties, and subject to this Court's ruling that the District is in compliance with this Consent Order, Title IV of the Civil Rights Act of 1964, and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, then the Court may declare the District unitary with respect to transportation and dismiss this case as to transportation.

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¹⁶ See *Freeman*, 503 U.S. at 485.

V. CONTINUING JUDICIAL SUPERVISION

The parties agree and the Court finds that this Court shall retain jurisdiction for purposes of monitoring and enforcing compliance with the terms of this Consent Order until such time that the Court declares the Board unitary and finally terminates the pending injunction relative to the Board's operations in the area of transportation. All prior orders of this Court not inconsistent herewith remain in full force and effect.

HEREBY ORDERED, ADJUDGED, AND DECREED, this the 4th day of

Felmy, 2016.

UNITED STATES DISTRICT JUDGE

APPROVED REGARDING FORM AND CONTENT:

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