

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

DALLAS DIVISION

EDDIE MITCHELL TASBY and PHILIP WAYNE )  
TASBY, By their parent and next friend, )  
SAM TASBY; EVELYN DENISE LAFAYETTE and )  
DARLINE LAFAYETTE by their parent and next )  
friend LUDIE ANN COBBIN; JOHN L. MORGAN, )  
LEON M. MORGAN, EMANUEL MORGAN and )  
JACQUELINE MORGAN, by their parent )  
and next friend THELMA LEE CROUCH: )  
JACQUELINE DENISE YARBOROUGH, KATHERINE )  
YVETTE YARBOROUGH, and WILLIE JACKSON )  
by their parent and next friend BETTYE )  
JACKSON; NETTIE MARIE CATES by her )  
parent and next friend BOBBIE LEAN )  
COBBIN; TONY JEFFERSON, BEULAH )  
JEFFERSON, ARTHUR JEFFERSON, YOLANDA )  
JEFFERSON, and JACQUELINE JEFFERSON, )  
by their parent and next friend, RUTH )  
JEFFERSON; ORA CLARA WOODS and JAMES )  
EDWARD WOODS, by their parent and next )  
friend HELEN WOODS; ANGELA MEDRANO and )  
YOLANDA MEDRANO, by their parent and )  
next friend RICHARD MEDRANO; indivi- )  
dually and on behalf of all others )  
similarly situated, )

CIVIL ACTION  
NO. CA-3-4211-C

U. S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS

**FILED**

OCT 26 1970

BAILEY E. RANKIN, CLERK

BY \_\_\_\_\_ DEPUTY

PLAINTIFFS

VS.

DR. NOLAN ESTES, GENERAL SUPERINTENDENT )  
DALLAS INDEPENDENT SCHOOL DISTRICT: )  
THE BOARD OF TRUSTEES FOR THE )  
DALLAS INDEPENDENT SCHOOL DISTRICT )  
MARVIN H. BERKELEY, EMMETT J. CONRAD, )  
JOHN PLATH GREEN, MRS. HENRI L. BROM- )  
BERS, JR., J. R. HOLLINSWORTH, SAM R. )  
FARIS, DANIEL FOSTER, TRINIDAD GARAA )  
individually and in their official )  
capacities. )

DEFENDANTS

DEFENDANTS' ANSWER

Now comes Dr. Nolan Estes, General Superintendent Dallas  
Independent School District; the Board of Trustees for the Dallas  
Independent School District, Marvin H. Berkeley, Emmett J. Conrad,

Certified a true copy of an instrument  
on file in my office on 1-9-77  
NANCY HALL DOHERTY, Clerk, U.S. District  
Court, Northern District of Texas  
By Ramon S. Garcia Deputy

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*[Handwritten mark]*

John Plath Green, Mrs. Henri L. Brombers, Jr., J. R. Hollinsworth, Sam R. Faris, Daniel Foster, Trinidad Garza, individually and in their official capacities, and in answer to the Complaint and the First Amended Complaint, hereinafter called "Complaint," the Defendants say:

FIRST DEFENSE

The Complaint fails to state a claim against these Defendants upon which relief can be granted.

SECOND DEFENSE

1.

The Defendants deny the allegations contained in paragraph I(a) of the Complaint.

2.

The Defendants admit that this Court has jurisdiction of this action. The remainder of the allegations contained in paragraph I(b) of the Complaint are denied by Defendants.

3.

The Defendants admit the allegations contained in paragraph II of the Complaint.

4.

The Defendants deny the allegations contained in paragraph III of the Complaint.

5.

The Defendants admit only the allegations contained in paragraph IV of the Complaint wherein it is alleged that certain named persons are the general superintendent and members of the Board of Trustees of the Dallas Independent School District. The remainder of the allegations contained in paragraph IV of the Complaint are denied by Defendants.

6.

The Defendants deny the allegations contained in paragraph V of the Complaint.

7.

The Defendants deny the allegations contained in paragraph VI of the Complaint.

8.

The Defendants deny the allegations contained in paragraph VII of the Complaint.

9.

The Defendants deny the allegations contained in paragraph VIII of the Complaint.

10.

The Defendants deny the allegations contained in paragraph IX of the Complaint.

11.

The Defendants deny the allegations contained in paragraph X of the Complaint.

12.

The Defendants deny the allegations contained in paragraph XI of the Complaint.

13.

The Defendants deny the allegations contained in paragraph XII of the Complaint.

14.

Defendants deny each and every allegation in the Complaint not herein admitted, controverted and especially denied.

THIRD DEFENSE

(a) On July 23, 1965, in an action pending in this, the United States District Court for the Northern District of Texas, Dallas Division, in Cause No. 6165, styled "Albert Bell, et al, (or later, Sherry E. Britton, et al) vs. Robert S. Folsom, et al" in this Court, the District Court approved a plan of desegregation of the Dallas Independent School District.

(b) Thereafter the Plaintiffs in the above mentioned proceedings filed a motion for mandamus and injunction in the United States Court of Appeals for the Fifth Circuit against T. Whitfield Davidson, Judge, United States District Court for the Northern District of Texas, and the Defendants in the above mentioned proceedings, seeking a writ of mandamus and/or a writ of injunction directing the District Court to order an amendment to the plan of desegregation approved by the District Court, and on September 1, 1965, the United States Court of Appeals for the Fifth Circuit in its Cause No. 22933, styled "Sherry E. Britton, et al, vs. T. Whitfield Davidson, Judge, United States District Court for the Northern District of Texas, Dallas Division, et al" in a written opinion-order referring to its requirements and orders contained in five other cases specifying the desegregation required of those districts and the Dallas Independent School District ordered the Board of Trustees of the Dallas Independent School District to amend the plan of desegregation as approved by the District Court.

(c) Immediately upon being advised of such order of the United States Court of Appeals for the Fifth Circuit, a special meeting of the Board of Trustees of the Dallas Independent School

District was called and that meeting held on September 7, 1965, at 9:00 o'clock a.m. and such order was read to the Board of Trustees, and at that special meeting the Board of Trustees obedient to the order of the United States Court of Appeals for the Fifth Circuit amended the plan of desegregation as approved by the District Court effective as of September 1, 1965, as so required by the United States Court of Appeals for the Fifth Circuit and established boundary lines of schools as required in order to comply with such order, and a copy of the minutes of that special meeting of the Board of Trustees of the Dallas Independent School District is attached hereto and made a part hereof for the purpose of showing the action taken by the Trustees of the Dallas Independent School District in obedience to the orders of the Courts.

(d) Following the end of the school year which began September 1, 1965, one of the attorneys for the Plaintiffs in the above mentioned desegregation proceedings on or about July 20, 1966, requested in writing of the Defendants' attorney that he be furnished copies of all resolutions of the Dallas Independent School District since June of 1965 pertaining to attendance zones, assignments, reassignments, and transfer of pupils and teachers, assignments and reassignments of grades between school and school zones for all grade levels relating to desegregation of schools and/or grades within the Dallas Independent School District, and that the information so requested was furnished to the attorney requesting same on or about August 2, 1966; and no further action has been taken by the Plaintiffs or their attorneys in the above mentioned desegregation proceedings.

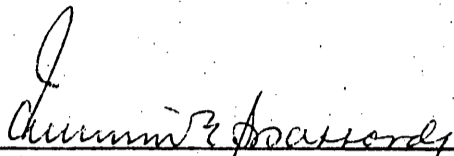
(e) No appeal was taken from, or judicial challenge made to, such amended plan of desegregation; that Defendants have operated and conducted the Dallas Independent School District and its schools since September 1, 1965, pursuant and obedient to such amended plan of desegregation and Defendants have relied on the actions, orders, and decisions of the District Court and the United States Court of Appeals for the Fifth Circuit in approving such plan and directing amendments thereof in the operation and conduct of the Dallas Independent School District and its schools as authorizing and permitting the action taken by the Dallas Independent School District in achieving a unitary system.

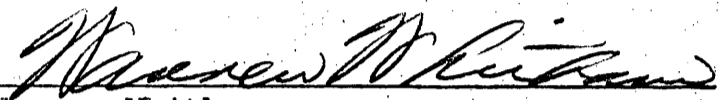
(f) The above mentioned former proceedings in this Court and the above mentioned former proceedings in the United States Court of Appeals were brought and prosecuted as class actions for the benefit and on behalf of persons alleged to be deprived of rights secured by the Constitution and laws of the United States on account of race, just as alleged by Plaintiffs herein, and by virtue thereof the Plaintiffs and those they seek to represent in this action, if Plaintiffs are permitted to maintain this action as a class action, were adverse parties to Defendants, and their predecessors in office, in such above mentioned former proceedings in this Court, and the above mentioned former proceedings in the United States Court of Appeals for the Fifth Circuit, and the desegregation of the Dallas Independent School District was there at issue and determined and provided for by such orders made in such above mentioned former proceedings.

(g) Defendants' acts have been open and continuous since September 1, 1965, or a period in excess of five years, prior to the filing of this action, to the knowledge of Plaintiffs and the class they seek to represent in this action, with no attempt during that five years on the part of Plaintiffs and the class they seek to represent in this action to obtain further judicial determination of their alleged rights and the Defendants have relied on the cooperation and assistance of the patrons of the Dallas Independent School District, including persons within the class Plaintiffs seek to represent in this action, in operating and conducting the schools of the Dallas Independent School District under such orders of the District Court and the United States Court of Appeals for the Fifth Circuit referred to above.

(h) By reason of the above facts and circumstances Plaintiffs are barred by res judicata, laches and estoppel to maintain or assert in this action that the operation and conduct of the schools of the Dallas Independent School District prior to the filing of this action are illegal, improper and void and to maintain or assert in this action that Defendants should be ordered or required to change or cease any act, operation, conduct or undertaking heretofore begun or carried out while operating or conducting the schools of the Dallas Independent School District under such court orders, and Plaintiffs should not be heard to say that a school district operating and conducting its schools under such orders of the District Court and of the United States Court of Appeals for the Fifth Circuit, as ordered by those Courts, has heretofore been depriving persons of rights secured by the Constitution and laws of the United States.

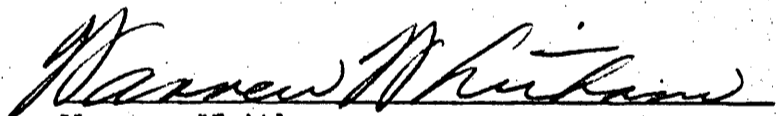
WHEREFORE, Defendants pray that Plaintiffs take nothing by virtue of this action and that these Defendants go hence with their costs without day.

  
\_\_\_\_\_  
Franklin E. Spafford

  
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Warren Whitham  
Attorneys for Defendants

SPAFFORD, GAY & WHITHAM  
1310 Kirby Building  
Dallas, Texas 75201  
214-748-9657

A copy of the above and foregoing answer was on this 26<sup>th</sup> day of October, 1970, mailed to Mr. Edward B. Cloutman, III, Dallas Legal Services Project, 2842 Singleton Boulevard, Dallas, Texas, 75212, the attorney for Plaintiffs.

  
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Warren Whitham  
Attorney for Defendants