IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF TEXAS

DALLAS DIVISION

EDDIE MITCHELL TASBY, ET AL. *
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Plaintiffs *
*
v. * CIVIL ACTION NO. 3-4211-H
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DR. LINUS WRIGHT, GENERAL *
SUPERINTENDENT, DALLAS *
INDEPENDENT SCHOOL DISTRICT, *
ET AL. *
*
Defendants *

MEMORANDUM OPINION AND ORDER

In its August 3, 1981, Opinion, the Court concluded that "vestiges of state-imposed racial segregation remain in the Dallas Independent School District (DISD)." Tasby v. Wright, 520 F. Supp. 683, 686 (N.D.Tex. 1981). Holding that "additional systemwide transportation [was] not a feasible remedy for the existing constitutional violation" Id., the Court directed that desegregation plans be filed which incorporated other remedies to address the effects of past segregation.

Three plans were submitted: one by Defendant DISD; one jointly by the Plaintiffs and the Intervenor NAACP; and one by the Intervenor Black Coalition. The DISD plan set out in comprehensive detail proposals to (1) increase the use of the Majority-to-Minority transfer program through financial incentives and additional transportation; (2) develop and fund compensatory educational remedies for students enrolled in predominantly minority schools; (3) make structural improvements at the Nolan Estes Plaza complex; (4) improve and expand the magnet school concept in the district; and (5) close and consolidate several K-3 schools with low enrollment. In addition, the DISD plan had a component entitled the Minority Neighborhood Option Program (MNOP), which would have allowed minority students to "opt-out" of the desegregative transportation program now in effect in grades 4-8.

The Black Coalition proposal tracked the DISD plan for the most part, but with significantly more detail on the implementation of specific programs. The plan advocated by the Plaintiffs and the Intervenor NAACP (hereinafter described as "Plaintiffs' plan") generally supported the programmatic approach suggested by DISD, with some refinements. The Plaintiffs' plan also proposed to close two schools beyond those identified in the DISD plan, and to alter the attendance zones of several K-3 and high schools to increase desegregation.

Although the three plans shared many of the same concepts, significant differences existed in the specific blueprints for the compensatory programs, the methods of implementation, and timetables for completion. Many of these areas of dispute were resolved, however, by a Stipulation entered into by six of the seven parties to this litigation.[1] The Stipulation, which was approved in a December 2, 1981, Order of this Court, represents an agreement on the majority-to-minority transfer program, the execution and funding of the educational remedies, the timetable for improvements to the Nolan Estes Plaza, the magnet school program, and the review of selection criteria for the Talented and Gifted Program.

Other issues in contention between the parties have been decided by prior rulings of this Court. On December 7, 1981, the Court held in a Memorandum Opinion that the constraints of the Fifth Circuit remand instructions precluded approval of the Minority Neighborhood Option Program as part of a DISD desegregation plan. During the course of the hearings on December 8 and 9, 1981, the Court approved several attendance zone changes proposed by DISD to relieve overcrowding or to keep intact certain historical districts.

The Court also approved a plan to consolidate the six administrative subdistricts into three subdistricts by September 1984. The consolidation

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1 The remaining party, the North Dallas (Curry) Intervenors, did not approve the Stipulation but did not object to it. However, by Pretrial Order and by testimony they opposed allocating additional funds for minority students, an important part of the Stipulation. One of the counsel for Curry Intervenors is a recently elected member of the DISD Board; the DISD agreed to the Stipulation in its entirety; Curry counsel appears to have an irremediable conflict.

of the Seagoville subdistrict with the Southeast subdistrict is to be accomplished immediately, thus eliminating the only predominantly anglo subdistrict under the 1976 plan. The movement to three administrative divisions by 1984 will also do away with the present all-black East Oak Cliff subdistrict. Under the new plan, each subdistrict will more nearly approximate the minority enrollment in DISD with blacks and hispanics representing 31% and 39%, respectively, of the students in Subdistrict I, 72% and 15% in Subdistrict II, and 41% and 10% in Subdistrict III.

A Stipulation was filed and accepted by the Court which allows high school students living in the Bayles K-3 attendance zone the option to attend either Woodrow Wilson or Skyline high school in order to encourage more anglo students to attend naturally integrated Wilson.

With the issues addressed by the two Stipulations and the previous rulings of this Court out of the equation, only a very few areas of controversy remain for adjudication. Putting these matters into some much-needed perspective, after 26 years of litigation (including 11 years in this suit), the dispute in this Court concerning desegregation in the Dallas school system has dwindled to differences which affect less than 1% of DISD's 128,000 students.[2]

In major part, the issue which continues to divide the parties is the proposal by the Plaintiffs and NAACP to redraw the attendance zones for some K-3 and high schools. Specifically, the Plaintiffs' plan would increase minority representation at W.T. White, Hillcrest, and Bryan Adams high schools by changing their attendance zones as follows:

(1) Williams, Longfellow and K.T. Polk K-3 attendance areas, from Thomas Jefferson to W.T. White high school;

(2) Marcus (including consolidated DeGolyer) K-3 attendance area, from W.T. White to Thomas Jefferson high school;

(3) Mount Auburn and Lipscomb K-3 attendance areas south of Grand Avenue, and the Sanger K-3 attendance area, from Woodrow Wilson and Skyline high schools to Bryan Adams;

(4) Ray K-3 attendance area, from North Dallas to Hillcrest high school.

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2 The Court recognizes, of course, that some parties to this suit disagree with its August 3, 1981, Opinion, and that others take exception to its December 7, 1981, Opinion.

The Court has reviewed the desegregation accomplished by the attendance zone alterations, the times and distances involved, the ages of the students and the capacities of the affected schools, and finds that these proposed attendance zone revisions would feasibly further DISD desegregation,[3] and should be APPROVED, with one modification.

Since students in the Ray attendance area presently must attend four different and geographically dispersed schools in their educational career, the Court is reluctant to impose yet another change at this time. Consequently, during the 1982-83 school year these students may exercise an option to attend either North Dallas or Hillcrest high school. The Court will review the Ray assignment situation in spring, 1983, to determine if any further change should be made.

These attendance zone changes will be effective with the beginning of the 1982-83 school year, and will apply to those students entering the ninth grade for the first time; for 1983-84 the zone changes will include ninth and tenth grade students; for 1984-85, the ninth, tenth and eleventh grades; and for 1985-86, grades 9 through 12. It is the intention of the Court that the zone changes be completely accomplished in four years, in such a way that no student now in one high school will be required to transfer to another high school by reason of a zone change. See Tasby v. Wright, supra, 520 F. Supp. at 750. Furthermore, it appears appropriate that, to the extent possible, all students feeding into a high school attend one of the 7-8 grade centers for that high school. DISD is directed to review the current assignment patterns in these grades to determine if adjustments can be made to reflect the new high school zones without a significant adverse effect on the level of desegregation at any school.

At the elementary school level, Plaintiffs' plan would close the Hexter K-3 school and assign its 109 students to the Lakewood K-6 center. The Court's primary interest and specific jurisdiction, of course, must be with the desegregation of the Dallas school system.

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3 The immediate effect of these changes will be that, other than far distant Seagoville with only 719 students, no high school in DISD will have greater than a 70% anglo enrollment and projections indicate the trend toward desegregation will continue.

With the assignment of Hexter pupils, the Lakewood K-3 enrollment would still be over 90% anglo, although the enrollment in the K-6 grades, considered campuswide, would be 53% anglo. Although desegregative benefits may indeed accrue from placement of anglo K-3's on a campus with minority students in grades 4-6, see Tasby v. Wright, supra, 520 F. Supp. at 716 n.76, the Court has concluded that the dislocation caused by this particular proposal is not commensurate with its minimal desegregative effect. Projections indicate that the 109 Hexter students will drop to 95 by 1985. The Court questions the economic efficiency of maintaining a school the size of Hexter and would give attentive consideration to a proposal by DISD to close the school. However, viewed solely from the standpoint of desegregation, the closing proposal lacks merit and Plaintiffs' plan in this respect is DISAPPROVED.

The Plaintiffs also recommend that the Rylie 4-6 school be closed and the current K-3 schools at Lagow and Mosely expanded to accommodate K-6 grades. The Rylie 4-6 students together with students in these grades from Buckner and Burleson would be assigned to the new Lagow and Mosely centers. While these changes would not affect the anglo dominance in grades K-3 at either school, as a K-6 campus both Lagow and Mosely would have desegregated enrollments. The DISD does not oppose this consolidation, which effects a significant degree of desegregation at two now predominantly anglo K-3 schools with about 700 K-3 students. The Plaintiffs' recommendation will be APPROVED.

The DISD plan would close six K-3 schools with low enrollments (Nathan Adams, Dealey, DeGolyer, Hassell, Kramer and Withers) by consolidating them with other nearby schools. (A proposal to close either Sudie Williams or Longfellow was withdrawn by the school district after the rejection of the MNOP portion of the DISD plan.) The only objection to these changes was raised by the Black Coalition, which opposes the closing of the Hassell K-3 school, where substantial and expensive improvements in physical facilities are needed if the school is to remain open.

The Court can understand the normal community reluctance to close any neighborhood school, but finds that the DISD proposal is supported by strong economic and desegregative rationales. The monies saved may be better used to fund compensatory education programs or other

remedies ordered in the August 3, 1981, Opinion. The DISD recommendation that these six schools be closed will thus be APPROVED.

Several additional matters are also pending before the Court. The DISD submitted an amendment to its desegregation plan for 4-8th grade assignments after the MNOP was disapproved. The amended proposal would realign the present feeder zones in grades 4-6 to reflect the school closings and consolidations discussed earlier. In addition, some alterations are made to alleviate the resegregation of minority students which enrollment shifts have caused at some 4-6 receiving centers. No objection has been raised to these changes and they are APPROVED.

During the course of the December hearings, a question was raised concerning the eligibility criteria for the majority-to-minority transfer program. The interpretation of the current provision in the 1976 Order has operated to exclude some minority students from participation even though they attend a predominantly minority school. The Court directs that the guidelines for majority-to-minority transfer be amended promptly to correct this situation and to insure the widest possible utilization of the majority-to-minority transfer program. DISD is directed to develop appropriate language to be included in the Judgment.

In addition, the Court will carefully monitor the Talented and Gifted Program (TAG), and other honors programs, to insure that enrollment is on a nondiscriminatory basis. The continued operation of these classes cannot be permitted to lead to the classroom resegregation of students in desegregated schools. The Judgment will contain provisions requiring the DISD to report regularly on the TAG and other honors programs, and to provide a justification for their continuation if resegregation has occurred for a significant number of the participants.

In sum, the Court concludes that the alterations to attendance zones, the school closings and consolidations, and the modifications to the majority-to-minority transfer program will "achieve the greatest possible degree of actual desegregation [in DISD], taking into account the practicalities of the situation." Davis v. Board of School Commissioners of Mobile County, 402 U.S. 33, 37 (1971). After full execution of the attendance zone revisions and closings, less than 1000 children in

grades K-3 will attend K-3 schools which have predominantly anglo enrollments. Even these few, however, will join with a significant portion of DISD students in attending desegregated 4-6, 7-8 and 9-12 schools. Aggressive implementation of the financial incentive, publicity and transportation improvements to the majority-to-minority program will also further desegregation. For the predominantly minority schools which are inevitable in a district with over 70% and growing minority enrollment, the compensatory educational programs and additional teacher allocation and funding should help redress the lingering effects of school segregation exhibited in the achievement gap between minority and anglo students in DISD.

The success of the desegregation remedies depends in large part on the commitments and efforts of everyone in the school system. The Court fully expects that the demonstrated dedication of the DISD administrative staff to quality education for every child will continue.

The Court will retain jurisdiction to assure the implementation of the required desegregative actions and to enforce the provisions of its judgment. The Court looks forward to the day when it can declare the DISD desegregated and this litigation finally at an end.

Any provision or language which any party wishes the Court to consider for inclusion in the final judgment must be filed with the Court by 4:00 P.M., December 29, 1981.

SO ORDERED.

DATED: December 21, 1981.

BAREFOOT SANDERS
UNITED STATES DISTRICT JUDGE