

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

JOYCE MARIE MOORE, ET AL.,

CIVIL ACTION  
NO. 65-15556

VERSUS

TANGIPAHOA PARISH SCHOOL BOARD, ET. AL.

JUDGE LEMELLE

PLAINTIFFS' POST HEARING MEMORANDUM IN OPPOSITION  
TO THE DEFENDANTS' DESEGREGATION PLAN

Before the court is a school system that concedes that it has not dismantled its racially segregated school system. Brown v. Board of Educ. of Topeka, Shawnee County, Kan., 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954), has not been overruled. The dual system must be dismantled, and the school board must "take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch." Green v. County Sch. Bd. of New Kent Cty., Va., 391 U.S. 430, 437-38, 88 S.Ct. 1689, 20 L.Ed.2d 716 (1968).

Until a desegregation order is dissolved, the district court has a constitutional duty to enforce the order by scrutinizing all school board actions. Hull v. Quitman Cty. Bd. of Educ., 1 F.3d 1450, 1458 (5th Cir.1993). "The District Court should address itself to whether the Board had complied in good faith with the desegregation decree since it was entered, and whether

the vestiges of past discrimination had been eliminated to the extent practicable." Board of Educ. of Oklahoma City Public Schs. v. Dowell, 498 U.S. 237, 249-250, 111 S.Ct. 630, 112 L.Ed.2d 715 (1991).

The school board and the district court must "make every effort to achieve the greatest possible degree of actual desegregation and will thus necessarily be concerned with the elimination of one-race schools." Id. "Where racial imbalances in student attendance zones persist within a school district, there is a presumption that in the 'former de jure segregated school district ... the board's actions caused [the imbalance], and it is the school board's obligation to rebut that presumption." Hull, 1 F.3d at 1459 n. 4 (quoting Freeman, 503 U.S. at 512 n. 1, 112 S.Ct. 1430). The Board in this case does not attempt to rebut the presumption. The defendants do not to even attempt to deny the obvious, that the present segregation is result of segregative acts. Instead, they try another approach. They propose minimal desegregation and seek to obtain court endorsement of the fruits of longstanding segregative acts, including wholesale violations of the orders of the court, that even included, incredibly, deliberate obstruction of basic Majority to Minority transfer provisions that defendants "blatantly violated for years." [Rec. Doc. 632]

A.

The defendants continue their spirited defense of a plan that would allow them to continue in place the one-race schools that are a product of their de jure decision making. While the existence of one-race or virtually one-race schools within a district is not per se prohibited or per se indicative of discriminatory practices, see Swann, 402 U.S. at 26, 91 S.Ct. 1267, these schools in Tangipahoa Parish by the admission of its officials and attorneys are the product of the dual system based on race. Because the public schools remain segregated today, the defendant school board is now before the court offering a plan that purports to remedy its longstanding and continuing violation of the Fourteenth Amendment.

The plaintiffs do not retreat from their opposition of record, Rec. Doc. 755. Plaintiffs say again—considering the record of ongoing violation of court orders and actions demonstrating segregative intent, the submission of a student assignment plan from this particular school system that starts out admitting that 30 of its 36 Schools are racially identifiable, and then proposes speculative voluntary desegregation, leaving in tact, at optimum implementation, over half of the racially identifiable schools in the system—the

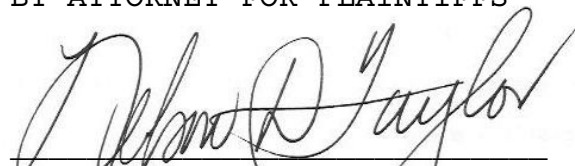
school board's plan is outrageous and unconstitutional on its face.

B.

CONCLUSION

If what the defendants argue is the law, then Brown v. Board of Education has been overruled and the doctrine of "separate but equal" has been restored in Tangipahoa Parish. Plaintiffs urge this court to end the prolonged procrastination of the Tangipahoa Parish School Board and order them to desegregate this school system, eliminating all vestiges of its dual system based on racially segregated schools, "root and branch." The cases cited above have not been reversed or rescinded as applicable to de jure racial segregation in public schools.

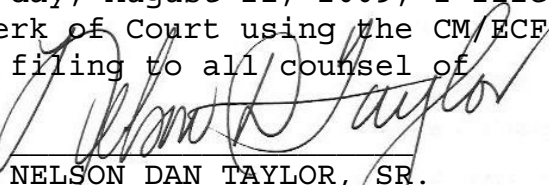
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CERTIFICATE

I hereby certify that on this day, August 21, 2009, I filed the foregoing pleading with the Clerk of Court using the CM/ECE filing system which gave notice of filing to all counsel of record.



NELSON DAN TAYLOR, SR.