

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

JOYCE MARIE MOORE, ET AL.,
Plaintiffs,

CIVIL ACTION NO.: 65-15556

VERSUS

SECTION "B" (1)

TANGIPAHOA PARISH SCHOOL BOARD,
Defendant.

JUDGE: IVAN L. R. LEMELLE

**COURT ORDERED POST-CLOSING ARGUMENTS SUBMISSION
OF REQUESTED INFORMATION**

NOW INTO COURT, through undersigned counsel, comes Defendant Tangipahoa Parish School Board who makes the following submission of information requested by the court upon conclusion of closing arguments:

1.

Attached as Exhibit "A" is a letter from Dr. David Lerch addressing the effectiveness of magnet schools as a desegregation methodology in the East Baton Rouge, Rapides, St. John the Baptist, and St. James parish school districts.

2.

The following language is found in Paragraphs 15 and 16 of the Consent Order in "Lena Vern Dandridge, et al. v. Jefferson Parish School Board", United States District Court, Eastern District of Louisiana, Civil Action No. 64-14801, Section "N", Honorable Kurt D. Engelhardt, Judge (Record Doc. No. 164), relative to inter-district transfers:

"15.

"Except in cases in which an order authorizing inter-district transfers has been entered by a federal district court with supervision over the sending school system in a pending school desegregation lawsuit, no such inter-district transfer shall be permitted for an inter-district transferring student seeking to attend

a school operated by the School System. In cases in which such an order is entered, inter-district transfers shall be subject to the following conditions:

- A. Any applicable state law requirements have been met for inter-district student transfers between the School System and the sending school system.
- B. No inter-district transfer shall be permitted that would serve to increase the majority race enrollment in a racially identifiable school or result in a desegregated school becoming racially identifiable.

“16.

Inter-district transfers shall be permitted where the sending school district is not under federal judicial supervision in a school desegregation lawsuit under the following conditions:

- A. Any applicable state law requirements have been met for inter-district student transfers between the School System and the sending school system.
- B. No inter-district transfer shall be permitted that would serve to increase the majority race enrollment in a racially identifiable school or result in a desegregated school becoming racially identifiable.”

The following language is found in Paragraph 4(a) of Part D of the Superseding Consent Decree in “Joann Graham, et al. and United States of America v. Evangeline Parish School Board”, United States District Court, Western District of Louisiana, Lafayette Division, Civil Action No. 11,053, Honorable Tucker Melancon, Judge (Record Doc. No. 17), relating to inter-district transfers:

“Continuing for the 2001-2002 school year for each school year thereafter, no inter-district or intra-district transfer shall be permitted other than those approved by the Transfer Committee (composed of three members, one of whom shall be the Supervisor of Child Welfare and Attendance, the remaining two members shall be persons employed at the building principal level or above). The decision of the Transfer Committee shall be final and without

appeal to the EPSB. Pursuant to this provision, no transfer shall be approved unless the student seeking the transfer establishes one of the following reasons:

- (a) Specialized academic, vocational, or special education curriculum not offered in the school, or district of residence. For an inter-district transfer, the Superintendent of the sending district shall be required to submit to the Superintendent of the receiving district a notarized statement verifying the unavailability of the specific curriculum in the district of residence. For an intra-district transfer, the principal and designated administrator(s) of the sending school must sign a statement verifying the unavailability of the specific course(s) and the necessity of the student's transfer to take the course(s)."

In view of discussions had during status conference there is a need to change the current language in Paragraph 8(A) and (B) of the school board's proposed plan (Doc. No. 738), relative to inter-district transfers. Consistent with those discussions, the following language is presented as a possible modification to the language in Paragraph 8(A) and (B):

Inter-district transfers are hereby authorized. All currently enrolled inter-district transfer students shall be permitted to continue their enrollment in the school of current enrollment and, where applicable, progress to schools within the feeder pattern of their school of current enrollment. Commencing with the beginning of the school year following court approval of this Order, inter-district transfer students enrolling in the school system for the first time shall be assigned to schools in such a manner that their enrollment in a particular school will not increase the majority race of a racially identifiable school or result in a desegregated school becoming racially identifiable.

3.

In *Tasby v. Estes*, 412 F.2d 1192 (N.D. Texas 1976), a school desegregation law suit involving the Dallas Independent School District (DISD), the district court divided the school district into six subdistricts or regions. 412 F.2d 1192, 1212-13. At that time, the school system was comprised of 160,338 students (see 520 F.2d at 697-98). "[T]he subdistricts were carved in

such a way as to cause the ethnic composition of as many of the subdistricts as possible to mirror the racial makeup of the DISD as a whole. . . . [T]he Final Order entered in March 1976, called for the creation of four subdistricts each having approximately the same racial makeup, plus or minus five percent, as the entire DISD[.]” 520 F.2d at 696; see also, 412 F.2d at 1212. There is no indication that a different desegregation construct was used for each of the six subdistricts. The subdistrict boundaries were demarcated by major roads, water bodies, and interstate highways.

The present case differs from *Estes*. Dallas is a major metropolitan area while Tangipahoa is basically rural. The DISD includes most of the city of Dallas and is the twelfth largest school system in the United States at this time. At the time the subdistricts were created, the student enrollment of the DISD was slightly over eight times the current enrollment of the Tangipahoa Parish School System and its student enrollment in 1976 would have exceeded the total 2000 census population of Tangipahoa Parish by nearly 60,000. Dallas, Texas has three telephone area codes and is crossed by at least four major interstate highways.

The subdistrict plan was implemented because it was more effective than “one large district” and to minimize transportation distance and time. 412 F.2d at 1203, 1214. These considerations are not present in this lawsuit.

In the present lawsuit, plaintiffs’ expert’s subdistricts or regions are not demarcated by major roadways, water bodies, or other recognizable geographical boundaries and are not configured to closely approximate the white, black, other student composition of the school system’s enrollment as a whole. The size of the student body of the Tangipahoa Parish School System does not lend itself to any necessity that a subdistrict configuration would serve to enhance efficiency.

Transportation also is not a reason for imposing a subdistrict or regional plan in the present lawsuit. Although Dallas is comprised of a smaller geographical area (342.5 square miles) than Tangipahoa Parish (823 square miles of which 790 square miles are land and 33 square miles are water), Dallas had an estimated population nearing 5.3 million people according to 2000 federal census and, according to a March 2009 federal Census Bureau release, Dallas' population is 6,300,006 as of July 2008, making it the fourth largest metropolitan area in the nation. The population of Tangipahoa Parish as of the 2000 federal census was 100,588, making Dallas' population , as of 2000, approximately 50 times the population of Tangipahoa Parish. Obviously, traversing Dallas with its traffic flow presents a significantly more onerous and time consuming problem than driving from one end to the other end of Tangipahoa Parish.

The feeder patterns in the school board's plan are compact in nature and serve to minimize transportation times. "Mirror" magnet offerings of Montessori and Communications programs at the elementary level are proposed in the northern and southern areas of the school district. The Communications middle magnet program is offered at Independence Middle School which is centrally located within the school district. The Central Education Center also is planned for a centralized location within the school district. The three International Baccalaureate magnet programs and the Medical magnet program are offered in Hammond schools. Hammond, while not centrally located, is at the cross-section of Interstate Highways 12 and 55 and readily accessible by U.S. Highway 51. The bulk of the parish's population resides in the Hammond and contiguous Ponchatoula areas.

None of the factors present in the DISD that resulted in the creation of a subdistrict school desegregation plan are present in the Tangipahoa Parish School District. Accordingly, *Estes* is not a model for pursuing the desegregation of the Tangipahoa Parish School System.

Finally, it is to be noted that the subdistrict plan for the DISD resulted in considerable white flight. White enrollments dropped from 52,912 in 1976 to 37,174 in 1981. (520 F.2d at 697-98.)

4.

The only cases that undersigned counsel are aware of that involved differing desegregation constructs are “Walton J. Charles, et al. and United States of America v. Ascension Parish School Board” (Civil Action No. 3257, USDC M.D. La.) and “Lena Vern Dandridge, et al. v. Jefferson Parish School Board, et al.” (Civil Action No. 64-14801, USDC E.D. La.)

The school district in Ascension is divided by the Mississippi River. Access from the east to bank of the parish to the west bank and vice versa is basically limited to the Sunshine Bridge which is located in an adjoining parish. In the school year ending in May, 2003, 13,096 students were enrolled in east bank schools in Ascension and 2,074 in west bank schools. 78.5 percent of east bank students were white, 18 percent were black, and 3.5 per cent were other. On the west bank, white enrollment accounted for 8.4 percent of the student population, blacks accounted for 90.6 percent of enrolled west bank students, and one percent others were enrolled. A different desegregation construct was used to determine whether east bank schools were desegregation than that used to determine whether west bank schools were desegregated. Attached as Exhibit “B” is the “Joint Motion for Entry of Agreed Judgment” in the Charles case.

In the Jefferson Parish case, the Mississippi River also separates the school district into an east and west bank district. A plus or minus 15 percent desegregation standard is used in the case. The east bank of the Jefferson Parish School District is predominately white while the west

bank is predominately black. The Consent Order, signed on May 14, 2008 (Record Doc. No. 164), contains the following language on page 5:

The parties agree and so stipulate that, in the court's consideration of compliance with this Consent Order, no party shall cite, as an objection to the failure to achieve "unitary status", the fact that a particular school(s) situated on the east side of the Mississippi River is desegregated based upon total student enrollment on the east side of the river within a plus or minus 15 percent.

The parties further agree and so stipulate that, in the court's consideration of compliance with this Consent Order, no party shall cite, as an objection to the failure to achieve "unitary status", the fact that a particular school(s) situated on the west side of the Mississippi River is desegregated based upon total student enrollment on the west side of the river within plus or minus 15 percent. This shall exclude any student(s) residing in and in proximity to the towns of Grand Isle and Lafitte (as inclusive of the areas of Crown Point and Barataria, hereinafter collectively referred to as "Lafitte"). The towns of Grand Isle and Lafitte are excepted because of their remoteness from other west side areas of the School District.

In the present lawsuit, no significant geographical feature such as the Mississippi River is present which would necessitate the use of differing desegregation constructs based upon a plus or minus 15 percent desegregation standard. In fact, as discussed above, the plan put forward by plaintiffs' expert does not rely upon any natural or man made geographical feature in demarcating the three subdistricts or regions in his proposed plan. The "lines" of demarcation are simply artificial and utilized to present a purported plan that claims to desegregate two more schools than the plan presented by the school board. As pointed out in closing arguments, when the school board's more stringent desegregation construct is used to evaluate the desegregative effect of plaintiffs' proposed plan, one discovers that plaintiffs' plan desegregates one less school than the school board's plan even with plaintiffs' proposed consolidation of Kentwood and Sumner high schools.

WHEREFORE, Defendant Tangipahoa Parish School Board prays that its school desegregation plan, as amended by subsequently filed Orders by the court, be approved and ordered implemented for the upcoming school year.

By Attorneys,

s/ Charles L. Patin, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2009, I electronically filed the foregoing document with the Clerk of Court by using CM/ECF system which will send a notice of electronic filing to all counsel of record.

s/ Charles L. Patin, Jr.

Charles L. Patin, Jr.