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NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

DEKALB COUNTY GEORGIA BRANCH
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July 1, 1983

The Honorable William Bradford Reynolds
Assistant Attorney General
Civil Rights Division
United States Department of Justice
Washington, D. C. 20530

Re: Complaint for the Violation of Civil Rights by the DeKalb County (Georgia) School System

Dear Mr. Reynolds:

By vote of the Executive Committee of the National Association for the Advancement of Colored People, DeKalb County Branch, (hereinafter "NAACP"), I have been authorized to submit this complaint against Mr. Paul Womack, Jr., Chairman, DeKalb County Board of Education, Dr. Robert Freeman, Superintendent, DeKalb County School System, and Dr. Edward Bouie, Assistant Superintendent, DeKalb County School System, each individually, and in their official capacities, for their violation of the civil rights of black children in DeKalb County. This complaint urges an investigation by the Department of Justice into the events which, in the opinion of the NAACP, represent a conspiracy by the aforementioned individuals to deprive the rights of black children in the administration of the Majority-to-Minority Transfer Program (hereinafter "M-to-M program") decreed by the United States District Court in Pitts v. Cherry, Civil Action File No. 11946 (N.D. Ga. 1969).

The NAACP complains that Messrs. Womack, Freeman and Bouie sought to defeat the court ordered requirements of the M-to-M program through an active conspiracy to manipulate pupil attendance projection figures with the intended purpose and effect of limiting the rights of black children to attend a predominantly white scool. In so doing, Messrs. Womack, et al., conspired to limit and deprive rights secured by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, as well as a standing order of the United States District Court, all in violation of civil and criminal laws of the

United States, to-wit: 42 U.S.C.A. §1985(3); 18 U.S.C.A. §§241, 242.1/

1/ 42 U.S.C.A. §1985(3) states, in part:

> If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; . . . in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

18 U.S.C.A. §241 states, in part:

> If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; . . .
>
> They shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.

18 U.S.C.A. §242 states:

> Whoever, under color of any law, statute, ordinance, regulation, or custom willfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if death results shall be subject to imprisonment for any term of years or for life.

I. Factual Background.

On November 3, 1976, the late Judge Newell Edenfield found that the M-to-M program then being administered by DeKalb County School System was too restrictive to fulfill the constitutional rights of black parents and children to have a desegregated educational environment. Pitts v. Cherry, Civil Action File No. 11946 (Order, November 3, 1976)[2/] The court issued its November 3, 1976 order to remedy the restrictive M-to-M program, and mandated that:

> The M-to-M program be modified so that any student may transfer from a school where his race is in the majority to any other school within the county in which his race is in the minority.

Three years later, in 1979, the school system sought to modify the November 3, 1976 order so as to limit the availability of the M-to-M program to only black students who transfer to schools that contain less than 26% (or the system-wide black student enrollment percentage) black enrollment. By his May 9, 1979 order, Judge Edenfield, again, rejected attempts by the school system to limit the application of the M-to-M remedy:

> [The] cases make clear that the choice of a school under an M-to-M program lies with the student, not the school system; thus, a limitation of the type proposed by defendants . . . which would interfere with a student's choice, would appear to be invalid, as this court recognized in its November, 1976 order.

Id., May 9, 1979 Order, p. 6.

Having sought at least twice to limit the availability of the M-to-M program through the proper judicial channels, we charge that the school system, through Messrs. Womack, Freeman and Bouie, agreed among themselves to limit the number of available M-to-M spaces in at least one school, Lakeside High School, and possibly others. The agreement to limit the M-to-M spaces was done intentionally to reduce the number of black students at predominantly white Lakeside without regard to the demands of either the aforementioned court order or the constitutional rights of the black children.

The following chronology of events has been widely reported in the media and constitute the operative facts of the conspiracy upon which this complaint is filed. It is urged that an investigation under your authority determine the accuracy of the reported facts, and, if

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2/ A copy of the November 3, 1976 Order in Pitts v. Cherry is attached hereto as "Attachment 1."

true, take such action as permitted under civil and criminal statutes so to prevent a re-occurrence.

On January 24, 1983, School Board Chairman, Paul Womack, met with some representatives of the PTA from the Lakeside High School area. During this meeting, Mr. Womack advised the representatives not to support a middle school plan if they did not want black students moving in to fill the classroom space that would be created. It was reported that School Board Vice Chairperson, Norma Travis, was present at this meeting.

On February 15, 1983, in the office of Superintendent Freeman, Chairperson Womack met with Superintendent Freeman, Dr. Bouie and Assistant Superintendent Dr. William Adams. During the February 15th meeting, Messrs. Womack and Freeman cited concerns of some members of the Lakeside High School community about the influx of blacks to Lakeside through the M-to-M program, and instructed Dr. Adams to close off the number of M-to-M transfers at Lakeside. According to reports published in the May 23, 1983 edition of The Atlanta Journal, Dr. Adams said, "He [Freeman] told me, 'Bill, shut it off.'" Dr. Adams responded by stating that, "We can't do that. It would violate the court order, and upset the stability of the school system." Dr. Adams also is reported as stating that during the February 15th meeting, Dr. Freeman discussed the possibility of limiting available M-to-M space at Lakeside by closing Briarcliff High School or Cross Keys High School. Dr. Freeman further suggested to Dr. Adams that moving some of the special education classes from Chamblee High School to Lakeside would fill up space at Lakeside, otherwise available for black students exercising the M-to-M option. Associate Superintendent Bouie said, "I'll take care of it," after Dr. Adams expressed his reluctance to illegally limit the available space under the M-to-M program.

On February 21, 1983, Dr. Bouie submitted to the DeKalb County Bi-Racial Committee a copy of the proposed M-to-M brochure which contained a limit of 110 M-to-M spaces at Lakeside. Heretofore, previous drafts of the same brochure did not place any limit on M-to-M transfers to Lakeside.

The school system in April, 1983, abandoned the 110 pupil limit when it could not be justified. Dr. Freeman claimed that the 110 limit was a "miscommunication," and there never was any attempt to place an unjustifiable limit on M-to-M transfers to Lakeside.

The NAACP seriously questions the excuse of "miscommunication" since the later revelations by Dr. Adams in May, 1983 that the 110 figure was created for no reason except to limit the black student population at Lakeside.

The crime of bank robbery cannot be ignored because the robber returns the loot. Likewise, the conspiracy to deny the right to exercise the M-to-M remedy cannot be overlooked because the school system abandoned the artificial 110 pupil limit only after it was caught red-handed.

The need for a government sanctioned investigation in this matter is compelling. The fate of public school children in our county is in the hands of many, none the least important are the hands of the elected and appointed leaders of the county's educational system. When the trust placed in these leaders to honor the laws is abused, it demands redress. It is all the more important that action be taken when the target of official deceit is the educational opportunity of our children.

Again, the DeKalb NAACP urges your receipt and investigation of our complaint. Our offices are available to you in any manner possible to assist in this matter which we consider to be of utmost importance to our association and to its members. We would appreciate being advised of your expected action on this request within the next two weeks.

Sincerely,

Coleman Seward
President, DeKalb County NAACP

cc: The Honorable Larry D. Thompson
The Honorable Daniel Rinzel
The Honorable Curtis Anderson