

423 F.2d 1055
United States Court of Appeals, Fifth Circuit.

Margaret M. JOHNSON et al.,
Plaintiffs-Appellants,
v.
JACKSON PARISH SCHOOL BOARD et al.,
Defendants-Appellees.

No. 28712.
|
March 25, 1970.

Synopsis

Proceedings on motion to clarify or supplement mandate, 420 F.2d 692. The Court of Appeals held that where school board technically desegregated schools but maintained dual system of classes within school, prior mandate directing school desegregation would be amended to require school board to forthwith eliminate dual system of pupil attendance by integrating all black and predominately all white classes within schools, except in those cases where class is continuation of course only offered in all black or all white school.

Mandate modified.

Attorneys and Law Firms

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Before GEWIN, GOLDBERG and DYER, Circuit Judges.

Opinion

PER CURIAM:

When this desegregation case was before us on December 9, 1969, we granted appellants' motion for summary reversal of an order of the District Court for the Western District of Louisiana and remanded for compliance with the requirements of *Alexander, et al. v. Holmes County*, 1969, 396 U.S. 19, 90 S.Ct. 29, 24 L.Ed.2d 19, and the terms, provisions and conditions (including the *1056 times specified) in *Singleton et al. v. Jackson Municipal Separate School District*, 5 Cir. 1969, 419 F.2d 1211, 420 F.2d 692. The Supreme Court ordered in *Alexander* 'that * * * school districts here involved may no longer operate a dual school system based on race or color, and direct(ed) that they begin immediately to operate as unitary school systems within which no person is to be effectively excluded from any school because of race or color.' *Singleton* required that full faculty integration be accomplished by February 1, 1970, but postponed pupil desegregation until September, 1970. On January 14, 1970, the Supreme Court reversed *Singleton* insofar as it deferred student desegregation beyond February 1, 1970, *Carter et al. v. West Feliciana Parish et al.*, 1970, 396 U.S. 290, 90 S.Ct. 608, 24 L.Ed.2d 477. Accordingly, on January 26, 1970, this court, acting on appellants' supplemental petition for rehearing adopted the Carter schedule for student desegregation in this case, 420 F.2d 693. The case is now before us on appellants' motion to clarify or supplement our mandates of December 9, 1969, and January 26, 1970, to specify that the Jackson Parish School Board immediately terminate its system of segregating students by color in classrooms within an 'integrated school.'

On January 27, 1970, the District Court entered a decree approving a desegregation plan submitted by the school board. The plan called for the closing of three previously all-Negro schools and a combination of 'pairing' and geographic zoning to assure the integration of the remaining schools. No mention was made either in the plan or the order as to the manner in which students were to be assigned to classes within the schools.

The Board technically desegregated the schools. However, the Board has maintained a dual system of classes within the schools. In grades one through seven the classes remain intact with the same teachers that taught the pupils in the first semester. Thus all-Negro classes from the closed Negro schools with Negro teachers now exist in the purportedly integrated schools. Except for a few Negro students who formerly attended

white schools under freedom-of-choice, classes from these schools remain all white. Furthermore, in at least one instance, the first and second grades from an all-Negro school were consolidated under one Negro teacher in the same classroom rather than combining the second-grade Negro students with their white counterparts.

We think that it was manifestly clear that the decisions of the Supreme Court and this Court required the elimination of not only segregated schools, but also segregated classes within the schools. Nevertheless, to avoid further equivocation, our mandates of December 9, 1969, and January 26, 1970, 420 F.2d 692, are amended to require

that the Jackson Parish School Board shall forthwith eliminate the dual system of pupil attendance by integrating all black and predominantly all white classes within the schools, except in those cases where a class is a continuation of a course only offered in an all black or all white school.

All Citations

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