IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF TEXAS

TYLER DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. TATUM INDEPENDENT SCHOOL DISTRICT, ET AL., Defendants.	)	Civil Action No. 5044

AGREED ORDER OF DISMISSAL

I. Procedural History and Stipulated Facts

The plaintiff United States filed this lawsuit on September 10, 1969 pursuant to Title VI of the Civil Rights Act of 1964 seeking to desegregated fully the Tatum Independent School District. On September 13, 1969 the Court determined that the "freedom of choice" plan under which the District operated was ineffective and issued a preliminary injunction requiring that effective September 15, 1969, all students in the District be instructed at the Tatum campus and that class assignments be made on a non-racial basis. Prior to the injunction the District operated two campuses, Tatum (grades 1-12)and the virtually all-black Mayflower campus (grades 1-5). On December 12, 1974, by minute entry, the case was placed on the inactive docket.

The District fully desegregated its school. For the 1972-73 school year, the District enrolled approximate 656 students of whom 293 (44.7%) were African-American and 362 (55%) were white. All of the elementary students in grades 1-6 attended Tatum Elementary School, and all of the students in grades 7-12 attended Tatum High School. The District employed 33

full time teachers of whom 6 (18%) were African-American; those teachers were divided among the two schools.

The District has maintained a desegregated system while undergoing demographic changes. For the 2006-07 school year, the District enrolled approximately 1326 students of whom 350 (26%) were African-American, 695 (52%) were white and 274 (21%) were Hispanic. All students in grades PK-3 attend Tatum Primary School, all students in grades 4-6 attend Tatum Elementary School, all students in grades 7-8 attend Tatum Middle School, and all students in grades 9-12 attend Tatum High School. The District employed 86 teachers of whom 14 (12%) were African-American and (16%) were minorities. The school board was comprised of 7 members of whom 2 were African-American, including the President, 4 were white and 1 was Hispanic.

To increase the number of minorities in its Gifted and Talented Program, the District has brought in the State of Texas' Regional Service Center and is working with a consultant to improve the selection criteria. As a result, the number of African-American students identified and enrolled in the GT program increased from four students (4%) in 2006-07 to twenty-nine (22%) in 2007-08. The Pre-Advanced Placement/AP enrollment of African-American students also increase from fifty to sventy four during the same period.

There is no evidence of discrimination in facilities, transportation or extra-curricular activities.

II. Legal Analysis

It has long been recognized that the goal of a school desegregation case is to convert promptly a *de jure* segregated school system to a system without "white" schools or "black"

schools, but just schools. *Green*, 391 U.S. at 442. The standard established by the Supreme Court for determining whether a school district has achieved unitary status, thus warranting termination of judicial supervision, is: (1) whether the school district has fully and satisfactorily complied with the court's desegregation orders for a reasonable period of time; (2) whether the school district has eliminated the vestiges of past *de jure* discrimination to the extent practicable; and (3) whether the school district has demonstrated a good faith commitment to the whole of the court's order and to those provisions of the law and the Constitution which were the predicate for judicial intervention in the first instance. *See Missouri v. Jenkins,* 515 U.S. 70, 87-89 (1995); *Freeman v. Pitts,* 503 U. S. 467, 491-92, 498 (1992); *Board of Educ. of Oklahoma City Pub. Sch. v. Dowell,* 498 U.S. 237, 248-50 (1991).

The Supreme Court has identified six areas, commonly known as the *"Green* factors," which must be addressed as part of the determination of whether a school district has fulfilled its duties and eliminated vestiges of the prior dual school system to the extent practicable: (1) student assignment; (2) faculty; (3) staff; (4) transportation; (5) extracurricular activities; and (6) facilities. *Green,* 391 U.S. at 435; s*ee Dowell*, 498 U.S. at 250. But the *Green* factors are not intended to be a "rigid framework;" the Supreme Court has approved consideration of other indicia, such as "quality of education," as important factors in determining whether the District has fulfilled its desegregation obligations. *Freeman*, 503 U.S. at 492-93.

Based on the information and data provided by the District, and on all the surrounding facts, the District has complied with the Court's desegregation orders for a reasonable period of time and has eliminated the vestiges of past *de jure* discrimination to the extent practicable. The Court concludes, therefore, that the Tatum County Independent School District has met the legal

standards for a declaration of unitary status, and that it is entitled to dismissal of this action.

Accordingly, it is hereby ORDERED that all prior injunctions in this case are DISSOLVED, jurisdiction is TERMINATED, and this case is DISMISSED WITH PREJUDICE.

So ORDERED and SIGNED this 19th day of May, 2008.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE

APPROVED:

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