

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF GEORGIA

AMERICUS DIVISION

FILED at 11:20 A. M

UNITED STATES OF AMERICA,)
by RAMSEY CLARK, Attorney)
General)

Plaintiff,)

v.)

BOARD OF EDUCATION OF)
BEN HILL COUNTY, GEORGIA,)
et al.,)

Defendants.)

JUN 28 1967

H. Okay Parker
Deputy Clerk, U. S. District Court

CIVIL ACTION NO. 542

ORDER ON MOTION FOR

PRELIMINARY INJUNCTION

The Plaintiffs' application for preliminary injunction in the above styled matter came on for evidentiary hearing before this Court on June 13, 1967. At the conclusion of that hearing the Court requested Counsel for all parties to supplement the record in certain respects, which supplementation has now been completed.

Before the Court had completed a review of the record in the case and prior to the framing by the Court of an appropriate order in the circumstances there was on June 27, 1967 submitted to the Court a suggested decree, a substantial portion of which is consented to by the Defendants, and all of which is consented to by the Plaintiff, there being appended hereto a copy of the stipulation and consent executed by Counsel for the Plaintiff and Counsel for the Defendants as filed with the Court. There was also filed with the Court on June 27, 1967 a certificate executed by the Board of Education of the City of Fitzgerald, Georgia certifying to the Court that the proposed decree has been reviewed and considered by that Board and representing to the Court that if the

proposed decree is entered by this Court the Board of Education of the City of Fitzgerald will accept and educate students residing in the Ben Hill County School District in accordance with the provisions of Paragraph I(A) of the proposed decree. A copy of the certificate referred to is also appended hereto.

In light of the foregoing the Court deems it appropriate that the suggested decree referred to be adopted by the Court, and accordingly,

IT IS ORDERED, ADJUDGED AND DECREED that the defendants in this case, their agents, officers, employees, and successors in office and all those in active concert or participation with them be, and they hereby are, until further order of this Court, enjoined in accordance with the following decree:

I

ASSIGNMENT OF STUDENTS

Students residing in the Ben Hill County school system shall be assigned in accordance with the following provisions:

- A) All Students in grades ten through twelve shall attend the Public Schools of Fitzgerald, Georgia, in accordance with the policies of the Fitzgerald Board of Education, and shall be provided school bus transportation, if so entitled under generally applicable transportation rules, by the Board of Education of Ben Hill County.
- B) Queensland shall be operated solely as an elementary school serving grades one through seven for the school years 1967/1968 and 1968/1969.

- C) All students in grades one through nine shall be assigned to schools in accordance with the provisions of Paragraphs II, III, and IV of the Corrected Decree in the case of United States, et al. v. Jefferson County Board of Education, _____ F.2d _____ (5th Cir. March 29, 1967), except that for the 1967/68 and 1968/69 school years students in grades eight and nine heretofore assigned to Queensland shall be reassigned within the Ben Hill County School System and all other students may be assigned in accordance with the freedom of choice plan presently in effect in Ben Hill County.
- D) Beginning in September 1969 Queensland School will no longer be operated.

II

SERVICES, FACILITIES, ACTIVITIES AND PROGRAMS

No student shall be segregated or discriminated against on account of race or color in any service, facility, activity, or program (including transportation, athletics, or other extracurricular activity) that may be conducted or sponsored by the school system or the school, in which he is enrolled. A student attending school for the first time on a desegregated basis may not be subject to any disqualification or waiting period for participation in activities and programs, including athletics, which might otherwise apply because he is a transfer or newly-assigned student except that such transferees shall be subject to long-standing, non-racially based rules of city, county or state athletic associations dealing with the eligibility of transfer students for athletic contests. All school use or

school-sponsored use of athletic fields, meeting rooms, and all other school-related services, facilities, activities, and programs such as commencement exercises and parent-teacher meetings which are open to persons other than enrolled students, shall be open to all persons without regard to race or color. All special educational programs conducted by the defendants shall be conducted without regard to race or color.

III

REMEDIAL PROGRAMS

The defendants shall provide remedial education programs which permit students attending, or who have previously attended, segregated schools to overcome past inadequacies in their education.

IV

NEW CONSTRUCTION

The defendants, to the extent consistent with the proper operation of the school system as a whole, shall locate any new school and substantially expand any existing schools with the objective of eradicating the vestiges of the dual system.

V

FACULTY AND STAFF

- A. Faculty Employment. Race or color shall not be a factor in the hiring, assignment, reassignment, promotion, demotion, or dismissal of teachers and other professional staff members, including student teachers, except that race may be taken into account for the purpose of counteracting or correcting the effect of the segregated assignment of faculty and staff in the dual system. Teachers, principals, and staff members shall be assigned to schools so that the

faculty and staff is not composed exclusively of members of one race. Wherever possible, teachers shall be assigned so that more than one teacher of the minority race (white or Negro) shall be on a desegregated faculty. Defendants shall take positive and affirmative steps to accomplish the desegregation of their school faculties and to achieve substantial desegregation of faculties in as many of the schools as possible for the 1967/68 school year notwithstanding that teacher contracts for the 1967/68 school year may have already been signed and approved. The tenure of teachers in the system shall not be used as an excuse for failure to comply with this provision. The defendants shall establish as an objective that the pattern of teacher assignment to any particular school not be identifiable as tailored for a heavy concentration of either Negro or white pupils in the school.

- B. Dismissals. Teachers and other professional staff members may not be discriminatorily assigned, dismissed, demoted, or passed over for retention, promotion, or rehiring, on the ground of race or color. In any instance where one or more teachers or other professional staff members are to be displaced as a result of desegregation, no staff vacancy in the school system shall be filled through recruitment from outside the system unless no such displaced staff member is qualified to fill the vacancy. If, as a result of desegregation, there is to be a reduction in the total professional staff of the school system, the qualifications of all staff members in the system shall be evaluated in selecting the staff member to be released without consideration of race or color.
- C. Past Assignments. The defendants shall take steps to assign and reassign teachers and other professional staff members to

eliminate the effects of the dual school system.

VI

REPORTS TO THE COURT

- A. The defendants shall file with the clerk of the court and serve upon opposing counsel on or before August 1, 1967 a report tabulating the following information:
1. The names of all teachers and staff members employed by the Ben Hill County School System during the 1966/67 school year who will not be employed by the Ben Hill County School System during the 1967/68 school year, the certification (e.g., elementary, high school French), type of certificate, race and the position formerly held for each such person; and the reason each will not be reemployed;
 2. The number of faculty vacancies as of the date of the report and the nature (e.g., elementary teacher) of each vacancy at each school for the 1967/68 school year;
 3. The name, race, certification and school of assignment of each teacher who will be employed by the Ben Hill County School System during the 1967/68 school year, and
 4. The number of teachers and staff members of each race at each school who will be employed during the 1967/68 school year.
- B. The defendants shall file with the clerk of the court and serve upon opposing counsel on or before June 1, 1968 a report tabulating by race the number of choice applications and transfer applications received for enrollment in each grade of each school in the system, and the number of choice and transfer applications granted and the number

of choice and transfer applications denied in each grade of each school. The report shall also state any reason relied upon in denying choices and shall tabulate, by school and race of student, the number of choices and transfers denied for each such reason.

C. The defendants shall, in addition to reports elsewhere described, serve upon opposing counsel and file with the clerk of the court within fifteen (15) days after the opening of schools for the Fall semester of each year, a report setting forth the following information:

1. The name, address, grade, school of choice and school of present attendance of each student who has withdrawn or requested withdrawal of his choice of school or who has transferred after the start of the school year, together with a description of any action taken by the defendants on his request and the reasons therefor.
2. The number of faculty vacancies, by school, that have occurred or been filled by the defendants since the order of this Court or the latest report submitted pursuant to this sub-paragraph. This report shall state the race of the teacher employed to fill each such vacancy and indicate whether such teacher is newly employed or was transferred from within the system. The tabulation of the number of transfers within the system shall indicate the schools from which and to which the transfers were made. The report shall also set forth the number of faculty members of each race assigned to each school for the current year.
3. The number of students by race, in each grade of each school.

VII

RETENTION OF JURISDICTION

Although ~~the~~^{this} decree is entered pursuant to motion for preliminary injunction, it is obvious from the foregoing that this decree is intended as a final decree in this case; however, the Court retains jurisdiction for such further action or orders as may be appropriate and reserves judgment on all aspects of the case not disposed of hereby.

The Court will file appropriate findings of fact at a later date.

IT IS SO ORDERED this 28th day of June, 1967.


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF GEORGIA
AMERICUS DIVISION

FILED at 4:10 P.

JUN 27 1967

W. J. Key, Clerk
Deputy Clerk, U. S. District Court

UNITED STATES OF AMERICA, :
Plaintiff, : CIVIL ACTION NO. 642

vs.

THE BOARD OF EDUCATION OF : MOTION UPON STIPULATION
BEN HILL COUNTY, GEORGIA, :
et al., : OF PARTIES
Defendants. :

. :

The parties hereto, by their undersigned attorneys, stipulate and consent to the entry of the following paragraphs of the foregoing Order on Motion for Preliminary Injunction: I A), I B), and I C).

With respect to the other paragraphs and provisions contained in the foregoing Order on Motion for Preliminary Injunction, Defendants hereby inform the Court that, under the Corrected Decree in the case of United States v. Jefferson County Board of Education, ___ F.2d ___ (5th Cir. March 29, 1967), the Defendants have no valid defense to the remainder of said decree, and therefore, the Defendants do not care to make any further appearance in said case, and the Court may act without further notice to the Defendants.

Frank W. Hill

FRANK W. HILL
Attorney
Department of Justice
Washington, D. C. 20530

J. C. McDonald

J. C. McDONALD
McDonald & Mills
323 South Grant Street
Fitzgerald, Georgia 31750

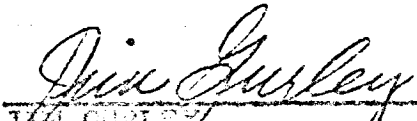
FILED at 4:10 P. M.

JUN 27 1967

H. C. Parker
Deputy Clerk, U. S. District Court

CERTIFICATE

The Board of Education of the City of Fitzgerald, Georgia, through its undersigned officers, hereby certifies to the United States District Court for the Middle District of Georgia, that its members and Superintendent have examined and read the attached unsigned Order on Motion for Preliminary Injunction; that it has been advised by an attorney of the United States Department of Justice that said Department represents the interests of the United States of America and not the interests of the Board of Education of the City of Fitzgerald in the case of United States v. Board of Education of Ben Hill County, et al.; and that if the said Order on Motion for Preliminary Injunction is entered by the Court, the Board of Education of the City of Fitzgerald will accept and educate students residing in the Ben Hill County School System in accordance with Paragraph I (A) of said Order.


JIM GURLEY
Superintendent of Schools
Fitzgerald, Georgia


SAM GARLAND
Chairman
Board of Education
of Fitzgerald, Georgia