

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION



KALIMA JENKINS, et al.,)
)
Plaintiffs,)
)
vs.)
)
STATE OF MISSOURI, et al.,)
)
Defendants.)

No. 77-0420-CV-W-4

AMICI CURIAE GREATER KANSAS CITY CHAPTER OF THE SOUTHERN
CHRISTIAN LEADERSHIP CONFERENCE, ET AL.'S MEMORANDUM
IN SUPPORT OF MARK ANTHONY NEVELS, ET AL.'S MOTION
TO MODIFY LONG RANGE MAGNET SCHOOL PLAN

COME NOW Amici Curiae Greater Kansas City Chapter of the Southern Christian Leadership Conference, Black Chamber of Commerce of Greater Kansas City, Inc., Coalition for Educational and Economic Justice, W.E.B. Du Bois Learning Center, Freedom, Inc., Black United Front, and Minority Contractors Association of Greater Kansas City, Inc., by and through their attorneys of record, and submit to this Court these statements and arguments in support of Movants Mark Anthony Nevels, et al.'s request to be separately represented in this desegregation litigation and to modify the magnet school admissions quota policy presently in place:

INTEREST OF AMICI CURIAE

Amicus Curiae Greater Kansas City Chapter of the Southern Christian Leadership Conference is a spiritually-based social and political activism organization concentrating on civil and

human rights issues. The national S.C.L.C. organization was founded in 1957 by the late Dr. Martin Luther King, Jr. and is now headed by Dr. Joseph Lowery of Atlanta, Georgia. Local S.C.L.C. membership numbers approximately 1000.

Amicus Curiae Black Chamber of Commerce of Greater Kansas City, Inc. is a not-for-profit, membership organization with approximately 210 members. The BCC is organized, in general, to preserve the competitive enterprise system of business and to promote that system. In addition, the BCC promotes community growth and development through programs of a civic, social and cultural nature and by discovering and correcting abuses which prevent the promotion of business expansion and community growth.

Amicus Curiae Coalition for Educational and Economic Justice is a 35-member volunteer organization based in Kansas City, Missouri. The Coalition focuses on educational and economic issues of interest to the African-American community.

Amicus Curiae W.E.B. Du Bois Learning Center is a not-for-profit, volunteer-staffed organization founded in 1973. The Center provides tutorial assistance to elementary and secondary students in reading, mathematics and science.

Amicus Curiae Freedom, Inc. is a predominantly black civil rights and political organization operating in the Kansas City-Jackson County area. Freedom's membership numbers in excess of 250 and includes area representatives in the Missouri House of Representatives, the Missouri Senate, the Jackson County Legisla-

ture, the Jackson County Democratic Committee, the City Council of Kansas City, Missouri, the Kansas City, Missouri School Board and various other area boards and commissions.

Amicus Curiae Black United Front-Kansas City Chapter is a not-for-profit organization affiliated with the National Black United Front headquartered in Chicago, Illinois. The Black United Front is a social action organization specializing in issues of importance to the African-American community.

Amicus Curiae Minority Contractors Association of Greater Kansas City, Inc. is a 105-member, not-for-profit organization dedicated to the assistance of minority-owned contracting firms. The Association represents the interests of minority construction businesses by working with the federal, state, and local governments to establish guidelines for contracting with minority-owned construction businesses.

ARGUMENT

The removal of all vestiges of state-maintained discrimination is the inherent goal of judicially-mandated school desegregation remedies. Little Rock School District v. Pulaski County Special School District No. 1, 778 F.2d 404, 433 (8th Cir. 1985), cert. denied, 476 U.S. 1186 (1986). See, e.g., Brown v. Board of Education, 347 U.S. 483 (1954) [Brown I]; Brown v. Board of Education, 349 U.S. 294 (1955) [Brown II]; Green v. County School Board, 391 U.S. 430 (1968); Swann v. Charlotte-Mecklenberg Board of Education, 402 U.S. 1 (1971). Whatever means ordered to bring about desegregation are intended to inure

benefits to the victims of unconstitutional racial segregation. The burdens of a desegregation effort, however, must be as evenly-distributed as possible. See Davis v. Board of Education of North Little Rock, Ark. School District, 674 F.2d 684, 687 (8th Cir. 1982), cert. denied, 459 U.S. 881 (1982); Clark v. Board of Education, 449 F.2d 493, 496 & 499 (8th Cir. 1971) (en banc), cert. denied, 405 U.S. 936 (1972). Yet, in no event may the burdens of a desegregation plan fall exclusively on minorities. See, e.g., Arvizu v. Waco Independent School District, 495 F.2d 499, 504 (5th Cir. 1974); Lee v. Macon County Board of Education, 448 F.2d 946, 753-754 (5th Cir. 1971). Amici Curiae believe that very clearly the burdens of the Long Range Magnet School Plan's race-based admission quotas fall squarely, and solely, on the backs of minority children in the KCMSD -- the intended beneficiaries of the remedy.

Movants properly characterize current United States Supreme Court standards concerning governmental race-based classifications. Amici Curiae urge the Court to reexamine and revise the Long Range Magnet School Plan's race-based admission quotas in accordance with Movants' well-reasoned constitutional analysis.

In Wygant v. Jackson Board of Education, 426 U.S. 267 (1986), the Supreme Court set forth its two-pronged test for race-based remedies. Before a race-based remedy will be approved, there must be a compelling governmental interest and there must be a narrowly-tailored means of effectuating that interest. Id. at 274. Removal of past and present racial

discrimination in public schools is obviously a compelling governmental interest worthy of remedial action. With this aspect of the Court's findings and orders in this case, Amici have no quarrel. With the implementation of the admissions quota policy imposed under the court-approved KCMSD Long Range Magnet School Plan, however, Amici take issue.

The Wygant analysis requires that a race-based remedy must "further a legitimate remedial purpose by a means that [does] not impose disproportionate harm" on those affected by a plan's racial preference. Id. (emphasis added). Minority children in the KCMSD suffer disproportionate harm as a result of the Long Range Magnet School Plan's admission quotas. Therefore, rigid application of the admission quotas, as currently structured, must cease.

This Court expressed three remedial goals necessary to restore victims to the position they would have occupied without the State's and the KCMSD's constitutional violations: "first, to improve the educational lot of the victims of unconstitutional segregation; second, to regain some portion of the white students who fled the district and retain those who are still there; and third, to redistribute the students within the KCMSD to achieve the maximum desegregation possible." Jenkins v. State of Missouri, 855 F.2d 1295, 1302 (8th Cir. 1988). The Long Range Magnet School Plan was implemented by the Court to help achieve these goals. Id.

Improvements to existing KCMSD structures and the construc-

tion of new facilities, as well as the addition of quality personnel, should advance the district toward achieving the first goal with respect to magnet schools. KCMSD's efforts to recruit nonminority students into the magnet schools, however, has been a monumental failure. A very few schools, e.g., Lincoln College Preparatory Academy and Kansas City Middle School of the Arts, have experienced successful enrollment campaigns. The vast majority of KCMSD schools, however, face a 1989-90 school year operating with a large number of minority student vacancies as a result of rigid adherence to the plan's inflexible 60%-40% quotas.

KCMSD's failure in moving toward accomplishment of the second goal has drastically impaired meaningful desegregation in the district. More tragic, however, is the devastating impact this failure has had and will continue to have on traditional schools. Inadequate numbers of teachers and insufficient supplies of basic learning materials have resulted from KCMSD's inexcusable neglect of traditional schools -- particularly traditional elementary schools where gross overcrowding, largely of minority students denied access to magnet schools, has become the norm because of the rigid racial quotas. Additionally, the problems of the remaining traditional middle schools, such as King, Westport and Nowlin, have been well chronicled in the local press. While millions of dollars are showered upon magnet schools which will sit with empty desks during school hours, thousands of black schoolchildren will be herded into neglected

traditional schools into which merely a dribble of KCMSD efforts are allocated.

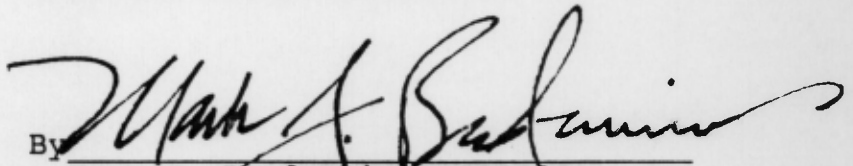
Clearly, the Court's goals of remedying past constitutional violations have been frustrated by KCMSD's ineptness. Once again minority children in the KCMSD have fallen victim to a dual school system in Kansas City, Missouri. Only by granting the relief prayed for by Movants Mark Anthony Nevels, et al. will minority children in the KCMSD be afforded their constitutional right to equal educational opportunity.

CONCLUSION

This Court should order the relief prayed for by Movants Mark Anthony Nevels, et al. and modify the magnet school plan to permit black Kansas City public schoolchildren equal access to the multi-million dollar magnet school program.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served by first-class U.S. mail, postage prepaid, this ~~21st~~ day of September, 1989 to:

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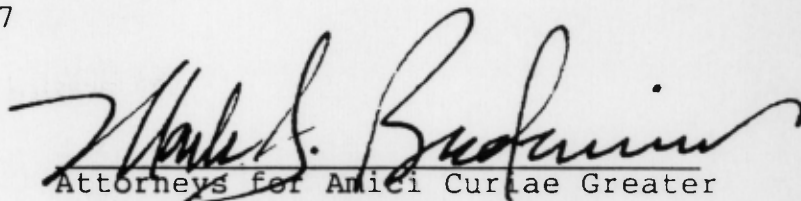
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A handwritten signature in dark ink, appearing to read "Mark S. Budman", is written over the typed name "Mark S. Budman".

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