H(2328)83

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

CRATON LIDDELL, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 72-100 C(4)
	)	
THE BOARD OF EDUCATION OF THE CITY OF ST. LOUIS, MISSOURI, et al.,	)	
	)	
	)	PREFILING CIRCULATION REQUIREMENTS
Defendants.	)	WAIVED BY ORDER H(2291)83

JOINT MEMORANDUM OF CITY BOARD, LIDDELL AND CALDWELL IN RESPONSE TO MOTION FOR INTERVENTION OF ST. LOUIS TEACHERS UNION LOCAL 420

The Motion proposed by the St. Louis Teachers Union Local 420 (hereinafter "420") for intervention in the Liddell case should be denied for the following reasons:

1. This lawsuit was instituted on February 18, 1972 by a group of black parents and children. The movant by professional necessity and interest to keep abreast of matters affecting the public school system of the City of St. Louis was advised at that time, or shortly thereafter, of the purpose of the suit and of its major developments thereafter. As of that time the teachers and Local 420 displayed no outward indication of seeking participation in the case.

2. Four years later, on January 16, 1976, Local 420 filed objections to the Consent Decree of December 24, 1975. Although the Caldwell group filed a motion for intervention at that time, no application for intervention was filed by Local 420. No such application was filed by Local 420 for the ensuing seven years until this belated filing on April 15, 1983.

3. Local 420 did not file a notice of appeal or in any way sought to cause a review of the District Court's denial of its objections.

4. Throughout the subsequent litigation in district and appellate courts, Local 420 vis-a-vis this lawsuit was characterized by consistent programmatical silence. That was not their suit. Local 420, which now has elected to adopt by reference the prayer for relief set forth in the cross-claim of the City Board (proposed complaint, par. IV, attached to the Motion for intervention) did not seek to participate in the phase of the litigation pertaining to that cross-claim in 1981, H(146)81 and H(337)81.

5. At the eve of the filing of the Agreement in Principle, to wit on February 18, 1983, Local 420 filed a Motion for leave to file Suggestions in regard to the proposed settlement. That Motion was denied on February 27, 1983, H(2140)83. The basis for that ruling seems as applicable to the pending

motion here as it was to the February motion:

> "The Court has endeavored, by appointment of the amicus curiae and various committees, to provide a means of input for non-party interests. Were every element of the interested public permitted a special right of input into the proposed settlement, or any phase of the litigation, there would be no progress."

6. The present posture is not comparable to that which obtained in 1976. At that time the litigation involved only two parties. Now, there are over 30 parties as active litigants. While this fact evidences the liberal policy in allowing intervention in the early phases of this litigation, now the overriding need is to bring this lawsuit to a conclusion. With the impending proximity of the final solution, all efforts should be focused on achieving the paramount objective. The addition of new parties at this eleven-thirty hour would be unfair and not consonant to the basic principles of administration of justice.

7. On April 6, 1983 this Court denied the Motion of the North St. Louis Parents and Citizens for Quality Education on facts and grounds which are very similar, H(2270)83. It is submitted that the same rationale applied with regard to the North St. Louis Committee should control also the pending situation.

The Court memorandum in that case, inter alia, describes the various committees appointed for the protection of various

facets of public interest and to insure that the desegregation plan is properly implemented for everyone. Thereupon, the Court stated:

> "Unless duly elected officials, the City Board, the United States, the State of Missouri defendants, the City of St. Louis, the court-appointed amicus curiae, and two plaintiff classes can be deemed to represent citizens, then the addition of parties to this case must go on ad infinitum. Justice is not served by injecting a plethora of parties into this litigation now in its twelfth year." (Court Memorandum at 5)

> "...That a remedy different from that proposed by movants is suggested by the parties or adopted by the Court does not mean movants' interests are not represented." (ibidem, at 6)

Pointing out the critical phase of the case, the Court concluded:

> "Movants' intervention as parties plaintiff would 'unduly' delay or prejudice the adjudication of the rights of the original parties" (ibidem, at 7).

9. The Order in the North St. Louis Committee case H(2270)83 constitutes the law of the case and, as such, is controlling here. See Liddell v. Board of Education, - 677 F.2d 621 at 630, (8th Cir.) cert. den. 51 L.W. 3258 (1982); Exterior Siding and Aluminum Coil Antitrust, (8th Cir. Dec. 29, 1982) No. 82-1105, Slip op. at 7-8.

For all of the reasons submitted here the motion of Local 420 should be denied.

Respectfully submitted,

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CERTIFICATION OF SERVICE

This is to certify that a copy of the foregoing was mailed this 25th day of April, 1983, by prepaid United States mail, to all counsel of record.