

**FILE COPY**

**ALLEN P. ROBERTS, P.A.**

**ATTORNEY AT LAW**

325 Jefferson Street S. W., P.O. Box 280

Camden, Arkansas 71711-0280

[allen@aprobertslaw.com](mailto:allen@aprobertslaw.com)

Telephone: (870) 836-5310

Facsimile: (870) 836-9662

April 20, 2015

**SENT VIA REGULAR MAIL**

**AND EMAIL ([jeremy.lasiter@arkansas.gov](mailto:jeremy.lasiter@arkansas.gov))**

Jeremy C. Lasiter, General Counsel

Arkansas Department of Education

Four Capitol Mall

Room 404-A

Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for El Dorado School District (EDSD). The EDSD school board has again voted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that EDSD is a party to at least two desegregation lawsuits that are still active: *Kemp, et al. v. Beasley*, No. ED-1048; and *Townsend, et al., v. EDSD, et al.*, 1:89-CV-1111. The desegregation obligations of these cases prohibit EDSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within EDSD (*i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with EDSD's desegregation obligation still outstanding.

In that same regard, I am enclosing multiple orders from both cases to support this letter. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosures. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in its most recent (May 3, 2013) order will suffice for this purpose. ("The Court shall continue to exercise jurisdiction over this matter until it finds that EDSD should be released from Court supervision.") For your convenience, this most recent order is on top of the enclosed documents.

Thank you very much.

Sincerely,

El Dorado School District

A handwritten signature in black ink, appearing to read "Allen P. Roberts". The signature is fluid and cursive, with the first name "Allen" written in a larger, more prominent script than the last name "Roberts".

Allen P. Roberts  
Attorney for El Dorado School District

APR/arl

pc: Jim Tucker  
EDSD Superintendent of Schools

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
EL DORADO DIVISION

REV. FRANK TOWNSEND, et al

PLAINTIFFS

VS.

CASE NO. 1:89-cv-1111

BOB WATSON, Individually  
and in his Official Capacity as  
Superintendent of the El Dorado School  
District No. 15, a Public Body Corporate, et al

DEFENDANTS

**ORDER**

Before the Court is a Motion for Approval of School Board District Re-zoning filed on behalf of Separate Defendant Board of Education of the El Dorado School District No. 15 ("EDSD"). (ECF No. 30). Also before the Court is EDSD and Plaintiffs' Joint Motion of Defendants and Plaintiffs to Approve Consent Order. (ECF No. 31).

The parties jointly request that the Court approve Option 1 which was passed by the Board of Directors for EDSD on April 30, 2013. Option 1 provides for the redrawing of districts for EDSD school board positions in accordance with Ark. Code Ann. § 6-13-631; provides for a seven-person school board rather than an eight-person board in accordance with Ark. Code Ann. § 6-13-606(g); and converts school board terms from four years to three years in accordance with Ark. Code Ann. § 6-13-608.

Upon consideration, the Court finds that the motions should be and hereby are **GRANTED**. The Court adopts the consent decree agreed to by Plaintiffs and Defendants in their joint motion. The Court approves El Dorado School District's action in changing its governance to a seven member board elected from single member districts with the specific election zones identified as Option 1 in Defendants' motion for approval. The term length of individual board members will be

three years, except for those persons elected in the September 2013 school election who will draw by lot for two 1-year terms, two 2-year terms, and three 3-year terms.

The parties are directed to respond in writing within forty-five days to issues not resolved by the consent order. The Court shall continue to exercise jurisdiction over this matter until it finds that ESDS should be released from Court supervision.

**IT IS SO ORDERED**, this 3rd day of May, 2013.

/s/ Susan O. Hickey  
Susan O. Hickey  
United States District Judge

WESTERN DISTRICT ARKANSAS

JUL 09 2004  
J. JOHNSON, CLERK

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
EL DORADO DIVISION

REV. FRANK TOWNSEND, *et al.*

PLAINTIFFS

VS.

CASE NO. CIV-89-1111

EL DORADO SCHOOL DISTRICT, *et al.*

DEFENDANTS

MOTION

Comes now the defendant El Dorado School District (El Dorado) and moves the Court to modify its order of July 27, 1992, establishing an eight member school board. In support of its motion El Dorado states:

1. The modification sought is the creation of a seven member board either each member elected from a single member district for a four year term. The single member districts will be substantially equal in population and will be drawn so as to afford black patrons the opportunity to elect members to the board in proportion to their population in the school district. All seven positions on the newly constituted school board will be elected in the September 2004 school elections and, when elected and installed, will replace the existing school board.

2. An exception to the four year term for board members will exist for members elected to the new board in 2004. The seven elected members will draw by lot for terms with one position designated as a one year term, two positions designated as two year terms, two positions designated as three year terms, and two positions designated as four year terms.

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Respectfully submitted,  
EL DORADO SCHOOL DISTRICT

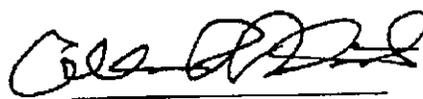
By:   
Allen P. Roberts  
Attorney for Defendants  
P.O. Box 280  
Camden, AR 71711-0280  
Telephone: (870) 836-5310  
State Bar No. 64036

**CERTIFICATE OF SERVICE**

I, Allen P. Roberts, do hereby certify that I have served the plaintiff with the above and foregoing defendants' Motion to Modify Order by mailing a copy to their attorney of record, postage prepaid, to:

John Walker  
Attorney at Law  
1723 Broadway Street  
Little Rock, AR 72206

this 9<sup>th</sup> day of July, 2004

  
Allen P. Roberts

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
EL DORADO DIVISION

DOSSIE WAYNE KEMP, et al

PLAINTIFFS

VS.

NO. ED-1048

LEE ROY BEASLEY, et al

DEFENDANTS

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ORDER APPROVING MAGNET SCHOOL PROGRAM

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On this 28 day of Oct, 2003, there is presented to the Court a Motion of the separate Defendant, El Dorado School District No. 15 of Union County, Arkansas ("ESD"), to approve a magnet school program referred to as the "School Preference Program" proposed by ESD. The Plaintiffs were duly notified of the Motion of ESD and the Plaintiffs, through their attorney, have executed and filed herein a Waiver of Service, Entry of Appearance, and Consent to Entry of Order.

Based on the Motion of the separate Defendant, ESD, and based on the agreement of the parties, the Court finds as follows:

1.

This Court retains continuing jurisdiction and supervision pursuant to this Court's Order filed August 2, 1971.

2.

The Court has considered the Motion of the separate Defendant, ESD. Based on the Motion and based on the agreement of the parties, the Court finds that the Motion is

consistent with the Court's previous Orders, and that it should be, and is hereby, granted.

3.

The Defendant, ESD, is hereby authorized to implement a magnet school program, more particularly described as follows:

(a) Beginning with the 2003-2004 school year, the ESD organized its five elementary schools serving grades K-4, as magnet schools with the following themes:

School	Address	Theme
Hugh Goodwin Elementary	201 E. 5 <sup>th</sup> El Dorado, AR 71730	Fine Arts
Murmill Heights Elementary	Cherokee & Ripley El Dorado, AR 71730	Aerospace
Northwest Elementary	1600 N. College El Dorado, AR 71730	Environmental Studies
Rheta Brown Elementary	Dixie Drive El Dorado, AR 71730	World Business and Technology
Yocum Elementary	308 S. College El Dorado, AR 71730	Math, Science and Technology

(b) Each student is allowed to designate the order of his or her preference of particular magnet schools, and thus their academic focus. Assignments are totally within the discretion of the ESD School Board.

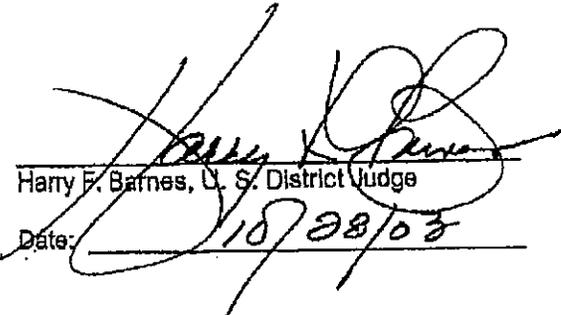
(c) ESD will attempt to gain funding for its' magnet school program through various public and private grants and financial sources, including the United States Department of Education's Magnet School Assistance Program.

(d) The intent of ESD's magnet school program is to reduce racial isolation and entice students from surrounding districts and private schools to attend the El Dorado School District.

5.

The separate Defendant, ESD, is further authorized to take such other actions as are ordinary, necessary, reasonable, appropriate, and consistent with this Order and previous Orders of the Court, in order to further carry out its magnet school program, otherwise referred to as the "School Preference Program."

IT IS SO ORDERED.

  
Harry F. Barnes, U. S. District Judge

Date: 10/28/03

U. S. DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FILED

OCT 30 2003  
CHIEF R. JOHNSON, CLERK  
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
EL DORADO DIVISION

Rev. FRANK TOWNSEND, et al

PLAINTIFFS

VS.

Case No. 89-CV-1111

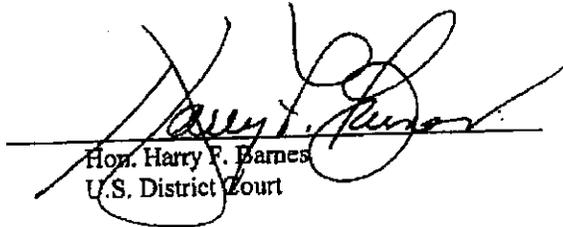
BOB WATSON, Individually and in  
his Official Capacity as Superintendent  
of the El Dorado School District No. 15,  
a Public Body Corporate, et al

DEFENDANTS

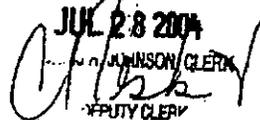
ORDER

Before the Court is Separate Defendant Board of Education of the El Dorado School District No. 15's Motion for Modification to a Seven Member School Board. (Doc. 28) Plaintiffs have not responded. Upon consideration, the Court finds the motion should be and hereby is granted.

IT IS SO ORDERED, this 27 day of July, 2004.

  
Hon. Harry F. Barnes  
U.S. District Court

U. S. DISTRICT COURT  
WESTERN DISTRICT ARKANSAS  
EL DORADO

JUL 28 2004  
  
ANN JOHNSON, CLERK  
DEPUTY CLERK

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a scheduled hearing on the school district's proposed plan for Thursday, July 15, 1971. Pursuant to this Court's order, the El Dorado School District No. 15 of Union County, Arkansas, filed a report with the Court on June 15, 1971, which included its proposed plan for future operation of the schools within the El Dorado School District effective with the commencement of the school year 1971-72. Although this Court's order of May 10, 1971, provided the plaintiffs shall have twenty days to reply or otherwise respond to the school district's proposed plan, no response was received or objections to the report of the defendants to the Court was filed until July 13, 1971, two days prior to the scheduled hearing on the defendant's proposed plan. The primary objection of the plaintiffs is the closing of Fairview Elementary School, utilization of Watson School for the 6th Grade instead of "full-fledged elementary school" and the reopening of Morning Star and Carver Elementary Schools. The plaintiffs contend that the proposed action of the board is racially motivated or will have a "racial result."

On July 15, 1971, the Court held an evidentiary hearing. By stipulation of the parties and from records received as exhibits, it was agreed and established that the proposed plan of the school district for the operation of the El Dorado high schools and the junior high schools comply with the federal standards and guidelines of the United States Supreme Court in the cases hereinabove cited. It was further stipulated by the parties that the testimony would be limited to the proposed operation of the numerous elementary schools of the district commencing with the 1971-72 school year.

From the evidence and exhibits thereto, it is established that

at the beginning of the 1970-71 school year there were a total of 6,423 students, 4,227 white students and 2,196 black students. At the close of the school year May 28, 1971, there were 6,376 students. In the elementary schools, Fairview and Watson were all-black with 284 and 171, respectively. Northwest, Marshall Heights, West Woods and Yocum elementary schools for the school year 1970-71 were either predominantly white or merely "token integrated". It is established and admitted that the operation of the elementary schools for the year 1970-71 failed to comply with the guidelines and teachings of the more recent Supreme Court decisions.

In recognition of the above stated facts and assuming its responsibility as more definitely restated in Swann v. Charlotte-Mecklenburg Board of Education, supra, the school board considered five different plans for the operation of the district's elementary schools. In consideration of the five proposed plans, the school board scheduled and held a public meeting on June 10, 1971. Pursuant to the public hearing and action of the school board in regular meeting June 14, 1971, Alternative Plan No. 5 was approved with modification that Rock Island Elementary School be used instead of Watson Elementary School for the 6th Grade until an access street from Watson School to U.S. Highway No. 82 of approximately one-fourth mile be completed by the City of El Dorado. Fairview, heretofore an all-black elementary school, would be closed and used as a day-care center for needy and indigent children under school age. Morning Star, formerly all-black, closed for the school year 1970-71 and utilized as the day-care center last year, would be reopened for 6th Grade assignment with 65 white and 46 black students. Carver, a previously

all-black school, closed last year, would be reopened for 6th Grade assignment with 75 white and 45 black students.<sup>1/</sup>

It is established from the proposed plan offered by the defendant school district that a combination pairing and zoning is to be used to achieve the proposed results. In order to carry out the proposed plan the school district will be required to provide additional bus facilities and to increase the utilization of the existing busses.

At the conclusion of the hearing July 15, 1971, the Court reserved decision and required the school board to further consider the plan with a view of assigning all six grades to each of the elementary schools instead of using certain elementary schools for 6th grade assignment. The school board was directed to furnish additional information concerning student assignment and bus routes. The policy of "freedom of choice" used heretofore was eliminated. The school board was not required to establish or utilize the principle of "racial balance" but may do so. No school shall be racially identified. Neither would token integration be accepted.

Pursuant to these directives of the Court order of July 16, 1971, the school board filed its report with the Court July 29,

1/ The 6th Grade students would be assigned as follows:

Morning Star	111	41%-59% black-white ratio
Carver	120	38%-62% black-white ratio
Watson	112	33%-67% black-white ratio

Grades 1 through 5 will be assigned the following schools:

Northwest	399	33%-67% black-white ratio
Yocum	424	40%-60% black-white ratio
Westwood	260	41%-59% black-white ratio
Murmil Heights	276	29%-71% black-white ratio
Hugh Goodwin	426	33%-67% black-white ratio
Retta Brown	284	46%-54% black-white ratio
Southside	233	48%-52% black-white ratio

1971. In effect the board proposes the same plan submitted previously with more detail in the utilization of the various elementary schools, the manner and extent of bussing and further justification for transferring the day-care school from Morning Star to Fairview, affording greater and more convenient services under the direction of the Union County 4-C Council, Inc., for day-care children.

From the record, reports to the Court, ore tenus testimony and exhibits thereto, the Court concludes that for the 1971-72 school year the proposed Alternative Plan No. 5, without the modification of temporary use of Rock Island facilities, would be the most acceptable plan of those considered by the school board. While it would be desirable if each of the elementary schools could accommodate all six grades, with the location of various schools designed and constructed in accordance with housing patterns under previous design for segregation, it appears to be impracticable, and, in fact, beyond the reach of the school district from a realistic viewpoint at this time.

Even though the Court concludes that the district will not be required to establish and maintain a racial balance, it is established that the overall school ratio is approximately 35% black and 65% white. The Alternative Plan No. 5 as being approved by the Court has a minimum ratio of 29% black - 71% white to a maximum ratio of 48% black - 52% white. This appears to comport with the guidelines and teachings of the Swann v. Charlotte-Mecklenburg Board of Education, supra, and other cited cases by the United States Supreme Court April 20, 1971.

IT IS, THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the defendant, El Dorado School District No. 15 of Union County,

Arkansas, be and the same is required to operate its various schools of the district, as follows:

1. All vestiges of "freedom of choice" is eliminated and any further use prohibited.<sup>2/</sup>

2. The plan of operation for the senior high schools, grades 10, 11 and 12 approved by this Court in its order on April 9, 1969, will continue for the school year of 1971-72 and subsequent years, subject to the continuing jurisdiction and supervision of this Court.

3. The plan of operation for the junior high schools, grades 7, 8 and 9, approved by this Court April 9, 1969, shall continue for the ensuing school year 1971-72 and subsequent years, subject to the continuing jurisdiction and supervision of this Court.

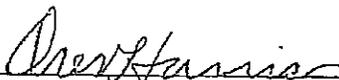
4. The plan of operation for the elementary schools of the El Dorado School District, grades 1 through 6, for the year 1971-72, will be in accordance with the School District's Plan No. 5 to include the utilization of Watson as contained therein, without the modification proposed by the Board for the temporary use of Rock Island's facilities. The Board will provide the Court with further report on the methods of assignment, utilization of the elementary schools and the racial complex at the end of the school year, to include further consideration of pairing or other methods that will achieve the greatest utilization of the school facilities in accordance with the guidelines and teachings of Swann, supra.

<sup>2/</sup> The Board may use "preference" expressed in writing by a student for assignment, but such preference shall be recognized only in the discretion of the board and in no way considered to be a freedom of choice by the student.

5. Fairview Elementary School may be used as a "Day-Care Center" in connection with "The Community Coordinated Child Care Program" with the Union County 4-C Council, Inc., El Dorado, Arkansas, as proposed in the Board's report to the Court July 29, 1971.<sup>3/</sup>

IT IS FURTHER ORDERED that the Court maintains continuing jurisdiction and supervision in accordance with the directions of the Supreme Court of the United States and the mandate of the United States Court of Appeals for the Eighth Circuit.

DATED: August 2, 1971.

  
UNITED STATES DISTRICT JUDGE

<sup>3/</sup> Rock Island Elementary School will be closed until such time as the Board determines, with the approval of the court, its use.