

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com

FILE COPY

Telephone: (870) 836-5310

Facsimile: (870) 836-9662

April 20, 2015

**SENT VIA REGULAR MAIL
AND EMAIL (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 Hope School District (HSD). The HSD 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 HSD is a party to a desegregation lawsuit that is still active. *Davis, et al., v. Franks, No. 4:88-cv-4082, Member Case 4:99-cv-4012*. The desegregation obligations of that case prohibit HSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within HSD (*i.e.*, the creating, 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 HSD's still outstanding desegregation obligation.

I am enclosing multiple orders from the *Davis* case. 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. In that same regard, 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 desegregation jurisdiction in its most recent order (May 3, 2013) will suffice for this purpose. ("The Court shall continue to exercise jurisdiction over this matter until it finds that HSD should be released from Court supervision." *Doc. 97, p. 2*) For your convenience, this most recent order is on top of the enclosed documents.

Thank you very much.

Sincerely,

Hope 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 Hope School District

APR/arl

pc: Bobby Hart
Superintendent of Schools
Hope School District

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

ROSIE L. DAVIS, et al

PLAINTIFF

VS.

Case No. 4:88-cv-4082
Member Case 4:99-cv-4012

WILLIAM DALE FRANKS

DEFENDANT

ORDER

Before the Court is a Motion for Approval of School Board District Re-zoning filed on behalf of Separate Defendant Hope School District No. 1 of Hempstead County, Arkansas ("HSD"). (ECF No. 95).¹ Also before the Court is HSD and Plaintiffs' Joint Motion of Defendants and Plaintiffs to Approve Consent Order. (ECF No. 96).

The parties jointly request that the Court approve Option 4 which was passed by the Board of Directors for HSD on June 11, 2012. Option 4 provides for the redrawing of districts for HSD school board positions in accordance with Ark. Code Ann. § 6-13-631, and provides for a seven-person school board rather than an eight-person board in accordance with Ark. Code Ann. § 6-13-606(g).

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 Hope School District's action in changing its governance to a seven member board of education elected from single member districts with the specific election zones identified as Option 4 in defendants' motion for approval. The term length of individual board members will

¹The Court notes that HSD is not explicitly listed as a Defendant in the present case. William Dale Franks, the former HSD superintendent, is included as a Defendant in his official capacity. By virtue of Franks' inclusion in his official capacity, HSD is properly characterized as a Defendant in this case.

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 HSD 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

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

ROSIE L. DAVIS, ET AL

PLAINTIFFS

VS.

NO. 88-4082

WILLIAM DALE FRANKS, ET AL

DEFENDANTS

ORDER

This matter came on for hearing before the Court on September 15, 1988, on Plaintiffs' Motion for Preliminary Injunction. On that date, the Court denied the Motion in an oral opinion and written Order and directed further proceedings. Thereafter, the parties advised the Court that further hearings were unnecessary, in that they had reached an out-of-court resolution of their differences on the voting rights issues, subject to Court approval. The parties have now presented their "Stipulation" to the Court for resolution of the voting rights issues for its consideration and approval. The "Stipulation" provides the following:

(a) An acknowledgment that although the Defendant/School District does not concede a violation of the Voting Rights Act by the use of an at-large voting system, that they have reached a compromise settlement of those issues with the Plaintiffs;

RECEIVED

APR 4 1989

WASER LAW FIRM

(b) an acknowledgment that the present at-large system of electing school board members has not allowed black citizens of the district to obtain representation on the school board;

(c) black voters exist in sufficient numbers and live in geographically contiguous areas so that one or more majority black voting districts can be created;

(d) two alternative redistricting plans can be and have been developed, each of which allows for the creation of three majority black (57%) districts out of a total of eight districts;

(e) either of the two redistricting plans would be an acceptable remedy to the parties to replace the present plan. Plan One allows for three multi member districts, one of which would be 57% black, while Plan Two allows for eight single member districts, three of which would each be approximately 57% black. All eight districts would have approximately the same number of residents, 2,000;

(f) the Court is requested to approve the settlement and make its choice of plans to be implemented within the school district;

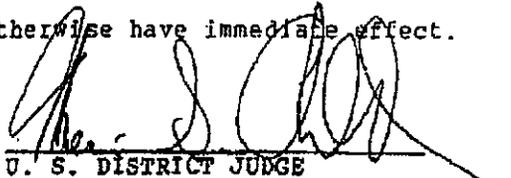
The Court is satisfied, as the Stipulation requests, that the settlement is appropriate under the circumstances and should be ordered. It is, therefore, the ORDER, JUDGMENT and DECREE of the Court as follows:

- (1) That the present at-large system for electing school board members in the Hope School District Number One is dissolved, and the Defendants will discontinue the system of electing school board members by the use of the present at-large system;
- (2) that the Defendants are directed to use Plan 2 in the future for the election of school board members;
- (3) that the Defendants are further directed to take the appropriate action for the holding of an election pursuant to Plan 2, not later than April 25, 1989, or as soon thereafter as the voter registration/election process can be accomplished;
- (4) that the Defendants are further directed that the terms of office shall be staggered in the manner provided by the Stipulation, and that there shall be only one school election for electing school board members in the Hope School District Number One during 1989; further elections shall be conducted at the time and in the manner prescribed by Arkansas state law, except as provided by this Order;
- (5) that the Defendants are further directed that in making future reapportionment divisions of the school district, they recognize the force and effect of the agreement herein, i.e., that a plan remain in effect which maximizes the opportunity for black voters to select a proportional number of representatives of their choice;

(6) that the Judgment, Order and Decree herein extends to the Defendants, their agents, employees, successors and any and all persons acting in concert with the Defendants;

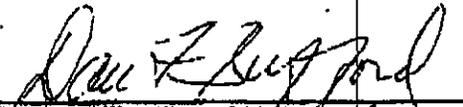
This Order resolves only the voting rights issues before the Court. Other issues raised by the lawsuit are preserved, pendente lite. If the Plaintiffs desire to file an application for fees and expenses, they are directed to do so within twenty-one (21) days from the date of this Order. If the Defendants choose to oppose the application, they may have fourteen (14) days in which to respond. Plaintiffs may have five (5) additional days for reply thereto.

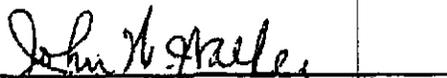
The Order herein shall otherwise have immediate effect.


U. S. DISTRICT JUDGE

March 30, 1989
DATE:

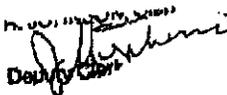
APPROVED AS TO FORM


DAN F. BUFORD, Attorney for
Defendants

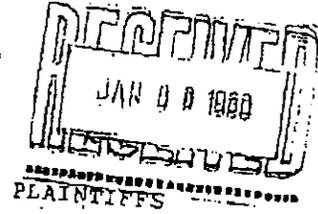

JOHN W. WALKER, Attorney for
Plaintiffs

U. S. DISTRICT COURT
WESTERN DIST. ARKANSAS
FILED

APR 03 1989

By 
Deputy Clerk

file
IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION



ROSIE L. DAVIS, ET AL.

V.

NO. CIV. 88-4082

WILLIAM DALE FRANKS, ET AL.

DEFENDANTS

CONSENT DECREE

COPY

The parties to this action, by and through their respective counsel, have moved the Court to enter this Consent Decree as final disposition of all the remaining issues raised under Counts A & B of the Complaint and all of the defenses asserted herein. The defendants assert that they have not violated any federal or state laws or constitutional provisions regarding their treatment of the Plaintiffs, or any students, staff or applicants in the past or at present. They, also, continue to assert that Court relief is not warranted. However, in order to resolve this action, and to avoid any further expense and litigation, the defendants have agreed to enter into and be bound by the terms of this Consent Decree. Because the parties have reached agreement upon the basic remaining issues of the lawsuit and because the Court is persuaded that the agreement is fair and reasonable, the Court approves and enters said Order as follows:

1. The plaintiffs are African-American/black (hereafter black) school staff members and black parents

or guardians of minor school aged children who reside within the Hope School District No. 1A.

2. The remaining issues in this action were brought under the laws and Constitution of the United States, 28 U.S.C. § 1343, 42 U.S.C. 52000-e et. seq. and the Fourteenth Amendment to the United States Constitution.

The plaintiffs generally sought herein:

'an injunction against the defendants' continuation of racial discrimination in any and all of its school operations including faculty assignments, student assignments and student treatment within the school'.

3. Although no past or present discrimination practices are admitted herein, it is the intent of this Decree to remedy any past discrimination based upon race and to prevent any like discrimination from occurring in the future. Although this action is brought on behalf of named black individual pupils and staff, the parties hereby agree that this Decree shall be equally applied to all such students and staff now and hereafter within the Hope School District No. 1A.

4. The Court, by consent of the parties, therefore, enjoins, forbids and restrains the defendants from hereinafter engaging in any policies, practices, customs or usages of racial discrimination in any of its school operations including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria include certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any underrepresentation of black staff shall be an immediate priority of the district.

6. The district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employment criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all applicants for promotion.

Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Non-administration positions which are speciality in nature (coaches, departmental heads, band directors, etc.) shall, also, be racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons from within the system who are deemed qualified and interested in placement therein. It shall use that list, with appropriate periodic updating, in filling specialty vacancies. Special consideration, however, shall be given for future promotions to those qualified staff plaintiffs who reapply and who demonstrate that they have been passed over for promotion(s).

8. The district shall take special steps to insure that black staff members are distributed throughout all courses and programs of the system.

9. Except in emergency situations, the defendants shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less than fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and

responsibilities, pay range, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be selected.

10. Some black staff members have alleged that they have been treated differently in the terms and conditions of their employment from white employees who perform similar work and/or who possess similar educational qualifications and are otherwise similarly situated. The defendants have endeavored to rectify any disparities brought to their attention to date by the named plaintiffs on an objective basis. In the event, however, that any of the named staff plaintiffs feel that their particular matters remain unresolved, they are hereby required to give the school board written notice of such discrepancies within thirty (30) days from the date of this Consent Order. The school board shall promptly assign a two (2) member committee, made up of the President and Secretary of the Board, to consider their claims or assertions. The committee shall, thereafter, report its findings and recommendations to the full school board. The full board shall, thereafter, take appropriate action.

11. Plaintiff Rose Davis has amicably resolved her claims of race discrimination in promotion and treatment with the school district and on the following terms:

- (a) She has accepted a promotion to an administrative position within the school district upon mutually agreeable terms;
- (b) She has been provided fair and equitable treatment in her present job and in her verbal job evaluation to date; she has, further, received the support of the school board and the new superintendent in her work, and has received assurances that she will not be subjected to any retaliation due to her role in this action;
- (c) The district has agreed to pay her \$17,500.00 as damages and \$10,000 as back pay.
- (d) She hereby withdraws her charge of employment discrimination against the district which she filed with the Equal Employment Opportunity Commission (EEOC), and her request for further relief in this lawsuit is dismissed with prejudice.

12. The district shall develop and maintain hereafter a uniform salary schedule for certified personnel at all levels and for "specialty personnel." Said schedule shall be developed pursuant to and in conjunction with criteria approved by the Arkansas State Department of Education. The district shall not, hereinafter, engage in a practice of negotiating for certified personnel.

13. The school district shall eliminate any student placement or assignment policy or practice of "tracking"

or "assignment by ability grouping" by the beginning of the 1990-91 school year. The School District practice of offering three different types of diplomas to high school students will cease after the completion of the current school year (1989-90). Beginning with school year 1990-91, the School District practice regarding diplomas will change to a one diploma system. However, the new one diploma system will apply only to those students entering the ninth grade, or the freshman class of the 1990-91 school year. Those high school students who have already entered and are participating in the current three diploma system (tenth, eleventh and twelfth grade students in the 1990-91 school year) shall be allowed to complete high school and graduate under the current system. The new one diploma system will be phased in so that the first students to graduate under the new system will be those graduating at the end of the 1993-94 school year.

14. The district shall, also, eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. However, this does not mean to require that the school district purchase uniforms for majorettes, cheerleaders, flag line members, etc., or golf clubs, tennis racquets or other athletic equipment unique to an individual athlete. All classes, programs and/or activities of the district shall be desegregated and integrated in fact including, but not limited to,

gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school. This does not mean to require, however, a quota system in any of these areas or activities.

The policy of the district, which shall be effectively communicated to all staff and students, shall be one which promotes pupil and staff integration and interaction rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 15, infra, as one of "affirmative inclusion."

15. The district shall hereafter maintain a unitary, racially nondiscriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

16. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep appropriate records regarding all student discipline.

17. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee. The superintendent's designee will be the equity coordinator.

18. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

19. The district shall develop a grievance procedure for complaints regarding any in-school or other perceived mistreatment of staff or students due to race, color or this agreement. The complaint procedure shall allow fair, equitable, and prompt (within 30 days) disposition of grievances by the board. The district shall not retaliate against any person who utilizes this special grievance procedure.

20. The district shall not, hereinafter, give favor for employment or other benefits of the school system to any persons because of their relationship to school officials, their prominence or lack of prominence within the community, or their relations with either. All

students, staff and citizens shall have equal advantage or disadvantage with respect to school benefits, opportunities or detriments.

21. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendants shall make annual reports of their progress herein to counsel for the plaintiffs on or before December 15th of each year, for the next three years beginning December 15, 1990. In the event that plaintiffs have any objection to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make timely application to the Court for consideration. In the meantime, Plaintiffs hereby withdraw any and all challenges to staff and faculty positions and all other claims for damages, and this case shall be administratively dismissed subject to being reopened only upon motion and for good cause shown.

22. The defendants shall pay the fees of plaintiffs' counsel and costs of court in obtaining this Consent Decree. The parties have reached agreement on the amount of fees and costs, the defendants are hereby ordered to forthwith make the payments agreed upon. It is, further, hereby stipulated and agreed, however, that the amount of

fees and costs paid to counsel for the Plaintiffs at the time of this Decree shall include and take into account any and all additional fees and costs incurred or to be incurred by counsel for the Plaintiffs within the next three (3) years in monitoring this Decree. Satisfaction of fees and costs paid by Defendants upon the approval of this Decree should be noted with the Clerk of the Court when same has been accomplished.

23. Plaintiffs, Rosie L. Davis, et al, hereby disclaim or waive any right or cause of action to object to the selection and hiring of Jim Jones as Superintendent of Schools, and pledge their support to him to assure that the spirit and terms of this Decree are carried out. All parties will attempt to make the Hope School District a model school district in Arkansas for desegregation, integration, and quality education.

24. That since the filing of the Complaint, a new school board has been elected, with only Ed Darling remaining on the board, and a new superintendent, Jim Jones, has been hired. Therefore, and by agreement of the parties, the newly elected board members, Viney Johnson, Charles Morris, Walter Hargis, Jr., Larry Byers, Ernest Brown, Sr., Lawrence Kemp, and William C. Gant, should be and are hereby substituted for former board members, Randy Wright, Jim Pedigo, Dixie Coffee, Bob Willis, Glen Ford,

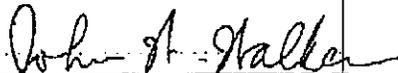
Neil Barwick, and Barry Jackson, and the new superintendent, Jim Jones, should be and is hereby substituted for former superintendent, William Dale Franks.

This Consent Decree is Ordered, Adjudged and Decreed to be Implemented Forthwith.


U.S. DISTRICT JUDGE

DATE: Jan 5, 1990

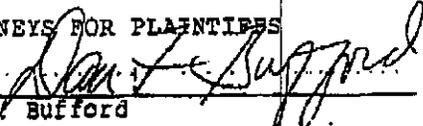
APPROVED:


John W. Walker
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 374-3758

Samuel Hamilton
14 Hilltop Dr.
Silver Springs, MD 20910
(301) 589-3000

Simmons Smith
2420 S. Broadway
Little Rock, AR 72206
(501) 375-3993

ATTORNEYS FOR PLAINTIFFS


Dan F. Bufford
LASER, SHARP, MAYES,
WILSON, BUFFORD & WATTS, P.A.
One Spring Street, Suite 300
Little Rock, Arkansas 72201
(501) 376-2981
ID# 72014

ATTORNEYS FOR DEFENDANTS

0035M

U. S. DISTRICT COURT
WESTERN DIST. ARKANSAS
FILED

JAN 08 1990

By
Deputy Clerk

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED
MAR 1 1996

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

ROSIE L. DAVIS, et al.

CHRIS R. JOHNSON, Clerk
by:
Deputy Clerk
PLAINTIFFS

Civil No. 88-4082

WILLIAM DALE FRANKS, et al.

COPY DEFENDANTS

MEMORANDUM OPINION

This is an action brought under the Fourteenth Amendment to the United States Constitution, 42 U.S.C. §§ 1973(b), 1983 and 2000(e) et seq. Hearings were held on October 12-13, 1995, and October 30-31, 1995, and the following constitutes the findings and conclusions of the Court.

I. BACKGROUND

Plaintiffs filed their original complaint on August 5, 1988, alleging that defendants operated the Hope, Arkansas public school system in a discriminatory manner by preventing black citizens from electing School Board representatives of their own choice. The relief sought included injunctive relief against continued use of an at-large election system for School Board positions within the Hope School District. Plaintiffs also requested injunctive relief against the defendants' alleged continuation of racial discrimination in the school system, including faculty assignments, student assignments and student treatment within the District.

On March 30, 1989, the Court approved a stipulation between the parties which settled the voting rights dispute. The parties' remaining contentions were temporarily settled by a Consent Decree filed on January 8, 1990. The Decree stated



that the Court would have continuing jurisdiction to insure compliance with the Decree's spirit and terms.

Plaintiffs moved to reopen the case on December 15, 1993, and the Court held a hearing on the motion on May 23, 1994. An order granting the motion to reopen the case was filed on June 8, 1994. The order stated that the Court's inquiry would be limited to defendants' compliance or noncompliance with the Consent Decree.

II. DISCUSSION

The intent of the Decree is to remedy any past discrimination based upon race and to prevent any like discrimination from occurring in the future. The Decree directs the implementation of policies necessary to address festering attitudes and perceptions of attitudes of racial discrimination. It is, therefore, extremely important that the Decree be read, studied and understood by those individuals tasked with the responsibility of implementing its terms. A thorough reading of the Decree reveals a sound, comprehensive structure to achieve all of the desired objectives.

Notwithstanding, the record is silent as to any meaningful attempts to implement the Decree. The minutes of the School Board of the Hope School District are especially vague in this regard. None of the Board members who testified at the hearings in this matter were familiar with the Decree or its intent. Viney Johnson testified that she saw a copy of

the Decree, but it was never explained to her. She stated she saw only the first monitoring report which likewise was not explained. She has not seen the final two monitoring reports.

Charles Morris stated he assumed the required monitoring reports were sent by Kenneth Muldrew. He never read the Decree before 1994, never discussed the monitoring reports and he assumed that compliance with the Decree would be left to others. Jessie Henry testified that he understood the administration was taking care of compliance with the Decree's provisions. He stated he never read the Decree. Dr. William C. Lee, School Board President, testified that he was aware work was being done on formulating a salary schedule, but he admitted that it was not yet implemented.

The Decree directs the implementation of policies necessary to address festering attitudes and perceptions of attitudes of racial discrimination. The Hope School District had no direction, no leadership and lacked the policies necessary to solve its problems. The Board members were completely ignorant of the Decree's requirements and they took no steps to familiarize themselves with any of its provisions. Following the entry of the Decree in early 1990, the monitoring reports were sent without cover letters and very few people other than Kenneth Muldrew had any knowledge of their contents. If genuine, periodic review of the monitoring reports had been undertaken by both sides in this suit, there

is a good possibility that the current proceedings would not have been necessary.

Paragraph Five (5) of the Decree states:

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members.

No such employment criteria were ever published. During the hiring of John Mize, a white man, the Superintendent did not survey the candidates for the job and make recommendations to the Board. A committee was formed, and with little or no direction it set out to select a football coach and an athletic director. This course of action was in total opposition to the spirit and intent of the Decree. No salary policies, schedules or directions were in place to guide the committee. Consequently, John Mize received a salary of \$45,000.00 per year when he anticipated a yearly salary of only \$40,000.00.

Other conflicts and inequalities could have been anticipated and avoided if the Hope School District had uniform written criteria for pay, promotion, demotion and dealing with staff. Ms. Angela Riggie could not perform at work due to illness and was essentially demoted. If written policies and procedures had been in place they would have minimized the chances of any strained or hurt feelings and would have prevented any perception of discrimination.

When Larry Muldrew was promoted to the position of Principal at Yerger, a probationary period was mandatory and had never been required for similar promotions. For performing essentially the same job as the High School Principal, he received less pay. This created a perception of discrimination.

When Joe Kell was promoted to Head Football Coach, no salary schedule had been implemented and there was no guidance as to the whether an eleven (11) or twelve (12) month contract was appropriate. The result was an appearance of discrimination. During the selection of Ira Love as the High School vica Principal, there was likewise no guidance as to whether an eleven (11) or twelve (12) month contract was proper. No guidance was provided regarding pay for additional work performed by Ira Love during Dr. Michael Brown's frequent absences. Again, an appearance of discrimination was created.

Paragraph Seven (7) of the Decree states:

7. Non-administration positions which are specialty in nature (coaches, departmental heads, band directors, etc.) shall, also, be racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons within the system who are deemed qualified and interested in placement therein. It shall use that list, with appropriate periodic updating, in filling specialty vacancies.

If such listing had been utilized and updated for filling specialty vacancies within the district, no perception or opportunity for discrimination would have developed in the

Cases of Sam Bradford, Ira Love, Angela Piggie, Rosie Davis and Jerry Muldrew.

Paragraph Nine (9) of the Decree states:

9. Except in emergency situations, the defendants shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less than fifteen (15) days prior to filling the vacancy.

Had the defendants adhered to this policy, much of the perception of discrimination could have been avoided. Steve Bradshaw was appointed as Transportation Supervisor. The job was not posted, thus, an appearance of discrimination was created. Judy Armstrong was selected as Ms. Piggie's replacement. An appearance of discrimination was created because the position was not posted and no interview was conducted. The court finds that the "emergency situations clause" of Paragraph Nine (9) was used as a pretext rather than a valid reason to circumvent the posting requirements.

Paragraph Twelve (12) of the Decree states:

12. The district shall develop and maintain hereafter a uniform salary schedule for certified personnel at all levels and for "specialty personnel." Said schedule shall be developed pursuant to and in conjunction with criteria approved by the Arkansas State Department of Education. The district shall not, hereinafter, engage in a practice of negotiating for certified personnel.

The Consent Decree was filed more than six (6) years ago and no uniform salary schedule has been implemented. This alone warrants a finding of civil contempt and reflects a willful failure to comply with the Decree.

Paragraph Twenty (20) of the Decree states:

20. The district shall not, hereinafter, give favor for employment or other benefits of the school system to any persons because of their relationship to school officials, their prominence or lack of prominence within the community, or their relations with either. All students, staff and citizens shall have equal advantage or disadvantage with respect to school benefits, opportunities or detriments.

Some instances clearly reveal the existence of a double standard within the Kopa School District. Coach Joe Kell dismissed two black athletes from the track team for an incident in which they were accused of being involved with a firearm. Dr. Brown also gave each student an "F" as a result of that incident. Three white students, including the son of former school board member Randy Wright, and two cheerleaders were caught on school grounds with alcohol. Mr. Wright's son merely had to run wind sprints.

Teacher Kenneth Moore, a black man, confronted Coach Cox concerning why his brother was thrown off a school bus. Coach Cox complained and Mr. Moore was suspended from school for five (5) days with pay. Larry Mize confronted Ira Love in a threatening manner and charged him with harassment of his daughter. When Mr. Love complained to Dr. Brown, no action was taken. Dr. Brown merely explained that Mr. Mize was confronting Mr. Love in the role of a parent.

The Court finds that the defendants are in civil contempt for failure to comply with the provisions of the Consent Decree. However, the Court shall allow the defendants an

opportunity to purge themselves of this contempt by prompt compliance with the Court's directives. The Court hereby requires immediate compliance with the Consent Decree. The Administration and the School Board of the Hope School District are directed to submit a plan to the Court for prompt implementation of the Decree. This plan shall be submitted within sixty (60) days of the date of the Court's judgment. Annual reports shall be submitted by the defendants to the Court and to plaintiffs' attorney so that progress can be monitored.

Following the entry of the Consent Decree in 1990, an acting Superintendent was hired and a new School Board was elected. The only members still on the Board are Viney Johnson and Charles Morris. To designate the proper parties in this matter, the Court finds the new Board members, Joan Absher, Michael Ruark, Travis Mitchell, Jessie Henry, William C. Lee, and Donnis Cox, should be and hereby are substituted for former Board members Walter Hargis, Jr., Larry Byers, Ernest Brown, Sr., Lawrence Kemp, Ed Darling, and William C. Gant. The acting Superintendent, Kenneth Muldrew, is hereby substituted for former Superintendent Jim Jones.

The Court shall retain jurisdiction of this matter for an additional three (3) years to insure compliance with the Decree. If the plaintiffs perceive problems during this period, they are to follow any applicable grievance procedures of the Hope School District before requesting relief from this

attorney. Plaintiffs are awarded their costs and reasonable attorney's fees, and the Court shall retain jurisdiction of this matter for an additional three (3) years.


Harry F. Barnes
United States District Judge
Date: 2/29/96

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

ROSIE L. DAVIS, et al.

v.

WILLIAM DALE FRANKS, et al.

Civil No. 88-4082

PLAINTIFFS

DEFENDANTS

J U D G M E N T

On this 27th day of February, 1996, for the reasons set forth in the memorandum opinion of even date, the Court finds as follows:

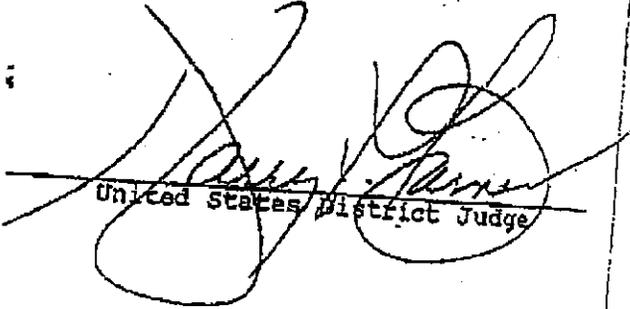
1. The defendants are in civil contempt for failure to comply with the provisions of the Consent Decree.
2. The defendants shall have an opportunity to purge themselves of contempt by prompt compliance with the directives of the Court.
3. Immediate compliance with the Decree is required. The Administration and the School Board of the Hope School District are directed to submit a plan for prompt implementation of the Decree within sixty (60) days of the entry of this judgment.
4. Annual monitoring reports shall be submitted by defendants to the Court and to plaintiffs' attorney.
5. To designate the proper parties in this matter, new School Board members Jean Abohor, Michael Ruzick, Travis Mitchell, Jessie Henry, William C. Loe and Donna Cox are hereby substituted for former Board members Walter Margis, Jr., Larry Byers, Ernest Brown, Sr., Lawrence Kemp, Ed Darling and William C. Gant. The acting Superintendent, Kenneth Muldrew, is hereby substituted for

former Superintendent Jim Jones.

6. Plaintiffs are awarded their costs and reasonable attorney's fees.

7. The Court shall retain jurisdiction of this matter for an additional three (3) years to insure compliance with the Decree.

IT IS SO ORDERED.


United States District Judge

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 1 1996

CHRIS R. JOHNSON, Clerk
by: Deputy Clerk

This document entered on docket in
compliance with Rule 58 and 79(B),
FRC
on 3-1-96 by JS