THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. WEST CARROLL PARISH SCHOOL DISTRICT, *et al.* Defendants.	)	Civil Action No. 14428 Judge James

UNITED STATES' MOTION FOR FURTHER RELIEF

The United States hereby submits this Motion for Further Relief, and as reasons therefor, states the following:

1. The West Carroll Parish School District ("the District") has operated under a school desegregation order since 1969. See Order of July 31, 1969 Order ("1969 Order"). This order required the District to phase in a student assignment plan over the 1969-70 and 1970-71 school years. See id. at 2-4.

2. Two years after this Court approved the District's desegregation plan in 1969, the Supreme Court held that district courts have broad equitable powers that they may invoke in school desegregation cases to ensure that school districts fulfill their affirmative obligations to eliminate racial discrimination "root and branch." Swann v. Charlotte-Mecklenburg Bd. of Educ., 402 U.S. 1, 15 (1971). Although the Court of Appeals for the Fifth Circuit and district courts therein have reviewed several cases and ordered school districts to revise desegregation plans so that they conform with Swann's standards,[1] this Court has never reviewed the District's

[1] See, e.g., Davis v. East Baton Rouge Parish Sch. Bd., 721 F.2d 1425 (5th Cir. 1983) (affirming 1980 district court order adopting a plan that superseded a 1970 plan); Gaines v.

desegregation plan under Swann's standards.

3. The plan approved in 1969 has been modified only twice. In 1976, this Court approved a consent order modifying the plan to permit the consolidation of Pioneer Elementary School ("PES") and Pioneer High School at the Pioneer High School site. See Consent Order of Aug. 4, 1976. In the 1990-91 school year, the District changed the attendance zones so that students in grades 9-12 assigned to Pioneer High School could attend Epps High School ("EHS"). The United States did not object to this change.

4. Currently, the District operates under the plan approved in 1969, but five of its eight schools remain racially identifiable. Fiske Union Elementary ("Fiske"), Goodwill Elementary ("Goodwill"), and Forest High School ("Forest") have virtually all white student enrollments. These schools were white schools under the de jure system. PES and EHS deviate from the district-wide percentage of white enrollment by 29 and 30 percentage points respectively. See Belk v. Charlotte-Mecklenburg Bd. of Educ., 269 F.3d 305, 319 (4th Cir. 2001) (en banc) (endorsing the district court's use of a plus/minus 15% variance from the district-wide ratio to determine whether a school was racially imbalanced).

5. The District has maintained these racially identifiable schools through: segregative transfer practices, the addition of portables to Forest and Fiske, its insistence on keeping Fiske and Goodwill open despite their low enrollments in a manner that thwarts their desegregation, and its

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Dougherty County Bd. of Educ., 465 F.2d 363, 364 (5th Cir. 1972) (remanding case to the district court to develop such a revised desegregation plan); Stout v. Jefferson County Bd. of Educ., 448 F.2d 403, 404 (5th Cir. 1971) (same); Carr v. Montgomery County Bd. of Educ., 377 F. Supp. 1123, 1127 (D. Ala. 1974) (discussing 1973 order directing parties to submit proposals for further desegregation because 1970 desegregation plan had hardly changed).

refusal to change its desegregation plan despite the existence of viable alternatives that would desegregate grades 6-12 or 7-12 and otherwise reduce the number of racially identifiable schools.

6. The District has been unwilling to fulfill its affirmative, continuing obligation to eliminate the vestiges of past discrimination in its schools to the extent practicable. See Freeman v. Pitts, 503 U.S. 467, 492 (1992). The District's unwillingness is illustrated by its use of race-based homecoming elections at EHS in the 2002-03 and 2003-04 school years. See Swann, 402 U.S. at 18 ("the first remedial responsibility of school authorities is to eliminate invidious racial distinctions").

7. Vestiges of discrimination remain in the District insofar as: Fiske, Goodwill, and Forest continue to be virtually all white schools and EHS and PES remain racially identifiable schools.

8. The United States attempted to resolve this issue through the proposal of four student assignment plans, but was unable to do so. Unless this Court grants the relief requested in this Motion, the District will continue to disregard its desegregation responsibilities.

WHEREFORE, for the reasons set forth herein and in the accompanying memorandum in support, the United States respectfully requests that this Court grant the United States' Motion for Further Relief, and order the District to: (1) develop, adopt, and implement a plan approved by this Court that promises realistically to work now to eliminate the vestiges of discrimination to the extent practicable in student assignments; and (2) submit periodic reports to this Court and to the United States about the District's progress in desegregating its schools to the extent practicable.

Respectfully submitted,

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This the 28 day of November 2005.

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UNITED STATES OF AMERICA, Plaintiff, v. WEST CARROLL PARISH SCHOOL DISTRICT, *et al.* Defendants.	)	Civil Action No. 14428 Judge James

MEMORANDUM IN SUPPORT OF UNITED STATES' MOTION FOR FURTHER RELIEF

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MEMORANDUM IN SUPPORT OF UNITED STATES' MOTION FOR FURTHER RELIEF

The United States submits this memorandum in support of its Motion for Further Relief in the above-captioned case. The West Carroll Parish School District ("the District") has been under a desegregation order since 1969 but has failed to desegregate five of its eight schools. Three of the District's former white only schools have remained virtually all white since 1969: Fiske Union Elementary ("Fiske"), Goodwill Elementary ("Goodwill"), and Forest High School ("Forest"). Two other schools remain racially identifiable because they deviate from the district-wide percentage of white enrollment by 29 and 30 percentage points respectively: Pioneer Elementary School ("PES") and Epps High School ("EHS"). The District has refused to implement viable student assignment plans proposed by the United States that would desegregate grades 6-12 and reduce the number of racially identifiable elementary schools. Because the District has failed to take steps to eliminate the vestiges of discrimination to the extent practicable, further relief is warranted. The relief set forth in the proposed order would require the District to implement a student assignment plan that would desegregate grades 6-12 and reduce the number of racially identifiable elementary schools by the start of the 2006-07 school year.

I. Background

On February 10, 1969, the United States filed a complaint against the District alleging that it was operating a dual school system in violation of the Fourteenth Amendment to the United States Constitution. On July 31, 1969, the Court approved the District's proposed desegregation plan. Order of July 31, 1969, at 1 ("1969 Order"). The Court ordered the District to phase in the student assignment plan over the 1969-70 and 1970-71 school years. Id. at 2-4. The Court also ordered the District to integrate "faculties, buses, lunchrooms, and other parts of the [District]" by the 1970-71 school year. Id. at 6.

At the request of the United States, the Court modified the 1969 Order on August 4, 1970 ("1970 Order") by adding more detailed provisions regarding the desegregation of: faculty and staff, attendance outside the system of residence, majority to minority transfers, school construction, and classroom, non-classroom, and extracurricular activities. On August 4, 1976, this Court approved a Consent Order modifying the attendance zones set out in the 1969 Order by permitting the consolidation of PES and Pioneer High School at the Pioneer High School site. In the 1990-91 school year, the District changed the zones outlined in the 1969 Order so that students in grades 9-12 assigned to Pioneer High School could attend EHS, and the United States did not object to this change. The limited changes in 1976 and 1990 have been the only modifications to the 1969 plan.

On April 29, 1991, the Court approved a Consent Order regarding transfers, faculty, and professional staff ("1991 Order"). The 1991 Order requires the district to monitor intra-district and inter-district transfers, to verify students' residences, and to take steps regarding the recruitment and hiring of faculty and professional staff. In 2001, the United States investigated the District's intra-district and inter-district transfer practices. Having concluded that the District was

in violation of the transfer provisions of the 1991 Order, the United States negotiated modifications to those provisions to curtail intra-district transfers that were impeding desegregation and to prevent students from transferring to the District from the virtually all black school district of Eudora, Arkansas. This Court approved the Agreed Modifications to the 1991 Order on August 9, 2003 ("2003 Order").

In the course of assessing the District's compliance with its desegregation obligations, the United States learned that the District was engaging in race-based extracurricular activities. In the 2002-03 school year, the principal of EHS required the members of the homecoming court to sign written contracts promising not to bring an escort of a different race to the homecoming events. See "Escort Memo Leads Principal to Resign," News Star Online, Jan. 15, 2003 (Ex. 1). In response to the United States' letter to the District about the homecoming incident, the District represented that the superintendent had stopped the race-based homecoming practices. See Letter from R. Hammonds to E. McCarthy of Feb. 4, 2003, without Attachs. at 3 (Ex. 2). The United States, however, learned that EHS held race-based homecoming elections in the 2003-04 school year as well. See Letter from R. Hammonds to E. McCarthy of Apr. 1, 2004, Question 8 and Attachs. (Ex. 3). The District again represented that this practice would end. See id.

Although segregative transfers and extracurricular activities are not the subject of this motion for further relief, they are relevant to the District's failure to meet its desegregation obligations with respect to student assignment as explained in Sections II and IV below. The focus of the instant motion is on the District's failure to desegregate five of its eight schools. The District's violation of its legal obligation to eliminate the vestiges of past racial discrimination in its schools to the extent practicable and the further relief sought by the United States are discussed in detail below.

II. STATEMENT OF FACTS

In the 2005-06 school year, the West Carroll Parish School District served a total of 2,412 students in eight schools, which are: Fiske (K-8), Goodwill (K-8), Forest (K-12), PES (K-8), EHS (K-12), Kilbourne High School ("KHS") (K-12), Oak Grove Elementary ("OGES") (K-6), and Oak Grove High School ("OGHS") (7-12). See chart below.[1] Since this Court's approval of the District's desegregation plan in 1969, the District has continued to operate Fiske, Goodwill, and Forest as virtually all white schools, just as they were under the *de jure* system. As shown by the chart below, whites comprise 99% of the students at Fiske and 98% of the students at Goodwill and Forest, even though the District's student enrollment is only 78% white in the 2005-06 school year. See id. EHS and PHS also are racially identifiable schools because they exceed the district-wide percentage of white enrollment by 30 percentage points and 29 percentage points respectively. See id.

School	White	Black	Other	Total	Deviation From District-Wide White Percentage
Fiske Union (K-8)	180 (99%)	0 (0%)	2 (1%)	182	21 percentage points
Goodwill (K-8)	163 (98%)	0 (0%)	3 (2%)	166	20 percentage points
Forest (K-12)	438 (98%)	5 (1%)	6 (1%)	449	20 percentage points
Pioneer (PES) (K-8)	76 (49%)	74 (48%)	4 (3%)	154	29 percentage points
Epps (EHS) (K-12)	145 (48%)	149 (49%)	9 (3%)	303	30 percentage points

[1] The source of the chart is 2005-06 data provided by the District. See Number and Percentage of Students by Race/Ethnicity and Grade Level Enrolled in Each School (Ex. 4).

Kilbourne (KHS) (K-12)	324 (85%)	48 (13%)	9 (2%)	381	7 percentage points
OGES (K-6)	265 (67%)	121 (31%)	9 (2%)	395	11 percentage points
OGHS (7-12)	296 (77%)	76 (20%)	10 (3%)	382	1 percentage point
Total Overall	1,887 (78%)	473 (20%)	52 (2%)	2,412	**Only three schools are not racially identifiable**

Under the dual system, the District operated all of the above schools as white schools. Pursuant to the 1969 Order, the District closed the only all black elementary schools that existed under the dual system: Combs-McIntyre and Magnolia. The District therefore has managed to desegregate only three of its eight schools since 1969.

The 1969 Order established seven attendance zones to be phased in by the 1970-71 school year. In Zone 1, EHS served grades 1-12. 1969 Order at 5. In Zones 2 and 6, Goodwill (1-8) fed Forest (1-12). Id. In Zones 3 and 4, Fiske (1-8) fed OGHS (1-12). Id. at 4-5. In Zone 5, KHS served grades 1-12, and in Zone 7, PES (1-6) fed Pioneer High School (7-12). Id. These attendance zones have been changed only once by this Court in 1976 to permit PES and Pioneer High students to attend the same school on the Pioneer High site. See Order of Aug. 4, 1976.

The court report filed by the District for the 1970-71 school year shows the limited desegregation achieved in the first year of the plan that is still in effect today. See Report filed Nov. 4, 1970 (Ex. 5). Student enrollment in the District was 27% black (975 black students and 2,662 white students), Fiske and Goodwill remained all white schools, only 13% of the students at Forest were black (55 black students and 372 white students), EHS and Pioneer High were 42% black (15 percentage points higher than the district-wide percentages), and the remaining schools were within 15 percentage points of the district-wide percentages. See id. at ¶ IX.1.a-b; Belk v.

Charlotte-Mecklenburg Bd. of Educ., 269 F.3d 305, 319 (4th Cir. 2001) (en banc) (endorsing the district court's use of a plus/minus 15% variance from the district-wide ratio to determine whether a school was racially imbalanced). The next school year, Fiske and Goodwill remained all white schools, and Forest, which was 7% black, and Pioneer High School, which was 45% black, deviated by 19 percentage points from the district-wide enrollment, which was 26% black. See Report filed Dec. 21, 1971, at ¶ IX.1.a-b (Ex. 6). Within three years, only four of the nine schools were within 15 percentage points of the district-wide percentage of black students (26%): OGHS (23% black), KHS (25% black), PES (40% black), and Pioneer High (39% black). See Report filed Nov. 26, 1973, at ¶ IX.1.a-b (Ex. 7).

The situation is no better today than it was in the early 1970s because only three of the district's eight schools can presently be considered desegregated. See supra chart at 4-5. Court reports filed during the intervening years between 1974 and 1998 show that Fiske and Goodwill have always remained all white schools.[2] These reports also show that Forest became increasingly racially identifiable as its percentage of black students decreased from 5% in the 1973-74 school year to 2% in the 1993-94 school year where it remains today. See Ex. 7 ¶ IX.1.a-b; Ex. 8 ¶ a-b; supra chart at 4. The percentages of black students at EHS and PES also have risen over time and now deviate more substantially from the district-wide ratio than they did thirty years ago. See Ex. 7 ¶ IX.1.a-b; supra chart at 4. By the 1994-95 school year, EHS (43% black) and PES (41%) deviated by 21 and 19 percentage points respectively from the district-wide percentage, which was 22% black. See Report of June 12, 1995 (Ex. 9). By the 2005-06 school year, those deviations had increased to 30 and 29 percentage points for EHS and PES

[2] In the 1993-94 school year, Fiske reported one black student. See Report of May 20, 1994, at ¶ b (Ex. 8).

respectively. See supra chart at 4.

The racial identifiability of the District's schools was exacerbated by intra-district and inter-district transfer practices that impeded desegregation. These transfers gave rise to the 1991 Order, but segregative transfers continued nonetheless. For example, in the 1995-96 school year, the District permitted whites to transfer from the racially mixed schools of PES, OGES, and OGHS to the virtually all white school of Forest. See Report of Sept. 26, 1996, § (k) (Ex. 10). In the 2000-01 school year, the District allowed 60 white students to transfer under the "welfare" exception of the 1991 Order to the supra-majority white schools of Forest, Fiske, and Goodwill. See Dist. Resp. to No. 2.c.ii (2000-2001) of U.S. Letter of Dec. 11, 2001 (Ex. 11 at 1-3). In the 2002-03 school year, the District allowed 24 white students to transfer under the "welfare" exception to the virtually all white schools of Forest, Fiske, and Goodwill. See Letter from R. Hammonds to E. McCarthy of Sept. 24, 2002, at 8-9 (Ex. 12). To end these violative transfers, the United States drafted stronger transfer and residency verification provisions than those in the 1991 Order. These provisions were approved by this Court in August 2003 and went into effect for the 2003-04 school year. See 2003 Order. The United States continues to monitor compliance with this Order.

In addition to its segregative transfer practices, the District has contributed to Fiske's, Goodwill's, and Forest's racial identifiability by adding portables to Forest and Fiske and by keeping Fiske and Goodwill open despite their low enrollments in a manner that has hindered, rather than furthered, desegregation. Between 1981 and 2000, the District added seven (7) portable classes at Forest instead of moving students from this virtually all white school to the nearby racially mixed schools of OGES, OGHS, and PES. See Dist. Resp. to No. 1.b of U.S. Letter of Dec. 11, 2001 (Ex. 13). The District also added a portable to the all white school of

Fiske in 1993. Id. Although student enrollment at the all white schools of Fiske and Goodwill has been declining steadily for years and remains well below capacity,[3] the District has insisted on keeping these schools open rather than reassigning these students to other schools in a manner that would provide these students with a desegregated education. The student assignment plans proposed by the United States offer ways to do this,[4] but the District has rejected them.

In recent years, the United States has been examining the District's desegregation efforts to determine what remains to be done so that the District can achieve unitary status. Toward that end, the United States conducted a site visit of the District in May 2003 and negotiated modifications to the transfer provisions of the 1991 Order during the summer of 2003. In May 2004, the United States and its expert Dr. William Gordon conducted an on-site evaluation of the District's school facilities. In August 2004, the United States proposed three school assignment plans to address the three virtually all white schools of Fiske, Goodwill, and Forest and to decrease the racial identifiability of EHS and PES. The District rejected all three plans in December 2004 and did not propose an alternative plan. In February 2005, the United States proposed a fourth plan that would desegregate grades 7-12 and PES by assigning Forest's elementary students there. The District rejected this plan, suggested no alternative, and made clear that it had no interest in

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[3] The District's data show that Fiske's capacity is 300 and that Goodwill's is 350. See Ex. 13. The following exhibits show that student enrollment at Fiske declined from 245 in 1971 to 165 in 1996 and that Goodwill's enrollment declined from 241 in 1971 to 159 in 1996. See Ex. 6 ¶ IX.1.b & Ex. 10 ¶ IX.1.b. In the 2005-06 school year, Fiske's and Goodwill's student enrollments were 180 and 163 respectively. See supra chart at 4.

[4] For example, the second plan outlined by the United States' expert Dr. William Gordon would allow the District to close Fiske or Goodwill because Forest would have sufficient room to accommodate the grade PreK-5 students at Fiske and/or Goodwill and their grade 6-8 students would be assigned to middle schools at KHS and EHS respectively.

changing its current school assignments.[5] The further relief sought in this motion would require the District to implement one of the plans proposed by the United States or an alternative plan that would desegregate grades 6-12 and reduce the number of racially identifiable elementary schools.

III. Applicable Legal Standards

The desegregation plan approved by this Court in 1969 came two years before the Supreme Court's seminal school desegregation decision of Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (1971). In Swann, the Supreme Court first reiterated its earlier holding that "school authorities are 'clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch.'" 402 U.S. at 15 (quoting Green v. County Sch. Bd. of New Kent County, Va., 391 U.S. 430, 437-38 (1968)). The Supreme Court then held that when a school district fails to meet this affirmative duty, "judicial authority may be invoked" and "the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies." Swann, 402 U.S. at 15.

This holding prompted the Fifth Circuit to direct several school districts to develop and implement revised desegregation plans that would conform to the expanded remedies called for by Swann. See, e.g., Gaines v. Dougherty County Bd. of Educ., 465 F.2d 363, 364 (5th Cir. 1972) (remanding case to district court to develop such a revised desegregation plan); Stout v. Jefferson County Bd. of Educ., 448 F.2d 403, 404 (5th Cir. 1971) (same). In response to the Supreme Court's holding in Swann among others, district courts also reviewed previously approved

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[5] Since that time, the United States' expert William Gordon has even identified a fifth plan that would desegregate grades 6-12. The United States did not forward that plan because the District has made clear that it is not interested in changing its current student assignments.

desegregation plans to determine if they satisfied Swann's standards. See, e.g., Davis v. East Baton Rouge Parish Sch. Bd., 721 F.2d 1425 (5th Cir. 1983) (affirming 1980 district court order adopting a plan that superseded a 1970 plan); Carr v. Montgomery County Bd. of Educ., 377 F. Supp. 1123, 1127 (D. Ala. 1974) (discussing 1973 order directing parties to submit proposals for further desegregation because 1970 desegregation plan had hardly changed). This Court has never considered the West Carroll Parish's 1969 desegregation plan under Swann's standards.

Applying Swann's standards to a desegregation case should expedite a school district's achievement of unitary status by ensuring that the district takes whatever remaining steps are needed. To achieve unitary status, a school district must first show that "has complied in good faith with the desegregation decree since it was entered . . . ." Freeman v. Pitts, 503 U.S. 467, 492 (1992) (quoting Bd. of Educ. v. Dowell, 498 U.S. 237, 249-50 (1991)) (emphasis added); see also Missouri v. Jenkins, 515 U.S. 70, 89 (1995). Second, the school district must show that it has eliminated "the vestiges of past discrimination . . . to the extent practicable." Freeman, 503 U.S. at 492 (quoting Dowell, 498 U.S. at 249-50); Jenkins, 515 U.S. at 89 (same)). Eliminating all such vestiges is an "affirmative duty," Columbus Bd. of Educ. v. Penick, 443 U.S. 449, 458-59 (1979), and "[p]art of th[is] affirmative duty . . . is the obligation not to take any action that would impede the progress of disestablishing the dual system and its effects." Dayton Bd. of Educ. v. Brinkman, 443 U.S. 526, 537-38 (1979). Lastly, the District must "demonstrate[], to the public and to the parents and students of the once disfavored race, its good-faith commitment to the whole of the courts' decree and to those provisions of the law and the Constitution that were the predicate for judicial intervention in the first instance." Jenkins, 515 U.S. at 89 (quoting Freeman, 503 at 491).

Until unitary status is attained, a school district bears the burden of showing that any current racial disparities in its operations "[are] not traceable, in a proximate way, to the prior

violation." Freeman, 503 U.S. at 494. To meet its burden, a school district often must go beyond demonstrating mere compliance with its original desegregation plan or the court's orders, because "in some desegregation cases simple compliance with the court's orders is not enough for meaningful desegregation to take place." Belk, 269 F.3d at 334 (explaining that a desegregation order or plan "entered in the 1960s or 1970s could have underestimated the extent of the remedy required, or changes in the school district could have rendered the decree obsolete"); see also Columbus, 443 U.S. at 459-460 (noting that the school district in Swann implemented a court-approved desegregation plan in 1965, but was required to develop a more effective plan in 1969). The true test is whether the school district's desegregation efforts have effectively eliminated the vestiges of the dual system to the extent practicable. See Davis v. Bd. of Sch. Comm'rs of Mobile County, 402 U.S. 33, 37 (1971) ("The measure of any desegregation plan is its effectiveness."); Green, 391 U.S. at 439 (explaining that a district court should assess a desegregation plan by examining the effectiveness of the plan in achieving desegregation).

IV. The Applicable Legal Standards Support an Order for Further Relief

The District bears the burden of proving that its virtually all white and otherwise racially identifiable schools are not traceable to its prior system of school segregation because the District has never obtained a declaration of unitary status. See Freeman, 503 U.S. at 494. In determining whether traceability exists, this Court must be mindful that "[e]ach instance of a failure or refusal to fulfill th[e] [District's affirmative desegregation] duty continues the violation of the Fourteenth Amendment." Columbus, 443 U.S. at 458-59; see also United States v. Lawrence County Sch. Dist., 799 F.2d 1031, 1044 (5th Cir. 1986) (same). As explained above, the District's refusal to modify its 1970-71 student assignment plan in any way that would desegregate the virtually all white schools of Fiske, Goodwill, and Forest has continued its violation of the Fourteenth

Amendment because these schools were all white schools under its de jure system. See Swann, 402 U.S. at 25-26 (explaining that there is a presumption against schools that are identifiably one race). Similarly, the District's refusal to modify its student assignment plan in a manner that would desegregate the racially identifiable schools of PES and EHS violates its affirmative and ongoing duty to eliminate the vestiges of past discrimination.[6] See Columbus, 443 U.S. at 458-59.

Despite the existence of several assignment options proposed by the United States that would desegregate grades 6-12 or 7-12, the District has insisted on maintaining a student assignment plan that leaves the majority of its schools segregated. Fiske and Goodwill have no black students, Forest has virtually none, and PES and EHS deviate from the district-wide enrollment of black students by 29 and 30 points respectively. See supra chart at 4. The District's failure to desegregate its schools to the extent practicable is attributable to its adherence to the geographic attendance zone lines approved by the court in 1969. The Supreme Court, however, has made clear that desegregation plans relying on attendance zones "[are not] *per se* adequate to meet the remedial responsibilities of local [school] boards" because "[t]he measure of any desegregation plan is its effectiveness." Davis, 402 U.S. at 37. Thus, even were this Court to find that the District has followed the student desegregation plan approved in 1969, that plan clearly has been ineffective.

Not only has the District failed to take steps to desegregate these schools, but it also has taken steps that have reinforced the racial identifiability of these schools. The District has added portables to Forest and Fiske and has insisted on keeping Fiske and Goodwill open despite their

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[6] The District's only two modifications to the 1970-71 plan – its 1976 decision to consolidate Pioneer elementary and high students on the Pioneer High School site and its 1990 decision to have grade 9-12 students in Pioneer attend EHS after they attend PES for grades K-8 – did not reduce these schools' racial identifiability.

low enrollments in a manner that thwarts their desegregation. See supra discussion at 7-8. The Supreme Court has explained that school districts under desegregation orders must "see to it that future school construction and abandonment . . . do not serve to perpetuate or re-establish the dual system." Swann, 402 U.S. at 21; see also Anderson v. Canton Mun. Separate Sch. Dist., 232 F.3d 450, 453 (5th Cir. 2000). The District has failed to meet this requirement, and its intra-district and inter-district transfer practices in the 1980s and 1990s also hindered desegregation within its schools. See, e.g., Valley v. Rapides Parish Sch. Bd., 646 F.2d 925 (5th Cir. 1981) (enjoining segregative transfers). The holding of race-based homecoming elections at EHS in the 2002-03 and 2003-04 school years exposes the District's maintenance of segregative practices in recent years. See Swann, 402 U.S. at 18 ("the first remedial responsibility of school authorities is to eliminate invidious racial distinctions").

The District's recent rejection of student assignment plans that would desegregate many more grade levels and schools demonstrates its continued unwillingness to fulfill its affirmative duty to eliminate the vestiges of past segregation and the compelling need for further relief. In rejecting the plans proposed by the United States and in refusing to propose an alternative plan, the District has failed to demonstrate that further desegregation is impracticable. The District's refusal to take any steps to reduce the racial identifiability of its schools raises serious questions about whether the District is fulfilling its desegregation obligations in good faith.

The United States has identified five practicable assignment methods that would enable the District to desegregate all students in grades 6-12 or 7-12 and to reduce the number of racially identifiable elementary schools. These five plans involve: (1) assigning all 9-12 students to one high school at OGHS, all 7-8 students to one junior high school at Forest, and 1-6 students at Forest to PES; (2) assigning all 9-12 students to one high school at OGHS, all 6-8 students to two

middle schools, 1-6 students at KHS to OGES, and 1-6 students at Fiske and/or Goodwill to Forest; (3) assigning all 9-12 students to one high school at OGHS, all 6-8 students except for those at EHS to a 6-8 middle school at Forest, and the 1-5 students at Forest to PES; (4) assigning 7-12 students from KHS, Fiske, and OGHS to a 7-12 school at OGHS, 7-12 students from EHS, PES, Goodwill, and Forest to a 7-12 school at Forest, and K-6 students from Forest and PES to PES; and (5) assigning 9-12 students from KHS and OGHS to a high school at OGHS, 9-12 students from EHS and Forest to a high school at EHS, all 7-8 students to a junior high school at Forest, PreK-6 students at PES and EHS to PES, PreK-6 students at Goodwill and Forest to Goodwill, and PreK-6 students at Fiske would be divided between KHS (PreK-6) and OGES (PreK-6) so that Fiske could be closed.

For all of the above reasons, this Court should order the District to implement one of the desegregation plans proposed by the United States or an alternative plan that will effectively desegregates grades 6-12 and reduce the number of racially identifiable elementary schools. See Lawrence, 799 F.2d at 1044-45 ("a federal court's power to remedy segregation is not exhausted by its issuance of a decree that promises to, but does not, work"). Further relief is appropriate because the District is legally obligated to "take all steps necessary to eliminate the vestiges of the unconstitutional *de jure* system." Freeman, 503 U.S. at 485; see also Dowell, 498 U.S. at 249-50.

CONCLUSION

For the reasons set forth above, the United States respectfully requests that this Court grant the United States' Motion for Further Relief and order the District to: (1) implement a student assignment plan approved by this Court that promises realistically to work now to eliminate the vestiges of discrimination to the extent practicable in school assignments; and (2) submit annual reports to this Court and to the United States about the District's progress in desegregating its

schools to the extent practicable.[7]

Respectfully submitted,

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This the 28th day of November 2005.

[7] After the District files its response to the United States' Motion for Further Relief, and the United States files any reply thereto, this Court may wish to convene a status conference to discuss the appropriate way to set this matter for discovery, consideration, and resolution.

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of November 2005, I served a copy of the United States' Motion for Further Relief, Memorandum of Law in Support of United States' Motion for Further Relief, and Proposed Order by Federal Express to counsel of record at this address:

Robert L. Hammonds, Esq.
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Quad One, Suite C
1111 South Foster Drive
Baton Rouge, LA 70806

Emily H. McCarthy

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. WEST CARROLL PARISH SCHOOL DISTRICT, *et al.* Defendants.	)	Civil Action No. 14428 Judge James

PROPOSED ORDER

The United States moved for further relief in this school desegregation case on the grounds that five of the eight schools in the West Carroll Parish School District ("District") remain racially identifiable. This Court finds that the District has failed to implement a student assignment plan that effectively desegregates the District's schools and has thereby violated its obligation to eliminate the vestiges of past discrimination to the extent practicable. See Freeman v. Pitts, 503 U.S. 467, 492 (1992).

NOW, THEREFORE, it is ORDERED, ADJUDGED, AND DECREED as follows:

I. Student Assignments to Schools

The District shall take the following steps to ensure that it has eliminated the vestiges of past racial discrimination in the area of student assignments to schools.

A. By December 30, 2005, the District shall submit to the Court and the United States a student assignment plan that promises realistically to desegregate students in grades 6-12 and that reduces the number of racially identifiable elementary schools in the District. The District may choose one of the five student assignment plans proposed by the United States or may develop one

of its own.

B. By January 31, 2006, the United States shall submit its response to the District's proposed plan.

C. By the start of the 2006-07 school year, the District shall implement the desegregation plan approved by this Court.

II. Reporting Requirements

By July 1 of each year, the District shall file an annual report that includes the following:

A. the numbers and percentages of students by race, grade level, and school in the District for the prior school year;

B. any construction, facilities improvements, renovations, or additions, including portables, made to any school facility in the District in the prior school year; and

C. any proposed changes to the school facilities in the District for the upcoming school year.

The 1970-71 student assignment plan approved in the 1969 Order is hereby superceded by the above Order. All other orders in this case shall remain in effect.

_____
UNITED STATED DISTRICT JUDGE

Dated: _____

Exhibits to United State' Motion for Further Relief

1. "Escort Memo Leads Principal to Resign," News Star Online, Jan. 15, 2003
2. Letter from R. Hammonds to E. McCarthy of Feb. 4, 2003, without Attachs. at 3
3. Letter from R. Hammonds to E. McCarthy of Apr. 1, 2004, Question 8 and Attachs.
4. Number and Percentage of Students by Race/Ethnicity and Grade Level Enrolled in Each School.
5. Report filed Nov. 4, 1970
6. Report filed Dec. 21, 1971, at ¶ IX.a-b
7. Report filed Nov. 26, 1973, at ¶ IX.a-b
8. Report of May 20, 1994
9. Report of June 12, 1995
10. Report of Sept. 26, 1996
11. Dist. Resp. to Nos. 2.c.ii and 2.c.iii of U.S. letter of Dec. 4, 2001
12. Letter from R. Hammonds to E. McCarthy of Sept. 24, 2002
13. Dist. Resp. to No. 1.b of U.S. Letter of Dec. 4, 2001