

United States District Court

FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAMES WILLIAM WEBB, JR., et al.,
Plaintiffs

-vs-

BOARD OF EDUCATION, etc., et al.,
Defendants

DOCKET No. 61 C 1569

AFFIDAVIT IN SUPPORT OF
MOTION FOR
PRELIMINARY INJUNCTION

Wm. T. Me
W. B. Jones

FILED

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

OCT 20 1961

AT O'CLOCK
ROY H. JOHNSON
ajb

JAMES WILLIAM WEBB, JR., and
ANDRE WEBB, minors, by JAMES R.
WEBB, their parent and next friend, et al.,

Plaintiffs

-vs-

BOARD OF EDUCATION OF THE CITY
OF CHICAGO and BENJAMIN C. WILLIS, as general
superintendent of public schools of the City of
Chicago,

Defendants.

No. 61 C 1569

AFFIDAVIT IN SUPPORT OF
MOTION FOR
PRELIMINARY INJUNCTION

PAUL B. ZUBER, being duly sworn, deposes and says:

I am one of the attorneys for the Plaintiffs herein. I am familiar
with all of the facts surrounding and concerning the above entitled action.
This affidavit is submitted in support of an application to this Court for
temporary relief.

This action has been commenced by the Plaintiffs, all of whom
are of the Negro race, and all of whom are residents of the City of
Chicago, for a permanent injunction to restrain the Defendants from

maintaining and operating a racially segregated public elementary school system in the City of Chicago.

The Defendants, who are the Board of Education of the City of Chicago and the General Superintendent of Schools thereof, are and have been operating the public elementary school system on the basis of what is known as the "neighborhood school" policy. That policy requires that children compelled by law to attend the public elementary schools, shall be assigned and must attend such a school in the neighborhood in which they reside.

Although the Defendants follow the "neighborhood school" policy per se, I state upon information and belief that there is no rule or regulation adopted by the Defendant school board requiring conformity to the "neighborhood school" policy, nor has the Defendant school board passed a resolution endorsing the "neighborhood school" policy.

It is a matter of common knowledge that in the City of Chicago, there exist large areas of Negro residence commonly known as ghettos, which are surrounded by white residential areas. That in spite of the proximity in many instances of a distance of less than four blocks, Negro elementary schools have been established and are maintained in the Negro residential areas and white elementary schools are maintained in the white residential areas. This condition is maintained and abetted by the Defendant Board of Education and the Defendant Superintendent of Schools.

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The Defendants have maintained this status quo by various means, to wit: by gerrymandering of school district lines; by permissive transfers of white students out of schools with predominant Negro student populations; by the construction of additional schools within the Negro residential area rather than the utilization of vacant seats in schools with all white student populations; by the containment of the Negro student population in all Negro schools, even though this results in overcrowding and double shifts and overlapping shifts; and finally by selection of sites of junior high schools and high schools to insure that the same racially segregated school system will be perpetuated.

That the defendants have committed all of the acts recited in the previous paragraph, and the Plaintiffs contend that the motivation of the Defendants was to maintain and perpetuate racially segregated schools. The defendants have been maintaining and perpetuating racially segregated schools and are committed to the policies which result in racially segregated schools. Although the issues in the above entitled action will be determined through normal judicial procedures as provided by law, certain facts now exist which require the Plaintiffs to seek temporary relief prior to the final determination of the issues and facts involved.

I have conducted a complete and thorough analysis of the public elementary schools of the City of Chicago, and as a result of this analysis, I submit that only one conclusion can be reached and

that is that the public school system of the City of Chicago is a racially segregated school system. The pattern followed by the Defendants is quite explicit and seldom deviates. In those areas where the Negro residential community borders on a white residential community, the first step in the policy is the maintenance of a racially segregated overcrowded, kindergarten to eighth grade school. When this student population becomes ungovernable, the Defendants construct an upper grade center (seventh and eighth grades) deeper or toward the middle of the Negro residential community. The next step is to change the kindergarten to eighth grade school to a kindergarten to a sixth grade school. This in turn results in the seventh and eighth grade students being directed back into the racially segregated community and ultimately directed to a racially segregated high school.

A typical example of this type of action taken by the Defendants is indicated by the following:

In the Chicago public elementary school system, there are three schools known as the Fernwood School, the Ryder School, and the Kipling School. Fernwood and Ryder have classes from kindergarten to the eighth grade, whereas Kipling has classes from kindergarten to the sixth grade. Kipling school is located in a Negro community while Fernwood and Ryder are located in adjacent white communities. The Kipling school now has an enrollment of approximately 850 students, 835 of whom are Negro and 15 of whom are white. Prior to September,

1961, when the Kipling school was opened, students who now attend Kipling attended Fernwood and Ryder schools, which were then racially integrated schools.

Since September 1961, only the seventh and eighth grades at the Fernwood and Ryder schools are integrated, the first six grades of the said schools having an all-white enrollment. Within two years, the Negro children who attend the seventh and eighth grades at said schools will have graduated.

The Negro children who now attend the Kipling school will hereafter be assigned to the seventh and eighth grades in the Gillespie school which is further in the heart of the all-Negro community.

The net result of this action on the part of the Defendants is to further cement the racially segregated school pattern that now exists in the City of Chicago. This pattern is typical of the official action taken by the Defendants to maintain racially segregated schools in other areas of the City of Chicago.

These instances will be presented to the court at the time of the hearing of the Plaintiffs' Motion for Temporary Relief.

The Plaintiffs further allege upon information and belief that the action of the Defendant, Superintendent of schools in designating certain elementary school buildings as branches of certain high schools was purely for the purpose of eliminating vacant seats existing in said elementary schools, and thereby withdrawing said schools from those

which could otherwise receive Negro students now attending racially segregated overcrowded schools.

It is a matter of common knowledge that in schools located in Negro neighborhoods, there are overcrowded conditions resulting in many instances in the establishment of a "double shift" system, in which students attend school for only four hours daily instead of five hours daily in a regular school day. This results in these Negro students receiving an education which is inferior to that received by other students. This problem, as a rule, does not exist in schools located in white neighborhoods. It exists in the schools in Negro neighborhoods as a result of the official action taken by the Defendants in creating and maintaining racially segregated schools.

This question of overcrowding is one of the issues in this suit, it having been referred to in Paragraph 10 of the Plaintiffs' Amended Complaint. Subsequent to the filing of this suit, the Defendant, Superintendent of Schools, announced that he and the Defendant Board had taken action to eliminate the "double shift" system at certain schools, one of which was the Burnside elementary school, which is in a Negro neighborhood and has an all-Negro enrollment.

However, in eliminating the double-shift situation in the Burnside school, the Defendant, instead of creating an atmosphere

more conducive to the educational process, created a chaotic situation which has impaired the educational processes and opportunities at said school. More particularly, the Defendant, Superintendent of Schools, directed that several classes be conducted at the same time in the school auditorium, on the stage and in various sections of the auditorium. Attached hereto are Plaintiffs' Exhibits 1 and 2, photographs taken subsequent to the filing of this suit, which show scenes in the auditorium of the Burnside school of two classes which were being conducted simultaneously. The said Defendant further ordered that the class size at said school be increased, resulting in classes from 45 to 50 pupils, and kindergarten classes with as many as 75 children.

The Defendants have further created a situation which is hazardous to the life, health and safety of the students, in that the Burnside school was built to handle a capacity of approximately 900 students, whereas the current enrollment of said school is approximately 1700 students. The reason for the over-utilization of this school is the fact that the Defendants refuse to make use of vacant seats which exist in the Perry elementary school, which is located approximately one-half mile east of the Burnside school, and which, except for the seventh and eighth grades, has an all-white enrollment. That despite the awareness of the Defendants of the hazard to the life, health and safety to which the Negro students at the Burnside school are being

subjected as a result of the racially segregated school, the Defendants have repeatedly failed and refused to take any action to terminate same, and continue to refuse to utilize elementary schools located in adjacent white communities which have vacant classrooms. Attached hereto as Exhibit 3, is a copy of a letter dated October 13, 1961 sent to the Defendant Board, apprising said Board of the conditions at the Burnside school.

In other racially segregated schools, the Defendant, Superintendent of Schools, has ordered the use of basement rooms, Teachers' lunchrooms, and other areas in school buildings not normally used for instruction purposes, to be converted into classrooms. Attached hereto as Exhibit 4, is a photograph taken subsequent to the filing of this action, in the Shakespeare school, a racially segregated school, showing a kindergarten class in progress in a Teachers' lunchroom located in the basement of said school, and in which lunchroom is located a gas range.

The Defendants have further persisted in maintaining racially segregated schools by the use of the "double shift" or over-lapping shift. This system is in effect in certain schools which are primarily in Negro residential areas. In the double shift, students attend school from 8:00 A.M. to Noon or from

Noon to 4:00 P. M. In the over-lapping shift, students attend school from 8:00 A. M. to 2:15 P. M., or from 9:45 A. M. to 4:00 P. M. This plan necessitates rotating students from place to place in the school so that classrooms may be used by the two groups, and so that the two groups may be in the school at the same time. Attached hereto as Exhibit 5 are schedules showing the time schedules generally followed at schools using the double shift or over-lapping shift.

Not only do the Defendants in perpetuating racially segregated schools jeopardize the safety and health of the Negro students, but they have also drastically curtailed the opportunity for said children to receive a full, equal and complete education as that received by children attending other schools in the City of Chicago. Defendants have further taken no actual steps to eliminate said racial segregation of elementary schools in the City of Chicago. Therefore, Plaintiffs are, and will for some time to come, be compelled to remain in an atmosphere which is hazardous to their health and safety and which deprives them of their constitutional right to equal protection of the laws, in that they are denied an education equal to that received by other children attending public schools in the City of Chicago.

These facts will continue to exist pending a full and final determination of this case, and the Plaintiffs will be irreparably harmed unless the court grants this plea for a preliminary injunction.

Paul B. Zuber
A F F I A N T

Subscribed and sworn to
before me this 18th day
of October, A. D. 1961.

James D. Montgomery
NOTARY PUBLIC



EXHIBIT #2



Chicago, Illinois
October 13, 1961

Board of Education
City of Chicago
Chicago, Illinois

Dear Member of The Board of Education

Almost one month has elapsed since our community organizations last requested an on site conference with responsible Board of Education officials to consider immediate, positive steps to eliminate the over-crowding at Burnside Elementary School. Over eighteen months have elapsed since we requested a coordinated community-Board committee to plan a program for the area served by the Burnside, Dixon, Gillespie, and McDade Elementary Schools. We have had no reply from Superintendent Willis or any of his staff.

The only action has been to substitute the double shift at Burnside with chairs on the stage, 75 children to a kindergarten, and class loads of 45 to 50 pupils, who must spend 2 hours per day "studying" in the assembly hall.

There are the ever present "plans for additional rooms" which the communities know will be inadequate when complete. The statistics used by the Board of Education show a disparity of as much as twenty-five per cent when compared to the data gathered by the communities in their door to door surveys. Yet when the plan for this area was finalized, it was apparent that the woefully inadequate and antiquated Board data was the basis for estimating school population.

When considered along with Superintendent Willis' admission that it would take a month to compile a chart showing the seating capacity and school population of the Chicago elementary schools, it is apparent that the statistical office of the Board of Education is operating at stone age efficiency in this space age.

Just how was the present building program devised when the statistical department does not have the facts upon which any sound plan should have been predicated? The building program in and of itself could have been just as ably carried out by a general contractor spotting a building here and there as the population shifted.

This is not the type of program which will EDUCATE our children to meet the challenge of the times. But more and more buildings are being built.

We ask, as taxpayers paying the cost of this building program, how YOU, as one entrusted with the wise and studied expenditure of OUR money, can allow this situation to exist?

We ask how the general school problem will be solved under the present

EXHIBIT #3

program, when neither YOU, nor your subordinate officials are willing to cooperate with interested communities in solving one local problem at Burnside, which is analogous in many respects to the basic problem throughout the city.

THIS IS THE SPACE AGE. The present Board policies of manipulating school boundaries and shifting high school students to grammar schools to affect school use data are predicated upon the ideas and experiences of personnel coeval with the industrial revolution.

We ask again, as taxpayers, how much longer will YOU allow this tragic situation to exist.

May we have your personal reply to these urgent questions?

Very truly yours,

Mrs. Mary Grady
Schools Committee
West Chesterfield Community Assn.
9246 South Forest Avenue

Reverend Edsel Ammons, Pres.
West Avalon Community Assn.
924 East 76th Street

Mrs. Alma Coggs
School Committee
Vernon-Park - Burnside Comm. Council
9330 South Vernon Avenue

Benjamin C. Duster
Schools Committee
Chatham Village Association
8952 South Park Avenue

EXHIBIT #3

EXHIBIT #4



7:55

AM Groups arrive. Group A (for example) goes to Homeroom X. Here the children have the use of their own books, chalkboards, desks, and other material appropriate to their grade.

11:00

Dismissal for lunch. (AM Group)

12:00

AM Groups return to school. But since Group P is now in Homeroom X, Group A spends an hour in a borrowed classroom vacated by a 9-3 regular session room for their 12 o'clock lunch. Since the books for Group A are in classroom X and the blackboards frequently in use or set up for the other classroom which is at lunch, teaching here is remedial or verbal.

12:50-1:00

AM Groups go to some large room (Gym or Assembly Hall) for an hour or more. Again there are no books (unless there are enough textbooks so that AM & PM groups can carry these with them or, unless the teachers send messengers to the class homeroom for textbooks after each room change.) Now there is no longer a writing surface for each child. The teacher must again teach verbally or use prepared dittoed materials, or review spelling, etc.

2:15

Dismissal for AM Groups

9:45

PM Groups arrive. Group P (for example) goes to large room (Assembly Hall or Gym).

11:00

PM Groups to classrooms. Group P goes up to now vacant homeroom X.

1:00

PM Groups go to Lunch

2:00

PM Groups return to Homeroom X

4:00

PM Groups dismissed.

This is, in general, the procedure for conducting overlapping sessions. There are variations from school to school depending on the facilities, but it inevitably involves two or three large groups moving around in the building at the same time.

EXHIBIT #5

DOUBLE SHIFT

7:55 - Children arrive.

10:00 - Only break occurs
when children have toilet
recess. There is no outdoor
recess on double or over-
lapping shift.

12:00 - Dismissal of AM Group

12:00 - PM Group arrives

2:00 - PM Group has toilet recess.

4:00 - PM Dismissal

(On double shift the children
have one period of gym and one
period of music each week.)

EXHIBIT #5