

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

CLIFFORD EUGENE DAVIS, JR.,)
 et al.,)
 Plaintiffs)
)
and)
)
UNITED STATES OF AMERICA,)
 Plaintiff-Intervenor)
)
)
v.)
)
)
EAST BATON ROUGE PARISH)
SCHOOL BOARD, *et al.*,)
 Defendants.)
_____))
)

C.A. NO. 56-1662-D
Hon. James J. Brady
Hon. Magistrate Docia L. Dalby

UNITED STATES' MOTION TO ENFORCE CONSENT DECREE TIME PROVISION

Plaintiff-intervenor United States hereby moves the Court for an order enforcing the 1996 Consent Decree's time provision, which precludes Defendant East Baton Rouge Parish School Board from unilaterally moving for unitary status and termination of this case until after the 2004-05 school year. The United States further requests that the Court resolve this motion prior to hearing EBR's motion for unitary status and that it stay discovery on EBR's motion while the United States' motion is pending. The United States asserts the following grounds in support of its motion:

1. The parties in this case are operating under a consent decree approved by the Court on August 1, 1996. The decree sets forth a desegregation plan for the EBR school system requiring, inter alia, creation of numerous magnet programs, increased resources for racially identifiable black schools, and

elimination of temporary buildings. EBR has not yet fulfilled all of its obligations under the decree.

2. In 1998, parish voters approved a tax plan for renovations of existing schools and re-construction of four schools. The Court approved the tax plan in 1999 and ordered it implemented. EBR has not yet completed the tax plan renovations and construction.

3. The decree provides the procedure under which the parties may proceed to terminate this case:

the school district may unilaterally move for unitary status upon the conclusion of the eighth school year following the implementation year of the plan. At any time after the conclusion of the fifth school year following the initial implementation of the plan, a joint motion for unitary status may be filed by all of the litigants with the Court.

Decree at 7. Notwithstanding this provision, EBR has unilaterally moved for unitary status three years before it may do so.

4. The time provision is valid and binding on the parties and precludes EBR from filing its motion at this time. In any event, EBR's motion is premature because EBR has not yet fully implemented the decree and tax plan, and has not complied with the Court's orders for a reasonable period of time. Freeman v. Pitts, 503 U.S. 467, 492 (1992); Bd. of Educ. of Okla. City Pub. Schs. v. Dowell, 498 U.S. 237, 248 (1991).

5. The Court has currently set a November 12, 2002 hearing date for EBR's motion. A scheduling conference has been set for April 4, 2002. Because the United States' motion, if granted,

would obviate the need for a hearing and discovery on EBR's motion, the Court, in the interest of judicial economy, should hear the United States' motion and stay discovery before taking up EBR's motion. In re U.S. Abatement Corp., 39 F.3d 556, 560 (5th Cir. 1994) (court has discretion in determining in what order to hear pending motions and may consider economy of time and effort for itself, counsel and the litigants); Scroggins v. Air Cargo, Inc., 534 F.2d 1124, 1133 (5th Cir. 1976) (affirming stay of discovery while dispositive motion pending).

5. The above-stated grounds are more fully discussed in the accompanying memorandum of law.

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Dated: April 3, 2002

CERTIFICATE OF SERVICE

I hereby certify that on April 3, 2002, I served copies of the foregoing to counsel of record by facsimile and by first class U.S. mail, postage prepaid, addressed to:

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