

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

_____)	
JIMMY ANDREWS, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
UNITED STATES OF AMERICA,)	Civil Action No. 65-11297
)	
Plaintiff-Intervenor,)	JUDGE ROBERT G. JAMES
)	
v.)	
)	
MONROE CITY SCHOOL BOARD, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

MONROE CITY SCHOOL BOARD'S RESPONSE
TO MOTION TO SHOW CAUSE

Made respondents to the Motion to Show Cause filed by the United States are the seven (7) members of the Monroe City School Board and the Superintendent of Schools. For the following reasons, the members of the School Board and the Superintendent aver that there should be no finding of civil contempt made by this Court for imposition against members of the School Board or Superintendent.

Though the members of the Monroe City School Board are the governing authority of the Monroe City School Board, state law restrictions, applicable to matters relevant to the pending motion, require the Board to delegate strategic elements of the School District's operations to the

Superintendent of Schools¹. Specifically, other than the Superintendent of Schools, the Board has no authority to control, command or coerce any employee of the Monroe City School District to perform any task. This necessarily means that School Board members, collectively or individually, must rely solely upon the Superintendent and the staff that he administers for the production of information needed to satisfy desegregation compliance submission requirements. In addition, information needed to confirm the accuracy and completion of submissions made to the Court, the Independent Court Monitor and to the Department of Justice for desegregation compliance purposes is based on that information obtained from or through the Superintendent.

Most important, from the legal prospective of the Board, is that the Superintendent of Schools has provided assurance to the Board that the School District is in either full or substantial compliance with meeting desegregation obligations owed by the School District under the terms of the consent decree that are the subject of the United States' Motion, such that a finding of civil contempt is unwarranted.

The Superintendent of Schools and his administrative staff are prepared to present evidence demonstrating compliance with the Consent Decree and reasonable justification for any instance where partial, and not total, compliance has been achieved. The submissions to be offered will demonstrate the absence of any conscious refusal or indifference on the part of the Superintendent, his staff and members of the School Board, in complying with desegregation obligations.

¹ LSA-R.S. 17:81A(3) provides that "[e]ach local public school board shall delegate authority for the hiring and placement of all school personnel, including those for which state certification is required to the local school superintendent." Subsection P(1) of the same statute further provides that

[n]o board member shall act in an individual capacity to use the authority of his office or position as a member of the school board in a manner intended to interfere with, compel, or coerce any personnel decision made by the superintendent or a school principal, including the hiring, promotion, discipline, demotion, transfer, discharge, or assignment of work to any school employee. The superintendent, as the instructional leader of the district and its chief executive officer, shall have primary responsibility for personnel actions in the district.

The respondents acknowledge that "[c]ivil contempt can serve two purposes," either coercing compliance with an order or "compensat[ing] a party who has suffered unnecessary injuries or costs because of contemptuous conduct." *Ingalls v. Thompson (In re Bradley)*, 588 F.3d 254, 263 (5th Cir. 2009) citing *Travelhost, Inc. v. Blandford*, 68 F.3d 958, 961-62 (5th Cir. 1996) (citing *Petroleos Mexicanos v. Crawford Enters.*, 826 F.2d 392, 400 (5th Cir. 1987)) See also *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 191, 69 S.Ct. 497, 499, 93 L.Ed. 599 (1949). Circumstances here do not warrant a finding of civil contempt under either of the two purposes authorized by law.

REASONS WHY USE OF THE POTENT WEAPON OF CIVIL CONTEMPT IS UNWARRANTED

1.

Since neither the members of the School Board nor the Superintendent of Schools refuse to comply with the Court's orders, coercing compliance via civil contempt is unnecessary. There has been forward movement in the area of desegregation compliance, which the respondents, through information to be offered through the Superintendent and his administrative staff, are prepared to show.

2.

No "unnecessary injury or loss because of contemptuous conduct," which forms the second purpose for which a finding of civil contempt may be warranted under the law, is asserted or alleged.

3.

Mitigating factors, on the part of the Board and the Superintendent, include:

- (a) The numerous individual desegregation obligations imposed and specific desegregation goals to be met that are embedded in the consent decree, covering approximately 41 - 44 pages of content.
- (b) The relative inexperience of the current School Board (less than 2 years) and the current Superintendent of Schools (3 years) in administering school desegregation compliance obligations.
- (c) State-law imposed limitations on the School Board's power.
- (d) The degree of substantial compliance achieved in meeting the obligations imposed under the consent decree, demonstrable through submittals to be offered through the Superintendent and members of his administration.
- (e) Good faith instances of misinterpretation or error in understanding consent decree terms defining desegregation obligations.

CONCLUSION

The respondents submit that there has been significant forward movement toward complete compliance with desegregation obligations imposed under the consent decree and that, on the merits, sufficient reasons can be offered to demonstrate that imposition of civil contempt in this instance is not warranted. Accordingly, the respondents request that the Court, after fully considering the merits, exercises its discretionary authority and deny the requests for civil contempt.

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RESPECTFULLY SUBMITTED:

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UNITED STATES OF AMERICA,

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JUDGE ROBERT G. JAMES

CERTIFICATE

I, L. DOUGLAS LAWRENCE, do hereby certify that a copy of the attached Report has been forwarded electronically to Franz R. Marshall and Michael Turnage Young, counsel for the intervener, United States of America, Department of Justice via email on the 30th day of June 2016 and via the United States District Court's electronic filing system on this 30th day of June 2016 and on plaintiffs Annie F. Harris and Benya Marshall through the United States Mail service on this 30th day of June 2016.

BY: s/ L. Douglas Lawrence
L. DOUGLAS LAWRENCE