

THE COURT'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

1 THE COURT: Well, as Mr. Tatal in his letter of
2 yesterday -- counsel have copies -- correctly surmised, we
3 are reluctant to find the defendants in contempt for a variety
4 of reasons, not the least of which is that they arrived on the
5 scene relatively late and the motion to hold them in contempt
6 was filed within a matter of just a few months after they
7 came aboard.

8 We do find, though, that the order has been violated
9 in many important respects and we are not at all convinced
10 that these violations will be taken care of and eventually
11 eliminated without the coercive power of the Court. We
12 are not going to discharge the rule to show cause; we are not
13 going to hold them in contempt at this time.

14 We shall give the Government until June 1, which is
15 roughly 45 days -- a little longer than that -- or 75 days,
16 two months and a half, within which to complete the study to
17 which Mr. Clarence Thomas referred and to supply copies to
18 all of the parties.

19 By the 15th of August, which is five months from now,
20 we shall expect the parties on the basis of the completed
21 study to arrive at a consent order which will either (1)
22 reimpose the present guidelines, or (2) make modification of
23 these guidelines in view of the changed circumstances to which
24 Mr. Levie made reference, which guidelines would presumably
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take into account the change in the mix of cases, any
1 increases in the complexity and difficulty of cases, and any
2 related considerations. But it is my intention that the order
3 that the parties will submit will cover all of these
4 contingencies so far as they are able to anticipate. On the
5 other hand, if they are not able to enter into an order by
6 consent, I shall expect that on, or before, the 15th of
7 August, each of the parties will present his own order and
8 at that time, we will again get into the question of what
9 coercion will be necessary to insure the compliance with
10 this order, absent the consent of the parties.
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12 Let me say further that all of us have noted the
13 game of "Musical Chairs" that the Department of HEW and now,
14 apparently, the Department of Education is going through. I
15 read in the papers that we may not have a Department of
16 Education too much longer. I do not know what department of
17 the Government will take over those functions. But I would
18 think that any consent order should bear on its face the
19 signatures, not only of the lawyers who are negotiating the
20 settlement, but also the cabinet secretaries and department
21 heads who are going to bear the burden of compliance.
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23 Now having said this, I want to say that this subject,
24 I think, has been very fully aired and I think all sides have
25 been very competently represented. I am sorry that we have to
26 delay further this matter of seeing what happens to the order
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1 we entered in December of 1977.

2 Is there anything further, gentlemen?

3 MR. LICHTMAN: No, Your Honor.

4 THE COURT: Mr. Levie?

5 MR. LEVIE: No, Your Honor.

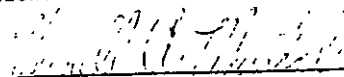
6 THE COURT: Stand recessed until further call.

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8 (Whereupon, the Court's Findings and
9 Conclusions were concluded at 3:11 p.m.)

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17 CERTIFICATE OF REPORTER

18 The above and foregoing typewritten record is hereby
19 certified by the undersigned as the official transcript of
20 the proceedings in the above-captioned matter.

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22 
23 VERNELL A. MARSHALL
24 Official Court Reporter
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