

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

UNITED STATES OF AMERICA

Plaintiffs,

v.

**STATE OF MISSISSIPPI, ET AL.,
(Simpson County School District)**

Defendants.

**Civil Action No.:
J-4706(L)**

**UNITED STATES' AMENDED MOTION TO ENFORCE CONSENT DECREE
IN THE HIRING OF REPLACEMENTS FOR PRINCIPALS
SIDNEY LEE, ERNEST JAYNES AND MAGGIE THOMPSON**

The United States hereby moves this Court to order the Defendants, Simpson County School District ("the District") and its Superintendent, to comply with the requirements of the Consent Decree entered by the Court in this case on August 22, 1983, with respect to the Defendants' hiring of replacements for Principals Sidney Lee, Ernest Jaynes and Maggie Thompson. In support thereof, the United States respectfully would show the following:

1. In the Consent Decree entered by this Court on August 22, 1983, the Court enjoined the Defendants from failing to implement the commitments set forth therein. See Consent Decree, C.A. J4706(R), at 3 (S.D. Miss. Aug. 22, 1983), attached herewith as Exhibit 1; see also Order, C.A. 4706 (S.D. Miss. Aug. 11, 1970) (ordering District to implement

desegregation plan), attached herewith as Exhibit 2.

2. In the 1983 Consent Decree, this Court ordered the District “not to fill any vacancy unless it has been advertised publicly for at least three weeks prior to the final date for submitting applications.” Id. at 8, pt. III.D.2. The Court further ordered that “at least three weeks prior to the final date for any application, each vacancy shall be registered with the State Employment Office and announced in the Jackson Advocate as well as other newspapers,” id., pt. III.D.3; that “a list of current openings shall be posted conspicuously wherever vacancy notices are posted and wherever application forms are provided to the public,” id. at 9, pt. III.D.4; and that “whenever school officials become aware that there is to be a vacancy in a position as administrator,” the District shall, five weeks before the final date for submitting applications, send a notice “to education school placement officials at each public university in Mississippi” id. at 9-10, pt. III.D.5.
3. In 1993, the Court again ordered that vacancies be advertised and otherwise filled in accordance with the 1983 Consent Decree. See Consent Order Resolving United States’ Motion to Compel Enforcement, at 7, C.A. J-4706(L) (S.D. Miss. Mar. 3, 1993), attached herewith as Exhibit 3.
4. The United States learned in conducting discovery that the District does not comply with the provisions of the 1983 Consent Decree set forth in Paragraph 2. Specifically, the District first advertises vacancies within the District, soliciting applications from current District employees. The District publicly advertises vacancies outside the District only if it first determines that there are no qualified applicants within the District. See Letter from Jim Waide to Amy Berman, at 1 (March 20, 2003), attached herewith as Exhibit 4, in response to Letter from Amy Berman to Jim Waide (March 12, 2003), attached

herewith as Exhibit 5.

5. At the start of the 2002-03 school year, three of the District's nine principals were black.
6. By the start of the 2003-04 school year, two of the District's black principals, Ernest Jaynes and Maggie Thompson, and a white principal, Sidney Lee, will have retired.
7. The District did not follow the procedures detailed in the 1983 Consent Decree to replace these employees.
8. Under the procedures that the District employs, no black applicants would have been eligible because, with the exception of one black principal and the Personnel Director, none of the District's black employees has the certification required for principal positions.
9. The United States notified the District on March 12, 2003, that its employment practice violates the 1983 Consent Decree and requested that the District abide by the requirements of the Consent Decree in hiring replacements for Ernest Jaynes and Maggie Thompson. See Exhibit 5. The United States did not reference Sidney Lee in its letter to the District because, at that time, it had not been informed that he was retiring.
10. The District counsel informed the United States on March 20, 2003, that the District would not alter its employment practices and had already filled the principal positions created by Ernest Jaynes and Maggie Thompson. See Exhibit 4. However, during her deposition on April 3-4, 2003, the Personnel Director, Lillie Hardy, testified that while the school board has approved the recommendations to hire replacements for these three principals, none of the replacements has received or signed employment contracts for the 2003-04 school year.
11. Furthermore, the Personnel Director, Lillie Hardy, informed the school board, before the board approved replacements for Sidney Lee and Maggie Thompson, that "there are no

black applicants in the pool. In order for blacks to be considered for the position, it would have to be advertised outside of the District.” See Memoranda from Lillie Hardy to Jack McAlpin (January 23 & February 6, 2003), attached herewith as Exhibit 6 (provided to the school board as attachments to Board Reports).

12. On March 21, 2003, the United States again requested that the District comply with the 1983 Consent Decree, see Letter from Edward Caspar to Jim Waide (March 21, 2003), attached herewith as Exhibit 7, but the District has not provided a substantive response. See Letter from Jim Waide to Edward Caspar (April 1, 2003), attached herewith as Exhibit 8.
13. While the District has not complied with the 1983 Consent Decree with regard to determining replacements for Principals Sidney Lee, Ernest Jaynes and Maggie Thompson, the Personnel Director, Lillie Hardy, testified during her deposition that the school board has recently ordered her to advertise an assistant principal position outside of the District, in contravention of the District’s procedure of advertising first within the District for the three principal positions.
14. The United States’ must notify the Defendants of any objections to a declaration of unitary status by July 1, 2003; the parties then have sixty days to confer and an additional 30 days to provide written objections to the Court.
15. Because the District would need to begin its search for replacements for Sidney Lee, Ernest Jaynes and Maggie Thompson in accordance with the 1983 Consent Decree before the date by which the parties must resolve any objections or submit them to the court in order to fill the positions before the start of the 2003-04 school year, the United States brings this motion.

WHEREFORE, the United States respectfully requests that the Court (1) order Defendants, Simpson County School District and its Superintendent, to comply with the provisions of the Consent Decree entered by this Court on August 22, 1983, including those requirements referenced in paragraph 2 of this Motion, in hiring personnel to replace Principals Sidney Lee, Ernest Jaynes and Maggie Thompson; and (2) order the District to demonstrate its compliance by providing the Court and the United States with an affidavit of the District's Personnel Director detailing all steps that the District took to solicit applications for the three vacant principal positions; copies of all advertisements, postings and notices of the three positions; the evaluation sheets for each applicant, including the numeric score awarded to each; the race of each applicant; and the name and race of the applicants ultimately hired for the positions. A Proposed Order is attached with this Motion.

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Respectfully submitted,
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