

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

MARILYN MARIE MONTEILH, : DOCKET NO. 65-10912
 :
 Plaintiff, :
 vs. : July 16, 2009
 :
 SCHOOL BOARD OF ST. LANDRY PARISH, :
 :
 Defendant. : Lafayette, Louisiana

REPORTER'S OFFICIAL TRANSCRIPT OF THE QUARTERLY MEETING
BEFORE THE HONORABLE TUCKER L. MELANCON
UNITED STATES DISTRICT JUDGE.

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P R O C E E D I N G S

1
2 THE COURT: Good afternoon. Please be seated.

3 The next matter before the Court today is Civil Action
4 Number 65-10912, *Monteilh vs. the St. Landry Parish School Board*.

5 The matter before the Court today is a hearing that was
6 previously set on a motion that was filed by the school district
7 at the specific instruction of the district judge when we were
8 last here.

9 Now, I just want to make sure I'm right on that,
10 Mr. Caswell. I didn't misspeak, did I?

11 MR. CASWELL: No, sir. You are correct.

12 THE COURT: Now, it has come to my attention that the
13 government has raised certain objections to those filings, and in
14 a minute entry that went out here, I noted that those objections
15 were what I perceived to be -- the Court perceived to be
16 constitutional in nature.

17 And I highlighted in italics constitutional to try to
18 make the point that this just wasn't a little something we don't
19 think we like, that it was constitutional, and I wanted them to
20 focus on that.

21 Now, I am going to dispense with the normal school
22 board introductions. I'll ask the president, Mr. Miller, it
23 appears to me that all of your number is here. Is that correct,
24 sir?

25 MR. MILLER: Yes, Your Honor.

1 THE COURT: All right. Thank you.

2 And I would ask the lawyers involved in the case,
3 starting with the attorneys for the original plaintiffs, then the
4 government, to identify themselves for record purposes.

5 MR. WHITE: Good afternoon, Your Honor. Marion Overton
6 White for the original plaintiff.

7 MS. TAYLOR: Good afternoon, Your Honor. Lisa Taylor
8 representing the United States of America with offices in
9 Washington, D.C.

10 MS. VINCENT: Katherine Vincent for the United States
11 of America from the United States Attorney's Office.

12 MR. CASWELL: Gerard Caswell on behalf of the school
13 board, Your Honor.

14 THE COURT: All right. Now, I want, first of all, the
15 school board members to know, then I want the superintendent to
16 know, and I want those of you who may be gathered for whatever
17 purpose here today such as I've got just a general interest in
18 education or a specific interest in education in St. Landry
19 Parish, I've got a child in the school system or I'm with the
20 press, whatever the situation is. I want to make sure everybody
21 understands what I said a few minutes ago. I'm the one that
22 requested that Mr. Caswell, on behalf of the school board, bring
23 these issues up.

24 And those of you who have been on the school board more
25 than one term going back to the previous superintendent, some of

1 you understand, some of you don't understand; some of you
2 believe, some of you don't believe; some of you wouldn't believe
3 maybe no matter what; and I hate to say this, but maybe some of
4 you wouldn't understand no matter what either. I have been doing
5 what I could to try to bring this case to a conclusion.

6 I think significant, significant progress has been
7 made. It very may well be after reading everything that I've
8 read that's been put on by the government and the school system,
9 lawyers, that I kind of put the cart before the horse on one or
10 two issues here; not a big one and it doesn't stop the ultimate
11 where are we going, but when we get there. That's my general
12 feeling.

13 After having said that, I know, because the lawyers for
14 both sides -- I had a conference with them, with the government
15 lawyer and with the school board lawyer, sometime a week or two
16 weeks ago, and I've read in the paper, in the Daily World, what
17 the lawyers have represented to me after that meeting. During
18 that telephone conference they didn't represent anything to me,
19 but after that, they represented, as instructed, to my law clerk
20 where they were.

21 And I read, I believe, in yesterday's paper what
22 they're getting ready to tell me. I don't know if it's accurate
23 or not. I find it very interesting, though, that the lawyers are
24 the ones that would be theoretically the only ones to know what
25 they had recommended or would recommend to this Court here today

1 and it's in the press. I mean, there's no harm in that. It
2 doesn't seem like it's the better course or way to act.

3 You ought to figure out what the judge is going to do
4 before you throw that out in the universe, but if anybody can
5 make any political hay out of it and help grease the wheels and
6 keep people in the know, I'm for it, but I was a little bit
7 surprised, but tell me what I read in the paper, whether or not
8 it's true. I'll start with the government on this one.

9 MS. TAYLOR: Well, I also read the article in the
10 paper. As you know, I do review the newspaper on a daily basis.
11 And, Your Honor, I think what the newspaper article was alluding
12 to was the United States' amended response to the defendant's
13 motion for partial unitary status, which we filed on the 14th of
14 July, which was Tuesday.

15 In that document we indicated that we would be willing
16 to withdraw our objections to staff assignment provided that the
17 district file a few things which we've delineated in our prior
18 response.

19 In addition to that, we requested the Court retain
20 jurisdiction relating to student assignment, quality of education
21 and facilities.

22 THE COURT: Well, it very well could be that since I
23 was traveling on Tuesday, which would have been the 14th, and
24 that at 6:30 on the 15th I was at Lake Martin at an alligator
25 swamp tour with three grandchildren and was otherwise exhausted,

1 that I misread what I read in the paper last night about 10:30.
2 So thank you for straightening me out, but to make sure I do
3 understand now that I've had a couple of hours sleep, what is the
4 deal from the government's perspective slowly?

5 MS. TAYLOR: Slowly, the United States has withdrawn
6 its objection to the declaration of the school district for
7 partial unitary status in the area of staff assignment. So, in
8 other words, Your Honor, we agree with partial unitary status in
9 the area of staff assignment.

10 THE COURT: And let's assume he's otherwise entitled to
11 it in the Court's view after putting on what he puts on here
12 today. That is the totality of that *Green* factor, as I recall,
13 because we had partial on that before. Am I getting that
14 confused with another factor?

15 MS. TAYLOR: That is the totality. The parties,
16 subject to the Court's approval, have -- the United States has
17 asked and the school district has agreed to not make any
18 amendments to the principal assignments which the parties agree
19 upon without first consulting all the parties and advising the
20 Court prior to making the personnel assignment change, but
21 subject to the -- if that occurs, which we believe it will, that
22 was just one thing that we had asked and they agreed upon until
23 the dissolution of this case.

24 THE COURT: So this goes all the way until the end of
25 the line of the case, but technically what you've got in that

1 *Green* factor, you can check it off because you've got 99 percent
2 of it with that little caveat, by the way, as it relates to
3 principals, that's not part of the deal. Is that what you're
4 telling me?

5 MS. TAYLOR: Only as to the six principal assignments
6 that we agreed upon.

7 THE COURT: That's what I -- yes. I'm sorry.

8 MS. TAYLOR: Yes, Your Honor.

9 THE COURT: You pretty much -- even though I kind of
10 bastardized what I said, did I get the point, Mr. Caswell?

11 MR. CASWELL: Yes, sir, Your Honor. What we're doing
12 is we're agreeing -- they've agreed to withdraw their objection
13 on staff assignment. We will get unitary status.

14 With regard to the six schools that the school board
15 changed the race of the principals at previously, those schools,
16 that we will not change the race of those principals at those
17 schools during the entire pendency of this case unless we come to
18 the Justice Department and the Court and explain why it has to be
19 done such as, I'm sorry, we have no applicant of that race.

20 THE COURT: And if the government says that's fine and
21 y'all both walk into court and I said it's fine with y'all, but
22 it's not fine with me, I've still got control.

23 MR. CASWELL: Yes, sir.

24 THE COURT: Okay. I'm just trying to make sure.

25 MR. CASWELL: As to those six schools.

1 THE COURT: Let me say this. Well, I tell you what.
2 I'm not sure how that will be taken by some who think I like to
3 have control. That's not the point. I just wanted to make sure
4 I understood what you were giving up and what would still be
5 there for me to act on in the event you needed to do something
6 and the government said no. I've got the authority, right?

7 MR. CASWELL: As to those six schools, yes, sir.

8 THE COURT: All right. You agree?

9 MS. TAYLOR: Yes, Your Honor. The United States is in
10 accord.

11 THE COURT: All right. And do I take it that the
12 original plaintiffs also agree?

13 MS. TAYLOR: Yes, Your Honor. We conferred with the
14 plaintiffs prior to our filing, and while the United States made
15 the filing, it does indicate that the private plaintiffs are in
16 accord with the motion.

17 THE COURT: All right. Now, what else have we got here
18 today?

19 MS. TAYLOR: Your Honor, since probably around March
20 we've received several complaints about special education and we
21 just wanted to apprise the Court of these complaints.

22 We are currently reviewing the complaints to determine
23 whether or not there's any violation of law, not that there --
24 there may or may not be. We're not sure, but at this point we
25 are reviewing the complaints and we'll notify the district.

1 We've identified with the district that this may be an
2 issue and have received information that they are willing to work
3 with us on it. So it's just to apprise the Court of this issue
4 with special education.

5 THE COURT: So help me with this because I'm the one
6 that may have started this several years ago going down this
7 path. This is technically not a part of this school
8 desegregation case, but since I have -- I'm presiding over the
9 school desegregation case, when I note a violation of a federal
10 law by a district that's under my supervision such as the one
11 that you allude to that we had back several years ago with poor
12 Ms. Dedon's situation -- and it still tears at my heart -- I get
13 involved, or am I missing something because it's another branch
14 of your part of the Justice Department that does this, or is this
15 directly related -- this is all about race and special education
16 now?

17 MS. TAYLOR: We have received complaints about
18 instances that are similar to that of Ms. Bett Dedon and her
19 grandchild, Mason, but in addition to that, we've also received
20 complaints relating to the overidentification of black children
21 as special ed and over-discipline of those students. We are
22 reviewing that which is a direct -- which is in your jurisdiction
23 and it has a direct bearing on the case.

24 THE COURT: But the allegation then is that it is about
25 race, Judge, potentially and it is under your bailiwick here,

1 that you're going to have to handle that in the context of the
2 school desegregation case. Is that what you're telling me?

3 MS. TAYLOR: Yes, Your Honor.

4 THE COURT: And you say the school board said they're
5 willing to work with you?

6 MS. TAYLOR: Yes, Your Honor.

7 THE COURT: And I thought we had addressed this when
8 the school board went through whatever machinations or otherwise.
9 I don't mean that in a disparaging way, ladies and gentlemen of
10 the school board, but making it a director or a supervisor and
11 coming up with a plan. That was one of the big issues. This is
12 the same thing we've been dealing with for three years now or
13 whatever it is?

14 MS. TAYLOR: Yes, Your Honor.

15 My understanding is that there was a plan in place and
16 the question is whether or not the plan is effective. And there
17 were some moments throughout the three-year period -- I wouldn't
18 even agree that it was three. It was probably two.

19 The plan was suspended for various reasons. So there's
20 some questions about the success rate after implementation
21 because we are still continuing to get complaints. So we are
22 going to review those complaints to determine whether or not
23 there are any violations.

24 THE COURT: Well, you know, I heard -- and this may not
25 be the appropriate thing for a federal judge sitting in a school

1 desegregation case to say, certainly not in the context of the
2 discussion we're having here, but I heard a wonderful program
3 this morning, an interview on the New York public radio over the
4 Internet, WNYC, talking about the hundredth anniversary of the
5 NAACP that's going on right now, the celebration, and, of course,
6 the President is going to be speaking.

7 They quoted several people, all of whom happened to be
8 of color, and, you know, it's really not appropriate in the
9 special needs situation necessarily, certainly not in the -- in
10 Ms. Dedon's situation where you've got somebody with Asperger's
11 (sic) Disease or maybe the autistic type, whatever the different
12 --

13 MS. TAYLOR: Asperger's.

14 THE COURT: Asperger's. I'm sorry.

15 But, at any rate, one of the things that this person
16 quoted, I think it was President Obama, at least on one, but
17 maybe two, but he said -- quoting the President, he said that,
18 you know, the President said, you know, we need family
19 involvement in schools, parental involvement.

20 He said, like the President says, we need to turn that
21 TV off so they can do their homework, and when there's discipline
22 issues at school, it's more likely than not that the teacher's
23 right and the teacher probably needs to get a little bit more
24 support so they can have a significant educational process.

25 Now, that was the quote that I think was attributed to

1 the President. Now, far be it for me to second-guess or
2 otherwise do anything but parrot the President.

3 It does not escape me that you could have a lot of
4 complaints, some of them that would be absolutely valid, but some
5 of them in the culture that we've morphed into since I've been on
6 the planet and since I was in high school, that whatever goes
7 wrong at school, it must be the teacher, but it ain't my kid.

8 And the world doesn't work that way. Anybody who
9 thinks that this world is that white or that black or that much
10 prejudiced about everything to see that, they don't have their
11 head screwed on right. And I'll just say that because I believe
12 that. It's too late in the day for us to play that game.

13 So I would think even though a parent can be in very
14 good faith, they ought to stand back a minute and say, well, how
15 is little Johnny or Sally when it's not involving the teacher,
16 but it's involving me? Are they always pristine and always right
17 or sometimes they're wrong over here, too?

18 And, you know, it's a natural thing. You know, we
19 don't want to throw our kids, our young kids, to the wolves, but
20 I choose to believe that most of the people that teach public
21 school nowadays aren't the wolves and they're out there trying to
22 herd the sheep, not eat them.

23 And, again, at some point -- I don't know. Like I say,
24 it struck me, what I heard this morning. The President is a lot
25 smarter than I am and he's a lot closer to the problem. Having

1 had a real job and having been a community organizer, he's
2 probably a lot closer to the problem than many of us in the room
3 except for you educators that are in the room where the rubber
4 meets the road, but, anyhow, think about that when you get these
5 concerns, these complaints from these very concerned parents.

6 And, concerned parents, if you get the opportunity to
7 think about it, maybe those of you who have contact, whether
8 you're preachers or other leaders, talk to your parents about
9 that. You know, wait a minute. How is he or she at home? Is he
10 always right at home? If she's not always right at home, she's
11 probably not going to always be right at school.

12 MS. TAYLOR: And if I could just add to that.

13 THE COURT: You sure may.

14 MS. TAYLOR: But these are students who have special
15 needs who are acting out. So it's --

16 THE COURT: I'm not -- and I qualified what I said.
17 This may not be applicable here, but as a general rule of thumb,
18 I think that's a big thing. So when you're talking about
19 discipline, that's how that ties in for me. So just figure that
20 out.

21 And, again, the other thing -- and this is just -- this
22 is the truth. I don't know how you get around the truth. Some
23 folks have more parental involvement in the homeplace. Some
24 people can do that because some people have the luxury of not
25 having to be working all the time or having jobs where they can

1 afford to buy resources so you can have more parental
2 involvement. Some folks just don't have that.

3 So all parents don't start out equal, but they didn't
4 start out equal if they were born on the same day because of
5 where they started. So anybody who doesn't understand that is
6 not trying to figure out what's going on, but, anyway, what else
7 have you got there, Ms. Taylor?

8 MS. TAYLOR: Yes, Your Honor.

9 I just wanted to apprise the Court that we have
10 received requests for consideration of a health transfer
11 exception. This exception would apply to the plan that's going
12 to be implemented for the 2009/2010 school year, folks who claim
13 that because of their disability, they should be allowed to
14 remain at the school that they are currently attending.

15 And at this point we are reviewing those complaints and
16 those concerns to make an assessment as to whether it would be
17 consistent with the goals of the case and the issues of the
18 children in terms of being able to address them.

19 THE COURT: And what's the nature of the disability or
20 health concern that would mean little Tommy or little Jane or
21 little whoever shouldn't move? What's the type of stuff you're
22 seeing?

23 MS. TAYLOR: One example we've seen in a few of the
24 cases has been a child has autism, and the autism -- parts of
25 autism, that particular issue, is addressed by having a

1 consistent study and consistent presence in one school. And the
2 assertion has been made if they change the schools, that will
3 change the ability of the child to adapt to the new environment.

4 In addition to that, there has been, as you know with
5 the work of Ms. Dedon, some efforts made at certain schools more
6 than others to accommodate particularly the autistic children in
7 terms of having quiet space and having adequate facilities to
8 address the issues that are specific with children with autism.

9 And so -- and they have support with doctor's notes, et
10 cetera, that indicate that a change in venue would in fact
11 disrupt --

12 THE COURT: When you say doctor's notes, do we have the
13 fine Dr. X, Y, Z, general practitioner from one of our local
14 communities, or do we have somebody that's a specialist in the
15 area?

16 MS. TAYLOR: I don't know the answer to that.

17 THE COURT: Because that would be most important. And
18 I don't mean to cast any dispersion -- for goodness sakes, don't
19 misread this -- on any members of the medical community, but I
20 will tell you it's been my experience over many years as a judge
21 and before that as a lawyer, there's a lot of general
22 practitioners who are good folks, and I'm sure they go to church
23 on Sunday and I'm sure they wouldn't steal a copper cent from
24 anybody, but when the mama or the daddy of a patient comes in
25 here and needs them to write a note, they'll damn near write a

1 note for anything.

2 So I would be more impressed if I were going down that
3 line, we've got an autistic child? Let's get somebody that's an
4 autistic doctor and show that we've got a history of getting some
5 treatment here.

6 Now, that's just a thought because I'm not overwhelmed
7 by a GP writing a note for anything. I've seen that in too many
8 other cases, school desegregation cases.

9 And it was way before your time, but there was a lot of
10 that going on in the Buckeye three type situation peripheral to
11 that, that there were all kind of orders for everybody.

12 Early on in this case we said we're going to have, you
13 know, that determination by a biracial committee, then to the
14 school board before it ever got to the Court. I'm not going to
15 pass on those things until it goes through the people's elected
16 chambers.

17 And I think I said when I entered that order -- and
18 Mr. Caswell will remember this -- that it would be rare that I
19 would think anything the biracial committee did would be appealed
20 by the school board; and even rarer still that the school board
21 would try to override what the biracial committee did; and yet
22 rarer still that the school board -- that the Court would go with
23 what the school board said if it was contrary to what the
24 biracial committee said because it's a three tier thing.

25 And, you know, the school board members don't need to

1 be messing with this, number one, because it's not fair. They're
2 politicians, good politicians trying to represent their
3 constituents. They don't need to be being the bad guy because
4 they're trying to do what the law says and what's right for the
5 system, not for little Tommy or Jane or whoever it is who's their
6 neighbor or who's their big supporter.

7 That was to insulate them and get the right result,
8 but, again, we're dealing with medical stuff here. I don't mean
9 to make -- it's not to disparage any general practitioner
10 anywhere, but I've just seen too many of them. You know, they're
11 live and let live. That's just my impression.

12 MS. TAYLOR: And our typical operating procedure is to
13 review each complaint, make an assessment, and then forward the
14 assessment or our recommendation to the school district, and if
15 the school district agrees, then we bring it to the Court. If
16 not, then we'll -- you know, we can understand why, so...

17 THE COURT: Well, Mr. Caswell and Superintendent
18 Nassif, I'm trying to insulate these fine men and women who put
19 their money and not life on the line, but when they go ask the
20 people to vote for them, this is not the kind of micromanaging
21 stuff they need to be involved in nor you should subject them to
22 the wrath of the public because they don't want to help or say, I
23 want to help, but there's nothing I can do, or that they try to
24 help and they can't get it done. It's just not fair to the
25 elected representatives of the people to do that to them. So

1 that's the point.

2 Okay. What else have you got?

3 MS. TAYLOR: That will be it, Your Honor.

4 THE COURT: Okay. Mr. Caswell, let's talk about it.

5 MR. CASWELL: Yes, sir.

6 Briefly, I want to address the other half of the motion
7 that we filed, the one dealing with curriculum/quality of
8 education that Ms. Taylor discussed their concerns relative to
9 the -- mainly in the area of special education.

10 We agreed, as part of our agreement whereby they
11 withdrew their objection to staff assignment, that we would
12 postpone a hearing with regard to that *Green* factor, that being
13 curriculum and quality of education, until such time as we could
14 sit down with them and address the concerns that the Justice
15 Department had, as well as some of the complaints they had, and
16 also to give them more time to review the plethora of information
17 that we provided to them which they requested and which I
18 detailed at length in the response that you ordered me to file.

19 There were many facts and figures concerning the
20 strides and efforts made by the district with regard to special
21 ed, with regard to overidentification and disproportionality that
22 the Justice Department probably had not had a good opportunity to
23 review.

24 The plan that is in place is making progress, the
25 overall numbers relatively coming down. Total numbers of

1 African-Americans being identified as special education have come
2 down consistently every year starting with '03/'04 to the current
3 year. We've produced that information. We want to sit down and
4 show that to the government. We want to show them any and
5 everything they wish to see. That's why we have agreed that we
6 will postpone the hearing in that area.

7 It is our hope and our belief that when we do and we
8 sit down and show the information to them, answer the specific
9 questions they have, and then take a look at those complaints
10 that they think are legitimate, that ultimately we'll be back
11 here on that particular *Green* factor once again with a withdrawal
12 of any objection so that we can then have that factor as well.

13 There have been a lot of things that have been put into
14 place. I even had the superintendent advise me that, hey, the
15 gentleman who developed the program that we use, the iSTEEP
16 program that is used with regard to disproportionality, that we
17 are prepared to get him to come down, when we get the government
18 over to the district, and explain exactly what this program not
19 only is designed to do, but what it's in fact doing in St.
20 Landry.

21 Are there complaints by parents? I have no doubt that
22 there are. There always have been and there always will be, and
23 we'll address any one that is put on our plate.

24 As an example of sometimes complaints not being
25 accurate, there was one made to Your Honor today and brought to

1 my attention today. I have since found out that that is not
2 accurate at all, that there will in fact be live teachers at that
3 particular school teaching those AP courses. So many times
4 parents hear things and make complaints without verifying them,
5 and we're prepared to stand ready there.

6 THE COURT: Let me interrupt you there because there
7 has been -- and I know this. I know this to be true. There are
8 still the naysayers out there, and unfortunately there are -- I
9 think it was your -- you told me what your ol' daddy said one
10 time, that expression he used. Some of these naysayers are like
11 the Evinrude in a cesspool.

12 And I don't need to name them, but I know who they are.
13 I suspect most everybody in this room knows exactly who they are,
14 sending people over to my chambers, giving bogus information
15 about scheduling of these conferences.

16 And, you know, for the life of me, I think it was
17 almost like there's some people who would like this to go on
18 forever just so, you know, there would be a way to -- I tried to
19 figure that out, why anybody would want that to be, especially
20 those that purport to be for education and for the children.

21 And I can understand politics when you want to beat up
22 on somebody like this justice that President Obama has sent
23 through who's going through the hearing right now. If we all had
24 the chance to listen to that, we'd all learn a lot more about the
25 rule of law and what that really means.

1 It might even make those district judges like me who
2 have these kind of cases, make their jobs a little bit easier,
3 because we all say we want judges to just follow the law.

4 And, of course, you know, if you believe what I've come
5 to know many people in your parish, Mr. Caswell, think about me,
6 they think I make this stuff up every week as I go along and I'm
7 having fun doing it. That's unfortunate and I'll never convince
8 them otherwise, but it doesn't matter.

9 I was trying to wonder what's the -- why would anybody
10 want to be the Evinrude in a cesspool in this context here. And
11 in big politics, well, you can say so many bad things about a
12 Supreme Court nominee against one side and you can raise a lot of
13 money that way, and, you know, it goes back to both sides. It
14 doesn't matter who's putting them up.

15 But in this context, I mean, who could be against
16 letting the federal yolk be taken away from the neck of the St.
17 Landry Parish School System? Who could possibly be against that?

18 But some of the actions -- and, ladies and gentlemen
19 out there, I want you to know. I don't know their motives, but I
20 can promise you if it's supposed to be something that's black or
21 white or nine or ten, well, it's orange and yellow and it's four
22 or five. I don't understand. It is what it is and y'all all
23 know what I'm talking about I'm sure. I know y'all know the
24 individuals I'm talking about I'm also sure, and if you don't,
25 I'm a better politician than y'all are from not being able to be

1 in politics, reading the newspapers, and once in a while getting
2 a call from a couple of friends over there, but that's all I need
3 to say.

4 MR. CASWELL: On another issue, Your Honor, if I may,
5 on the issue of students who have special needs and because of
6 those special needs, be they medical or otherwise, if this is in
7 fact a recommendation that it is in the best interest of
8 educating that child and attending to that child's special needs,
9 whether they're medical or otherwise, we are certainly not going
10 to be in disagreement with that. We do require proper
11 documentation from the appropriate medical professionals.

12 And to address what Ms. Taylor indicated, that there
13 was a student who apparently is autistic or in the autistic
14 realm, about why a change would affect that child, as the Court
15 well knows and most people who know me well know, I have a child
16 with special needs and I can tell you firsthand that routine for
17 those children is paramount. Comfort with a particular
18 instructor is paramount to that child making progress.

19 So I can understand that if in fact a change does not
20 have to be made for such a child, why it would be in the best
21 interest of that child and probably our system not to change it.
22 When those come up, we are prepared to address them with
23 documentation from proper medical, through the biracial, with a
24 recommendation from the biracial to the superintendent and on to
25 the board, and then we'll put it forward that we agree this child

1 should stay provided the proper documentation is given.

2 THE COURT: Well, let me say this, two things. First
3 of all, I know more about that situation, not near as much as you
4 do, than I would normally because indirectly I've got family
5 involved, too. Okay? I understand.

6 MR. CASWELL: Yes, sir.

7 THE COURT: I didn't mean to say -- make light of that
8 with what I said earlier, number two, but, number three,
9 Mr. Caswell -- and this is right after Superintendent Nassif came
10 on.

11 I'm pretty much convinced that the school system, one,
12 wasn't aware of its obligations under federal law, number two,
13 the situation with Ms. Dedon's grandson, I believe. And that was
14 about as -- she said it, wrote it and said it in this courtroom,
15 I believe, so me repeating it here I don't think is divulging
16 anything, but, as I recall, the mother had breast cancer. The
17 daddy got killed in Iraq. Then Ms. Dedon's got this child who's
18 got this situation and she's going to do what she needs to do to
19 protect her grandbaby.

20 And there was not a heck of a lot of cooperation from
21 the school system. It was mainly because I don't think the
22 school system at that juncture, as I recall, understood fully
23 their obligation under federal law separate and apart from this
24 case.

25 And there was not a mechanism to take care of it.

1 Ultimately, after a couple of head-to-heads here on the record
2 here in court, I got Mr. Dacourt (phonetic) from over in New
3 Iberia, a court-appointed expert, to go over and look at what the
4 situation was and try to get it remedied. My belief is that
5 situation was remedied. And I have to believe that the school
6 system as a whole understands much better its obligation than it
7 did at that juncture.

8 And I want to charge you with -- give you the charge to
9 make sure that the superintendent and the board understands this.
10 This is not, you know, we've got to do this ABC stuff, teaching
11 ABC stuff, and then we'll get to that. No. You can't do that.
12 This is priority real estate here. It needs to be taken care of
13 when you're taking care of the ABC's. It's on equal footing
14 because it's a federal law, and not to mention, like you said,
15 what it does to these people's potential to have decent lives.

16 And I agree with you. When you're doing -- when the
17 school system is doing its job properly for these kids, that's
18 what's best for the school system, too, because --

19 MR. CASWELL: Absolutely.

20 THE COURT: What else have you got?

21 MR. CASWELL: That's all we have, Your Honor.

22 THE COURT: Mr. White.

23 MR. WHITE: We have nothing, Your Honor.

24 THE COURT: All right. So we've got an agreement on --
25 we've got -- and Ms. Jordan is going to have to make up these

1 minutes of court here. We've got a withdrawal of the objection
2 from the government as to what, Ms. Taylor?

3 MS. TAYLOR: The district's motion for partial unitary
4 status in the area of staff assignment.

5 THE COURT: Got that, Ms. Jordan?

6 THE CLERK: Yes, sir.

7 THE COURT: And, Mr. Caswell, you're asking that the
8 Court not consider -- or postpone the hearing on the other factor
9 of --

10 MR. CASWELL: Curriculum/quality of education.

11 THE COURT: With the full expectation by both the
12 lawyers, if that's fair to say, that we're going to come back and
13 have our kumbaya moment some months down the road. That's the
14 expectation, right?

15 MS. TAYLOR: Provided there's no violations, yes, Your
16 Honor.

17 THE COURT: Okay. You've got to love lawyers, huh?

18 All right. She's just doing her job, and I've already
19 -- I didn't realize I was doing it, but my staff tell me I chewed
20 on her pretty hard at the first hearing this morning. I didn't
21 realize I was doing that. I just was calling them the way I saw
22 them, but anyhow...

23 All right. Well, that being -- what have you got,
24 Mr. Caswell?

25 MR. CASWELL: With regard to that, Your Honor, since

1 the law requires the Court make a finding concerning --

2 THE COURT: You need to put on the evidence.

3 MR. CASWELL: I simply need to put in the only evidence
4 I have which is the affidavit of the superintendent setting forth
5 nine particular factors that we believe is sufficient to
6 establish that we are in fact unitary in the area of staff
7 assignment. Counsel has been provided a copy. I don't think
8 anyone has an objection to that as our evidence and I'd like to
9 submit it.

10 THE COURT: Read it into the record while you have it,
11 and then I'm going to ask counsel for the government and the
12 original plaintiffs the question.

13 MR. CASWELL: Would you like a copy before I begin
14 reading it?

15 THE COURT: No. I'll try to listen carefully as I can
16 with these bad ol' ears I've got.

17 MR. CASWELL: Yes, sir. And I'll go slowly.

18 This is an affidavit signed by Superintendent Nassif
19 dated today setting forth the following facts, Your Honor: The
20 school district's current employment practices are
21 nondiscriminatory. The school system has 37 principals and 19 of
22 those principals are African-American.

23 In an effort to eliminate the vestiges of the former
24 dual system of education in respect to staff assignment, the
25 school system transferred six principals in order to ensure that

1 at those six schools the race of the principal was not the same
2 as the majority of the student body.

3 MS. TAYLOR: Your Honor, if I may, could we identify
4 the -- I just received this document right before we began our
5 conference. I'd like to have the name of the principals and the
6 schools given that we've made an agreement.

7 MR. CASWELL: Okay. First let's do the schools.

8 The six schools at issue are Creswell Elementary. And
9 forgive me for not having the name because that principal has
10 just been replaced.

11 SUPERINTENDENT NASSIF: Brenda Taylor.

12 MR. CASWELL: And that principal is Ms. Brenda Taylor
13 and she is Caucasian. Krotz Springs Elementary. That principal
14 is Mr. Jerome Robinson and he is African-American. South Street
15 Elementary and that is Ms. Mary Miller and she is Caucasian.
16 North Elementary. That is Ms. Sandra Gamache and she is
17 Caucasian. Arnaudville Elementary and that principal is Elsie
18 Simien and she is African-American.

19 THE COURT: Let me comment on -- those are the six,
20 right?

21 MR. CASWELL: I'm sorry. I left one off. Forgive me.
22 Grand Prairie Elementary and that principal is Mr. Charles Moore
23 and he is African-American.

24 THE COURT: All right. Let me comment. Knowing the
25 school system and where the schools are located, and having

1 visited many of those schools and knowing the principals in
2 question, many of them I met personally, certainly all of them at
3 one time or another in a group meeting, and knowing them by name
4 and also basically knowing them by their race because I knew them
5 by name and I knew them, it sure seems like the board did as good
6 a job as the board could have done to remove what was a
7 historically white or African-American school to change the names
8 -- the head at the top as it relates to those schools. So it
9 seems to me a comment like good job, school board, is in order.

10 MR. CASWELL: Thank you, Your Honor.

11 Next item, fifteen of the St. Landry Parish schools
12 currently have a principal which is the opposite race of the
13 existing majority student body.

14 Sixty-one percent of all guidance counselors in St.
15 Landry Parish are African-American. Fifty percent of all
16 assistant principals in St. Landry Parish are African-American.
17 Forty-six percent of all central office administrators are
18 African-American. Forty percent of all other school-based
19 certified personnel are African-American. Fifty-three percent of
20 all noncertified or classified staff are African-American.

21 That is our affidavit that we'd like to submit as
22 evidence, Your Honor.

23 THE COURT: All right. Any objection from the
24 government or from the original plaintiff?

25 MS. TAYLOR: No, Your Honor.

1 THE COURT: Mr. White?

2 MR. WHITE: No objection.

3 THE COURT: All right. Admitted as School Board
4 Hearing 1 without objection.

5 All right. Ms. Taylor, anything you want to ask of
6 either Mr. Caswell or the proponent of the affidavit, the
7 superintendent?

8 MS. TAYLOR: No, Your Honor, but we would ask the
9 Court, if, in fact, there's a declaration of partial unitary
10 status, for an opinion to be issued as is required under the case
11 law that there be a fact specific discussion of why the district
12 is in fact unitary.

13 THE COURT: All right. Would you say that again more
14 slowly so I can understand what you mean?

15 MS. TAYLOR: Yes, Your Honor.

16 There needs to be an order from the Court, an opinion
17 of some sort identifying -- making a legal assessment assessing,
18 based upon the pleadings before the Court, whether or not -- I
19 guess in this case that the school district is unitary and the
20 factual basis in support of that.

21 THE COURT: All right. What I'm going to ask the
22 lawyers in this case to do, contrary to the normal rule in a
23 civil case, I'm going to ask -- since this is the agreement that
24 you all made and my extensive oversight of this case since about
25 the year 2000 and knowledge of it, I'm going to ask you to go

1 ahead -- you all are the ones who negotiated what didn't look
2 like was going to be negotiated up until about three or four days
3 ago.

4 I would like for you to come up -- and with Mr. White's
5 involvement, too -- with an order that you would make as a joint
6 submittal that would be such an appropriate order that would
7 cover -- cross all the i's -- or cross all the t's and dot all
8 the i's so that the deal that the government made, the original
9 plaintiffs made and the school board made, that you're asking me
10 to pass on and I'm pleased to do, stands muster if later on
11 anybody gets cold feet and says, well, we didn't really mean that
12 and he didn't say this.

13 Can you do that for me?

14 MR. DORAN: Yes, Your Honor, but it's not for cold feet
15 purposes. It's just to establish the record.

16 THE COURT: I understand, but let's do it the right
17 way. I'm for it.

18 Okay. Now, what else from the lawyers?

19 MR. CASWELL: I have nothing further, Your Honor.

20 MS. TAYLOR: Nothing further, Your Honor.

21 THE COURT: Mr. White?

22 MR. WHITE: Nothing further other than to commend the
23 board for what it has done.

24 THE COURT: I'm sorry. To commend --

25 MR. WHITE: The board.

1 THE COURT: Thank you, sir.

2 I don't think they've gotten enough of that out of me
3 in recent episodes, but y'all deserve a lot of credit. Y'all
4 have paid a little bit with your hide. Some of you may not get
5 reelected for what you did. I hope that's not true because of
6 that, but some of you may not.

7 There have been a whole lot of parents that have tried
8 to contact my chambers being upset with the plan or one of the
9 three plans that was ultimately accepted by this Court that the
10 board adopted.

11 And, you know, other than to make this statement -- I'm
12 not going to be talking to parents. I realize that everybody's
13 worried about their little son or their little daughter because
14 this is their time in school and their kid didn't do anything
15 wrong, and for all I know the parent didn't do anything wrong to
16 have this terrible old case still here, but this case doesn't end
17 unless we, the school board, dots all the i's and crosses all the
18 t's and does exactly what the rule of law requires me to make
19 sure you do, and that's -- we've finally gotten to the point
20 where we're doing it.

21 And if somebody's child is, quote, the victim, and in a
22 real way it is a victim because they happened to be born in the
23 wrong year, and when this school board finally gets in sync with
24 the government and all of this is changing and happening and
25 those kids are going to be moving around or not going where

1 they'd like to go, I'm just sorry. I can't fix everything in the
2 world, but I'm not about to go back behind what these fine men
3 and women did at considerable political price and pain and in the
4 face of a lot of people yelling in their face and undo any of it.

5 They submitted something to me last week about seniors.
6 It was a joint motion and I saw no reason not to sign that, but
7 to go reinvent what they've tried to do, one, I'm not competent
8 to do it, and even if I were, it wouldn't be proper for me.
9 They've spoken. They're the people's representatives. I've
10 approved it. It's an order of this court now. I'm not going to
11 look at it, and that's just period, end of subject.

12 So everybody needs to know that. It's not directed at
13 your little Tommy or your little Sally or whoever. It's just the
14 way it is. It's got to be that way if this case is ever going to
15 end.

16 Now, I thank you again, members of the school board.
17 Some of you got a little shorter end of the stick than others
18 did, but you all -- you all paid some price, and I just -- I
19 appreciate you.

20 You are closer now. And it doesn't matter what I
21 think. I know it doesn't matter even to y'all what I think, but
22 with what you did back when you did it on these three plans you
23 submitted trying to figure the way out to make something work,
24 you all acted more like statesmen and stateswomen than just
25 little local politicians that were trying to, well, what do they

1 want me to do? If I don't do it, I'm not going to get reelected.
2 I know what I'm supposed to do under the law, but what do they
3 want me to do?

4 And most people in our parish don't understand. And
5 you've heard me say some version of this before. We are really
6 not a democracy. We're a constitutional republic. We don't all
7 go take a vote. We elect our leaders to go vote for us.

8 And our leaders go get all the information. Then they
9 make considered decisions on all our behalves. And, you know, if
10 they can't convince the people to put them in office to consider
11 a decision after they had all the information and it was the
12 right thing, you lose the election the next time, but you do what
13 the oath said. I'll follow the law under the constitution.

14 And I said this to y'all many times. We took the same
15 oath, but this time I just applaud you and am so pleased that you
16 all did what you did as hard as it was.

17 I used to say I'd be your pulling guard under the
18 Justice Department or anybody else. They're not going to come
19 back and get you from the side on this one, nobody. Now, if you
20 can't win at the polls when you come up, that's something I can't
21 touch and I shouldn't touch. That's not my business, but y'all
22 did the right thing here and thank God for you. History will
23 recall that whether you get reelected or people appreciate you in
24 your own lives. So that's how I feel about it. So thank you,
25 thank you, thank you.

1 And I don't know where we are until we have these
2 hearings of substance.

3 I think your school board, Superintendent Nassif,
4 unlike the Evangeline Parish School Board, I think it serves a
5 useful purpose for them to come to this because we're very close
6 on some things. They need to see it unfold in front of them.

7 And, heck, I'll let them ask questions of me. I'll
8 give them that opportunity today if they have any because we're
9 really close now. And I want to do everything I can, folks, to
10 push us over the goal as soon as I can consistent with what the
11 law says I have to do, but we've got to get past this
12 reorganization that you're going to put in place. There's got to
13 be a time frame that's going to pass. That's just what we've got
14 to do.

15 And the government was right to point that out to me,
16 and shame on me for not -- you know, for getting poor Mr. Caswell
17 out there. Maybe some of y'all are getting mad at him thinking
18 he was leaving you out to dry, but that's what the judge said.
19 He did exactly what the judge told him to do. He did right and
20 we're going to get past it. Ms. Taylor and her group are just
21 doing their job trying to make sure that, again, all the i's are
22 dotted and the t's are crossed.

23 Thank you all very much. We are in recess. I hope
24 y'all have a good rest of this summer and we'll see you in due
25 course.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

MARILYN MARIE MONTEILH :
vs. : DOCKET NUMBER 65-10912
SCHOOL BOARD OF ST. LANDRY PARISH :

CERTIFICATE OF REPORTER

I, LaRae E. Bourque, Official Court Reporter for the United States District Court, Western District of Louisiana, do hereby certify that the foregoing 35 pages are a true and accurate transcript of the proceedings had in this matter, as hereabove set forth, and that I have no interest of any nature whatsoever regarding the ultimate disposition of this litigation.

I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

/s/LaRae E. Bourque

LARAE E. BOURQUE, RPR, CRR
Official Court Reporter