Primary Source: Swann v. Charlotte-Mecklenburg Board of Education [1]

Busing in North Carolina

In the Swann v. Charlotte-Mecklenburg Board of Education *case, Charlotte was charged with maintaining segregated public schools and defying the Supreme Court's decision to desegregate public schools with "all deliberate speed". The Brown v. Board of Education decision was handed down in 1954. Seventeen years later in 1971, Charlotte-Mecklenburg public schools were not fully desegregated. The supreme court decided in 1971 that busing was a good method to achieve school desegregation. The court also ordered the school board to create a tangible busing plan that would satisfy the court's goal of school desegregation. Lets take a deeper look into this historic case and its effect on students.*

On the national front of school desegregation President Nixon created the Cabinet Committee on Education and State Advisory Committees in 1970 to facilitate states moving toward school desegregation. Busing was first affirmed as a method of school desegregation by the supreme court in 1971. School busing involves voluntary and involuntary movement of children across school districts. North Carolina's famous Swann v. Charlotte-Mecklenburg Board of Education (1971) was the supreme court's first busing case.

After busing was declared to be a legal tool for school desegregation. Adams v. Richardson case charged the department of health, education and welfare (HEW) with neglecting their duties to enforce Title VI of the Civil Rights Act of 1964. The courts required HEW to honor their obligations and responsibilities of the mandate given to it. Also, the courts ordered HEW to create policies that were consistent with school desegregation and withdraw federal funds from state's not in compliance. The department of HEW split in 1979 with a separate Department of Education being created and HEW renamed as the Department of Health and Human Services.

Charlotte-Mecklenburg public schools ceased school busing in 2001. But, today Charlotte-Mecklenburg public schools are some of the most segregated in the nation. Many people and organizations in Charlotte and across the country continue to look forward to the day when the nation's public schools are fully integrated.

Swann v. Charlotte-Mecklenburg Board of Education

Supreme Court of the United States, ruling in *Swann v Charlotte-Mecklenburg Board of Education,* April 20, 1971

The Charlotte-Mecklenburg school system, which includes the city of Charlotte, North Carolina, had more than 84,000 students in 107 schools in the 1968-1969 school year. Approximately 29% (24,000) of the pupils were Negro, about 14,000 of whom attended 21 schools that were at least 99% Negro. This resulted from a desegregation plan approved by the District Court in 1965, at the commencement of this litigation. In 1968, petitioner Swann moved for further relief based on Green v. County School Board, 391 U.S. 430, which required school boards to come forward with a plan that promises realistically to work... now... until it is clear that state-imposed segregation has been completely removed.The District Court ordered the school board in April 1969 to provide a plan for faculty and student desegregation. Finding the board's submission unsatisfactory, the District Court appointed an expert to submit a desegregation plan. In February 1970, the expert and the board presented plans, and the court adopted the board's plan, as modified, for the junior and senior high schools, and the expert's proposed plan for the elementary schools. The Court of Appeals affirmed the District Court's order as to faculty desegregation and the secondary school plans, [p2] but vacated the order respecting elementary schools, fearing that the provisions for pairing and grouping of elementary schools would unreasonably burden the pupils and the board. The case was remanded to the District Court for reconsideration and submission of further plans. This Court granted certiorari and directed reinstatement of the District Court's order pending further proceedings in that court. On remand the District Court received two new plans, and ordered the board to adopt a plan, or the expert's plan would remain in effect. After the board "acquiesced" in the expert's plan, the District Court directed that it remain in effect.Held:

1. Today's objective is to eliminate from the public schools all vestiges of state-imposed segregation that was held violative of equal protection guarantees by Brown v. Board of Education, 347 U.S. 483, in 1954. P. 15.
2. In default by the school authorities of their affirmative obligation to proffer acceptable remedies, the district courts have broad power to fashion remedies that will assure unitary school systems. P. 16.
3. Title IV of the Civil Rights Act of 1964 does not restrict or withdraw from the federal courts their historic equitable remedial powers. The proviso in 42 U.S.C. § 2000c-6 was designed simply to foreclose any interpretation of the Act as expanding the existing powers of the federal courts to enforce the Equal Protection Clause. Pp. 16-18.
4. Policy and practice with regard to faculty, staff, transportation, extracurricular activities, and facilities are among the most important indicia of a segregated system, and the first remedial responsibility of school authorities is to eliminate invidious racial distinctions in those respects. Normal administrative practice should then produce schools of like quality, facilities, and staffs. Pp. 18-19.
5. The Constitution does not prohibit district courts from using their equity power to order assignment of teachers to achieve a particular degree of faculty desegregation. United States v. Montgomery County Board of Education, 395 U.S. 225, was properly followed by the lower courts in this case. Pp. 19-20.
6. In devising remedies to eliminate legally imposed segregation, local authorities and district courts must see to it that

future school construction and abandonment are not used and do not serve to perpetuate or reestablish a dual system. Pp. 20-21. [p3]

7. Four problem areas exist on the issue of student assignment:
    1. **Racial quotas.** The constitutional command to desegregate schools does not mean that every school in the community must always reflect the racial composition of the system as a whole; here the District Court's very limited use of the racial ratio -- not as an inflexible requirement, but as a starting point in shaping a remedy -- was within its equitable discretion. Pp. 22-25.

    2. **One-race schools.** While the existence of a small number of one-race, or virtually one-race, schools does not, in itself, denote a system that still practices segregation by law, the court should scrutinize such schools and require the school authorities to satisfy the court that the racial composition does not result from present or past discriminatory action on their part. Pp. 25-26.

       An optional majority-to-minority transfer provision has long been recognized as a useful part of a desegregation plan, and to be effective such arrangement must provide the transferring student free transportation and available space in the school to which he desires to move. Pp. 26-27.

    3. **Attendance zones.** The remedial altering of attendance zones is not, as an interim corrective measure, beyond the remedial powers of a district court. A student assignment plan is not acceptable merely because it appears to be neutral, for such a plan may fail to counteract the continuing effects of past school segregation. The pairing and grouping of noncontiguous zones is a permissible tool; judicial steps going beyond contiguous zones should be examined in light of the objectives to be sought. No rigid rules can be laid down to govern conditions in different localities. Pp. 27-29.
    4. **Transportation.** The District Court's conclusion that assignment of children to the school nearest their home serving their grade would not effectively dismantle the dual school system is supported by the record, and the remedial technique of requiring bus transportation as a tool of school desegregation was within that court's power to provide equitable relief. An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process; limits on travel time will vary with many factors, but probably with none more than the age of the students. Pp. 29-31.
8. Neither school authorities nor district courts are constitutionally required to make year-by-year adjustments of the racial composition of student bodies once a unitary system has been achieved. Pp. 31-32.

Burger, Chief Justice, delivered the opinion for a unanimous Court.

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