

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

S.M., by and through next
friend, BENITA ROBERTS, *et. al.*,

Plaintiffs,

-v-

Case No. 3:11 CV-1052-MHT (WO)

TALLAPOOSA COUNTY SCHOOL BOARD, *et. al.*,

Defendants.

CONSENT DECREE

THIS CONSENT DECREE is approved and entered by the Court based upon an agreement dated January 9, 2012 reached by and between the Plaintiffs, to-wit: S.M. by and through next friend, BENITA ROBERTS; D.H. and J.H. by and through their next friends, FRANCES L. ALLEN and JOHN HOLLEY; M.W. by and through next friend JUANICE COLE; and T.H. by and through next friends JOHN HOLLEY and CHUCHUNDRA HOLLEY and the Defendants, to-wit: TALLAPOOSA COUNTY SCHOOL BOARD;¹ PHILIP BAKER, Superintendent of Education, in his official capacity; JOHN WILCOX, Assistant Superintendent of Education, in his official capacity; MATILDA WOODYARD-HAMILTON, President of the

¹The proper name of this Defendant is Tallapoosa County Board of Education and will be so reflected in the judgment entered by the Court.

Tallapoosa County School Board, in her official capacity;² MICHAEL CARTER, RANDY ANDERSON, MARTIN JOHNSON and KAREN WHITE as members of the Tallapoosa County School Board in their official capacities; JOE WINDLE and GLENDA MENNIFEE, in their official capacities as principal of DADEVILLE ELEMENTARY SCHOOL and COUNCILL MIDDLE SCHOOL, respectively; and LARRY CRAVEN, State Superintendent of Education, in his official capacity.³ No fictitious parties are named in this action and no additional parties will be named.

I. PRELIMINARY STATEMENT

The Plaintiffs have filed this instant action alleging violations of Title IX of the Education Amendments of 1972, 20 USC 1681–1688 and violations of the United States Department of Agriculture 7 CFR 15, *et. seq.* and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The factual allegations are a violation of the students’ Constitutional rights because the Defendants segregate students based upon gender. The Defendants admit the practice of same sex academic classrooms has been in place at the two named schools as alleged in the Complaint; and take the position such practice was not established with

²Ms. Hamilton-Woodyard’s proper title is Chairman of the Tallapoosa County Board of Education.

³Since the date this action was filed, Dr. Tommy Bice has been appointed as State Superintendent of Education. Although Dr. Bice is not substituted as a party to this action, the settlement agreement applies to Mr. Craven and his successor in office.

the intent to violate any student's Constitutional rights but as a means to provide the best learning environment for all students.

The parties to this Consent Decree agree the Defendants are bound by the requirements of Title IX, and the parties have jointly agreed, through a process of negotiations and compromise, that the interests of the parties are best served by reaching an agreement regarding the manner in which the Defendants will comply with Title IX and by resolving this litigation without further delay, disruption or expense.

The parties have further stipulated the SETTLEMENT AGREEMENT as attached herewith as EXHIBIT ONE represents the full and total agreement of the parties to this cause including stipulations and acknowledgments that this Court has the jurisdictional authority to enter this order. Based upon the foregoing, the following is hereby ORDERED and ADJUDGED.

II. ORDER

1. All claims asserted by the Plaintiffs against Defendant LARRY CRAVEN, individually and in his official capacity as Superintendent of the State of Alabama Department of Education and his successor in office, and the State of Alabama Department of Education are DISMISSED with prejudice.

2. All claims asserted by the Plaintiffs against Defendants PHILIP BAKER,

Superintendent of Education, individually and in his official capacity; JOHN WILCOX, Assistant Superintendent of Education, individually and in his official capacity; MATILDA WOODYARD-HAMILTON, Chairman of the Tallapoosa County Board of Education, individually and in her official capacity; MICHAEL CARTER, RANDY ANDERSON, MARTIN JOHNSON and KAREN WHITE individually and in their official capacities as members of the Tallapoosa County Board of Education; JOE WINDLE and GLENDA MENNIFEE, individually and in their official capacities as principal of DADEVILLE ELEMENTARY SCHOOL and COUNCILL MIDDLE SCHOOL, respectively; are DISMISSED with prejudice.

3. Defendant Tallapoosa County Board of Education, by and through its duly authorized employees, staff and/or administration, shall terminate the practice of same sex, gender based academic classes at the DADEVILLE ELEMENTARY SCHOOL and COUNCILL MIDDLE SCHOOL on or before February 1, 2012.

4. The Court hereby RATIFIES and APPROVES the SETTLEMENT AGREEMENT entered by and between the parties herein and attached herewith as EXHIBIT ONE.

5. The Court RATIFIES and APPROVES the agreed upon attorney's fee in the amount of \$12,000.00 to counsel for the Plaintiffs as set forth in the SETTLEMENT AGREEMENT and finds this fee to be fair and in accordance with the award of fees

granted by this Court in similar litigation.

6. The Court hereby DISMISSES with prejudice any other claims or rights which the Plaintiffs have alleged, or could allege, in this cause including, but not limited to, any claims of injury or damage, compensatory damages or punitive damages.

7. The parties acknowledge and agree this CONSENT DECREE contains the entire agreement between the parties and supercedes any and all prior agreements, arrangements or understandings between parties relating to the subject matter made the basis of this cause. No oral understandings, representations, statements, promises or inducements contrary to this CONSENT DECREE exist. This CONSENT DECREE can not be changed or terminated orally.

8. This CONSENT DECREE is approved by and entered as an order and judgment of the Court and shall be subject to the full enforcement powers of the Court.

9. Costs of this cause are taxed as paid.

10. The joint motion (doc. no. 16) is granted. This case is closed.

DONE and ENTERED this 13th day of January, 2012.

/s/ Myron H. Thompson
United States District Judge