THE STRANGE CAREER OF BIRDIE MAE DAVIS: A HISTORY OF A SCHOOL DESEGREGATION LAWSUIT IN MOBILE, ALABAMA, 1963 - 1997

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THE STRANGE CAREER OF BIRDIE MAE DAVIS: A HISTORY OF A SCHOOL DESEGREGATION LAWSUIT IN MOBILE, ALABAMA, 1963 - 1997

A Thesis

Submitted to

the Graduate Faculty of

Auburn University

in Partial Fulfillment of the

Requirements for the

Degree of

Masters of Arts

Auburn, Alabama May 9, 2009

THE STRANGE CAREER OF BIRDIE MAE DAVIS: A HISTORY OF A SCHOOL DESEGREGATION LAWSUIT IN MOBILE, ALABAMA, 1963 - 1997

Brian Andrew Duke

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THESIS ABSTRACT

THE STRANGE CAREER OF BIRDIE MAE DAVIS: A HISTORY OF A SCHOOL DESEGREGATION LAWSUIT IN MOBILE, ALABAMA, 1963 - 1997

Brian A. Duke

Master of Arts, May 9, 2009 (B.A., Spring Hill College, 2006)

210 Typed Pages

Directed by Jennifer Brooks

The Supreme Court's 1954 *Brown* ruling helped transform America as it responded to the process of school desegregation. However, school desegregation remained a complex endeavor, based on changes in the law, Supreme Court rulings and public opinion. This thesis provides an in-depth study of one district, the Mobile County Public Schools System in Alabama, and one desegregation suit, the *Birdie Mae Davis* case to understand how a school board complied with desegregation mandates and resolved a desegregation case. The goal is to understand what desegregation meant to a community, how that community shaped desegregation, and what larger conclusions about race relations in the United States can be drawn from such a study. Filed in 1963, the *Birdie Mae Davis* case remained active until its dismissal in 1997. This thesis relies heavily on newspapers and the court records of the case, along with interviews conducted

by the author. Based on this research, I conclude that little support existed desegregation plans requiring mandatory student reassignment, such as busing students for the sole purpose of racial balance. Instead, both white and black parents preferred neighborhood schools, though from different motivations and for different reasons. In particular, the development of magnet schools allowed for voluntary desegregation after decades of forced desegregation failed to eliminate one-race schools. However, successful compliance with federal school desegregation orders did not mean that all members of the community view desegregation as a success. While school desegregation may have ended de jure segregation, the prevalence of housing, or de facto segregation perpetuated racial isolation in schools. While the *Brown* decision, successive rulings of the Supreme Court, the Civil Rights Movement, and federal legislation have made a tremendous impact in improving access to institutions for African American citizens, evidence demonstrates that educational achievement gaps remain between blacks and whites. Moreover, the black and white communities continued to disagree on several issues demonstrating the complexities of southern race relations in the late twentieth century.

ACKNOWLEDGEMENTS

Thank you to Dr. Jennifer Brooks for directing this thesis with her guidance, patience, questioning, and encouragement. Also, I am appreciative of Dr. David Carter and Dr. Larry Gerber for their input, assistance, and advice with this project. I am grateful for the faculty and graduate students at Auburn University who have provided me with a tremendous amount of support. A few people and organizations deserve note for their help in this project. Jeff Reinert at the Federal District Court in Mobile was beyond accommodating in allowing me to study the Birdie Mae Davis legal files at the federal courthouse. The Mobile Public Library Local History and Genealogy Library and its staff deserve praise for their assistance. Sharon Abrams provided invaluable aid with school board records. The University of South Alabama Archives, Samford University Archives, and the Mobile Municipal Archives also provided important sources of research. I would also like to thank Mr. James Blacksher, Mr. Robert Campbell, Mrs. Hazel Fournier, Judge W. Brevard Hand, Mr. Paul Sousa, and Dr. Carolyn Lee Taylor for allowing me to interview them and the insight I gained through these conversations. Also I would like to acknowledge everyone in Mobile who has shared his or her perspective about the Birdie Mae Davis case. And finally, thank you to my friends and family who have encouraged, supported, and sustained me throughout this project.

Style manual used: Kate L. Turabian, *A Manual for Writers of Theses and Dissertations*, Sixth Edition. Chicago: University of Chicago Press, 1996.

Computer software used: Microsoft Word, 2007.

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No single tradition in public education is more deeply rooted than local control over the operation of schools . . . Local autonomy has long been thought essential to both the maintenance of community concerns and support for public schools and the quality of the education process.

Supreme Court Justice Warren Burger Majority opinion in *Milliken v. Bradley*, 418 U.S. 717 25 July 1974

Desegregation is not and was never expected to be an easy task . . . Today's holding, I fear, is more a reflection of a perceived public mood that we have gone far enough in enforcing the Constitution's guarantee of equal justice than it is the product of neutral principles of law.

Supreme Court Justice Thurgood Marshall, Dissenting opinion in *Milliken v. Bradley*, 418 U.S. 717 25 July 1974

INTRODUCTION

Thirty-four years to the day after the filing of the *Birdie Mae Davis* school desegregation case, federal District Judge William Brevard Hand dismissed the lawsuit. He declared that the Mobile County Public School System had achieved unitary status.

The *Birdie Mae Davis* case began in 1963 when a group of black parents filed a civil lawsuit on behalf of their children, claiming that the operation of a dual school system by County Board of School Commissioners violated the Constitution's fourteenth amendment. Named for the first plaintiff listed in the court records, the case brought school desegregation to Mobile County, Alabama. In his order ending the case on 27 March 1997, Hand ruled that "the dismissal of this action under the terms specified is not only fair, adequate and reasonable, but in the very best interest of the plaintiff's class as a whole." On 9 April 1997 the school board voted to accept the agreement. While the three white school commissioners, Jeanne Andrews, Charles Jordan, and John Holland

¹ Birdie Mae Davis v. Board of Commissioners, Mobile County, #3003-63-H, legal files, United States District Court Southern District of Alabama, Mobile, Alabama. According to Jeffrey Raffel, a school system achieves unitary status when it is "judged by the federal courts to no longer be a dual school system, that is operating one system for the majority and one for minority children; thus the school district has corrected the problem of segregation and is released from direct monitoring by the federal District Court of the implementation of the school desegregation. When districts lack unitary status and are under a court order, they must receive approval for all changes to the desegregation plan from the plaintiffs and the court. This could include changes in attendance areas, the building of new schools or closing of an old school, or changing teacher or student transfer policies. Jeffrey A. Raffel, *Historical Dictionary of School Desegregation* (Westport: Greenwood, 1998), 256 –257.

² "Birdie Mae case dismissed," *Mobile Register*, 28 March 1997.

approved the settlement, the two black commissioners, Hazel Fournier and David Thomas, voted against it.³

School board attorney Robert Campbell insisted that the school system had complied both with the mandates of the law and the 1989 consent decree that led to the dismissal: "We did what we said we would do." School Commissioner Jeanne Andrews added, "I think it's time for the whole community to celebrate." School Superintendent Paul Sousa agreed, noting, "It's something that we've heard for years, 'Why can't you end Birdie Mae Davis?' Well we've ended it . . . It's another step forward for Mobile County." As Commissioner Andrews continued, "I think we need to look to the future instead of looking over our shoulders at the past."

Hazel Fournier, one of two black members of the school board and an author of the 1989 agreement disagreed: "I think all of Mobile lost." And black community leader Reverend Jesse McDaniel concurred: "We have missed a wonderful opportunity . . . It's going to be a great setback for Mobile County. But I guess the judge did what was expedient." Commissioner Fournier implied that the dismissal of the case would have ill effects on the school system. She compared federally mandated school desegregation to a cancer patient's treatment: "People die with cancer, although they're treated and they think it's in remission . . . The cancer recurs without treatment and maintenance. I think we need maintenance or the cancer will recur."

³ "School Board OKs end to discrimination case," *Mobile Register*, 10 April 1997.

⁴ "Birdie Mae case dismissed," *Mobile Register*, 28 March 1997.

⁵ "Birdie Mae case dismissed," *Mobile Register*, 28 March 1997.

⁶ "Birdie Mae case dismissed," *Mobile Register*, 28 March 1997.

Just as the dismissal of the *Birdie Mae Davis* case received a mixed response in the community at the time, the historical verdict remains out on school desegregation in the United States. The mixed response to the resolution of the *Birdie Mae Davis* lawsuit serves as a microcosm of the results of Brown v. Board of Education of Topeka, Kansas and the process of school desegregation. 8 To better understand school desegregation, this thesis examines how school boards complied with federal laws pertaining to school desegregation; this thesis examines one specific case, the Birdie Mae Davis case. Just as important as the case itself was the community's relationship to it. This case illustrates how community and local influences such as the federal district judge, the school board, and the general public that shaped school desegregation. This study can lead to a better understanding of the impact and outcome of federally mandated school desegregation. Along with the successful compliance of school desegregation orders, this work studies the competing racial concerns in late twentieth century Mobile. To accomplish this goal, this work evaluates the evolution and resolution of the desegregation case in Mobile County. The divided local response to this case's dismissal illustrates the conflicting perspectives on school desegregation as well as the often dissonant perspectives on race

⁷ "School districts facing desegregation confusion," *Mobile Press Register*, 12 November 2007. According to the article, in 2007 there were 253 school districts under court order.

⁸ Brown v. Board of Education of Topeka, 347 U.S. 483 (1954). The 1954 Supreme Court ruling that outlawed segregated education by stating that separate schools based on race were inherently unequal and violated the United States constitution. For literature on the Brown decision see Richard Kluger, Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality (New York: Knopf, 2004) and James T. Patterson, Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy (New York: Oxford University Press, 2001).

in the United States. This work provides a broader understanding of race relations in late twentieth century America.

This study answers: What were the effects of the Supreme Court's 1954 *Brown* decision at the local level? What happened to school desegregation in Mobile County? How did the *Birdie Mae Davis* case end? What larger evaluations can be made on the topic of school desegregation and race relations based on a community study?

As this study demonstrates, successful compliance with federal school desegregation orders only came with the adoption of a voluntary desegregation plan that included magnet schools, after federal mandates met resistance from the public, the school board, and a federal judge. By examining both the federal judiciary and the actions of the local plaintiffs and defendants, as well as other members of the community, this thesis offers a narrative of school desegregation and evaluates its relationship to a community.

An examination of the desegregation of a local school district demonstrates that at times both the black and white communities were at odds with federal policies. Mobile displays how local resistance to school desegregation prevented federal objectives from being realized, specifically the aggressive desegregation plans of the 1960s and early 1970s. The memories of federal involvement during this time remained with Mobilians in later decades as many citizens attempted to evade forced policies that they perceived as social engineering. Only with the adoption of a voluntary plan that included magnet schools in 1989 did the Mobile County Public School System achieve unitary status.

Chapter one traces the history of school desegregation in Mobile from the beginning of the *Birdie Mae Davis* case in 1963 to the early 1980s. This chapter includes Mobile's response to *Brown*, *Green v. New Kent County, Virginia* and the end of freedom of choice and the establishment of the 1971 Consent Decree based on the *Swann v. Charlotte-Mecklenburg* decision. The *Birdie Mae Davis* case began encapsulating many different issues. As one historian notes, "the *Birdie Mae Davis* case, especially in the latter stages, seemed to take on a life of its own." Thus, this chapter also introduces the racial issues that became important during the 1970s and early 1980s, such as voting rights cases and lawsuits over school principal assignments.

The second chapter continues the narrative of school desegregation from the 1980s and examines the activities of the community. In 1982, the District Court established community committees in hopes of developing a desegregation plan. In the 1980s, many white citizens continued to oppose forced busing for desegregation. Also, many black citizens grew weary of what they viewed as a heavier burden placed on their children for the purpose of school desegregation than on white children. Following the failure to develop a plan, the *Birdie Mae Davis* case returned to trial in October 1983. The issues the committees dealt with and the public debate over the future of school desegregation in Mobile County are examined in this section.

Chapter three examines the *Birdie Mae Davis* case from 1983 through 1988. As the school board awaited Judge Hand's ruling, Hand appointed a Special Master, Lino Graglia, to help both sides develop a remedy to end the litigation. In response to the

⁹ Keith Nicholls, "Politics and Civil Rights, "in *Mobile: The New History of Alabama's First City* ed. Michael V.R. Thomason (Tuscaloosa: University of Alabama Press, 2001), 260 – 261.

appointment, the plaintiffs appealed the entire case to the Eleventh Circuit Court of Appeals in Atlanta. As the case sojourned in the courts, community support for the end of litigation began to swell as the *Mobile Press Register* wrote editorials pushing for the end of desegregation and as many citizens voiced dissatisfaction over forced busing. ¹⁰ In 1986, Judge Hand ruled on the *Birdie Mae Davis* case and adjudicated that the board had not achieved unitary status in two areas: student and principal assignment. Typical of his approach to the case, Hand did not offer his own plan, but suggested that the school board develop its own plan to eliminate the remaining vestiges of segregation in the school system. Over the next two years the school board began actively searching for a solution. However, the impetus for resolution of the case came from the plaintiffs, who proposed a plan from desegregation expert Robert Dentler. The plan called for massive busing.

Facing the possibility of massive busing, the school board developed its own plan. The development of the school board's plan, The Mobile Plan in 1988, signed into effect in January 1989, serves as the subject of chapter four. The most significant component of the Mobile Plan was the use of magnet schools to attract white students voluntarily to previously majority black schools. Magnet schools had been encouraged by the Reagan administration to voluntarily desegregate schools. The implementation of a voluntary plan demonstrates that certain desegregation methods could be more attractive to a community than coercive measures such as forced assignment. This plan encouraged

While the *Mobile Press Register* has an interesting history, for the sake of this work it should be noted that the same company owned the *Mobile Press*, the *Mobile Register*, and the *Mobile Press Register*. For the time period this thesis covers, the *Mobile Register* was the morning daily newspaper. In the afternoon, the *Mobile Press* circulated to subscribers. On Saturday and Sunday the papers were combined to form the *Mobile Press Register*. So while it might be incorrect to say they are the same paper, they are in no way rival papers that present conflicting political or editorial views. The *Mobile Press* ceased publication in 1997. The paper has since fluctuated titles between *Mobile Register* and *Mobile Press Register*.

integration and left neighborhood schools intact. The 1989 agreement established a fouryear monitoring period to evaluate if the school board complied with its promises.

Chapter five analyzes school desegregation in Mobile County in the 1990s. The 1989 agreement for the case's resolution required a four-year monitoring period. In 1993, both the plaintiffs and the defendants agreed that the parameters of the 1989 agreement had not been fulfilled. Judge Hand ordered another four-year monitoring period. As the case neared resolution and the school board looked toward a future free from desegregation litigation, issues dealing with race remained alive in Mobile in the 1990s. Racial tensions continued to mount as black board members expressed their sense of marginalization. Supreme Court decisions during the 1990s reinforced Hand's minimalist involvement in school desegregation. The Supreme Court's 1992 ruling in DeKalb, Georgia, used Mobile's plan as a guide for ending school desegregation litigation. Despite voices of opposition within the community, and the fact that forty of the eighty-five schools in the Mobile County Public School System had a population of at least 85% percent of one race, the Birdie Mae Davis case was dismissed in 1997, ending court ordered desegregation. 12

Much of the action in school desegregation cases occurred in courthouses and in closed-door negotiations between plaintiffs and defendants, generally out of public view. However, when issues concerning school desegregation became fodder for public discussion, many different people expressed their views. And as newspapers serve as one

¹¹ Freeman v. Pitts. 503 U.S. 467 (1992).

¹² *Mobile Press Register*, 1 March 1997. Enrollment figures for 6 September show the racial background for the 85 regular school campuses in the Mobile County Public Schools.

of the main sources of community knowledge, this study relies heavily on that source as it provided the forum for the public's information as well as a sphere for popular debate.

The case of Mobile demonstrates that both members of the school board and white and black citizens opposed desegregation remedies that might radically alter certain aspects of the school system. In the 1980s parents did not protest against integrated schools; parents protested the reassignment of their children to schools far from their home or to schools they viewed as inferior. Many white citizens resisted federal desegregation by leaving their neighborhoods or sending their children to private schools. More surprisingly, proposals such as forced busing also faced resistance from many African Americans who did not want to lose their neighborhood schools, traditions, and pride. Typically, many desegregation plans sent students in one direction – by enrolling black students in predominantly white schools. Desegregation rarely demanded the flow of students in the opposite direction; when assigned to predominantly black schools many white students would not show up. Many of Mobile's black citizens believed that these policies placed an unfair burden on their children. Due to the fact that many people in local communities felt unfairly burdened by desegregation, often there seemed to be little consensus as to how to comply with school desegregation orders. It became obvious that an acceptable desegregation plan would have to be worked out by the school board and appeal to large segments of the population, while minimizing the number of people who felt unfairly targeted by desegregation measures. Because opinions vary on the entirety of the school desegregation venture, much disagreement remains on its evaluation.

One of the most momentous events in legal and social history was the Supreme Court's *Brown* decision. As the culmination of decades of work by the National Association for the Advancement of Colored People (NAACP), *Brown* made school desegregation a major issue. As the fiftieth anniversary of the Brown decision approached in 2004, many scholars examined the Supreme Court's school desegregation rulings and their impact.

Several scholars argue that school desegregation throughout the United States never achieved its goal. Despite the significant changes brought about by the civil rights movement, many scholars point out that American public schools in metropolitan areas resegregated by the close of the twentieth century, a trend which promises to continue. As the trend towards resegregation continued, a journalist for the *Mobile Register* reported in 1996 that "after three decades of court-ordered desegregation, the black education experience in Mobile County doesn't measure up to the white experience." From *Brown* to the mid-1960s, school desegregation remained more a goal than a practice throughout the South. Through the victories of the civil rights movement in the early 1960s, the federal government began applying more pressure on school systems to desegregate. Cognizant of local white intransigence to desegregation, most school boards resisted any change, allowing only token integration and maintaining segregated neighborhood schools under the auspices of freedom of choice plans. As a result, the federal government increased its role with Supreme Court rulings in late 1960s such as

¹³ "A Long Time Divided," *Mobile Register*, 7 January 1996.

Green v. Kent County (1968). ¹⁴ These rulings, which continued in to the 1970s, expanded the federal government's role in school desegregation and culminated in *Swann v. Charlotte-Mecklenburg* in 1971. ¹⁵ That ruling allowed busing to be used to integrate segregated schools. The Supreme Court's 1974 ruling in *Milliken v. Bradley* provided another turning point, as the Court began to limit the government's ability to enact desegregation law. ¹⁶ The Supreme Court issued rulings throughout the 1970s, 1980s, and 1990s further limited the federal role, holding that that desegregation should only be followed to the extent practicable; desegregation cases were not intended to serve into perpetuity; and school systems should eventually be returned to local control. ¹⁷

By the early twenty-first century, most scholars agreed that, by and large, school desegregation had failed in the second half of the twentieth century. But the debate of *why* school desegregation failed remains active. Some scholars argue that the federal government overextended itself in pursuing school desegregation. The federal government's involvement took away freedom of choice from many Americans, particularly white citizens. Feeling as though they were forced to participate in a social experiment, many whites sought ways to control the choices for their children's

¹⁴ Green v. County School Board of New Kent County, 391 U.S. 430 (1968); Alexander v. Holmes County [Mississippi] Board of Education, 396 U.S.19 (1969).

¹⁵ Swann v. Charlotte-Mecklenburg of Education, 402 U.S. 1 (1971).

¹⁶ Milliken v. Bradley, 418 U.S. 717 (1974).

¹⁷ Riddick v. School Board of City of Norfolk, Virginia, 784 F. 2d 521(4th Cir. 1986); Board of Education of Oklahoma City v. Dowell, 498 U.S. 237 (1991); Freeman v. Pitts, 503 U.S. 467 (1992); Missouri v. Jenkins, 115 S. Court 2038 (1995).

¹⁸ David J. Armor, *Forced Justice: School Desegregation and the Law* (New York: Oxford University Press, 1995); Stephan J. Caldas and Carl F. Bankston, *Forced To Fail: The Paradox of School Desegregation* (Westport: Praeger Publishers, 2005).

education. White parents could direct their children's education by leaving the public school system to enroll in private schools or to participate in white flight to suburbs outside of the school district under desegregation orders. As Stephan Caldas and Carl Bankston contend, "Efforts at desegregation have been ultimately self-defeating precisely because they have sought to use public schools to redesign American society from above according to the blueprints of aloof social planners." They argue, "Most Americans have been operating from a different set of blueprints than the social engineers.¹⁹

Other scholars argue that instead of doing too much, the federal government failed to do enough. ²⁰ Charles Clotfelter purports that:

The executing of the policy of desegregation was frustrated, and ultimately blunted by . . . Faltering resolve on the part of the federal government and erstwhile proponents . . . [and] apparent white aversion to interracial contact, the multiplicity of means by which whites could sidestep the effects of the policy, [and] the willingness of state and local governments to accommodate white resistance. ²¹

Erwein Chemerinsky also singles out the federal judiciary for bearing the onus of these failed policies. Instead of continuing an active policy of school desegregation, he argues, "the federal government abandoned its crusade: the courts could have done much more to bring about desegregation, but the judiciary has instead created substantial obstacles to

¹⁹ Stephan J. Caldas and Carl F. Bankston, *Forced To Fail: The Paradox of School Desegregation* (Westport: Praeger Publishers, 2005), 4.

²⁰ John Charles Boger and Gary Orfield, eds., *School Resegregation: Must the South Turn Back?* (Chapel Hill: University of North Carolina Press, 2005); Charles T. Clotfelter, *After Brown: The Rise and Retreat of School Desegregation* (Princeton: Princeton University Press, 2004); Gary Orfield and Susan Eaton, *Dismantling Desegregation: The Quiet Reversal of Brown v. Board of Education* (New York: The New Press, 1996).

²¹ Charles T. Clotfelter, *After Brown: The Rise and Retreat of School Desegregation* (Princeton: Princeton University Press, 2004), 8 – 9.

remedying the legacy of racial segregation in the schools." Moreover, "Supreme Court decisions over the past thirty years have substantially contributed to the resegregation of America's schools.²²

A local case study of the process of school desegregation reveals the impact of Supreme Court decisions on school desegregation and on local communities. Historically, education has been an issue handled by local and state leaders. As many scholars illustrate, plans that resulted in dramatic changes in the school system, such as busing, caused great disruption to and instability in school systems. The Birdie Mae Davis case in Mobile supports those scholars who maintain that the federal government's active desegregation plans thwarted more desegregation. As a result, truly meaningful school desegregation remains a goal of American public education over half a century after the *Brown* decision. However, to view the federal government's actions as being too limited ignores the importance of local communities' desires to maintain control of their own system. The federal government's involvement was absolutely necessary to help dismantle segregated education. However, as Mobile demonstrates, plans that called for reassignment and busing found little community support. In fact, plans regarded by many citizens as too invasive have facilitated resegregation. Scholars who argue for increased federal involvement and the continuation of school desegregation suits miss the role local communities have played in shaping the course of school desegregation. In

²² Erwein Chemerinsky, "The Segregation and Resegregation of American Public Education: The Court's Role," in *School Resegregation: Must the South Turn Back?* (Chapel Hill: University of North Carolina Press, 2005), 30.

Mobile, many different interests within the community opposed forced desegregation.

Only with the adoption of a voluntary, the Mobile Plan, did the public schools in Mobile County achieve unitary status. Along with other stipulations, the Mobile Plan included magnet schools to attract white students to inner-city schools to facilitate voluntary integration. The Mobile case demonstrates that magnet schools did bring desegregation litigation to a resolution. However, successful compliance of desegregation orders did not mean that racial conflict in the community had been resolved nor did it eliminate predominantly one-race schools.

The story that follows chronicles the *Birdie Mae Davis* case in the context of the local the community's response to desegregation. This study demonstrates that large portions of the community abhorred forced desegregation. This local resistance along with the reluctance of a federal judge to directly involve the court in the desegregation process shaped the course and outcome of school desegregation in Mobile County. However, the community supported voluntary integration through the implementation of magnet schools. This reaction suggests that more aggressive plans by the courts would not have been more effective. Yet, the dismissal of the case did not come without protest. In the late 1980s a unified school board accepted a desegregation plan. Despite this unified effort to resolve the case, discord remained as black school commissioners charged white members as racist. And the black commissioners and citizens warned of the negative ramifications of the suit's dismissal. In fact, prior to the case's dismissal, members of the plaintiffs' class formed their own organization to prolong the litigation. This move proved futile as Judge Hand dismissed the case. Despite the fact that the

school board complied with federal desegregation orders and gained unitary status, conflicting perspectives about the effectiveness on school desegregation and the role of race in public education remained alive. School desegregation brought significant changes to Mobile and a voluntary plan with magnet schools allowed for litigation to end. However, due to residential segregation at the time of the case's dismissal, many students in Mobile County remained in schools which were racially identifiable.

CHAPTER ONE

SCHOOL DESEGREGATION UNTIL 1981

Mobile County, Alabama, is situated in the extreme southwest region of the state, bordered by the Gulf of Mexico, the waters of the Mobile River and Bay and the State of Mississippi. Simply described, it is the Deep South. As a port city, the primary industries prior to World War II were the export of agricultural and forest products, the import of finished goods, shipbuilding, and fishing. The expansion of shipbuilding and manufacturing, along with the general population, during World War II increased the size of the public school system dramatically. Mobile County is the second most populous county in the state and covers approximately the same land area as the state of Rhode Island. The Mobile County Public School System serves more students than any other system in Alabama. At the time of federally mandated school desegregation, 1963 – 1997, the Mobile County Public School System (MCPSS) was the largest employer in Mobile County and the largest single employment unit of the state government.

In the early 1950s, the NAACP brought five cases forward to the United States Supreme Court, known collectively as *Brown v. Board of Education Topeka, Kansas*. In its judgment on the case in May 1954, the Supreme Court ruled racial segregation in public schools to be unconstitutional because separate educational facilities for the races were inherently unequal. The court ruled unanimously that segregated schools deprived minorities of equal educational opportunities. It also stated that segregation reinforced

the concept that blacks were inferior to whites. In his opinion, Chief Justice Earl Warren declared de jure (by law) segregation violated the Constitution's Fourteenth Amendment, which guaranteed all citizens equal protection under the law. The *Brown* ruling overturned *Plessy v. Ferguson* (1896) and provided a major blow to the systematic segregation, and its defenders, that characterized the country and the South. ¹

However, the Court tempered this ruling a year later in its *Brown II* decision, requiring school districts to proceed "with all deliberate speed" in the elimination of a dual school system based on race.² For the first time the Supreme Court established how and when school desegregation should occur. Some scholars view the *Brown II* decision as a major setback for desegregation, in that many states and local communities emphasized deliberate over speed in their approach to desegregation.³ Despite the court's ruling in *Brown* little to no desegregation occurred in the following years. The Supreme Court offered no guidelines or direction for how to enforce *Brown*. School desegregation became a local issue for communities had to implement. Similar to other southern communities, Mobile emphasized deliberate over speed, remaining recalcitrant to federal overtures towards forced school desegregation. The Mobile County Public School System maintained its dual school system based on neighborhood schools and geographic

¹ Plessy v. Ferguson, 163 U.S. 537 (1896). For more on *Brown* see Richard Kluger, *Simple Justice: The History of <u>Brown v. Board of Education</u> and Black America's Struggle for Equality (New York: Knopf, 2004); James T. Patterson, <u>Brown v. Board of Education</u>: A Civil Rights Milestone and Its Troubled Legacy (New York: Oxford University Press, 2001).*

² Brown v. Board of Education of Topeka II, 349, U.S. 294 (1955).

³ James T. Patterson, <u>Brown v. Board of Education</u>: A Civil Rights Milestone and Its Troubled Legacy (New York: Oxford University Press, 2001), 115; Gary Orfield and Susan Eaton, <u>Dismantling</u> Desegregation: The Quiet Reversal of <u>Brown v. Board of Education</u> (New York: The New Press, 1996), 7.

attendance zones. Alabama state law reinforced the assignment of students based on race.⁴

The Beginning of the *Birdie Mae Davis* Lawsuit

On 27 March 1963, the parents of twenty-three black students enrolled in the county's public schools, along with the support of the Non-Partisan Voter's League (NPVL) filed, a class action lawsuit in Federal District Court to desegregate Mobile County's schools.⁵ Judge Daniel Thomas, a Truman appointment to the federal bench in 1950, presided over the case for the first eight years of its life.

The plaintiffs argued that the school board illegally operated a dual school system, and they sought to end the assignment of students to schools based on race. In July 1963, the United States Fifth Circuit Court of Appeals (Fifth Circuit) ordered the board to end racial segregation. The Mobile County school system began desegregating one grade a year beginning with the twelfth grade. This ruling allowed Dorothy Davis (no relation to Birdie Mae) and Henry Hobdy to enroll in the twelfth grade at Murphy

⁴Albert Foley, "Mobile, Alabama: The Demise of State Sanctioned Resistance," in *Community Politics and Educational Change: Ten School Systems Under Court Order*, ed. Charles V. Willie and Susan L. Greenblatt (New York: Longman, 1980), 175 – 176.

⁵ The NPVL was formed when the state of Alabama outlawed the National Association for the Advancement of Colored People (NAACP). A history of the NPVL can be found in Bruce Nelson's "The Non-Partisan Voters League of Mobile, Alabama: Its Founding and Major Accomplishments." *Gulf South Historical Review* 8 (1993): 75-88.

⁶ The case, *Birdie Mae Davis et al. v. Mobile County School Board, et al.*, became known as the *Birdie Mae Davis* case as her name was the first of the plaintiffs listed on court documents. For more information on the early stages of the *Birdie Mae Davis* case see, Albert Foley, "Mobile, Alabama: The Demise of State Sanctioned Resistance," in *Community Politics and Educational Change: Ten School Systems Under Court Order*, ed. Charles V. Willie and Susan L. Greenblatt (New York: Longman, 1980), 174 – 207; Richard A. Pride, *The Political Use of Racial Narratives: School Desegregation in Mobile, Alabama, 1954 – 1997* (Urbana: University of Illinois Press, 2002); Peter A. Wilson, "School Integration and Political Culture: The Busing Decision in Mobile County, Alabama, 1968 – 1973" (M.A. Thesis, University of South Alabama, 1998); Joseph Newman and Betty Brandon, "Integration in the Mobile Public Schools," in Howard F. Mahan and Joseph W. Newman, The *Future of Public Education in Mobile* (Mobile: South Alabama Review, 1982).

High School in September 1963, becoming the first black students to attend a white school in Mobile. The breaking of the color line proved to be only one of the first steps in the struggle to desegregate Mobile schools. The *Birdie Mae Davis* case continued for over three decades.

Indeed, school integration remained limited in Mobile and the *Birdie Mae Davis* case remained active. According to one observer, Albert Foley, "the desegregation of Murphy and of other schools was painstakingly slow during the next four years." From 1963 until 1968, Mobile County public schools operated under a freedom of choice plan that allowed parents to choose the schools their children attended. Freedom of choice allowed, in theory, any student to attend any school in the system, thereby allowing equal educational access for every student. Permitting parents to choose afforded the system stability as no drastic measures had to be taken in order to achieve desegregation.

Because black students could attend previously all-white schools, the school board believed that race was no longer used as a variable in student assignment. In reality, freedom of choice allowed only token desegregation as only a small number of black students attended previously all-white schools. The majority of schools in the system remained one race - either black or white. Typically, most students remained in their neighborhood schools. Because of the prevalence of housing segregation, many

⁷ Foley, 181. Albert Foley was a professor at Spring Hill College, a Jesuit college located in one of the city's western suburbs. He organized the Human Relations Councils and was very involved in school desegregation and the community. For more on Albert Foley see Carol Ellis, "The Tragedy of the White Moderate: Father Albert Foley and Alabama Civil Rights, 1963 – 1967," MA Thesis, University of South Alabama, 2002.

⁸ *Mobile Register*, 2 September 1967. For the 1967 – 1968 school year 624 black students attended predominantly white schools. The 1967 City Directory recorded 77, 570 students attending Mobile County Schools.

neighborhood schools remained segregated. During the late 1960s and 1970s, the courts began to address the issue as to what remedies could be used to end segregation.⁹

On 14 June 1967, with the reinforcement of the Civil Rights Act of 1964, the United States Department of Justice entered the case as plaintiff intervener, arguing that the school board continued to operate a dual system. This marked the beginning of the federal government's direct involvement in school desegregation in Mobile. The Justice Department and Fifth Circuit Court of Appeals began offering more aggressive plans for the elimination of past vestiges of segregation. This involvement became apparent with the 1968 ruling in *Green v. County School New Kent County*.

Green v. County School New Kent County

The history of school desegregation took a dramatic shift in 1968 with the Supreme Court's ruling in *Green v. County School New Kent County (Virginia)*. ¹⁰ In this decision, the Supreme Court offered specific goals to desegregation, unlike the ambiguous *Brown II* ruling. ¹¹ The *Green* decision ended existing approaches of implementing desegregation, namely, freedom of choice plans. The implementation of freedom of choice plans did not disrupt the school system dramatically, but it allowed for

⁹ Robert Campbell, Mobile to Commissioner David L. Thomas, Mobile, 7 October 1996, Typed, Legal Files of Robert Campbell, Mobile, Alabama.

¹⁰ Jeffrey A. Raffel, "History of School Desegregation," in *School Desegregation in the 21st Century*, eds. Christine H. Rossell, et al. (Westport, Connecticut: Praeger, 2002), 25; The end of state segregation and the beginning of the desegregation era was clearly the *Green* decision in 1968. Also, during the late 1960s and 1970s a shift occurred as the courts began focusing on integration and not desegregation. Some scholars criticized this shift in philosophy as they view it misinterprets the intent of the *Brown* decision. Some scholars argue that the goal of the *Brown* decision was to create a colorblind society, but by striving for integration the focus returned to a color conscience society. See Raymond Wolters, *The Burden of Brown: Thirty Years of School Desegregation* (Knoville: University of Tennessee Press, 1984).

¹¹ Raffel, 21. Green v. County School Board of New Kent County, 391 U.S. 430 (1968).

the perpetuation of a dual school system as many students remained in one-race schools. The Supreme Court ruled that school systems must fully end the operation of dual school systems and that district courts were "clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch." The Court also established "Green Factors" that would guide school systems away from a dual school system segregated by race toward a racially unidentifiable, unitary system. According to Green, for a school system to be declared unitary there could be no traces of segregation in six areas, or factors: transportation, faculty, staff, extracurricular activities, facilities, and student assignment. This ruling marked a significant change as the courts now addressed how school desegregation should be remedied.

For the next three years, the *Birdie Mae Davis* case traveled between the federal district court, the Fifth Circuit Court of Appeals, and the Supreme Court as the federal government and local school districts fought over the definition of desegregated schools. In Mobile, as in other communities, the federal government proposed aggressive desegregation plans, such as zoning students to schools outside their geographic area for the purpose of integrating schools. The school board and many of its constituents vehemently opposed these plans and supported nothing short of pure freedom of choice. Many white parents responded to the more aggressive plans by not following the

¹² Green v. County School Board of New Kent County, 391 U.S. 430 (1968).

¹³ It should probably be noted that New Kent County had only two high schools – a black high school and a white high school. In order to desegregate, there only had to be one new school created – not the racial balancing of over 80 campuses.

desegregation orders, becoming non-conformers, or leaving the school system entirely and enrolling their children in private schools. Many black parents began to be upset by this approach to desegregation as they saw their children bearing its burden alone. Their children were not offered transportation even if they were bused miles away from their home. Moreover, historically black schools became the first schools closed during desegregation.

Wilson notes that black parents despised the idea of their children being used "as the goats of Mobile County." The black community also responded to the changing of Trinity Gardens High School to a middle school, with one member of the community stating that it was "another example of 20th century slavery." By the late 1960s, black parents began to see a problem with integration, fearing the same things that some white citizens feared: "violence, disorder, loss of community control, interracial association, disappearing of school tradition and pride." Some black parents began to support ideas advanced by Roy Innis of the Congress of Racial Equality, such as creating two school districts, one for blacks and one for whites. However, it is important not to view the black community's response as monolithic. Just as every white citizen did not oppose integration, neither did every black citizen. Separatism clashed with the views

¹⁴ Wilson, 49.

¹⁵ Wilson, 50.

¹⁶ Wilson, 52.

¹⁷ For more on Mobile race relations in the late 1960s, see Nahfiza Ahmed, "The Neighborhood Organization Workers of Mobile, Alabama: Black Power Politics and Local Civil Rights Activism in the Deep South, 1968-1971," *Southern Historian* 20 (Spring 1999): 25-40.

Many white parents threatened to boycott the schools unless they were granted freedom of choice for their children's education. They were especially upset over the use of buses to achieve racial balance. 18 Many organizations led by white citizens loathed integration for a myriad of reasons, ranging from not wanting their children to attend inferior schools to seeing school desegregation as the end of a Jim Crow system of segregation that protected white privileges. A group of white parents attempted to intervene in the case for the defense, forming the organization, Stand Together and Never Divide (STAND), to prevent desegregation. ¹⁹ Many white parents viewed the demise of freedom of choice as the end of local control over the school board. As court orders moved away from supporting freedom of choice plans, many parents denigrated the shift as threatening to central American values of freedom and liberty. ²⁰ The new desegregation plans reassigned students to achieve racial balance. Parents, both black and white, began demanding transportation to schools to which their children had been assigned. In 1970, the court adopted a plan that resulted in the emergence of nonconformers, students who disobeyed their school assignments and attended their former school or a different one altogether. Non-conformers prevented the 1970 plan from effectively desegregating the schools. On the first two days of school over 1,000 students failed to attend their assigned school. As Albert Foley commented, "This defiance indicated not only the extent of the intransigence of the parents but also the

¹⁸ Wilson, 35.

 $^{^{19}}$ Wilson, 13 – 15. For more on STAND and the community response to desegregation, see Frye Galliard, "Mobile," *Katallagete*. Vol. 3, no. 3 (Spring 1971): 25-32.

²⁰ Wilson, 24.

powerlessness of the school board to enforce its orders. It also indicated the powerlessness of the court to achieve conformity to its orders when faced with wholesale defiance."²¹ The board responded by implementing policies designed to hinder non-conformance. Despite these efforts, the board continued to offer a liberal transfer policy allowing white parents a way around integration.

Black parents whose children were now bused miles away demanded that transportation be provided.²² Groups such as the Concerned Parents of Trinity Gardens requested bus service to their children's newly assigned schools.²³ The plaintiffs' attorney filed a motion requesting transportation for any student who lived at least two miles away from the school to which he or she was assigned. The district court did not address the matter and the school board did not respond to parents who petitioned for buses. As a result, transportation became the main issue in the next round of litigation.²⁴

Many citizens in Mobile supported the idea of neighborhood schools as a source of community pride. Busing instituted by the federal government challenged this value and many citizens, both black and white, vehemently rejected the order.

Swann v. Charlotte-Mecklenburg

On 20 April 1971, the United States Supreme Court ruled in *Swann v. Charlotte-Mecklenburg* that busing served as a constitutional remedy to school desegregation. The

²¹ Foley, 190 – 191. The total number of non-conformers in 1970 overall was 1,102 on 9 September; 1,185 on 10 September; 976 on 14 September; 623 on 17 September; 572 on 18 September; 471 on 21 September.

²² Wilson, 63.

²³ Foley, 192.

²⁴ Foley, 193.

Birdie Mae Davis case was a companion case to Swann; Mobile and fourteen other school districts were ordered to comply with the new federal regulations. The issue put forward in the Swann case was the use of busing as a remedy to vestiges of school desegregation. The plaintiffs argued that the school system should supply buses for students zoned to schools beyond their neighborhood. The defendants argued that busing was unnecessary. In the end, the argument put forward by the plaintiffs won out and the Supreme Court allowed for busing as a remedy to the vestiges of segregation.

The Supreme Court then remanded the *Birdie Mae Davis* case to the District Court for the development of a workable plan. The court could use all available techniques, including restricting attendance zones and busing. The Civil Rights Act of 1964 ordered that busing could not be used to desegregate schools; however, the Supreme Court ruled that the Constitution's "equal protection clause" superseded that law. This was a watershed moment. Under *Brown* the decisions the federal government initially offered no specific guidelines for achieving desegregation. Now the federal government began offering remedies to school districts attempting to gain unitary status.

In July 1971, the school board presented to Judge Thomas a comprehensive plan that called for a unitary school system. The plaintiffs agreed to the plan and it was approved by the district court. In 1971, the Mobile County Public School System created a consent decree with the plaintiffs, the plaintiff interveners, and the U.S. Department of Justice. The provisions of the Comprehensive Plan for a Unitary School System included the federal court retaining jurisdiction. On 9 July 1971 the court adopted the plan submitted by the Mobile County Board of School Commissioners. The 1971 plan also

called for cross-town busing of students. The agreement required a three-year period to determine whether or not the goals and objectives of the decree had been met. For these three years, the plaintiffs could not challenge the Board as it attempted to follow the plan. An important principle of the 1971 agreement provided that no further school construction could encourage segregation.

The *Swann* decision proved to be a turning point for desegregation in Mobile. Following the decision, the school board took active steps to assign students to different schools based on race; this represented a complete turning away from the freedom of choice plan. As could be expected, the decision received criticism from citizens who viewed the government as already too involved at the local level. As Peter Aaron Wilson notes, "Many members of the community had opposed the end of tokenism and Freedom-of-Choice. The same people began to oppose federally ordered busing and saw this as another intrusion of the federal government into the operations of a local community. However, a sense of inevitability pervaded the community about school desegregation. The League of Women Voters, along with other civic organizations, worked to maintain peace and a positive attitude toward school desegregation. Overall, school opening in 1971 remained calm and peaceful, as national news organizations were on hand to capture the expected drama. As Foley notes, national television networks "were surprised to find that the busing of more than 26,000 children for the purposes of

²⁵ Wilson, 66.

²⁶ Wilson.

²⁷ Foley, 199 - 200.

desegregation did not create a major furor in the city."²⁸ A result of the 1971 plan was that many more black students were transferred to white schools, while few white students were assigned to black schools to achieve desegregation. Also, many schools in black communities were closed as a result of desegregation. Wilson notes that many black citizens objected to what they saw as unfair busing practices.²⁹

White Flight

White flight, the movement of whites from cities to suburbs, which began following World War II, accelerated as a response to federal school desegregation. Many Mobilians moved their families out of school districts that had become desegregated into neighborhoods that remained almost exclusively one race or enrolled in private schools. Commenting on white flight, school board attorney Robert Campbell recounted that "About 60 schools opened up overnight because of white flight from the public school system." The new schools, also known as seg academies, as these schools came to be known, ultimately proved to be unsuccessful. Campbell told the *Mobile Register* in 1990 that the new academies suffered because they "couldn't offer the curriculum, the programs, the quality teaching . . . There were no extracurricular activities, no gymnasiums, no football stadiums. So they weren't even getting the core curriculum, much less the electives." The *Mobile Register* found, that according to public school figures, private school enrollment in Mobile County reached its highest level in 1971 when 17,865 students attended private schools.

²⁸ Foley, 199.

²⁹ Wilson, 67.

³⁰ "Desegregation prompted 'white flight,' *Mobile Register*, 15 May 1990.

Writing in the late 1970s Albert Foley noted "white flight had resulted in a 20 percent population loss in the public schools since 1970." As observed, "forty-six private schools with about 10,000 pupils were the main recipients of the white flight from the public schools. Episcopal, Methodist, Baptist, and even Lutheran schools were predominantly one-race schools." Foley concluded that 6,000 students attended parochial schools. Despite the prohibition from the bishop of allowing "Catholic schools to become havens for white segregationists" the schools continued to enroll large numbers of non-Catholic students in the largely all-white or token desegregated Catholic schools. Writing in the early 1980s, Joseph Newman and Betty Brandon noted that "by 1973, ten years after initial desegregation in Mobile, the number of private and parochial schools had almost doubled from thirty two in 1963 to sixty one in 1973, and the percentage of students enrolled in private and parochial schools had increased from 13.4 to 20.5." By 1990 the number had receded to about 12,000, roughly the same number of students in private schools in 1963, the year the desegregation suit began.

White citizens were not the only ones to resist forced desegregation throughout the 1960s and early 1970s. Some African American citizens abhorred these federal plans

³¹ Foley, 205.

³² Foley, 205.

³³ Joseph Newman and Betty Brandon, "Integration in the Mobile Public Schools," in Howard F. Mahan and Joseph W. Newman, The *Future of Public Education in Mobile* (Mobile: South Alabama Review, 1982), 48.

³⁴ Campbell further told the *Register*: "Kids are now coming back to the public schools because they recognize the quality education. Public education is supposed to educate the white, the black, the fat, the skinny, the dumb, the smart. Once the public understood desegregation was here to stay and that these sub-par schools could not begin to offer a quality education, then those white students began coming back into the schools system." "Desegregation prompted 'white flight,' *Mobile Register*, 15 May 1990.

because they placed an unfair burden on black children. Thus, while the *Swann* decision brought about forced busing as a remedy, many in the community did not embrace it.

Over the next two decades forced busing and further federal involvement in the Mobile County school system remained controversial. School desegregation had caused tremendous changes to the school system from 1963 to 1971. These changes instilled a fear in several future board members that more federal involvement would further disrupt the school system, cause white flight, and end public education in Mobile as they knew it.

Describing the epic nature of the desegregation litigation in an opinion for the circuit court, Judge Irving Goldberg asked, "we do not tarry now to count the many appeals to this court in furtherance of this hope, for we are concerned today with only a single recent episode in this almost Homeric odyssey. We wonder when the epilogue will be written."³⁶

Judge William Brevard Hand Takes Over

In Mobile, as in all desegregation cases, the federal district court held the power to shape the desegregation plan. However, the Court of Appeals and the United States Supreme Court could review any desegregation plan. In the remedy phase, the court decided how a school system could achieve unitary status typically through a desegregation plan. The district court judge could shape school desegregation based on his or her own interpretation of the law. This created varying plans and degrees of school desegregation throughout the United States. On the same day that the United States

³⁵ According the Mobile City Directories, in 1963 Mobile Public Schools served 73,949 students in 91 schools. Twenty-six private and parochial schools were recorded. Ten years later in 1973, the Directory noted that 83 public schools served 66,666 students and the number of private and parochial schools increased to 65.

³⁶ Keith Nicholls, "Politics and Civil Rights," 261.

Supreme Court issued its ruling on desegregation in the *Swann* case, President Richard Nixon appointed William Brevard Hand, the local head of the Republican Party in Mobile, to replace Judge Daniel Thomas on the bench in Alabama's southern district federal court.

A native of Mobile, William Brevard Hand was born in 1924. He graduated from Murphy High School and subsequently served as a combat infantry rifleman in the U.S. Army during World War II. His service included fighting in the Battle of the Bulge.

After his military service, Hand completed a law degree at the University of Alabama and returned to Mobile to practice law. Ton 1 October 1971, Judge Hand joined the federal bench. He would gain national notoriety not just for the *Birdie Mae Davis* case, but also for school prayer and textbook cases. In 1982, an attorney sued to prevent prayer in Alabama's public schools. Hand supported school prayer and the *Press Register* summarized that Hand ruled "essentially that a federal law striking down the practice [of school prayer] didn't apply to the states." Pertaining to school textbooks, which he believed emphasized secular humanism, Hand argued, that "If this court is compelled to purge 'God is great, God is good, we thank Him for our daily food' from the classroom, this court must also purge from the classroom those things that serve to teach that

 $^{^{\}rm 37}$ "Federal judge W. Brevard Hand dies at the age of 84," *Mobile Press Register*, 7 September 2008.

³⁸ Smith v. Board of School Commissioners of Mobile County, 827 F.2d 684 (11th Cir. 1987); Wallace v. Jaffree, 472 U.S. 38 (1985).

³⁹ Federal judge W. Brevard Hand dies at the age of 84," *Mobile Press Register*, 7 September 2008.

salvation is through oneself rather than through a deity."⁴⁰ Judge Hand banned forty-four textbooks from Alabama classrooms that in his opinion, contained principles of secular humanism. This ruling, as well as his ruling in the school prayer case, was eventually overturned. But these "maverick" rulings helped Judge Hand gain a reputation as a conservative, deeply rooted in his religious beliefs.⁴¹

While Hand oversaw the school textbook case, the *Los Angeles Times* described him as a "leading activist judge for the far right." A "liberal Southern lawyer" speaking to the *New York Times* said, "I think he [Hand] has always seen himself as defending a particular sort of Southern ideology, a 'Gone with the Wind' ideology, fighting for the oppressed, underdog white Southerner whose culture is being undermined by integrationists and by the technocratic central government." The *Times* article continued describing Hand's philosophy of civil rights from an opinion in a 1974 lawsuit dealing with employment discrimination. The *Times* recorded that Hand opined, "apparent present-day philosophy when considering laws affecting race relations . . . imposes on this generation the past deeds of our forefathers."

During his investiture ceremony, Judge John C. Godbold proclaimed that Hand would "stand on one of the hottest firing lines in the nation. . . . He cannot duck or

⁴⁰ "Federal judge W. Brevard Hand dies at the age of 84," *Mobile Press Register*, 7 September 2008.

⁴¹ "Federal judge W. Brevard Hand dies at the age of 84," *Mobile Press Register*, 7 September 2008.

⁴² "Banned Textbooks Judge Hand: Activist for the Far Right," *Los Angeles Times*, 16 March 1987.

⁴³ "Judge who banned textbooks: Hero of the right," *New York Times*, 7 March 1987.

⁴⁴ "Judge who banned textbooks: Hero of the right," New York Times, 7 March 1987.

flinch."⁴⁵ At his investiture ceremony, Hand assured those present that it would be his "purpose to so conduct the affairs of this office that, when I put down its mantle, you will be confident that it has not been abused."⁴⁶ He added that "the federal court [would] not become an instrument of social suicide."⁴⁷ Judge Hand continued to oversee the *Birdie Mae Davis* case until its resolution.

Another significant change to the *Birdie Mae Davis* case came in 1971 as James Blacksher, a native Mobilian who had served in the Navy and graduated from the University of Alabama Law School returned to Mobile and practiced law with Vernon Crawford. Crawford was one of the most prominent African American attorneys in Mobile and his firm initiated the *Birdie Mae Davis* case. Over the years, Blacksher became the lead plaintiffs' attorney and he handled most of the negotiations throughout the 1970s and the 1980s. After Blacksher moved to Birmingham in the late 1980s, his law partner, Gregory Stein, negotiated the final years of the desegregation suit.

A change of defense counsel came in December 1976 the Pillans Law Firm was replaced by Campbell's firm as the school board's counsel. On 31 January 1977 a new school board attorney, Robert Campbell, was installed. A native of Philadelphia, Pennsylvania, Robert Campbell had previously worked as an assistant district attorney in Mobile before starting his own private firm. The school board initially hired Campbell to

⁴⁵ "W. B. Hand Takes Oath to U.S. District Court," *Mobile Press Register*, 2 October 1971; In "Politics and Civil Rights," Keith Nicholls recounts "When first appointed to the federal bench in 1971, he draped his office wall with a huge Confederate battle flag. Under intense criticism he was forced to strike the colors, but his judicial continued to reflect his ultraconservative philosophy," 268 -269.

⁴⁶ "W. B. Hand Takes Oath to U.S. District Court," *Mobile Press Register*, 2 October 1971.

⁴⁷ "W. B. Hand Takes Oath to U.S. District Court," *Mobile Press Register*, 2 October 1971.

resolve the voting rights case, *Brown v. Moore*. While he was retained, the school board asked him to find a resolution to the long-standing school desegregation case.

Beginning in the 1970s federal policy shifted to a more conservative posture through presidential elections and judicial appointments. The Supreme Court issued more conservative and less unanimous decisions pertaining to school desegregation, allowing for the resolution of desegregation cases to be delayed. The goals of some cases shifted from achieving integration towards simply removing any vestiges of previous segregation. Plaintiff's attorney James Blacksher told historian Carol Ellis in 2001 that:

In the 1960s, the years right after *Brown v. Board* in 1954 up through the 70s... were years that are unique in US History. They were years in which the federal courts were on the cutting edge of social changes, were leading if you will, social and political change. That had never really happened before in our history and has not happened since. Courts are conservative institutions by nature.⁴⁸

With the *Milliken v. Bradley* (1974) ruling, the Supreme Court prevented urban schools from inter-district busing. Public school offices in Detroit, Michigan hoped to bus students from the suburban districts into Detroit to integrate city schools. This proved to be yet another major turning point in the federal government's role in the process of desegregation. *Milliken* ushered in an era of Supreme Court rulings that limited the federal courts' power to order school desegregation. ⁴⁹ The *Milliken* ruling reversed the trend of Supreme Court decisions from 1968 through 1973 that had moved beyond color-blind goals of desegregation, to more color-conscious goals of integration. Reinforcing the Supreme Court's rulings was the Nixon administration that ranted against

⁴⁸ James Blacksher interviewed by Carol Ellis, 9 November 2001, Vertical Files, University of South Alabama Archives.

⁴⁹ Raffel, xiv.

busing and supported neighborhood schools, in contrast to Lyndon Johnson's administration. The *Milliken* ruling, however, meant little to Mobile directly. In Detroit, Michigan the plaintiffs hoped to use the surrounding suburban school districts to racially balance the urban schools. In Mobile, the school system served the entire county. While school desegregation may have increased the rate that white families fled cities for the suburbs in the late twentieth century, many families in Mobile continued to attend Mobile County public schools.⁵⁰

Racial Issues in Mobile

Other racial issues began to dominate the community's politics in the 1970s. In 1973 a new class-action lawsuit separated from the *Birdie Mae Davis* case. Edwin Foster and James E. Buskey claimed that the school system's central office routinely passed over blacks for administrative positions. The case, known as *Foster-Buskey*, became the vehicle through which the school board addressed issues concerning discrimination in the hiring, promotion, and pay of African American school administrators.

Also during the late 1970s as the plaintiffs pushed for school change against a judge who seemingly had no interest in further desegregation, the NAACP Legal Defense Fund began moving its attention to the issue of voting rights. This period witnessed radical changes in local elections for Mobile. In 1975 two cases, *Brown v. Moore* and *Bolden v. City of Mobile*, challenged the use of at-large elections for the offices of school board commissioner and city council. The plaintiffs argued that at-large elections diluted

⁵⁰ According to Mobile City directories, from 1963 to 1984, 1966 witnessed the highest number of students enrolled in Mobile County schools, 78,075.

⁵¹ Pride, 131.

black voting strength, as blacks would always comprise a minority of the vote. The plaintiffs proved successful in both cases and district elections became the protocol for municipal elections. The results of *Brown v. Moore* election allowed for the first black members to be elected to the school board in 1978: Norman Cox and Dr. Robert Gilliard. This change ensured that African Americans would have direct representation on the school board and that they would be included in the operations of Mobile County schools. This effected the discussion over the eventual resolution as African Americans would be involved directly with formulating school board policy.

However, the change from at-large elections to district elections did not go smoothly as other school officials including Dan Alexander questioned the legitimacy of the new school board members. The case culminated in 1984 when the U.S. Court of Appeals affirmed that one of the first black school board members could vote on board business about desegregation. School Board President Dan Alexander had denied Commissioner Gilliard the right to vote because he served as the president of Mobile's chapter of the NAACP. The election of black board members received much debate as

Despite the election of these commissioners to the five-member board, the three white members still held a majority. Many issues before the school board required only a simple majority, three votes to two votes, to pass. Because of this fact, many votes were racially divided. It should be noted that a different federal judge, Virgil Pittman, presided over the voting rights cases. Keith Nicholls records that because the city hired Judge Hand's father's law firm for representation, the plaintiffs were able to have their case reassigned. The cases were then put under Judge Pittman's authority. Nicholls notes that Pittman's "judicial reputation was as liberal as Hand's was conservative." See, Keith Nicholls, "Politics and Civil Rights," 269. Pittman took an active role in the case, at times controlling which school board members could vote among other issues. Examples of criticism of Pittman's involvement include, "Pittman tries anew to run local board," *Mobile Register*, 29 July 1980 and "Supreme Court ruling blow against tyranny," *Mobile Register*, 23 April 1980,

⁵³ Keith Nicholls, "Politics and Civil Rights," in *Mobile: A New History of Alabama's first City*, 261.

the legitimacy of their seats on the board and the status of members previously on the board remained in dispute while the voting rights cases traveled through the appeals courts. The courts settled the issue in 1984. Historian Wayne Flynt commented that the change in election procedures polarized the city and the county. In 1993 he observed that the case:

Has led to a confrontational government and a worse government . . . I testified for the city in that case because I knew single districts would lead to racial polarization as well as racial representation . . . Racial polarization is worse in Mobile than ever before because everyone is representing their own constituencies and the hell with all Mobile County. That's not good for anybody and it's absolutely hurting the city. ⁵⁴

School board politics received a black eye during the late 1970s and early 1980s from the antics of School Board President Dan Alexander. Alexander attempted to push through several reforms to the board including student testing and teacher competency testing. These measures were not explicitly founded on race, however many people picked up on the racial overtones of many of the plans. If anything, Dan Alexander's actions distracted the school board from the *Birdie Mae Davis* case and heightened racial tensions within in Mobile. In *The Racial Use of Politics* Richard A. Pride documents his actions along with many issues concerning school board politics not only in the late 1970s and 1980s but the entirety of school desegregation in Mobile. 56

⁵⁴ "Mobile's image hurt by division," *Mobile Register*, 14 February, 1993.

⁵⁵ Dan Alexander was convicted in December 1986 for receiving kickbacks from school board contracts and served four years in jail. One interesting vignette about Dan Alexander, of many, included his actions in 1980 to acquire a gun for his own protection as issues such as teacher testing were debated in the community "Guns for Alexander, Bosarge ruled Down," *Mobile Register*, 27 March 1980.

⁵⁶ Pride.

Birdie Mae Davis Resumed

William Feild's Visit

The 1971 consent decree established a three-year period in which the school board would attempt to make good on its promise to establish a unitary system. In 1974, the plaintiffs and defendants disagreed whether these goals had been reached. In 1974 the plaintiffs hired a consultant from the South Florida School Desegregation Center at the University of Miami, William Feild, examined this question. Feild wrote a report addressing whether the plan had been implemented and whether or not the plan had "achieved maximum desegregation and a unitary school system" and reported that the Mobile County school system had not accomplished either of these goals. The biggest issue cited in the report dealt with student assignment. It appeared that the school system was running two systems: a rural school system and an urban metro system. The rural system had a majority white population which "was 81 percent white and 19 percent black." The urban system had a majority black population, 59 percent black to 41 percent white. Feild also reported, however, that the school system had achieved desegregation when it came to faculty assignment.

Armed with this report, the plaintiffs returned to court to file a motion for additional relief on 20 March 1975. The complaint pointed out that eleven historically black schools remained segregated, and "44 percent of black school students were still attending substantially all-black schools." Judge Hand never set a hearing on the plaintiffs' 1975 request. Writing in the late 1970s, Albert Foley observed that "a recent statement by Judge Brevard Hand to the effect that Mobile County schools have been

⁵⁷ Foley, 203.

desegregated in accordance with the Supreme Court mandate seems to indicate that as long as he has jurisdiction over the case no further desegregation will be ordered."⁵⁸ As of 1976, thirty-two of the system's eighty campuses could be described as predominantly one race.⁵⁹

As a result of the *Birdie Mae Davis* case remaining in federal court, the court had to sign off on many school system policies. One of the biggest impediments for the system was the moratorium placed upon new school construction. Under the *Green* decision, new school construction had to increase integration rather than contribute to segregation. From 1963 until 1979 little to no school construction took place in Mobile County. Because of the predominance of segregated neighborhoods, the board had a difficult task in proving that new school construction would not increase segregation. One notable exception came with the creation of a new Toulminville High School. The predominantly black Toulminville neighborhood desperately needed a new high school. However, the construction of a new school in a predominantly one-race neighborhood would have violated the court's orders. After years of negotiating, both the plaintiffs and defendants reached a compromise. The new school in Toulminville, later named John LeFlore High School, would be built in Toulminville as a magnet school within a regular

⁵⁸ Foley, 202-205; "Hand says Mobile's schools desegregated," *Mobile Register*, 25 March 1978.

⁵⁹ Birdie Mae Davis v. Board of Commissioners, Mobile County, legal files, Box 13, United States District Court Southern District of Alabama, Mobile, Alabama. Semi-annual Federal Court Report, filed 13 June 1976. See APPENDIX FOUR, TABLE TWO. When establishing the community committees in 1982 Judge Hand stated, "Courts have expressed the opinion that any school with a student population 85 percent one-race shall constitute a one-race school." "End of one-race schools seen for county," Mobile Press Register, 1 August 1982. For this study, a campus with a percentage of black students in each school less than fifteen percent and higher than eighty-five percent will be considered one-race. APPENDIX FOUR contains the racial compositions of Mobile County schools every four years from 1972 to 1996. For more on racially identifiable schools see Raffel, 130.

school.⁶⁰ The school system would establish special programs such as classes in television production that could not be replicated at any other school in the system. The school board hoped that the special course offerings would attract white students into a previously all-black school. However, John LeFlore Magnet School never succeeded in attracting large numbers of white students, preventing it from reaching its goal as an integrated school.⁶¹

The *Mobile Register* expressed frustration over the court's involvement in the day-to-day activities of the school board in March 1980. The *Register* decried:

the board has found its hands tied on matters such as construction and repair of school facilities. It seems that each time the board decides to replace a broken window pane, court approval must be sought. Major projects such as replacement of dangerously outdated schools require a time consuming process of seeking court permission. Civil rights attorneys have as much if not more authority in the matter than our elected school board members.⁶²

In the municipality of Mount Vernon, in the northern part of the county, school conditions so deteriorated that the parents boycotted their schools in March 1980. The mayor of Mount Vernon, John Gartman, described the state of the schools as "deplorable." The community's protest succeeded in accelerating the school board's actions towards building new schools. The late 1970s and early 1980s witnessed numerous consent decrees allowing for the construction of several additions and schools throughout the county. School Board President Dan Alexander used the incident at

⁶⁰ Eric Duke, "A Life in the Struggle: John L. LeFlore and the Civil Rights Movement in Mobile, Al." MA thesis, Florida State University, 1998.

⁶¹ For more on LeFlore Magnet School see Peter Aaron Wilson, Betty Brandon, and Richard Pride.

^{62 &}quot;School Board moves in right direction," *Mobile Register*, 17 March 1980.

Mount Vernon as an opportunity to promote the need for the school system to be freed from the *Birdie Mae Davis* lawsuit, which he saw as a hindrance to the progress of the school system. He told the parents protesting the situation at Mount Vernon school "that the desegregation complaint against the system is no longer valid."⁶³

Moving towards a compromise

In 1979, discussion began on how the system could end the desegregation case. In February, the U.S. Civil Rights Commission released a report on Mobile school desegregation. The report found that "little desegregation is said to have taken place after the original decree in the case, and black civil rights leaders are concerned that 40 percent of the black students remain in all-black schools." Several school board members took exception to the report. Dan Alexander described it as "ridiculous." Even Robert Gilliard pointed out that while 40 percent of black students still attended predominantly black schools, 60 percent attended integrated campuses. He pointed out that this fact was a stark contrast to the 95 percent of black students who attended predominantly black schools before 1971. Commissioner Norman G. Berger commented, "Quite the contrary . . . I think overall the schools have been fairly well integrated." Dr. Gilliard concurred, "We do have a marked degree of desegregation of schools, especially on the high school level."

On 22 August the school board voted to ask Judge Hand to dismiss the case because the school system had either met its objectives or because the plaintiff class no

⁶³ "Vernon School Boycott ends; relief promised," *Mobile Register*, 13 March 1980. The *Mobile Register* reported that black citizens comprised at least half of the delegation protesting the condition of the schools.

⁶⁴ "Race mix report irks school board," *Mobile Register*, 14 February 1979.

longer existed.⁶⁵ The *Press Register* supported a move to dismiss the case, opining that the board's action was "long overdue. . . . As a hostage of the federal courts, the Mobile school system must obtain approval for any new construction program. Such approvals have been very slow to come by over the years and education has suffered greatly as a consequence." When the plaintiffs agreed to a construction plan, the school board withdrew its motion for dismissal.

The school board filed a motion to identify the plaintiffs in March and the court ordered that the plaintiffs identify themselves. The *Register* perceived this as a move "in the right direction" as it could lead to "lifting the yoke of federal court stewardship from the board's neck." As the paper opined, "The suit's purpose, desegregation of the county schools, was effectively accomplished many years ago." The only effect of school desegregation remaining in Mobile, according to the *Register*'s editors, was the lack of facilities and the court's control of the school system which, they attested, harmed students of all races. Some in the community believed and hoped that the plaintiff class would fail to show up, thus allowing for the case to be dismissed. Hand set a hearing on 1 May for the plaintiff class to identify itself. Commissioner Alexander told the *Register* that Hand "welcomed an opportunity to rule on this most important matter." Alexander, an attorney prior to serving on the board, believed that the case

⁶⁵ "Dismissal of Birdie Mae Davis case sought by school board," *Mobile Register*, 23 August 1979.

⁶⁶ "School board overdue in seeking freedom," *Mobile Press Register*, 26 August 1979.

⁶⁷ "School board moves in right direction," *Mobile Register*, 17 March 1980.

⁶⁸ "Hand to hold Birdie Mae Davis hearing," *Mobile Register*, 28 March 1980.

could find a quick resolution because he believed that the plaintiff class would not be certified. He avowed, "It's a lot easier to defend yourself than to have to continually go down there to court and prove you're not doing anything wrong." ⁶⁹

Judge Hand received praise for his actions. An editorial in the *Mobile Register* described Hand's actions as an "about face" as he "moved to remove himself from a dictatorial position rather than seek to sustain his authority." The editorial continued to describe the *Birdie Mae Davis* case as "interference in operations of our public school system, including repugnant – to people of all races – orders for cross town busing." The editorial writer believed that no plaintiffs would identify themselves and that the case would be placed "in the inactive files of the federal district court - at a considerable saving to us all."

School Board President Dan Alexander added, "no one has attacked the Mobile County School System as being less unitary – the original thrust of the March, 1963 complaint." Plaintiffs were required to identify themselves at a 12 June hearing. Alexander added that it had "been six or seven years since the case has done anything to further integration." Alexander argued that the lawsuit had become "counterproductive . . . an obstacle in the path of additional school construction in the county." He added citizens who feared the system would take steps that regressed from the early gains in desegregation should be relieved to know that "that it only costs \$50 to file a suit against

⁶⁹ "Hand to hold Birdie Mae Davis hearing," *Mobile Register*, 28 March 1980.

⁷⁰ "Judge Hand praised in taking initiative," *Mobile Register*, 15 May 1980.

the board in district court."⁷¹ Nevertheless, at the hearing, a plaintiff class identified itself, which Judge Hand recognized, so that the case continued.⁷²

In June, along with identifying the plaintiffs, Judge Hand scheduled a November hearing to assess the case's status. At the time, the school system had sixteen all black schools. The plaintiffs wanted the case to remain open to allow for overcoming what they believed to be the remaining vestiges of previous segregation. The school board maintained that it had fulfilled the 1971 agreement's requirements and that the school system was "fully desegregated, according to the law." Judge Hand allowed for new plaintiffs in the case, as most of the original plaintiffs no longer had a direct connection to the school system. At a meeting with the parties, the Register reported that Hand "lambasted both factions of the Mobile County School Board for letting political tomfoolery take precedence over the welfare of school children." He judged that the board had been acting "disgracefully by neglecting the interests of children in favor of 'whatever political gain or personal advantage' they can obtain." He added that the "children's best interest 'should be foremost in the minds of all parties." The district court proposed to hold a Youngblood hearing, or a supplemental relief hearing, to require plaintiffs to show this case should not be dismissed.⁷⁵ Both parties negotiated the case as

⁷¹ "Alexander praises Hand at meeting," *Mobile Register*, 13 May 1980.

⁷² "Judge hits both sides in mix suit," *Mobile Press*, 12 June 1980.

⁷³ "Judge hits both sides in mix suit," *Mobile Press*, 12 June 1980.

⁷⁴ "Birdie Mae Davis case hearing slated," *Mobile Register*, 13 June 1980. One would assume the "tomfoolery" to which Judge Hand referred to was the actions of Dan Alexander and other board members.

⁷⁵ Youngblood v. Board of Public Instruction of Bay County.

they attempted to avoid going to trial. The years 1980 and 1981 witnessed more pretrial activity as both the school board and the plaintiffs filed interrogatories and continued negotiations. Consent decrees during this time allowed for construction programs to be started at the schools most desperate for updated facilities.

A *Register* editorial in April 1981 took an optimistic look at the end of busing, not only in Mobile, but also throughout the United States. The editorial described the process of school desegregation as a "failure." The editorial chastised "social engineers" for the "most obnoxious" desegregation policy - busing. The editors noted that segregation truly was morally and legally wrong, but "it is just as wrong to force integration by such far-fetched schemes as cross-town busing." As of 1980, forty of schools system's eighty-eight campuses were racially identifiable.⁷⁷

Facing a possible trial in November 1981, the school board looked for a final remedy. Attorney Robert Campbell pointed out the dangers of the case going to trial, stating that a decision might lead to appeals, more forced desegregation, and the resegregation of the schools. He explained: "We can't afford another white flight."

Campbell added that many obstacles remained to achieving desegregated or integrated schools: "Some areas can not be integrated successfully . . . they never will be. Under the 1971 court decree, we projected that some schools could not be integrated." Campbell indicted community leaders for not taking a more active role in school desegregation:

⁷⁶ "School busing seen on way to defeat," *Mobile Register*, 22 April 1981.

⁷⁷Birdie Mae Davis v. Board of Commissioners, Mobile County, legal files, Box 15, United States District Court Southern District of Alabama, Mobile, Alabama. Semi-annual Federal Court Report, filed 16 April 1980. See APPENDIX FOUR, TABLE THREE.

⁷⁸ "Revival of court case may resegregate schools," *Azalea City News & Review*, 6 August 1981.

Integration among the old Mobile leaders, has not been a luncheon topic because it won't effect them one iota . . . But . . . rezoning will affect property value. What are community leaders going to do if we have another white flight and they have to support an all black school system? And movement creates racial tension. ⁷⁹

Campbell affirmed that the board had worked towards desegregation, but was wary of what a federal decision would mean to the local school system if the court called for more aggressive plans as a result of a trial: "I don't know what the solution is . . . but the situation could be more dangerous than what we had when we first integrated."

In the early 1980s, school desegregation remained an issue very much alive in Mobile County. School desegregation came to Mobile in ways that were similar to the experiences of other southern cities. In 1963, Henry Hobdy and Dorothy Davis broke the color line and entered Alabama's oldest high school, Murphy High School. The *Birdie Mae Davis* case traveled through the court system for years and only in 1971 did the School Commissioners adopt a school desegregation plan amenable to the government and the plaintiffs. This agreement did not end the case, only allowing for steps that could lead to a unitary status. The case lacked a resolution. No clear-cut plan existed for resolving a desegregation case. It seemed as though no one knew how to resolve the case. According to Judge Hand, the case should not be in court. A judge's authority in school desegregation resonated loudly as his or her stance, either active or passive, affected the trajectory of school desegregation. Also, many other racial issues came to share the spotlight with school desegregation in Mobile throughout the 1970s.

⁷⁹ "Revival of court case may resegregate schools," *Azalea City News & Review*, 6 August 1981.

^{80 &}quot;Revival of court case may resegregate schools," Azalea City News & Review, 6 August 1981.

School desegregation no longer dominated the headlines as voting rights, student testing, and teacher testing became major issues. But the *Birdie Mae Davis* case remained an active case file in Alabama's Southern District Federal Court. The local newspaper condemned federal school desegregation plans and the deplorable conditions of many schools due to restrictions imposed by the *Birdie Mae Davis* case. As the major daily newspaper demonstrates, many Mobilians viewed school desegregation as a burden for the school system – limiting construction and expansion and diverting resources from education.

While many viewed the case as a hindrance to public education in Mobile, the Justice Department argued that the school system maintained segregated schools. School board members, black and white, disagreed with this view, noting the significant strides over the previous decade toward desegregation. But for many people in the community, desegregation and meaningful integration remained elusive. Many Mobilians hoped to see the case find a resolution and for local officials to regain control of the schools. Some people hoped that the federal government would leave education to the local authorities while others hoped that the schools would finally move closer to achieving the goals of the *Brown* decision: the eradication of schools based on race. To help address the long-standing issues the court allowed for the establishment of two committees to work towards a resolution. The committees, their work, and the community's involvement in the debate over the future of school desegregation in Mobile County are the subject of the next chapter.

CHAPTER TWO

COMMUNITY COMMITTEES 1982 – 1983

In 1981 the Birdie Mae Davis desegregation case remained active. However, Judge Hand remained reluctant to offer any ruling or provide direct action to help bring the case to a resolution or to order further desegregation. While he believed that the Mobile County public schools were desegregated, the law remained unclear if the school system had achieved unitary status or even what unitary status meant. In order to avoid court and being left at the whims of the judge's decision and the appeals process, the school board sought a compromise. And while Judge Hand may have believed that the schools were desegregated, the system may not have fully met the legal standards. If Hand issued a ruling that was not legally sound, the plaintiffs could appeal the ruling, allowing a higher court to implement its own remedy. Hand wanted to make sure that Mobile had its own desegregation plan and keep the federal court out of the school board's operation. To achieve these goals, Judge Hand allowed for the creation of two community committees charged with developing a viable school desegregation plan. As the lower courts lacked specific guidance in how to settle a desegregation suit, a solution from the community might offer an acceptable remedy. These actions also would allow for the community itself to direct school desegregation, providing a local solution to the desegregation dilemma. On 27 October 1981 the plaintiffs accepted the interim consent

decree that established the committees. The agreement established a professional observation team to "examine all aspects of the educational programs of Mobile County public schools relevant to a determination of the racial equity of those programs."

The consent decree established two committees to help resolve the *Birdie Mae Davis* case: a special committee and a steering committee. The larger special committee drew representation from each school and geographic region of the county. The parties in the case would also appoint members to the committee. The special committee held meetings and offered input to the much smaller steering committee that worked on a specific plan based on the proposals of the special committee. The steering committee would then propose a plan that the special committee could vote to accept. To help formulate a plan, the steering committee hired expert consultants. Going into the meetings, both sides agreed that one-race schools still plagued the system: "the special committee and the steering committee would have the responsibility of determining what, if anything, can be done to avoid further litigation over the pending issue of one-race public schools." The court retained final jurisdiction over any agreement the parties developed. If the committees failed to develop an acceptable proposal, the case would return to court for trial.

In March 1982, the school board approved a revised interim consent decree.

After the board approved the plan school board attorney Robert Campbell celebrated: "I think this is the first time all the parties have completely compromised to the point that it

¹ "Blacks OK consent decree in Mobile school mix case," *Mobile Press*, 2 November 1981.

² "Blacks OK consent decree in Mobile school mix case," *Mobile Press*, 2 November 1981.

is a viable plan to end a 20-year-old case." By keeping the case out of court, both sides also could minimize their legal fees. Judge Hand reminded all the parties that if they could not reach a consensus through the community committees, the case would return to court for a trial. Campbell insisted that the result of a court decision would be "chaos." A return to federal desegregation would result in "extensive busing, restructuring of schools, 'racial instability and white flight." The two major issues of the decree were racial equity within the school system and the assignment of students. The committees agreed to use busing as a last resort.

The *Mobile Register* offered an editorial calling for the end of busing in February 1982. Declaring that busing was needed "10 years ago as a necessary tool to desegregate public schools," but that busing was no longer needed, as "desegregation is an accepted fact of life for both races and busing as a means of social engineering is an unnecessary expense." Moreover, the editorial closed, "Students should be allowed to attend a school of their choice, preferably in their own neighborhood. Busing them across town for desegregation is a safety hazard and also a detriment to their education opportunities." The *Register* clearly endorsed neighborhood schools and the end of busing.

As the committees formed in spring 1982, Judge Hand held an organizational meeting with the members. He urged them to "adopt an attitude of cooperation and

³ "End near for Davis Case," The Azalea City News & Review, 28 January 1982.

⁴ "End near for Davis Case," The Azalea City News & Review, 28 January 1982.

⁵ "Desegregation busing costly, unnecessary," *Mobile Register*, 25 February 1982.

⁶ "Desegregation busing costly, unnecessary," *Mobile Register*, 25 February 1982.

compromise" and to ensure that the committees did not "become political football for anyone." Hand believed the remaining issues:

Should be resolved in the community, rather than by a judge who must decide alone . . . If the proceedings of this committee devolve into partisan, parochial standoffs, either between blacks or whites or between one neighborhood and another, nothing useful can be expected from you in the end, and the parties and the courts will have little choice but to resort to protracted litigation.⁷

Hand further explained to the committees the many factors and issues associated with school desegregation, indicating the lack of legal clarity regarding that process. He told the committee that "It is still not absolutely clear how far we must go in eliminating the remaining one-race schools." He explained the committee's role in the case:

Rather than go through the lengthy, expensive and divisive ordeal of a full trial and full appeal, the parties and the courts have resolved to refer the entire dispute to you, as a representative committee of the entire community, in hopes that something can be worked out that will eliminate the necessity of further litigation . . . It is difficult to overstate the great responsibility you have been given . . . But it is fair to say that the results of your efforts and deliberations may determine to a large extent the direction the Mobile County Public School System will take with respect to the problems of school desegregation for decades to come. 8

Judge Hand made it clear that he did not believe that he alone should make the decisions pertaining to school desegregation. He believed that the best solution would be one that the community members produced and which seemed to benefit everyone, rather than a massive and unpopular busing plan. Judge Hand wanted the case resolved and out of his court, without requiring him to do more than constitutionally warranted.

⁷ "Desegregation congress to meet," *Mobile Register*, 23 April 1982.

⁸ "Desegregation congress to meet," *Mobile Register*, 23 April 1982.

The *Press Register* praised Judge Hand's actions. The paper assessed, "the judge, in our opinion, hit the nail on the head when he proposed that the court believes such problems 'should be resolved in the community by members of the community, rather than by a judge who must decide alone."

The committees studied racially unidentifiable schools to understand how those had succeeded in desegregating. Their main goal was to eliminate one-race schools. Malcolm Howell, chairman of the steering committee, declared, "our major goal is attendance zones." He added that the committee did not "want to undo the progress which has been made over the last five to 10 years in desegregating the school system. Our intent isn't to turn the school system topsy-turvy to accomplish an overall plan." The committees sought to maintain the status quo and minimize disruptions to the system. ¹¹

The first goal of the committees was to desegregate the secondary schools. This remained a contentious issue, as many people, including black citizens, did not want to see their community schools closed. One school, Blount High School, became a centerpiece of school desegregation in Mobile County during the 1980s. Blount High School in Prichard desperately needed a new facility. Having witnessed the Toulminville

⁹ "Community group urged to resolve school issue," *Mobile Press Register*, 27 April 1982.

¹⁰ "End of one-race schools seen for county," *Mobile Press Register*, 1 August 1982.

¹¹ Judge Hand elucidated, "The goal of any remedy is to achieve the greatest possible degree of actual desegregation, taking into account the practicalities of the situation, by developing a plan which promises realistically to work immediately and at the same time maintain order in the school system." Chairman Howell viewed the meetings with optimism, "It's got to work because the people working on the committees have a vested interest in seeing that it works." He and Bobby Shrum, another committee chairman, urged the community to get involved in creating a plan because "It's doomed to failure if we don't get public support," End of one-race schools seen for county," *Mobile Press Register*, 1 August 1982.

community gain a new school, citizens served by Blount believed that they could accomplish the same objective. However, Blount remained one school that never successfully integrated and would be in need of a radical change to help bring the school system into accordance with federal law.

In December 1982, the committee suggested leaving schools that had desegregated alone, enhancing LeFlore High School, and building a new Blount with its identity (school name, faculty, etc.) in Eight Mile, a north Mobile Community adjacent to Prichard. The *Press Register* pointed out that "the burden of busing would rest on blacks, and the black parents are as opposed to busing as white parents are." While committee members advocated that "a segregated school in the society in which we live is an inferior school," and discussed the benefits of desegregated schools, most "black and white parents seemed concerned about one thing they consider[ed] a disadvantage – busing."

Black citizens viewed the work of the special committees with skepticism. After discussion of secondary schools, the agenda turned to the fate of middle schools. One of the schools the committee considered closing, Mobile County Training School, was founded in 1880. The school's PTA and alumni held a meeting to express "their concerns for the school and its rich history." Alumni and PTA members attended

¹² "Desegregation panel Oks proposal," *Mobile Press Register*, 12 December 1982.

¹³ "Desegregation panel Oks proposal," *Mobile Press Register*, 12 December 1982.

¹⁴ "Committee Announces Plans for Changes at MCTS," *Inner City News*, 18 December 1982. For literature on the African American experience of school desegregation see David Cecelski, *Along Freedom Road: Hyde County, North Carolina and the Fate of Black Schools in the South* (Chapel Hill: University of North Carolina Press, 1994), Winfred E. Pitts, A *Victory of Sorts: Desegregation in a Southern Community* (Lanham: University Press of America, 2003), and Vanessa Siddle Walker, *Their*

meetings of both the special committee and the steering committee to ensure that they were heard. The *Inner City News*, a newspaper serving the black community of Mobile, reported the numerous school closings and busing plans discussed by the committees. Most of the schools on the chopping block were racially identified as historically black schools and black citizens felt unfairly targeted as a result. This included Mobile County Training as the committees planned to bus County students to Adams Middle School in Satsuma. Parents and alumni put forward many reasons to save the 102-year-old school, pointing out, "MCTS has been accredited by the Southern Association of Colleges and Schools since 1932. Only one other middle school has attained close to that level of academic excellence." Alumni agreed, arguing that "if County had been anything but black, it would have been celebrated, elevated, and enshrined years ago." 16

The *Inner City News* continued discussion of the unfair burden the desegregation committees had placed on the black community:

It's time to draw the line . . . Black folks have always born the burden of busing . . . The vast majority of integration has been shifting blacks to white schools. Whites can decide whether to attend or not attend a traditionally black school. They are given a way out – through transfers and rezoned boundary lines or attendance zones . . . LeFlore High School proves that the concern isn't quality facilities or quality education. Mobile County Training School proves that there

Highest Potential: African America School Community in the Segregated South (Chapel Hill: University of North Carolina Press, 1996). For information on the African American community in Mobile see Shawn A. Bivens, Mobile, Alabama's People of Color: A Tricentennial History (Victoria: Trafford, 2004). Also, see Marjorie Jones, Who are you, Staking A Claim in this Land? (Victoria: Trafford, 2002), Leonard Horton, The Centralians, 1947-1970 (Mobile: Buck Publishing, 2005), and Paulette Davis-Horton, Avenue ... The Place, The People, The Memories (Mobile: Horton, Inc., 1991).

¹⁵ The Inner City News's motto, according to its first page: "The Black Press -- Struggling since 1827."

¹⁶ "Committee Announces Plans for Changes at MCTS," *Inner City News*, 18 December 1982.

is no concern for quality education. You wouldn't normally take the best, reduce it to mere statistics and make decisions about its future. ¹⁷

While frustration towards school desegregation manifested itself in the *Inner City News*, the paper did realize the "awesome responsibility" of the committees. It noted that "it will be difficult for a lot of people to accept whatever decisions are made. It is impossible to satisfy everyone." The *News* posed many questions, including, "How can a committee within a year come up with a plan to undo decades of planned segregation? . . . Obviously, the costly problems and inconveniences of school integration are interwoven in the problems of segregated housing discrimination."

The *Inner City News* also questioned the white committee members' integrity: "that is the real test and may reveal some significant race relation factors among white citizens of Mobile County." Porter wrote an opinion piece for the *Inner City News* describing the work of the committees. He indicted some of the members:

There still are people on the Committee who don't see the need to desegregate, and/or are bent on seeing that it doesn't happen. . . . The Committee is racially mixed . . . and is racially divided. During last week's meeting, blacks generally voted one way and whites voted the other. ¹⁹

The committees continued their meetings into the new year of 1983. Members of the black community continued to feel as though they were being given the short end of the stick when it came to school desegregation. Charles Porter, a spokesman for Mobile County Training School and editor of the *Inner City News*, feared that the "absence of

¹⁷ "Committee Announces Plans for Changes at MCTS," *Inner City News*, 18 December 1982.

¹⁸ "Desegregating Schools Must be Fair to All," *Inner City News*, 25 December 1982.

¹⁹ "Segregation, Integration, Desegregation," *Inner City News*, 29 January 1983.

input from parents, alumni, etc., from many schools opens the doors for the steering committee and the special committee to offer the court a set of recommendations which may or may not be in the best interest of the schools and communities involved." As the *Inner City News* observed:

Several outspoken members of the community and others attending want to show compassion to elementary level children being bused, but seem to have no compassion for the massive numbers of black children who are currently being bused. They become concerned with 'quality education' only when the possibility arise that their children will be bused to a black neighborhood.²⁰

Porter added that "the housing pattern in Mobile and across the nation makes it impossible to come up with a permanent plan." Porter noted that "BUSING is the problem. At least, it's the problem when whites have to ride busses en masse. Little or no consideration was given (at last week's meeting) to the fact busing has been a problem and a hardship on the black community for more than a decade and a half." ²²

Porter argued that most integrated schools were "supplied with inner city students" and that white students never showed up at historically black schools, even those that had been accredited for over fifty years. Porter questioned the intentions of the Mobile County PTA which "after 16 years of busing for integration – following decades of busing to keep the schools segregated . . . decided to take a stand against excessive busing."

²⁰ "Are They Really Serious About Desegregation?" *Inner City News*, 8 January 1983.

²¹ "Are They Really Serious About Desegregation?" *Inner City News*, 8 January 1983.

²² "Segregation, Integration, Desegregation," *Inner City News*, 29 January 1983.

²³ "Segregation, Integration, Desegregation," *Inner City News*, 29 January 1983.

Porter saw the school board's approach to desegregation as similar to the black community's general treatment by American society. He urged his readers to ask themselves:

At what point do we take a stand on letting our children bear the heavier burden of busing. After the long ride . . . then what? Are our children being confronted with teachers who don't want to be there either? Teachers who don't want to teach "other race" children? Are there racists and bigots in our school system? What will be the impact (academically, emotionally, culturally, etc.) on our children? At a time when we are going back to Africa (culturally), how must we "integrate" into an European system?²⁴

Porter believed these to be key questions for African Americans to help understand their place in American society. He even went as far as to equate the treatment of African Americans during school desegregation to slavery: "The same mentality which captured Africans, transported them to this country, and made them slaves . . . that same mentality is still with us today. It is more subtle, but just as devastating." The *Inner City News* expanded on the black community's desire to quit sacrificing its schools for the sake of school desegregation. After all of the discussions, the *Inner City News* concluded that "The undiscussed problem of desegregation lies in the hard, cold truth. Blacks are rezoned to attend white schools. Whites are merely ASKED to attend black schools or coersed [sic] under disguise of 'magnet schools."

The mayor, of Prichard a predominantly black city north of the city of Mobile,

John Smith adamantly opposed the closing of black schools in his community to achieve

²⁴ "Segregation, Integration, Desegregation," *Inner City News*, 29 January 1983.

²⁵ "Segregation, Integration, Desegregation," *Inner City News*, 29 January 1983.

²⁶ "Desegregating Public Schools," *Inner City News*, 26 February 1983.

desegregation. Smith argued, "People need to stop trying to mix the community and focus on quality education. It's not so much who you are going to mix us with, but whether all schools have the necessary resources." He added that closing Prichard schools "would be a sign the community is going downhill . . . De-emphasizing this area in that way would contribute to the economic problems I'm already having in the area."²⁷ Mayor Smith continued his protests against the plans of the special committee, including decrying plans to move Blount to Eight Mile, a community adjacent to Prichard; he described the plan as "ridiculous. You can't divorce Blount High School from Prichard. We want Blount to become a magnet school of science and design." Recognizing that his actions could be perceived as someone acting out of his own self-interest, Smith declared that "Everybody else on the committee has a special interest. I am especially interested in Prichard and I'm not going to allow schools here to be shoved around because of some court order." ²⁸ Committee member George Langham concurred proclaiming that "the burden of integration must be shared by blacks and whites alike." As he noted, "we have always gotten the old chairs, old books and have not even gotten information straight."29

At a 28 February meeting of the desegregation committee, residents of Prichard pressed the committee not to close their community's schools. The group included John Smith along with City Councilman Reginald Shaw. The two men argued that closing Prichard's schools would have debilitating economic and social implications on the

²⁷ "Smith opposes school mix proposal," *Mobile Press Register*, 20 February 1983.

²⁸ "Smith unhappy with school desegregation plan," *Mobile Press Register*, 25 February 1983.

²⁹ "Smith opposes school mix proposal," *Mobile Press Register*, 20 February 1983.

community. Many black parents argued that the assignment of black students to white schools, while not assigning white students to black schools, unfairly burdened black students. Henry Williams beseeched the committee, "load up those white children and haul them to black schools like you have taken my black children and hauled them to yours." At another meeting Mayor Smith told the committee that "An attempt is being made to use us as a mixing area for the rest of the county because Prichard has a large concentration of black people." George Langham described the establishment of magnet schools in black communities as a "farce," and said that a "proposal to close any black school is unacceptable." Langham suggested that "the same formula used to integrate the predominantly white suburban schools should be used to integrate the inner city black schools." At the meeting, Mayor Smith encouraged the committee to study the proposals he submitted. As Smith reasoned, "we have reached a reality check point

³⁰ "Views given as citizens' group meets," *Mobile Press*, 1 March 1983.

³¹ "Desegregating Public Schools," *Inner City News*, 26 February 1983.

³² "Desegregating Public Schools," *Inner City News*, 26 February 1983.

³³ "Smith opposes school mix proposal," *Mobile Press*, 20 February 1983. Another contentious issue before the school board pertained to student transfers. Committee member Reverend Robert Hope declared, "We must stop transfers" . . . [transfers] served as a "political trick to segregate the schools," "Views given as citizens' group meets," *Mobile Press*, 1 March 1983.

³⁴ "Views given as citizens' group meets," *Mobile Press*, 1 March 1983; "Prichard residents want schools kept open," *Mobile Register*, 4 March 1983. The proposal included: "Rescind all previous plans of the committee which close community neighborhood schools; establish a planning context which allows each representative school and community to draft and propose its own plan for voluntary segregation; Utilize the date, information and consultants as resources to advise each school and community on the guidelines to establishing community school desegregation programs; eliminate busing as a requirement. Accept that communities and neighborhoods may volunteer to participate in multicultural community educational programs."

in which we must admit our community limitations and weaknesses with respect to our desegregation efforts."³⁵

While a strong sense of community encouraged black citizens to support neighborhood schools and to oppose years of forced busing, black responses to school desegregation were never uniform. As the separatist views, espoused by the likes of Stokely Carmichael, Huey Newton, Bobby Seale, and Malcolm X gained popularity in the black community, other members of the black community toed the NAACP line of assimilation of blacks into mainstream American society. This perspective came across sharply in a letter to the editor of the *Mobile Press* from Donald E. James, a Mobile resident who experienced desegregation first hand years earlier. He criticized black community leaders who described busing as 'cruel.' As James explained:

Sending children into another world for educational purposes, to change both worlds, to promote light and understanding where shadow and rumor existed, is inconvenient; distortion is easier. Inconvenient exposures and general competition is better, has been proven to be much better for neighbors and non-neighbors alike.

While some people may have described busing as cruel, James argued that it was "crueler' to restrict an American child's exposure and education to what his immediate neighbors can competitively demand . . . 'Cruelest' to risk having such a system revert to its original racist foundations." He concluded his letter by comparing the current black community's view toward desegregation and the one that existed two decades earlier:

When I was a student, black parents saw quality education as the last, best hope of their people and they stayed involved in school affairs, and millions of my generation, ready for Dr. King, jumped from restrictive poverty into society's mainstream where some now find busing and involvement inconvenient, even

³⁵ "Prichard residents want schools kept open," *Mobile Register*, 4 March 1983.

'cruel.' I can not foresee any such exodus for today's young blacks, trapped in a changing economy with scarce need of physical skills, in all our inner-cities, as depression lines grow longer from the front under this president, unless what was once a rear-guard action, now a full scale counter-attack, is met with immediate, noisy action.³⁶

As cries from the black community against busing rang out, members of the white community continued their own familiar lament. A group of parents from the Carriage Hills subdivision in West Mobile organized a protest against a plan that would rezone their neighborhood from Hillsdale Middle School to Booker T. Washington Middle School. The route to Washington covered fourteen miles while Hillsdale was only seven or eight miles from Carriage Hills. The group of parents rented a bus and traveled the route to Washington Middle School to publicize the distance traveled. As one parent, Pat Leffingwell, testified: "our argument is not racially motivated. We are concerned about the distance, time and expense of busing our children."

Many of the parents who addressed the committee during public meetings were concerned with busing. 38 Mrs. Pamela Breed, a parent in West Mobile whose children faced busing as a result of the committee's proposal, disparaged the use of busing. Breed wrote, "we are not against desegregation. To the contrary, our children are already being bused out of our neighborhood school area eight miles to Hillsdale." She questioned the committee's research into their proposed busing plan: "Have studies been done to see whether our school system, already on the fringe of shutting down due to lack of funds,

³⁶ "School politics," *Mobile Press*, 28 January 1983.

³⁷ "Parents claim school busing trip too long," *Mobile Register*, 20 January 1983. The *Register* reported that Washington School had an all black enrollment at the time.

³⁸ "Parents query desegregation committee," *Mobile Register*, 14 January 1983.

can even feasibly handle such a busing plan? Has the committee taken into consideration that many of our school buses are now 10 years [sic] or older?" She concluded that "this is not a question of race, but one of good common sense and safety. We don't feel that any child in Mobile County should be bused 13 miles to school."³⁹

At one meeting, a group of parents from the Cottage Hill area, a neighborhood in West Mobile represented by Lytis Davis, presented a resolution stating their concerns about the committee's work. As Davis alleged, "neighborhood schools are economically feasible, that busing to achieve racial desegregation should be kept at a minimum and that no changes should be made in the Mobile County Public School System or the county school board."

Busing remained a major issue that the community hoped to avoid. Mrs. Mattie L. Hines, whose child at Brazier Elementary faced transfer to Forest Hill Elementary School, stated that: "I don't like the idea of him being bussed to Forest Hill when he could go to school here at Brazier. It is too far, three or four miles, and they have to go on Highway 98, a very bad road. I think if they're going to bus, they ought to bus the big kids, not the little babies. I really don't think they should be bussed [sic]."⁴¹ Mrs. A.D. Weeden expressed similar concerns about the burden of busing:

They have been bussing [sic] my children all along . . . I'm black and I'm for integration; without it we can't have quality education for our children. There should be white kids in black neighborhoods and black kids in white neighborhoods, because that's the only they'll ever learn to live together . . . I

³⁹ "School busing," *Mobile Press*, 25 January 1983.

⁴⁰ "Views given as citizens' group meets," *Mobile Press*, 1 March 1983.

⁴¹ "Should these children be bussed?," *Azalea City News*, 27 January 1983.

never went along with bussing [sic] from the beginning. What they did was they closed all the black schools and bussed [sic] the black children to the white neighborhoods . . . If they are going to bus children, they ought to do it right – they ought to do it straight down the line. 42

The diverging views of the community foreshadowed the committees' divided conclusion. After a year of meetings and negotiations the plan the steering committee presented to the special committee failed to achieve a majority of votes; the final vote was 41 in favor, 41 against, and 1 abstention. A strong sentiment remained for neighborhood schools and against the use of busing.

The committees reported back to Judge Hand in March 1983 that they were unable to develop a plan to end desegregation. As committee Chairman Bobby Shrum told the *Mobile Register:*

I won't call another meeting of the special committee or the steering committee unless ordered to do so by Judge Hand Perhaps the court will be able to get a feel of what the community wants from the recordings . . . I'll call the judge and tell him what happened and I guess he'll decide where we go from here. ⁴⁴

Shrum added that "the closer we got to the end, the more I doubted we would agree on a plan . . . I kept hearing them all say 'Don't mess with my kids' and 'Don't mess with my school."⁴⁵ After a year and nearly \$40,000 spent on consultants and other expenses, the committees did not succeed in developing a desegregation plan. *Birdie Mae Davis* was no closer to resolution.

⁴² "Should these children be bussed?," *Azalea City News*, 27 January 1983.

⁴³ "School plan is rejected," *Mobile Register*, 18 March 1983.

^{44 &}quot;School plan is rejected," *Mobile Register*, 18 March 1983.

⁴⁵ "School plan is rejected," *Mobile Register*, 18 March 1983.

The failure of the committees to develop a plan demonstrated that no consensus about the future of school desegregation existed within the community, although the division was not purely a racial one. School desegregation remained a difficult policy to discuss and enforce due to many different variables. The community committees made clear that many African American citizens lack citizens did not want to continue have their schools closed and be bused for racial balance. And white citizens continued to support neighborhood schools. For a desegregation plan to be accepted, it would have to appeal to many segments of society, because it seemed that any plan would upset some segment of the population. And massive busing, school closings, and student reassignments seemed to have upset a majority of the population, the majority of citizens white and black, would not tolerate a desegregation plan that relied on reassignment.

Following the vote rejecting the steering committee's plan, Mayor Smith presented a plan calling for the establishment of neighborhood schools in Mobile. This motion was rejected by a vote of 43 to 32. ⁴⁶ After the decision rejecting the work of the committee, Charles Porter noted that "The public school desegregation negotiations ended up just about where we predicted – in the hands of the court." ⁴⁷

Dr. Joseph Newman, professor of Education at the University of South Alabama, reinforced this perspective in 1992 when he told the *Register* that "it's easy to blame community leaders . . . but my feeling is the ordinary working people of Mobile were just

⁴⁶ "School plan is rejected," *Mobile Register*, 18 March 1983.

⁴⁷ "School Desegregation," *Inner City News*, 26 March 1983.

as entrenched in opposition to desegregation and just as slow to accept it."⁴⁸ Newman continued, "I heard a lot of people say Mobile insists on shooting itself in the foot. Just when you think the time for turnaround is here, the community will find one more way to hold itself back."⁴⁹

Move to Split the System into County/City Systems

The story of school desegregation in Mobile took an interesting turn in March 1982. State Representative Taylor Harper presented a bill to the Alabama Legislature for a popular referendum on a dual school system for Mobile: one for the county and one for the city. Harper explained that "the bill has come about because the Mobile County school system is entirely too big and is almost to the point of being unmanageable." He stated that as the population of the county had moved west and south, the school system's construction had not matched the pace of growth. One woman, speaking in favor of the bill from Semmes, accused the school board of not being attentive to the needs of the county. Another woman from Irvington concluded that "we the citizens of the Irvington area feel we are being cheated out of a full education for our children and I am in favor of this new system . . . We are tired of having our children treated like stepchildren of the Mobile County School system." As the *Mobile Beacon* pointed out, it would have been difficult to miss the racial overtones of the proposal: "If the bill was

⁴⁸ "Opposition to desegregation started system's decline," *Mobile Register*, 27 December 1992.

⁴⁹ "Opposition to desegregation started system's decline," *Mobile Register*, 27 December 1992.

⁵⁰ "Annexation, school hearings attract public," *Mobile Press Register*, 27 March 1982.

⁵¹ "Hearing for a proposed two school system draws mixed reactions," *Mobile Beacon*, 2 April 1982.

approved blacks would make up 70 percent of the student as population in the city system and whites only 30 percent, whereas the black/white ratio would be opposite in the county."⁵²

Similar divisions of predominantly white suburban school systems and predominantly black urban school systems existed throughout the United States.

Typically, school systems that encompassed entire counties or metro areas experienced more desegregation than areas where the suburban school systems were separate from the urban school systems. In *The Silent Majority*, Matthew Lassiter makes one of the starkest comparisons between the types of systems. He demonstrates that Charlotte, North Carolina's county wide system gained a reputation for being an area in which school desegregation had created racially mixed schools. Charlotte's desegregation can be seen as a success when compared to Atlanta, Georgia, where a plethora of suburban school systems facilitated substantial white flight from Atlanta city schools during the era of school desegregation. Mobile's countywide system could be viewed as a strength in maintaining the stability of the school system and encouraging integration. However, as Lassiter points out, "in Mobile, a combination of a minimalist HEW formula and an obstructionist federal judge produced the only other metropolitan district with a high

⁵² "Hearing for a proposed two school system draws mixed reactions," *Mobile Beacon*, 2 April 1982.

⁵³ Kevin Kruse, *White Flight: Atlanta and the Making of Modern Conservatism* (Princeton: Princeton University Press, 2005); Matthew Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton: Princeton University Press, 2006), 279.

degree of racial segregation, although the location of most new suburban developments within the expansive county boundaries limited overall white flight."⁵⁴

Mark A. Smylie, an expert from Vanderbilt University, released a report that he compiled in July 1983. He found that the Mobile County school system in 1983 was more segregated than it was in 1971. Smylie argued that "the 1971 desegregation plan significantly reduced segregation in a number of schools in the district, but left many others racially isolated. Since implementation, the district has become more segregated than in 1971-72, but not as segregated as before the plan was implemented."55 The Register used the report as ammunition to attack school desegregation. The editors argued that Smylie's report "provides further proof that busing is not a remedy for segregation and should be abandoned as a disastrous experiment." Taking the idea beyond Mobile, the editors opined that "the same results can be obtained anywhere in the country where would-be social engineers have tried to achieve their goals through busing. It won't work . . . and it is cost prohibitive." As the editorial continued, "not only has the program failed in its stated purpose of integration, but the educational accomplishments of students during most of the same period have also declined."⁵⁶ Through the meetings of the community committees, citizens emphatically denounced busing as the means to

⁵⁴ Lassiter, 279. The plan implemented in 1971 was created under Judge Dan Thomas. Albert Foley comments (203) that Judge Hand's views on school desegregation were not that different from Judge Thomas's. While the 1971 agreement called for massive busing, it was not the largest, or most dramatic reassignment of students on record. Part of this is due to the fact that the city of Mobile is located on Mobile Bay, the eastern border of the county. Perhaps if the city were more centrally located in the county it would make more sense to bus more students. However, the distance from the city center to some outlying communities, for example Citronelle thirty-five miles away, seems difficult to imagine.

^{55 &}quot;Schools said more segregated now," *Mobile Press*, 19 July 1983.

⁵⁶ "New evidence in: busing a failure," *Mobile Register*, 22 July 1983.

racially balance schools. However, white parents were not the only ones to criticize busing, black citizens also posed strong resistance to the continuation of desegregation policies that relied on the abandonment of previously all black schools and then reassigning the students to schools miles from their neighborhoods and their communities. Despite the work of the community committees, *Birdie Mae Davis* remained far from resolution.

CHAPTER THREE

SCHOOL DESEGREGATION LITIGATION 1983 – 1988

As the community committees failed to develop an acceptable desegregation remedy, the case returned to litigation in 1983. Judge Hand ordered hearings to commence in October 1983 to determine whether the MCPSS had achieved unitary status. The main point of contention during the hearings centered on whether or not the school board had achieved desegregation under the 1971 agreement. The plaintiffs argued that the school system had resegregated over time. The school board countered with evidence and witnesses testifying that the school district had achieved the goals of desegregation as outlined in the 1971 agreement. At the conclusion of testimony, Hand commented that "It's been entertaining listening to academe [sic] who can't agree on anything. But you expect the court to agree on something."²

The *Birdie Mae Davis* case appeared no closer to resolution at the end of 1983 than it had in 1963, 1971, or 1974. Through the community committees, both black and white citizens had expressed a desire for neighborhood schools and an aversion to forced

¹ For more on the hearings see "Birdie Mae Davis hearings begin," *Mobile Register*, 4 October 1983, "Clardy says schools not resegregation," *Mobile Register*, 5 October 1983, "Desegregation link to better schools eyed," *Mobile Register*, 6 October 1983, "School Achievement gap narrowing," *Mobile Register*, 7 October 1983, and "Birdie Mae Davis hearing over; early ruling unlikely," *Mobile Press Register*, 8 October 1983.

² "Birdie Mae Davis hearing over; early ruling unlikely," *Mobile Press Register*, 8 October 1983.

busing. Yet, the plaintiffs and the defendants maintained starkly divergent views of the state of Mobile schools. The case returned to Judge Hand to await his ruling.

The next four years witnessed a flurry of activity. Following the hearings, Judge Hand decided that the school district was not yet unitary. Even though he had expressed in 1978 that he thought the schools were desegregated, he knew that appellate judges may not have the same view. However, Hand remained reluctant to offer a ruling or provide direction to the school board. Once again he hoped a resolution would come from the community and not from the federal court. Acknowledging that "serious questions" remained about the case, Judge Hand appointed a 'special master,' attorney and constitutional law professor from the University of Texas, Lino W. Graglia, in hopes of finding a resolution to the case.³

Hand invested Graglia with the power to meet with both sides of the litigation, to recommend evidence needed to help determine either the duality or the unity of the school system, and to file with the court "recommendations bearing upon appropriate remedies, if any are necessary, in order to do justice." The plaintiffs requested that the court disqualify Lino Graglia because of what they viewed as his bias. 5 Graglia criticized

³ Hand pronounced that "This case is exceptional in its complexity and length . . . It has required vast sums of money, substantial shifting of personnel and students, and has left this community in a perpetual state of uncertainty. It is within this context that the court, in hopes of bringing justice to the plaintiffs, peace to the community and stability to the school system seeks outside help." "Hand moves to settle schools suit," *Mobile Register*, 24 May 1984. In 1984, forty-three of the system's eighty-seven campuses were racially identifiable. *Birdie Mae Davis v. Board of Commissioners, Mobile County*, legal files, Box 19, United States District Court Southern District of Alabama, Mobile, Alabama. Semi-annual Federal Court Report filed, 1 December 1984. See APPENDIX FOUR, TABLE FOUR.

⁴ "Hand moves to settle schools suit," *Mobile Register*, 24 May 1984.

⁵ Lino A. Graglia, *Disaster by Decree: The Supreme Court Decisions on Race and the Schools* (Ithaca: Cornell University Press, 1976).

desegregation practices such as forced busing.⁶ In fact, he wrote a book in 1976, *Disaster by Decree*.⁷ Hand responded to this request by stating:

Attempts to settle this cause have generally been fruitless . . . After all of this time, expense and effort, it would appear that this case is not much closer to resolution than when originally filed in 1963 . . . the court feels compelled to break the stalemate . . . It is the court's hope that the parties will negotiate reasonably and in good faith in order to finally set this case upon a course which will result in a fair resolution of all issues . . . the parties should realize that the court intends to fully support the special master in his efforts to resolve the remaining issues in this litigation. 8

In response to the appointment of Graglia, the plaintiffs filed an appeal with the Eleventh Circuit Court questioning his impartiality. Not only did the plaintiffs appeal Graglia's appointment, they also questioned the merit of all the issues discussed during the October 1983 hearings. School board attorney Robert Campbell warned against the "far reaching ramifications" of the appeal:

If Blacksher [the plaintiff's attorney] was just appealing the appointment of the special master, that could be dealt with in a relatively easy manner because the issue is simple . . . By appealing the merits of all the issues, the plaintiffs' attorneys are asking the 11^{th} Circuit of Appeals to insert itself into not only the liability issue in this case, but also the remedy issues . . . The remedy issues are the more serious matters which have a more practical impact. ¹⁰

⁶ Raymond Wolters, *Right Turn: William Bradford Reynolds, the Reagan Administration, and Black Civil Rights* (New Brunswick: Transaction Publishers, 1996), 194.

⁷ Lino A. Graglia, *Disaster by Decree: The Supreme Court Decisions on Race and the Schools* (Ithaca: Cornell University Press, 1976).

⁸ "Court keeps expert in segregation case," *Mobile Register*, 12 September 1984.

⁹ In October 1981 the Fifth Circuit divided into the Fifth Circuit and the Eleventh Circuit. The Eleventh Circuit is based in Atlanta, Georgia. The Eleventh Circuit is comprised of Alabama, Florida, and Georgia.

¹⁰ "School board chief says case may go to U.S. Supreme Court," *Mobile Press*, 4 October 1984.

Campbell further explained that "you're putting the appellate court cart before the district court horse. I think the district court ought to have the opportunity to invoke a remedy if one is appropriate prior to the appellate court's dealing with the issue." Campbell noted that all parties had been successful in negotiating several issues in the case. He interpreted Blacksher's appeal as signaling that the plaintiffs sought a "winner-take-all approach" which would be "dangerous to our community for both sides." Clearly, the school board feared a ruling from the Federal Circuit Court that could unsettle the community's control over school desegregation. Commissioner Dr. Robert W. Gilliard commented that:

I would rather have seen a mutually accepted negotiation settlement arrived at with justice . . . On the other hand, this has just been sitting on it for a long time . . I just hope this does not have detrimental effect on the school system . . . If it does anything I hope it will accelerate the desegregation of schools. ¹³

The school board responded to this appeal by filing a motion asking for the dismissal of the appeal.

The plaintiffs, defendants, and the special master held a meeting in January 1985.

One of the main points of disagreement during the meeting was the nature of the case's resolution: should the resolution be final or left open-ended? Graglia and the Justice Department felt that an agreement to end the case should be final. Plaintiff's attorney James Blacksher desired an open-ended agreement that would allow for the continued

¹¹ "Unresolved: Birdie Mae Davis suit still alive," *Mobile Register*, 11 January 1985.

¹² "School board chief says case may go to U.S. Supreme Court," *Mobile Press*, 4 October 1984.

¹³ "School board chief says case may go to U.S. Supreme Court," *Mobile Press*, 4 October 1984.

involvement of the federal government. Campbell believed that the best route would be to develop an agreement and allow the case to end. He described the plaintiff's approach to the case as the "type of mentality that is a prescription for perpetuity in this case . . . I cannot suggest that to the school board. I think the case would go on another 21 years under those guidelines." Campbell explained that Blacksher sought to establish a team of experts to come and study the levels of achievement between black and white students. Campbell expressed that "I cannot agree to a professional team coming in here and evaluating us to infinity to do something that I don't feel we are constitutionally compelled to do." 15

James Blacksher explained the plaintiffs' perspective by noting that "we don't want to keep it in courts, but we don't want to say the case is over until we achieve the relief we seek." Moreover, he added, "somewhere in between there it seems like reasonable people ought to be able to work out guidelines to live with, even if you don't get everything you want."

Prior to meeting with the all parties in the case, Graglia spoke with the school board, advising that "continued court supervision is not a plus for this system . . . It's obviously desirable that the system be run by school authorities, to the extent possible." He held that money being diverted towards "costly litigation could be better spent on education. 'Mobile is known as the mecca of constitutional litigation.'" Graglia told the

¹⁴ "Unresolved: Birdie Mae Davis suit still alive," *Mobile Register*, 11 January 1985.

¹⁵ "Unresolved: Birdie Mae Davis suit still alive," *Mobile Register*, 11 January 1985.

¹⁶ "Unresolved: Birdie Mae Davis suit still alive," *Mobile Register*, 11 January 1985.

¹⁷ "Unresolved: Birdie Mae Davis suit still alive," *Mobile Register*, 11 January 1985.

board that the plaintiffs hoped to use the suit as a way for "the federal court to exert pressure on the school system." Commissioner Robert Gilliard believed that the board shared a responsibility for the suit: "It's been my feeling that this Birdie Mae Davis case could have been settled if a majority of the board had wanted."¹⁸

The plaintiffs submitted a proposed consent decree to resolve the litigation in January 1984. The *Mobile Press Register* ran a copy of the report, which caused an uproar in the community. The plaintiffs' plan called for the reassignment of students. State representative Mike Box of Chickasaw pointed out that moving students via busing would not be a welcome advancement in Mobile. While busing was started "to equalize tax dollars," the product had been "unrest and tension." Box praised the school board noting that "we've built more schools, provided advanced programs, and are spending tax dollars on an equal basis. The board is responsible for tremendous gains in public education." Commissioner Norman Cox responded by Box stating that "busing is nothing new . . . We've bused to maintain discrimination and it's just as right for integration as discrimination." In response to the plaintiffs' plan, the board ordered its attorney to develop a counterproposal. Campbell knew the school system's next move in the desegregation suit could be a critical one: "If we could come back to a positive proposal then they could do something with that. A negative response could not be beneficial to either party."¹⁹

¹⁸ "Meeting today might lead to end of Birdie Mae Davis," *Mobile Register*, 10 January 1985.

¹⁹ "Desegregation compromise in making?," *Mobile Register*, 26 January 1984.

The school system submitted a compromise plan to all parties in hopes of ending the case in May of 1984. If the plaintiffs or the court did not agree to the plan, the court could offer a remedy to the remaining issues. The plan would call for the closing of certain schools, development of magnet programs, and "increasing parent participation in their child's education and building new schools." Robert Campbell cautioned against court ordered remedies that could foster:

Drastic changes which might cause . . . loss of racial stability we've achieved so far in the system, it could have the material effect on the board's decision to appeal or not . . . Going and putting kids in a brown paper bag and shaking them up right now could have a dramatic effect. ²⁰

Campbell avowed that the board's proposal would be "a good faith attempt to rectify some of their complaints." He continued, "if they're really trying to improve the quality of education, I would hope they would seriously consider the proposal even if it is not everything they want." Once again, Campbell stressed the importance of the community finding a mutually acceptable agreement, pointing out that "white flight" had caused one race schools in the system: "No one wins in a winner-take-all desegregation case . . . fighting the cases in court tears up the community, causes turmoil and results in white flight . . . It's best to resolve as much as you can by compromise." 21

The Eleventh Circuit Court of Appeals rejected the plaintiffs' appeal of Graglia's appointment and all merits of the case in February 1985. Commenting on the appeal, Campbell explained that "I filed the motion to dismiss the plaintiff's appeal on Oct. 22,

²⁰ "Mobile school desegregation suit resolution near," *Mobile Press*, 17 May 1984.

²¹ "Mobile school desegregation suit resolution near," *Mobile Press*, 17 May 1984.

1984, on the grounds that U.S. District Judge W. Brevard Hand's order was not a final decision or judgment from which the plaintiffs could appeal." Campbell saw the Eleventh Circuit's decision as a positive step for negotiations: "The important benefit of this is the case is back in Judge Hand's hands, where it should be at this stage. We can again conduct more meaningful negotiations . . . I anticipate some positive things occurring with Birdie Mae." ²²

The United States Justice Department of argued in September 1985 that the school system had failed to achieve a unitary status and that the system should submit a plan to establish it. Commissioner Dr. Robert Gilliard observed that "it stands out like a sore thumb that the white majority of school board members have not said or done anything to encourage or require that the administration continue to make the effort to make the school system unitary." Gilliard continued that "this gives credence to statements . . . [and] complaints I have been making at the board table, most of which have not been supported by the majority of board members."

Commissioner Steve Belk viewed the action by the Justice Department as a positive one if it could stimulate activity in the case, "my initial reaction is, if it's a breakthrough and will get us on the right track to resolving that suit, maybe it is a blessing in disguise because that suit is holding up this school system from moving forward."²⁵ In a brief entered in federal court, the Justice Department argued that the

²² "Appeal of order denied in desegregation case," *Mobile Register*, 26 February 1985.

²³ "School integration failure cited," *Mobile Register*, 26 September 1985.

²⁴ "School integration failure cited," *Mobile Register*, 26 September 1985.

²⁵ "School integration failure cited," *Mobile Register*, 26 September 1985.

school system was not unitary, though it could have achieved unitary status had the officials taken steps in good faith to meet the projections of the 1971 agreement. The brief criticized the "school officials failure to implement fully and in good faith the requirements of the plan . . . Indeed, the school district's activities are similar to those which in other cases have been found to be indicative of segregative intent, thus constituting a new constitutional violation." The brief continued:

As a result of this failure to meet projections, a significant proportion of the black students enrolled in metropolitan area schools in 1984 were isolated in identifiably black schools . . . the overall isolation of blacks has increased to nearly 69 percent (of the black student population) because of the increase in other identifiably black schools.

The Justice Department further found that the school system continued to witness a rise in the number of black students in racially isolated schools. It described the school board as creating "the anomalous situation of black students being transported to racially identifiable blacks schools purportedly to promote desegregation. Yet, despite this segregative result, the defendants have never taken steps to modify the 1971 plan." The Justice Department urged that "the court should require defendants to submit a remedial plan designed to accomplish this goal [attaining unitary status] promptly." ²⁶

The public displayed signs of unrest towards the lingering desegregation suit in December 1985. A bus driver, Erline Jossey, initiated a petition from citizens, both black and white, calling for an end to *Birdie Mae Davis*. She told the *Register* that "we're just hoping it will do some good, because we are tired of those students going to school in portables. Discrimination is no longer black and white, it's having to go to school in

²⁶ "School integration failure cited," Mobile Register, 26 September 1985.

those portables."²⁷ School Board President Judy McCain interpreted the petition as a positive sign: "It's good the community is becoming involved in trying to make all the people aware they are very concerned and want this thing settled. This is not only affecting one race, but it's affecting the whole community." As McCain continued, "I don't know if it would have any effect on Judge Hand setting up a meeting, but I would like to see it happen."²⁸ McCain also answered rumors that had apparently been circulating. She stated, "I am tired of the second hand information. I think it's time we get directly involved. We're being blamed at the school board for not settling the case. If we're getting blamed I want to get right in the middle of it." ²⁹

The growing sense of dissatisfaction over the ongoing busing in Mobile County became evident in February 1986 as the editors of the *Mobile Press Register* urged the school board to end "cross-town busing for desegregation" as it had "proven to be a miserable failure in Mobile and everywhere else it has been tried. Not only has it been an unworkable tool of social experimentation, the cost has been astronomical." The editors urged the board to "heed the advice of Assistant Attorney General William Bradford Reynolds who . . . encouraged all systems in our predicament to 'lift the yoke' of cross-town busing."

²⁷ "Petition asks for decision in school suit," *Mobile Register*, 3 December 1985; Portables were the temporary classroom buildings that were placed at many campuses to help alleviate overcrowding. The portable classrooms were necessary because of the lack of school construction under the *Birdie Mae Davis* case.

²⁸ "Petition asks for decision in school suit," *Mobile Register*, 3 December 1985.

²⁹ "Petition asks for decision in school suit," *Mobile Register*, 3 December 1985.

³⁰ "Should explore end of busing," *Mobile Press Register*, 23 February 1986.

Judge William Brevard Hand frequently received complaints from parent's whose children had been reassigned. Many citizens viewed the changes ordered by the school board to be a direct result of Judge Hand's orders. Hand deflected these accusations and redirected citizens to the school board. Frequently parents complained about their children being reassigned to inferior schools. In one instance, Hand responded that:

The education of the children in this county is a matter or should be a matter of concern to all of us. That a school in Mobile does or does not provide a stable platform for the learning experience is a problem of the School Board and one that they cannot duck. Each school should provide the same equal opportunity for learning that any other school provides and if it does not, then some students are being cheated. If you have problems as outlined, I think you should take them up with the members of the School Board.³¹

In the same month, Mrs. Betty Jean Howell wrote Hand protesting the reassignment of her daughters from B.C. Rain to Williamson. As she stated "my daughters will not go to Williamson High School due to the very bad neighborhood and drug areas." She continued, "Where has our freedom gone?" She described what she viewed to be the authoritarian state that Judge Hand operated: "This is a dictatorship when one tells your child he has to go to a certain school." She added, "The school need [sic] to get back to educating our children instead of the courts telling us where to go and where we can prayer [sic]. This country was founded on God and freedom. Where has all this gone Most of the blacks don't want us in their school. Why does [sic] the courts want to build tention [sic] in our schools." She closed her letter with a postscript: "The Blacks have the

³¹ Brevard Hand to Mr. and Mrs. Grant Anderson, 18 July 1986, *Birdie Mae Davis v. Board of Commissioners*, *Mobile County* legal files, Box 19, Folder petitions and other correspondence which address transfer of students and faculty in Court's order of 27 March 1986, United States District Court Southern District of Alabama, Mobile, Alabama.

freedom to go where they want to go."³² Hand responded that the school board managed the school system and "it is up to the School Board to see to it that discipline is maintained in the schools and that those attending the schools will have an equal opportunity to learn. My suggestion is that your complaint is in reality with the School Board and not this court."³³ Hand minimized the court's involvement, emphasizing that he did not create the law he merely interpreted it.

On 27 March 1986, twenty three years after the case's filing, Hand ruled the school system had achieved desegregation in respect to all of the 'Green Factors,' except two: student and principal assignment. Judge Hand mandated further relief was necessary for the school system to achieve unitary status. In his seventy-four page ruling Hand gave the parties sixty days to develop a proposal that remedied the remaining problems in the school system including the attendance lines for Satsuma and Vigor High School, proposals for magnet programs, including enhancing that at LeFlore's, principal assignments, and other issues. A Commissioner Steve Belk viewed Judge Hand's motion as "an opportunity to put an end to something that has been with us entirely too long."

³² Mrs. Betty Jean Howell, to Brevard Hand, 4 July 1986, *Birdie Mae Davis v. Board of Commissioners*, *Mobile County* legal files, Box 19, Folder petitions and other correspondence which address transfer of students and faculty in Court's order of 27 March 1986, United States District Court Southern District of Alabama, Mobile, Alabama.

³³ Brevard Hand to Mrs. Betty Jean Howell, 18 July 1986, *Birdie Mae Davis v. Board of Commissioners*, *Mobile County* legal files, Box 19, Folder petitions and other correspondence which address transfer of students and faculty in Court's order of 27 March 1986, United States District Court Southern District of Alabama, Mobile, Alabama.

³⁴ Birdie Mae Davis v. Board of School Commissioners, Legal Files, Box 3, Folder 24, United States District Court Southern District of Alabama, Mobile, Alabama. "Racial Mixing in schools said incomplete," *Mobile Register*, 28 March 1986.

³⁵ "Davis case settlement appears near," *Mobile Press Register*, 12 April 1986.

Judge Hand pressured both sides to cooperate and resolve the case in June 1986. The school board again submitted a proposal to end the case. Judge Hand rejected it as "woefully inadequate." The school board disagreed. Taking note of Judge Hand's orders to negotiate with all the parties to find an agreement, Campbell affirmed that "we will continue to negotiate with all the parties . . . we are making an effort to come up with a mutual agreement." The school board had failed to develop a plan that the court could accept. However, Judge Hand once again urged negotiation and settlement – not a ruling from him on how to settle the case.

The board's response to Judge Hand's ruling lacked uniformity. Commissioner Gilliard knew that the school board had not developed a plan that would satisfy the courts. In fact he stated that "I expressed this on the record, that it (the board) did not develop a plan that would ensure that blacks would not have to carry the total burden of desegregation." He pointed out that the board's plan called for busing black students from the predominantly black area of Vigor High School area to predominantly white

³⁶ "Judge wants Birdie Mae Davis settled by end of summer," *Mobile Register*, 24 June 1986. *Birdie Mae Davis v. Board of School Commissioners*, Legal Files, Box 3, Folder 25, United States District Court Southern District of Alabama, Mobile, Alabama; Hand criticized several points including describing the hardship transfer policy as "meaningless," the arguments against building the Eight Mile School "ma[de] a mockery" of the School Board's earlier proposal," the board's commitment to the magnet program at LeFlore was "no more than whitewash," integration at Burroughs Elementary was "tokenism," and that the School Board had invested little effort towards enforcing school attendance zones.

³⁷ Birdie Mae Davis v. Board of School Commissioners, Legal Files, Box 3, Folder 25, United States District Court Southern District of Alabama, Mobile, Alabama. "Judge wants Birdie Mae Davis settled by end of summer," *Mobile Register*, 24 June, 1986.

³⁸ "Judge wants Birdie Mae Davis settled by end of summer," *Mobile Register*, 24 June, 1986.

Satsuma while white students were not reassigned to Vigor. He also concluded that the board "did not deal effectively with the Blount (High School) situation."³⁹

Several issues remained unresolved in the summer of 1986. Judge Hand ordered all parties to cooperate to bring about a resolution and noted that Mobile was the only county in the Southern District of Alabama still in federal court. Hand proclaimed that "I intend to do my part in getting it out. We will get this case out of this court and we will get it out by the end of this summer."

School desegregation across the country witnessed a major event in 1986 with a federal decision in the *Riddick v. School Board of the City of Norfolk, Virginia.*⁴¹ The Fourth Circuit Court of Appeals ruled that a school district could dismantle its desegregation plan once it had been ruled unitary. The ruling represented the federal government's waning interest in school desegregation and allowed for the hastening of a movement known as school resegregation.⁴² Over the fifteen years that Norfolk had instituted busing as a means to achieve racial integration, the system had gone from sixty percent white to fifty-nine percent black. The appellate court ruled (and its decision was upheld by the United States Supreme Court) that busing had been a factor in white flight and that maintaining and attracting whites to the system could be a legitimate goal of the desegregation plan. The *Register* interpreted the ruling in the Norfolk case as a harbinger

³⁹ "Hand rejects board's reply in school suit," *Mobile Register*, 18 June 1986.

⁴⁰ "Judge wants Birdie Mae Davis settled by end of summer," *Mobile Register*, 24 June 1986.

⁴¹ Riddick v. School Board of City of Norfolk, Virginia, 784 F. 2d 521(4th Cir. 1986)

⁴² Jeffrey Raffell, *Historical Dictionary of School Segregation and Desegregation* (Westport: Greenwood Press, 1998), 219-220, 217.

for the Mobile's approach to school desegregation. As *Register* opined, "busing to achieve desegregation has been a disastrous and costly social engineering experiment here and everywhere it has been tried. It is a hindrance to the education process." The *Register* viewed the Norfolk ruling as "an endorsement for the sensible program of freedom of choice and neighborhood schools." While noting that busing can serve a purpose, the *Register* interpreted the Court's ruling as meaning that "once the illegal condition has been corrected, the busing may be discontinued," and that "the long-term carting of children all over town in pursuit of racial balance does more harm than good."⁴³

The *Press's* editorial page printed a week after the Supreme Court's ruling in Norfolk case stated that "ending federal court supervision of the public schools is important to the progress of the community." The editors hoped that the board of the next twenty-three years would do a better job than the board had done in the previous two and half decades. The *Press* urged the board to "guarantee the same quality education to every student in the school system. Every member of the community has a stake in seeing that done. Otherwise, the community will be impoverished by its ignorance." The editors called for inter-racial communication and the improvement of education because "the alternative is a socially and economically backward community incapable of solving its problems."

⁴³ "We should seek busing relief," *Mobile Register*, 6 November 1986; In March 1997, the Mobile Register compiled a report that just the legal fees in the *Davis* case totaled over \$800,000. "Cost of Case? Just legal fees top \$800,000," *Mobile Register*, 1 March 1997. The article went on to state that "the broader cost of 34 years of busing, school building and repairs, curriculum improvements and social upheaval would be an accountant's nightmare."

^{44 &}quot;Resolve to End Suit Applauded," *Mobile Press*, 25 June 1986.

The parties agreed to meet in July 1986 to discuss the remaining issues of the desegregation case. The meeting was held over two days, and included Robert Campbell, James Blacksher, and Joseph Rich, the deputy chief of the educational opportunities section of the civil rights division of the Justice Department. The meeting addressed issues in Judge Hand's 27 March order. Campbell looked forward to the meeting telling the *Register* that "we can basically iron out, I believe, the remaining issues." In fact, Campbell declared, "the Justice Department has asked us also to give a detailed statement on our financial difficulty in order to determine what means are available to implement the court order." Campbell explained the system's financial constraints. "I'm going to bring to light some very cold, chilling facts. If there is no more money, there is no more money and that's a simple fact people are just going to have to understand."

The school board filed a new desegregation plan on 11 July 1986 as a revision of the plan filed earlier in the year. ⁴⁷ Campbell recognized that the board's "best shot" would not do enough to end the case: "Simply because we abide by court orders doesn't mean the plaintiffs won't appeal the case anyway . . . I think the court will be happy with this proposal. I can't say this will end the case." The school board approved the plan, by a three-to-two vote. The U.S. Department of Justice and the plaintiffs agreed to the plan. Commissioner Norman Cox voted against the agreement explaining that "I believe it was weaker in what the school system should do to get the system unitary. I'm sure it will be

⁴⁵ "Meet scheduled to try to settle school case," *Mobile Register*, 2 July 1986.

⁴⁶ "Meet Scheduled to try to settle School Case," *Mobile Register*, 2 July 1986; According to the *Mobile Register* the School System faced a deficit of \$9.5 million for the 1986 -1987 school year. This includes five percent proration that Governor George Wallace announced in June.

⁴⁷ "School Board files desegregation plan," *Mobile Press Register*, 12 July 1986.

rejected by Judge Hand." Board member Judy McCain countered, stating that "I feel like we made a good faith effort." These contrasting opinions demonstrated the school board members' consistently inharmonious views.

Saraland Residents protest against busing to Vigor High School

The cry for neighborhood schools arose again in April 1986. Saraland, a municipality north of Mobile, adopted a resolution against a plan that ordered students bused from Satsuma High School to Vigor High School in Prichard. The mayor of Saraland expressed his feeling, and that of his constituents, about the forced busing offered as a remedy in the *Birdie Mae Davis* case: "We wholeheartedly oppose the plan by the Mobile County school board and hope that others in the area will write the schools to let them know that they, too, are opposed to the idea." This story represents the intense feelings against forced busing, demonstrating the importance of a desegregation plan that everyone in the community supported.

After a conference of 8 August 1986, the court entered an order in which the parties were to submit a mutually agreed upon policy relative to majority-minority transfers and hardship transfers, as well as Eight Mile School. School Board President Judy McCain declared at the meeting that Judge Hand "indicated we were moving in the right direction" and he told the board they "knew the law and should follow it." ⁵⁰ In

⁴⁸ "Board's 'best shot' probably won't end case," *Mobile Register*, 10 July 1986.

⁴⁹ "Saraland opposes busing plan," *Mobile Register*, 11 April 1986.

⁵⁰ "Hand, Davis case participants meet," *Mobile Press Register*, 10 August 1986.

September, Judge Hand approved the board's changes in school transfers and attendance guidelines.⁵¹

Bradford Reynolds Travels to Mobile

Assistant United States Attorney General William Bradford Reynolds traveled to Mobile in January 1987. In particular, Reynolds visited Mobile to assess the *Birdie Mae Davis* case, specifically the issues surrounding Blount High School. As Reynolds told Blount students:

I didn't come down here with any answer or preconceived notions of possible answers . . . I came down here because I have had several conversations with the mayor and others who were interested in the matter. It was clear to me that there is a lot of energy in the Prichard community to resolve the continuing problem. ⁵²

By visiting the community, Reynolds hoped to gain a better sense of the issues that confronted local communities.⁵³ He stated that "We need to come up with better ideas than saying we are going to put a lot of students on buses going to places that promise

⁵¹ "Hand adopts school transfer, attendance guidelines, *Mobile Press Register*, 6 September 1986.

^{52 &}quot;Blount students are told better ideas needed to solve desegregation issue," Mobile Register, 9 January 1987.

^{53 &}quot;Revnolds seeks info on Davis case," *Mobile Register*, 8 January 1987. "I would like to look at both sides to see if the situation can be resolved . . . This is the most drawn out case we've had and I've heard a lot of suggestions on how we can resolve it. But I want to talk with students at Blount and see what the situation is there.... The case is not easy because there are many complex issues that have come into play. We are at a stage where the court would like very much to conclude it as well as the community. We want to teach a point to assure the student body in the Prichard area the kind of education they should have. How we do that is the main reason I am in Mobile. Everyone is focused on the case now and there are different ideas, but no meeting of the minds . . . You can talk about these type things back in Washington, but if you don't have a real appreciation for the real problems and feelings of the people in the community, then you can't be as helpful. You have to listen and learn a little bit . . . Basically, I need to get a sense from all the different parties involved in this situation . . . One of the things I think we tend to do too often is talk over the head of the students. I don't think the students have all of the answers anymore than the teachers or the federal government. But collectively, if everybody starts listening attentively and feeling that they are a part of it, then an energy can be created within the community that can tear through some of the barriers that are out there . . . I think we are at a point now where we all should close ranks and figure out some way to resolve the problem . . . I know that everyone is frustrated because there is no easy way to solve the problem."

very little." Reynolds focused on Blount because as he saw it as "one of the focal points in trying to figure out how to settle the whole case that remains unresolvable . . . How we do that is the main reason I am in Mobile . . . Everyone is focused on the case now and there are different ideas, but no meeting of the minds."⁵⁴

The United States' Justice Department approach to school desegregation changed over the course of the late twentieth century. Initially, Lyndon B. Johnson's Justice Department aggressively sought integrationist measures as his administration championed civil rights. A major shift in this policy came during the Richard Nixon's administration as Nixon attempted to forge a policy in accordance with the existing law and also maintaining neighborhood schools. This change ideology included the Nixon administration adopting "a colorblind platform of the antibusing movement as the formal policy of the executive branch." Nixon believed that busing violated the Constitution. He stated "there is a constitutional mandate that dual school systems and other forms of de jure segregation be eliminated totally." However, "de facto segregation, which exists in many [metropolitan] areas both North and South" were caused by housing patterns, not by law. The Nixon administration opposed busing and sought to protect citizens from forced busing, particularly suburban families.

⁵⁴ "Blount students are told better ideas needed to solve desegregation issue," *Mobile Register*, 9 January 1987; "Reynolds seeks info on Davis case," *Mobile Register*, 8 January 1987.

⁵⁵ Matthew Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton: Princeton University Press, 2006), 148.

⁵⁶ Lassiter, 158.

⁵⁷ Lassiter, 245.

desegregation policy by firing or reassigning many prominent holdovers in HEW from Johnson's administration such as Robert Finch and Leon Panetta.⁵⁸

The major shift from Johnson to Nixon in the Justice Department's approach to school desegregation continued in the 1980s with the Reagan administration. Assistant Attorney General William Bradford Reynolds served as the architect of Reagan's civil rights policy. ⁵⁹ In 1980, Reagan campaigned, "condemn[ing] the forced busing of school children to achieve arbitrary racial quotas . . . [and that busing] failed to improve the quality of education, while diverting funds from programs that could make the difference between success and failure for the poor, the disable, and minority children." ⁶⁰ In developing school desegregation under Reagan, Raymond Wolters points out that Reynolds had to keep two main points in mind: "massive middle-class flight from racially balanced integration and especially forced busing [and] the law set forth in *Green* and its progeny." Wolters continues,

Reynolds recognized that because of *Green*, it would not be possible to pursue color-blind policies. The law required affirmative steps to increase racial integration. However, because of widespread opposition to coercive integration, Reynolds argued that voluntary measures such as magnet schools would produce more actual integration than court-ordered busing.⁶¹

Community Support for the Resolution of the case

The staffs of the *Press* and *Register* again expressed their hopes for a timely resolution for *Birdie Mae Davis* in April 1987. An editorial in the *Press* referred to the

⁵⁸ Lassiter, 244.

⁵⁹ Lassiter, 324.

⁶⁰ Wolters, 307.

⁶¹ Wolters, 460.

23 year old case as an "embarrassment of this county" and urged the community to show "the federal court that its first priority is to guarantee the same quality education to every school in the system." The paper articulated that "this community is showing a new resolve to improve public education. The public is beginning to understand that Mobile cannot move ahead economically without a high quality education system." A few weeks later a similar editorial expressed the same sentiment: "We must get the school system out of the federal courts." The editorial pointed out the almost quarter century and the thousands of dollars that could have been spent on improving the school system, not fighting desegregation in the courts. In its examination of the desegregation suit, the *Press Register* blamed several culprits for the "drawn out state of affairs." The federal court which "has not insisted on a speedy resolution," the lawyers, "who prefer adversarial actions to compromise," the school board "whose previous administrations resisted the obvious need to end discrimination and segregation," and the public "who tolerated this state of affairs."

The paper noted, "in the last year, the Mobile community has shown a new spirit toward getting the Davis case resolved. The current school board and Barton Academy administration have shown imagination . . . to redress many of the grievances raised in the Davis suit and the companion Foster-Buskey lawsuit." The editorial board of the *Press Register* urged that the "community must make clear to the federal courts that its

⁶² "End lawsuit, get on with education," *Mobile Press*, 9 April 1987.

^{63 &}quot;Mrs. King comes home, suit unsettled," *Mobile Press Register*, 25 April 1987.

⁶⁴ "Mrs. King comes home, suit unsettled," *Mobile Press Register*, 25 April 1987. The Foster-Buskey lawsuit dealt with principal and school administration discrimination lawsuits.

first priority is to guarantee the same quality education to every student at every school in the system" and that "the school board should also show that its policies don't promote segregation and that it is on guard against discrimination in the location of new schools, allocations of resources, hiring of teachers, assignment of teachers and principals and so on." These moves could usher in "an era in which the blacks and whites of Mobile are united for the highest quality education of their children." A sense of cooperation appeared among the school board members that seems difficult to imagine during Dan Alexander's divisive days on the school board.

Concerned citizens in Mobile began urging the dismissal of the case. One of these citizens, Terri Banks, wrote to Judge Hand, stating that teachers and the school staff felt the case's burden:

Academy refers to the school system's central office. Barton Academy was the first public school in Alabama in 1836, almost two decades before the state of Alabama established public education in 1854. As the population grew, more campuses were constructed. Barton Academy contained the central offices so it became synonymous with the school system's bureaucracy. A major change, if for nothing more than symbolic value, occurred in November 1987 when the School Board elected Commissioner Robert Gilliard to serve as the president of the School Board. Gilliard and Norman Cox were the first two black school commissioners elected in 1978. Upon his election, Gilliard called for the support of the board and the community: "I think this is the only way we're going to demonstrate that 'All Together' slogan that we are calling for ourselves." The past president Judy McCain described the elections as "the beginning of a new era. We have a board that is not racially biased." "Board election symbolizes new attitudes," *Mobile Press*, 19 November 1987. Earlier in the year Superintendent called for unity within Mobile County, "Salter: Mobile community needs to become one again," *Mobile Register*, 19 January 1987.

⁶⁶ Pride, *The Political Use of Racial Narratives;* "Dr. Robert W. Gilliard," *Mobile Press Register*, 2 December 1990, Commissioner Gilliard, upon his retirement, recounted a story to the *Press Register* about an incident that brought about greater understanding between at least himself and some of the white members of the school board: "What really made the change in our relationship was when we went on the superintendent search. McCain, Belk, Cox and myself went to two school systems in Maryland . . . We had a terrible time with transportation. Planes were late and we didn't get where we were going on time. We had to make calls and what not. I think during that travel, I think McCain, Belk and myself began to understand each other better. We were thrown together in a common situation for a common cause. That brought about better communication."

I strongly feel that until the Birdie Mae Davis case is settled and the burden of all the paperwork from this case is lifted from the teachers and staff at our schools, we will continue to struggle each and every year to prove that we actually do have a good and viable school system. ⁶⁷

Banks urged Hand to dismiss the case, pointing out that he could help the youth of Mobile County: "you can do this for our children. Please do." Judge Hand's indicated that he shared similar views on the case: "I agree wholeheartedly that the Mobile County School System ought to be out of the courts and I can assure you that I am working diligently, though not successfully towards that end."

Judge Hand's responses to concerned citizens provide insight into the man who oversaw the case's final twenty-six years of litigation. Responding to a letter from Mrs. Grant Anderson, Hand expressed his perspective on school desegregation and the law:

The problems involving our schools are enormous and the education of our young is not to be trivialized by efforts at social engineering . . . It is quite important to me that the actions of this court in no way destroy educational opportunities, but I am also not so naive that I do not recognize that legal decrees paint with a broad brush and sometimes crush the innocent . . . I wish it were otherwise, for I feel that the basic problems of education are a state and local concern and not of the federal courts. But because of the development of the law, a cup has been presented to me that I will not pass. ⁷⁰

⁶⁷ Terri Banks, to Brevard Hand, 10 November 1987, *Birdie Mae Davis v. Board of Commissioners*, *Mobile County* legal files, Box 18, Miscellaneous Correspondence Folder, United States District Court Southern District of Alabama, Mobile, Alabama.

⁶⁸ Terri Banks, to Brevard Hand, 10 November 1987, *Birdie Mae Davis v. Board of Commissioners*, *Mobile County* legal files, Box 18, Miscellaneous Correspondence Folder, United States District Court Southern District of Alabama, Mobile, Alabama.

⁶⁹ Brevard Hand to Terri Banks, 30 November 1987, *Birdie Mae Davis v. Board of Commissioners*, *Mobile County* legal files, Box 18, Miscellaneous Correspondence Folder, United States District Court Southern District of Alabama, Mobile, Alabama.

⁷⁰ Brevard Hand to Mrs. Grant Anderson, 8 August 1986, Birdie, *Birdie Mae Davis v. Board of Commissioners*, *Mobile County* legal files, Box 18, Miscellaneous Correspondence Folder, United States District Court Southern District of Alabama, Mobile, Alabama; April 1986 witnessed an interruption to the trial and a call for Judge Hand to recuse himself from the trial. Judge Hand rejected the motion and retorted that there was no truth to the rumor that he had referred to plaintiff attorney Jim Blacksher as "a

The Return of Birdie Mae Davis King to Mobile

Birdie Mae Davis, who had moved to Birmingham (and married as Birdie Mae Davis King) returned to Mobile in April 1987 to speak at the Dearborn YMCA. At a press conference she expressed her disappointment in the case: "Certainly I am disappointed . . . It's a disappointment when people won't allow people to share equally in what should be a given right." She continued that the case's longevity produced a poor image of Mobile as a city that "is 'very behind the times." She urged the city "to put on a new thinking cap and think in terms of everybody being equal." She concluded, "I don't think black people will any longer sit by idly and let whites make decisions for them. Blacks are going to have a say so, unless our white counterparts open their minds, the case will never be settled." Commenting on the case overall she espoused, "It makes me feel good that the case gets the recognition that it does. It would make me feel better if pressure were put on the city of Mobile by other cities to resolve the case." The Mobile *Press* editors concurred with Mrs. King and proposed "once the Davis suit is settled, the city should invite Mrs. King to return once again for a celebration of a community united behind quality education for all its citizens."⁷²

disgrace to his race for representing civil rights litigants." The accusation came during a hearing on the nomination of future Alabama Senator Jefferson Sessions for a federal judgeship. However, J. Gerald Hebert, a trial attorney in the U.S. Department of Justice, had no evidence to back up his claim. Hand further expressed that the affidavit was grounded on language such as "Mr. Herbet 'has heard that' . . . This is tantamount to saying 'rumor has it,' or some other euphemism for pure, unbridled speculation;" "Hand denies charge, rejects motion that he recuse himself," *Mobile Press Register*, 19 April 1986.

^{71 &}quot;King disappointed suit unsettled," *Mobile Press Register*, 26 April 1987.

⁷² "End lawsuit, get on with education," *Mobile Press*, 9 April 1987.

Motion to add the State of Alabama as a Defendant

The plaintiffs filed a motion to add the state of Alabama as a defendant in April 1987 because, they argued, state law had helped to create segregation. Judge Hand denied this request. Robert Campbell stated, "the state could help us out with money, but on the other hand it's not considered to be a state problem necessarily." Campbell continued that as the case, along with the *Foster-Buskey* case dealing with racial discrimination and administrators, was nearing resolution. However, they were getting down to issues that required money. Campbell hoped to show the judge "our plan for ending the Foster-Buskey case and . . . that our plan is consistent with the spirit of *Birdie Mae Davis*, and that assignments are not done by race." In this sense, he foreshadowed the nature of magnet schools as the next issue the school system would confront.⁷³

As the parties continued to negotiate the *Birdie Mae Davis* case, many people understood the importance of community support for the public schools. One organization that appreciated the importance of having the schools free from federal oversight was the Chamber of Commerce. In many southern cities, notably Charlotte, North Carolina, and Atlanta, Georgia, the business leaders and the chambers of commerce hoped to project an image of a metropolitan area too involved in economic progress to be constrained by the racial divisions that had once gripped the region. In order to not be viewed as provincial, many southern cities hoped to do away with, at least in public perception, segregation and discrimination. The Mobile Chamber of Commerce shared similar views. The city had emerged from the 1960s civil rights movement with

⁷³ "Parties to prepare proposals to resolve Davis suit," *Mobile Register*, 15 May 1987.

an image as the "City too Respectable to Hate," in contrast to hot spots such as Anniston, Birmingham, Montgomery, and Selma. The Goals for Mobile Task Force of the Mobile Area of Chamber Commerce held a seminar in June 1987 to discuss the issues of education. Frank McRight, chairman of the Chamber's education coalition committee, encouraged cooperation, noting, "the *Birdie Mae Davis* case is an obstacle to . . . If that case is not settled, the cooperation we get from our black citizens in Mobile County is not going to be enthusiastic." He emphasized the importance of developing a resolution that was fair and acceptable to the County, "if the case is not resolved in a fair manner, we are going to lose the support of many other citizens."

McRight urged his listeners to "focus more on the things we have in common. It's time we quit thinking of ourselves as black or white, rich or poor, business or union members and remember we're all in this together, and we sink or swim together." Robert Campbell continued this sentiment: "there's got to be a tremendous compromise of the competing concerns of the black and white communities . . . If it is not done right, if its drastic, a quick fix could kill us." He described the schools' financial predicament: "financially we're on our knees . . . Some people are saying 'We cannot support you until you resolve Birdie Mae Davis.' That won't do . . . Everyone has competing concerns and they have to be addressed in the right way, and that takes money."

⁷⁴ Nahfiza Ahmed. "A City Too Respectable to Hate: Mobile During the Era of Desegregation, 1961 – 1965," *Gulf South Historical Review* 15 (1999): 49 – 67. "A City too Busy to Hate," was a phrase used by Atlanta's mayor William Hartsfield as an advertisement for Atlanta.

⁷⁵ "Settlement of race bias suit termed key to better schools," *Mobile Register*, 4 June 1987.

⁷⁶ "Settlement of race bias suit termed key to better schools," *Mobile Register*, 4 June 1987; "Chamber leads educational charge," *Mobile Register*, 28 May 1987.

While community support gained for the case's dismissal, some members of the community expressed frustration with the case and the school system. Businessman S.S. Steele wrote a letter to the *Mobile Register* stating that the *Birdie Mae Davis* case remaining unsettled served as a "sad reflection" of the "legal-judicial system in shambles."

On Friday 12 June 1987 Judge Hand held a conference with the parties and discussed magnet schools, attendance zones and student transfers. Plaintiffs' attorney James Blacksher described the negotiations as "slowing down." He continued:

I think the slowdown right now is simply caused by the same problems that are slowing down other things – the lack of financial resources and that school patrons and the citizens of Mobile are not really ready for something new . . . I think eventually we are going to come to the realization that Mobile really does want a new day in education and that we all want the same thing – a quality education. 78

The Dentler Plan

Earlier in 1987, the plaintiffs proposed the Dentler plan that called for the establishment of sixteen magnet schools. The plan would open up attendance zones within the system so parents had more choices of where to send their children to school.

⁷⁷ "Sad Reflection," *Mobile Register*, 11 May 1987. Steele argued that "all the federal courts had to do was make a decision, let it go its weary way through the appeals process until it reached the Supreme Court, and then let the court state flatly and definitively that this is the decision and it must be followed. No further appeals or delaying tactics would be countenanced. Instead, we have the second generation of lawyers arriving to get in on the large legal fees being expended. In the meantime, the poor taxpayers are picking up the tab for both sides of the legal battle."

⁷⁸ "Negotiations said 'slowing down' in desegregation suit," *Mobile Press Register*, 13 June 1987.

⁷⁹ Robert Dentler worked as a professor at the University of Massachusetts at Boston from 1983 – 1992. And for twenty years he worked as advisor to the federal case dealing with the desegregation of Boston schools, along with advising Judge W. Arthur Garrity. See, Raffel, 78. The Dentler Plan was never entered in court or released to the public. However, interviews with Hazel Fournier, Paul Sousa, Carol Taylor, and Robert Campbell correspond to newspaper reports that discussed the Dentler Plan.

Blacksher stated that one of the goals was to "break up the lock that neighborhood schools have on the choices parents can make now." Discussions up to this point, he noted, had "been between the plaintiffs' consultants and the staff at Barton Academy and they are still talking." The Dentler Plan called for the busing of approximately 48,000 students. The board believed the re-busing of 48,000 students would be detrimental to the school system, the community, and legal procedures.⁸²

In response to the plaintiffs' plan, the school board sought its own expert.

Otherwise, Robert Campbell argued, the system could be "left completely naked to the whims" of the plaintiffs' plan, which supposedly called for "cross-town busing, a 50/50 ratio of black and white students in 88 schools, and the creation of 18 magnet schools by 1991."

Because the new plan proposed by the plaintiffs mandated the "disruption of every neighborhood school in our system," the school system needed the advice of a national expert.

Campbell reiterated that the plaintiffs' proposal required the school board to do research, to determine whether or not their plan had worked anywhere else, and if it could be successful in Mobile: "We (the school board) need to know whether it has worked anywhere else or it hasn't worked. If the board doesn't like, they need

^{80 &}quot;Negotiations said 'slowing down' in desegregation suit," Mobile Press Register, 13 June 1987.

^{81 &}quot;Negotiations said 'slowing down' in desegregation suit," Mobile Press Register, 13 June 1987.

⁸² Robert Campbell, Mobile to Commissioner David L. Thomas, Mobile, 7 October 1996, Typed, Legal Files of Robert Campbell, Mobile, Alabama. Also, "School desegregation plan approved," *Mobile Register*, 28 June 1988 reported that Campbell said "45,000 students would have been displaced through forced busing next fall" if the Mobile Plan had not been developed.

^{83 &}quot;Consultant to study plan for school desegregation," *Mobile Press*, 25 June 1987.

^{84 &}quot;Consultant to study plan for school desegregation," *Mobile Press*, 25 June 1987.

somebody to say why they don't like it."⁸⁵ Campbell proposed that the system hire a nationally recognized expert determine if the plan presented by the plaintiffs was "good, bad, indifferent, workable, or required."⁸⁶

Blacksher described the situation: "Right now the ball is stuck in the school board's court. The school system is not sure where they want to go next. We're trying to keep the talks moving so there is something we can show to the public." Blacksher stated that the school board continued on a tactic of resistance towards schools desegregation. He also challenged the school board to improve educational opportunities: "The desegregation case is not going to be settled until the school system gets off its knees . . . The fundamental idea is to combine improved quality of education for everybody with enhanced desegregation. Blacksher commented on the pervasive feeling in the community that if "Birdie Mae Davis can be just settled, and after it's settled on nominal terms, then we'll turn attention to getting additional resources." He pointed out that "the system's lack of money and poor facilities hurt black students the most."

Robert Campbell addressed the Mobile Area Chamber of Commerce in October 1987 to announce that a viable desegregation plan was on the horizon. The plan Campbell discussed was a response to the Dentler Plan. Campbell stressed the importance of community support: "We don't want to present it to the court if Mobile doesn't want it." Campbell compared Dentler's use of the term "controlled choice" to

^{85 &}quot;Negotiations said 'slowing down' in desegregation suit," Mobile Press Register, 13 June 1987.

^{86 &}quot;Expert opinion wanted on school plan," Mobile Register, 25 June 1987.

⁸⁷ "Consultant to study plan for school desegregation," *Mobile Press*, 25 June 1987.

^{88 &}quot;Expert opinion wanted on school plan," *Mobile Register*, 25 June 1987.

describe what, in his opinion, "seem[ed] to be a mandatory choice." Campbell argued that the Dr. Glenn and Mr. Alves (experts Campbell had contacted) invented the term "controlled choice" and that it differed from Dentler's proposal. Describing Dentler's understanding of the idea of controlled choice, Campbell appraised, "He's learned the words, but he hasn't learned the tune." Campbell also told the Chamber "the important thing in desegregation is access to academic excellence for everybody . . . Birdie Mae Davis is not just a case. This is the future of the community." He acknowledged the delicate nature of remedies to desegregation suits as certain actions could prompt white flight: "Many school systems, because of white flight, have been declared unitary but they are all one race like Atlanta . . . Mobile could not stand that, and it's not right."

Griggs-Burroughs: Another Call Against Busing

The case against forced busing was made clear in the summer of 1987 with the issue of the reassignment of students to and from Griggs and Burroughs Elementary. Parents protested and attempted to intervene in the *Birdie Mae Davis* case to prevent the reassignment when less than 250 students from both Griggs and Burroughs elementary schools were reassigned to the other school. If a massive rebusing plan relying on tens of thousands of students had been implemented, a more acrimonious response could have been expected. In 1988, forty-three of the system's ninety-one schools were racially identifiable, so to racially balance all campuses within the fifty-five percent white students to forty-five percent black student system average, drastic student reassignment

^{89 &}quot;Campbell: Desegregation plan may be near," Mobile Register, 14 October 1987.

would need to be undertaken. ⁹⁰ In the summer of 1987, parents from both Griggs and Burroughs Elementary Schools protested plans that called for the busing of students from one school to another in order to achieve racial balance. The plan called for 85 Burroughs students to be bused to Griggs and 135 Griggs students reassigned to Burroughs. Parents from Griggs threatened to take their children out of public school if the reassignment occurred. The school board responded sympathetically. Board President Judy McCain declared, "My hope is we can all recognize these are issues that have been plaguing our school system for more than 20 years, and until we face them and work together as a community, we're going to continue to incur legal costs." McCain reinforced the need for all parties to compromise: "There is not going to be a solution that all people will be happy with." ⁹¹

Discussing how this resolution could affect the *Birdie Mae Davis* case,

Commissioner Steve Belk explained, "what we are down to now is who will be affected now by the proposed solutions . . . the sad part is any community affected will feel discriminated against." Superintendent Bill Salter opined "We understand it is traumatic to the parent – parent probably more so than to the youngster." Commissioner Robert Gilliard added, "what we are suffering from now are years of resistance to desegregation. It didn't get the community prepared for the solution of the Birdie Mae Davis case." ⁹²

⁹⁰ Birdie Mae Davis v. Board of Commissioners, Mobile County, legal files, Box 16 United States District Court Southern District of Alabama, Mobile, Alabama, Semi-annual Federal Court Report, filed 15 April 1988. See APPENDIX FOUR, TABLE FIVE.

⁹¹ "Parents promise battle to avoid school busing," *Mobile Register*, 23 July 1987.

⁹² "Parents promise battle to avoid school busing," *Mobile Register*, 23 July 1987; While the attendance lines between Griggs and Burroughs provide an example of community dissatisfaction over

In hopes of preventing further reassignment and busing, white and black parents from both Burroughs and Griggs Elementary schools filed a motion in federal court challenging the adjustment of attendance lines. At a 21 August hearing on the issue Judge Hand denied the parents' request to intervene in the case. He argued that the board did not act "arbitrarily in respect to the adjustments made in the attendance zones." Hand asserted:

The law requires that any rezoning be done to further desegregation. The school board has no options in that category . . . Every area suffers from the same thing you feel. This has impacted on families all over the county. This is a fact of life we have to live with today . . . I am sorry the court is not able to satisfy the people. The court has to dictate what the law is and not what are the people's personal desires. To do that I would violate my oath. ⁹³

Speaking on behalf of some parents whose children were affected by the busing order, Gladys Sheffield argued:

We realize that the court is complying with its legal obligation. We also realize that the school board is complying with that. It does not make it any better for us as parents of our children to have them bused and in an area that is away from their own neighborhood . . . I realize that a lot of people in Mobile and across the country face this problem. It does not make us feel any better for our own personal needs. ⁹⁴

Sheffield cautioned that white flight could result from the board's decision. Samuel Pettway, a parent of two students at Burroughs, believed:

By moving more blacks from Burroughs will not help the situation but will only hurt . . . If they want to integrate Burroughs school more, they should add more

changing attendance lines, other school districts had similar disputes such as between Baker and Davidson High Schools.

^{93 &}quot;Intervention nixed in local busing case," *Mobile Press Register*, 22 August 1987.

⁹⁴ "Intervention nixed in local busing case," *Mobile Press Register*, 22 August 1987.

facilities and send more white students to Burroughs instead of taking them (black students) away that live so close by. 95

Robert Campbell empathized with interveners in the case:

The school board over the last 10 or 15 years has done everything to make sure there isn't disruption and instability in the schools and sometimes we get blamed for it, but we're not the ones that promote the plan to further desegregate the system . . . We have to abide by the law . . . I understand their hardships and their concerns. In fact we tried to do as little as possible to destabilize the ratio stability we have. It's just one of those things where the plaintiffs would not accept other alternative plans and they (students and parents) ought to talk to the plaintiffs about it and not blame the board . . . We were doing what the law says we had to do and the judge understood that we made a good-faith effort. It's going to cause some hardships but there are some other changes that will come, too, that won't be swallowed very easily by other people in the county . . . It is about the only way it could have been done. ⁹⁶

The Griggs-Burroughs controversy illustrates the opposition to forced busing.

The *Birdie Mae Davis* case remained active and the plaintiffs prepared to present a proposal that would call for forced busing. In order to maintain public support of the public schools and to comply with federal law, the school board would need to develop its own plan. This became the Mobile Plan, the subject of the next chapter.

^{95 &}quot;Intervention nixed in local busing case," *Mobile Press Register*, 22 August 1987.

⁹⁶ "Intervention nixed in local busing case," *Mobile Press Register*, 22 August 1987.

CHAPTER FOUR

THE MOBILE PLAN

As the 1980s progressed, the school board and many in the community continued to seek a resolution to the Birdie Mae Davis case while limiting disruption to the school system. Business leaders and others wanted the case settled so the county could be freed from the stigma of desegregation mandates. Other citizens believed that the case accomplished little. In fact some people thought the discrimination in the 1980s was not black and white, but making any student attend a deplorable school. Also, the late 1980s witnessed a relatively unified school board. The board had elected its first black president in 1987 and by all accounts the board members seemed cooperative, a far cry from the racially divisive actions of Dan Alexander. School board members remained weary of more forced busing, fearing further white flight and disruption to the school system. Many black citizens had made clear their disdain for forced school desegregation, i.e. the closing of traditionally black schools and black students being reassigned to white neighborhood schools. Many white parents continued to hold onto their support of neighborhood schools. The school board also wanted the case resolved as litigation consumed valuable resources. However, the one proposed remedy was busing, which, by and large, the community had rejected.

The threat of the Dentler Plan finally prompted a change in the school board's policy. On 8 March 1988, following a status hearing, Judge Hand set a deadline of 9

May for the Board to submit a plan resolving the *Birdie Mae Davis* case. If an agreement could not be reached, Hand ordered that the two sides would return to court. Plaintiffs' attorney James Blacksher viewed Hand's call for a hearing as a positive step: "what we are primarily concerned about is what was accomplished today. The main thing is there is a hearing date now. The judge is going to set a cap on things one way or the other. Either by settlement or by court resolution. Something will be finalized in this case." He told the *Register* that he hoped the school board would follow through with its promise to develop a plan in good faith. The fear of the implementation of a forced busing plan drove the school board to develop a plan acceptable to both the plaintiffs and the court, namely voluntary desegregation, through magnet schools. The Mobile County school system began to seek out advice from national experts hiring Michael Alves and Dr. Charles Glenn in January 1988 to help formulate a plan for Alabama's largest school system.

Michael Alves met with Mobile school officials in January 1988 to discuss proposals that could help resolve the desegregation case without adopting the Dentler plan. He presented a plan known as "controlled choice" that he had developed along with Dr. Charles Glenn. Alves described "controlled choice" as "an approach grounded in

¹ "Judge sets deadline in desegregation case," *Mobile Register*, 9 March 1988.

² "Judge sets deadline in desegregation case," *Mobile Register*, 9 March 1988.

³ "Judge sets deadline in desegregation case," *Mobile Register*, 9 March 1988.

⁴The school board hired Dr. Charles Glenn, director of the Office of Educational Equity of the state of Massachusetts, and Michael Alves of the Massachusetts Department of Education Bureau of Equal Educational Opportunity, to evaluate the study to help provide a framework for the Mobile Plan. The two men, Glenn and Alves, formulated the "controlled choice plan" as a form of voluntary desegregation. Jeffrey A. Raffel, *Historical Dictionary of School Desegregation* (Westport: Greenwood, 1998), 66 – 67

tying the child's school assignment to both racial equity and improved education . . . The idea is to enable parents to exercise more choice for their child and to make educational decisions." Alves continued that he and the school offices were "simply exploring together how such a policy would operate in Mobile. I have heard nothing from local experts (school staff) that convinces me the idea cannot be adopted here." The plan called for substantial parent involvement as the parents could visit different schools and then decide where to send their child.

The school board also received advice from the Miami Desegregation Center and its director, Gordon Foster. As director of the Center at the University of Miami in Coral Cables, Foster assisted in developing desegregation plans for Florida's largest school districts. Dr. Foster accompanied Dr. Gilliard and school system staff members on a trip to Cincinnati, Ohio, to study its magnet program with funds from the federal government. Dr. Foster traveled to Mobile to help staff members such as Anna Clausen and Hazel Fournier, both assistant superintendents, to develop a desegregation plan for Mobile County. Foster provided a positive prognosis for magnet schools as a remedy of the desegregation case. Noting that the *Birdie Mae Davis* case "has been around a long time," Foster concluded that "It's time it got settled. I think there's a lot of promise in Mobile."

⁵ "School officials discuss desegregation system," *Mobile Press Register*, 23 January 1988.

⁶ "Judge sets deadline in desegregation case," *Mobile Register*, 9 March 1988.

⁷ Raffel. 106 – 107.

⁸ "School board delays desegregation proposal discussion," *Mobile Register*, 28 April 1988.

Development of the Mobile Plan

In developing the Mobile Plan, Robert Campbell stated "It looks like we might try to put a plan together that is a combination of a number of concepts." Campbell pointed out that every desegregation plan had to be tailored to each community: "There is no common plan. Every plan is unique to its own community, because every community is different. What works maybe in Boston, Mass., or outside of Boston in a small community wouldn't work in an area the size of Rhode Island, geographically." Campbell reiterated that the board was "committed to making an educational plan, an improvement of quality education as much as it is readjusting some areas of weaknesses in student attendance."

The Mobile Chamber of Commerce also shared an interest in having the school system declared unitary. ¹² By the 1980s many business and community leaders hoped to cure the community's black eye. Many civic leaders hoped to have a school system free from judicial oversight and that would also be a source of community pride. The Mobile Chamber of Commerce sponsored a trip to Jacksonville, Florida, for community and business leaders where Robert Campbell and Judy McCain studied Duvall County's magnet schools and desegregation plan. ¹³

⁹ "Judge sets deadline in desegregation case," *Mobile Register*, 9 March 1988.

¹⁰ "Judge sets deadline in desegregation case," *Mobile Register*, 9 March 1988.

¹¹ "Judge sets deadline in desegregation case," *Mobile Register*, 9 March 1988.

¹² Robert Campbell, interview by author, 2 November 2007, Mobile, AL, digital recording.

¹³ Robert Campbell, interview by author, 2 November 2007, Mobile, AL, digital recording.

The school system used a combination of ideas and experts in developing the plan for Mobile County schools. However, many of the key players knew the value of having the desegregation plan come from the community. School leaders realized that for a plan to work it had to be tailor made for Mobile County. Robert Campbell affirmed, "It has to be by educators and community leaders who know the weaknesses and strengths of the system. One that is educationally sound and one that will give us desegregation and meets the federal guidelines and desegregation law." The board had to develop a plan acceptable to the court, the Justice Department, the plaintiffs, and the general community as well as maintain stability in the school system.

While the school board touted its advances towards ending the desegregation suit, plaintiffs' attorney James Blacksher noted that the school system spent more time devising a plan then it had originally planned: "I am sure they have got lots of good reasons for it, but I think the primary problem is that the school authorities are having to face the fact that a desegregation plan that will comply with the law, satisfy the court and settle the case is going to have to work."

As the board worked to develop its own desegregation plan, the school board scheduled a referendum on a 10-mill tax increase for the schools. Hoping to encourage the taxpayers to increase their support of public schools, Commissioner Belk added, "I've heard comments from people that they would be more willing to support it (tax increase)

¹⁴ Hazel Fournier, interview by author. Dr. Carolyn Lee Taylor, interview by author.

¹⁵ "Judge sets deadline in desegregation case," *Mobile Register*, 9 March 1988.

¹⁶ "Judge sets deadline in desegregation case," *Mobile Register*, 9 March 1988.

¹⁷ "Judge sets deadline in desegregation case," *Mobile Register*, 9 March 1988.

if we show we're willing to resolve the case." Thus in March 1988, the school board attempted to increase the visibility of its involvement in finding a resolution to the case by talking up the benefits of the board's work.

School Board President Gilliard stated that the board would be making a "good faith effort" to meet the 9 May deadline in the case: "I think I speak for the board – I see a very determined effort by a relatively unified board to find a satisfactory solution . . . We have to be acutely aware the plaintiffs and the court may not see it that way." Gilliard added that the board was "ready and willing to meet whatever the courts require in order to desegregate the school system within the parameters of the Birdie Mae Davis case." Commissioner Cox did not see a correlation between the resolution of the *Birdie Mae Davis* case and support for the tax increase. Cox told the *Press Register*, "I think what will be important is how the board sets the priorities on how to spend the money." However, School Board Vice-President Judy McCain believed that the two issues were related: "If class sizes are reduced and schools are improved, students in private schools will come back to the public school system – and that will help integrate public schools." ²¹

On Monday 2 May, one week before the deadline, the school board approved a proposal to resolve the *Birdie Mae Davis* suit. Campbell explained to the *Register* that

¹⁸ "Board to make 'good faith' effort at resolving suit," *Mobile Press*, 10 March 1988.

¹⁹ "Board to make 'good faith' effort at resolving suit," *Mobile Press*, 10 March 1988.

²⁰ "School board eager to resolve old case," *Mobile Register*, 10 March 1988.

²¹ "Board to make 'good faith' effort at resolving suit," *Mobile Press*, 10 March 1988; In June 1988 the voters of Mobile County rejected the tax increase: "Suburbs vote against school tax; blacks support it," *Mobile Press Register*, 12 June 1988.

the plan was "submitted in good faith to end litigation. The question is will the parties accept it and will the plaintiffs accept it." Gilliard tempered the board's response by stating, "I think 'end' is too strong a term." Commissioner Cox voted against the plan, pointing out that "Some of the things I agreed with. A lot . . . I don't see how it would help to desegregate the system. I think it needs a lot of work." Commissioner Belk praised the agreement: "What enthuses me about it is it's a plan the entire community will accept and buy into." Already a mixed response about the resolution of the case within the school board was evident.

In response to the school board's presentation of a desegregation plan, the *Press Register* ran an editorial describing a hopeful prognosis for the community. As the editors opined, "Everyone in Mobile should have high hopes that the 25-year-old school desegregation case might soon" end. They described the previous litigation "in its earlier stages had the desired effect of tearing down the walls of segregation, at this point in time seems mainly to be enriching the court and attorneys." The board's move to approve the agreement left the editors "encouraged that the divisive controversy and enormous costs could be coming to an amicable settlement." The editorial stated: "The funds that have been used in this litigation – and future costs as well – are sorely needed by the financially strapped school system." The editorial concluded, "What's more, the community needs to join hands and make sure that segregation in any form is a thing of

²² "Board OKs desegregation plan, *Mobile Register*, 3 May 1988.

the distant past in Mobile as well as the nation. And we should not require a 25-year-old lawsuit to make this effort."²³

The court set a hearing date in June 1988 to examine the remaining issues of the Birdie Mae Davis case. Judge Hand approved the Mobile Plan on 27 June 1988. Hand explained that "I see no legal objection to what has been submitted to the court. I wish the parties well. You don't know how I wish the parties well."24 The plan included making Blount High School "work" at its present location through renovations and enhanced programs, along with the "enhancement of inner-city schools." There would be no further busing except by choice. In addition, a major element of the plan would be the development of magnet schools.²⁵ Campbell described this move as "a final step to make the final step . . . The problem of not knowing where Birdie Mae Davis stands is over." While describing the event as historic, Commissioner Gilliard noted that "most important of all, this is the first board sitting at this table that was willing to honestly try to solve Birdie Mae Davis." According to him, previous school boards had evaded certain issues: "A lot of shadow boxing has been going on in the past years that left our attorneys at sea because the board was divided on what it wanted to do."26 Plaintiffs' attorney James Blacksher stated, "We believe this plan will succeed." However, Commissioner Cox offered words of caution: "I hope we as a school board carry out

²³ "Hope for end to Davis case," *Mobile Register*, 4 May 1988.

²⁴ "School desegregation plan approved," *Mobile Register*, 28 June 1988.

²⁵ "School desegregation plan approved," *Mobile Register*, 28 June 1988.

²⁶ "Board approves school mix plan," *Mobile Press*, 24 June 1988.

²⁷ "School desegregation plan approved," *Mobile Register*, 28 June 1988.

diligently all the commitments we made, so this case can be dismissed. We have a lot of work ahead of us." ²⁸ The Mobile Plan gained acceptance thanks to the use of a new remedy, magnet schools. Also, for probably the first time since blacks had been elected to the school board, everyone appeared to be focused on ending the case.

While some school board members and administration saw the agreement as a step forward for the school system and the community, some community leaders remained unconvinced that the school system had rectified all of its wrongs. Even James Blacksher offered words of caution:

The thing everybody has to understand is it isn't going to go away when we sign the dotted line . . . and give it to Judge Hand. School desegregation cases don't work that way . . . This agreement essentially says additional desegregation will be achieved through voluntary methods, namely by enhancing the magnet schools and by so enhancing the inner-city predominantly black schools that white parents might find it attractive to transfer their students there . . . In order to carry out such a plan, it takes time and it takes money . . . I don't think they can do it with the present budget . . . Everybody will have to get involved – the federal government, the state government, and the Mobile County taxpayers will have to get involved if we are going to make the case go away. ²⁹

Blacksher also addressed a concern of many parents by explaining that. "If there is going to be any busing, it's going to be because parents want to send their kids to magnet schools." He added that the Mobile Plan was "not that different from desegregation programs instituted in other major urban areas of the country."

²⁸ "Board approves school mix plan," *Mobile Press*, 24 June 1988.

²⁹ "Board approves school mix plan," *Mobile Press*, 24 June 1988.

³⁰ "Board approves school mix plan," *Mobile Press Register*, 24 June 1988.

³¹ "Board approves school mix plan," *Mobile Press Register*, 24 June 1988.

President Gilliard told *The New Times*, a newspaper serving the black community, that "It is certainly a relief to get to this point where litigation is apparently finished . . . I'm relieved but I'm not jubilant, the fact that we had to compromise proves that the trend [of desegregation in Mobile] is backwards."³² He pointed out that many of the resolutions in the agreement dealt with inner-city schools: the development of inner-city schools into magnet schools, the renovation at Blount, and improving standards at existing inner-city schools. Gilliard lamented that "this whole trend toward inner city schools is an admission that these schools have been neglected all these years."³³

The mayor of Prichard, a predominantly African American city north of Mobile, John Smith distanced himself and his group, the Prichard Coalition for Education Advancement, from the plaintiffs in the case. Smith explained that "while we applaud leaving Blount where it is . . . it is not enough to landscape the grounds and air condition the buildings." Smith decried the agreement because it did not facilitate increased educational opportunities at Blount. He sought to have a magnet school developed at Blount: "We live in a very scientific and technologically demanding world . . . The children in this area need to be exposed to greater opportunities in science and technology." Smith criticized the plaintiffs, because they "were interested in race

³² "Birdie Mae Davis settled," *The New Times*, 30 June 1988.

³³ "Birdie Mae Davis settled," *The New Times*, 30 June 1988.

³⁴ "Prichard residents form education group," *Mobile Register*, 29 March 1988. The *Mobile Register* recorded that at a press conference a spokeswoman for the group stated: "The educational system in Mobile County is 50 years behind the time . . . we're behind every other state in the United States. They're trying to racially balance the schools and end the Birdie Mae Davis case by busing our children ... We're not just addressing issues from a racial standpoint, but we're looking at them from an educational standpoint."

mixing, not education . . . They wanted percentages, ratios and numbers." Contrary to worrying about race ratios, Smith felt the focus of the plaintiffs should be on integrating "the resources of the educational system." Smith analogized the success of the educational programs in schools to that of a football team: "When you have a losing football team, you hire a new coach, you don't stop playing football." ³⁵

The plaintiffs agreed to the consent decree, and on 14 September 1988 the school board voted on the plan. Commenting on the final agreement, Campbell remarked that "It was relatively easy, which is really reassuring to me that we have the best plan possible." President Gilliard declared the move to be "historic . . . today ends twenty five years of resistance to the law of the land . . . I am so happy I lived to see it." To Gilliard, the plan "has the outlines for what could be an almost perfect school system. It has that potential." He stressed the need to sustain the energy of cooperation: "I think if we can maintain the momentum we have, the attitude of the school board and the attitude of the administration, in the next five years I think everybody will be extremely proud." 36

Along with the magnet schools, other factors in the 1989 agreement included a five-year construction plan that had a price tag of \$22 million with a portion of that amount, \$12 million, coming from the Public School and College Authority for capital improvements and projects. The plan included adding air conditioning at nine schools.³⁷ The renovation of Blount called for a \$1.3 million plan that would in effect rebuild the

³⁵ "Smith wants Blount to be magnet school," *Mobile Press*, 29 June 1988.

³⁶ "Board OKs plans for schools," *Mobile Register*, 15 September 1988.

³⁷ Burroughs, Crichton, Hall, Holloway, Maryvale, Palmer, and Woodcock Elementary Schools and Chastang and Washington Middle Schools.

school. Associate Superintendent for Business Operations Charles Ratcliffe anticipated that the renovation would "look as close to a new building as you can get in a building that's not brand new." Robert Campbell commented that "the final plan will provide an equitable pathway to educational excellence in Mobile County, while at the same time being in compliance with federal law."

Magnet Schools

Federal Funding for Magnet Schools

The ability to receive federal funding made magnet schools attractive to local school systems. Beginning in the early 1980s, the federal government began touting magnet schools as a voluntary remedy to segregation. The Reagan administration pushed for school systems under court order to develop magnet plans. While not a new concept, magnet schools multiplied rapidly throughout the United States in that decade. Assistant Attorney General William Bradford Reynolds

fostered *magnet schools* that offered attractive innovations or that focused on special fields . . . the idea was to appeal to parents who otherwise would be reluctant to send their children to integrated schools. By taking race into account when admitting students to magnet schools, Reynolds hoped to achieve more racial interaction than was possible through forced busing. He regarded magnets as a "reasonable and meaningful alternative to forced busing."³⁹

Raymond Wolters notes that, "by the end of the Reagan years there were 5,000 magnet schools, four times as many as there had been in 1980.⁴⁰ The development of magnet schools aimed to attract students to a school they would not normally attend. Typically,

³⁸ "Board OKs plan for schools," *Mobile Register*, 15 September 1988.

³⁹ Raymond Wolters, *Right Turn:William Bradford Reynolds, the Reagan Administration, and Black Civil Rights* (New Brunswick: Transaction Publishers, 1996), 363.

⁴⁰ Wolters, 363.

this would mean attracting white students to a formerly all black school. During the 1980s, magnet schools received support from the Magnet Schools Assistance Programs. This program was developed by Congress in 1984 to replace the Emergency School Aid Act. Laurie Steel and Roger E. Levine noted in 1994 that "Federal support for magnet programs over the past decade has been substantial. Between 1985 and 1991 more than \$739 million was invested in magnets through the Magnet School Assistance Program."

Magnet Schools in Mobile

The school board voted to approve the consent decree containing the Mobile Plan that called for the creation of six magnet schools in September of 1988: Council Elementary School, Phillips Middle School, Old Shell Road Elementary, Dunbar Middle School, Chickasaw Elementary, and Clark Middle School. The schools would be opened every year, two at a time, one elementary and one middle school, starting in 1989.⁴²

⁴¹ Laurie Steele and Roger E. Levine, *Educational Innovation in Multiracial Contexts: The Growth of Magnet Schools in American Education* (Washington, D.C.: the United States Department of Education, 1994), ii.

⁴² Birdie Mae Davis v. Board of School Commissioners, Legal Files, Box 4, Folder 27, United States District Court Southern District of Alabama, Mobile, Alabama, Descriptions of the magnet schools according to the 1989 agreement: "Council Elementary (1989) - The basic curriculum will be taught with emphasis on mastery of basic skills. The curriculum design will foster maximum growth in reading, standard English, mathematics, and foreign languages. The traditional school concept with uniform dress and a strong standard of conduct will be implemented and maintained. Emphasis upon respect for self, for others, and respect for authority will help develop high moral standards and foster citizenship. The extended day concept will be implemented if there is a documented need. This will be a dedicated magnet. School capacity 600; Phillips Middle (1989) – An 8-hour day program that follows the tradition school concept with uniform dress and a strong standard of conduct will be implemented. The basic curriculum will be taught with emphasis on advanced achievement and inclusion of courses in foreign language, and advanced math and sciences. A strong physical development program will be provided. All students accepted in these schools will follow the designated magnet curriculum. This will be a dedicated magnet; Old Shell Road Elementary (1990) – The program will be designed to provide students an opportunity be introduced to the creative and performing arts. A broad intercultural general education, including advanced academic and arts-related program, will enable students to achieve their maximum potential both artistically and academically. In keeping with the arts, language of the arts will be introduced. Because of its location the school will provide extended day (after school care). This will be a dedicated magnet. Student capacity 365; Dunbar Middle (1990) - The program will be designed to provide students an

The magnet schools drew students from across the county. The schools would offer students the same educational opportunities as any other school and also additional opportunities in a specific area or theme.⁴³ The school system sought community input as it developed the plan for the Mobile magnet schools, promoting the schools as having:

A special curriculum, structure, and/or teaching style capable of attracting substantial numbers of students of differing racial backgrounds. The result of such a special program is a high quality educational opportunity in a voluntarily integrated school. The term magnet schools has become synonymous with 'schools of choice,' 'optional schools,' 'alternative schools' and 'specialty schools.'

To ascertain what the community wanted in its schools, the school system conducted a countywide survey. Typically, fine and performing arts magnets garnered the most support. However, in Mobile a large segment of the population displayed an interest in having schools focused on academic excellence.⁴⁵ The survey consisted of

opportunity to be introduced to the creative and performing arts. A broad intercultural general education, including advanced academic and arts-related programs, will enable students to achieve their maximum potential both artistically and academically. This will be a dedicated magnet. Student capacity 1149; Chickasaw Elementary (1991) – The basic curriculum will be taught with emphasis on the world of math and science. The program will focus on improvement of knowledge and skills in all academic subjects with particular emphasis on math and science. The school will provide opportunities for students to improve study skills, prepare for higher level courses in math and science. This will be a dedicated magnet. School capacity 453; Clark Middle (1991) – The basic curriculum will be taught with emphasis on the world of technology. The program will focus on improvement of knowledge and skills in all academic subjects with particular emphasis on math and science. A seven-period day will improve study skills, prepare for college entrance exams, strengthen marketable skills and take advantage of additional courses. This will be a dedicated magnet. School capacity 1248."

⁴³ "Mobile County Public Schools: Information for Parents and Interested Citizens," Papers of the League of Women Voters, Box 7, Folder 42, University of South Alabama Archives.

^{44 &}quot;Magnet schools eyed by board," *Mobile Press*, 28 April 1988.

⁴⁵ Interview with Dr. Carolyn Lee Taylor.

Mobilians choosing from an array of formats. 46 Council Traditional School and Phillips Preparatory were planned around the concept of traditional schools. These two schools became the first new magnet schools established by the school system. As the case with the other elementary magnet schools, the system did not provide transportation to Council; however, the school system offered an extended program in which students could arrive early and stay late under the supervision of the school. 47 In contrast to the system's previous attempt at developing a magnet at LeFlore High School, the six magnets developed in the late 1980s and early 1990s were dedicated magnets, meaning that the entire school would serve only as a magnet school. LeFlore operated as a magnet-school-within-a-school, hindering its ability to attract white students to a previously all black school.

Deputy Superintendent Paul Sousa helped establish the magnet school plan that allowed for the settlement of the *Birdie Mae Davis* case. In formulating a plan, he turned to Assistant Superintendent of Student Services Hazel Fournier and Assistant Superintendent of Curriculum Anna Clausen. Parents chose to enter their students' names into a lottery in hopes of their children being accepted into the magnet school, thus making the program a form of voluntary desegregation. The Mobile Plan required that students have a C average and meet discipline requirements, but there were no admission

⁴⁶ Fundamental Traditional School, Extended Day School, Academic College Preparatory School, Performing Arts School, Communication Arts, Math-Science, Montessori, and Vocational School; "Magnet schools eyed by board," *Mobile Press*, 28 April 1988.

⁴⁷ Dr. Carolyn Lee Taylor shared an anecdote about parents from West Mobile, a part of town that witnessed significant growth as a result of white flight, hiring a private bus to bus their children downtown to Council Traditional School. The juxtaposition of parents hiring buses to send their children to previously all-black schools after years of fighting to prevent busing serves as just one example of the many complexities and interesting stories of public school desegregation in Mobile.

exams. Not having an admission exam was important to Hazel Fournier who believed that the magnet schools could demonstrate that if the school taught a student, he or she would learn. If the schools only accepted the best students to begin with, then the success of the school did not prove anything. According to the Alliance for Better County schools (ABCs), the development of the magnet schools and the enhancement of inner-city schools helped the school system "meet its legal requirements" in the *Birdie Mae Davis* case and provided "a pathway to educational excellence for all children in Mobile County regardless of race."

Finally, the school board had adopted a school desegregation plan that legally provided a remedy to the effects of segregated education. The voluntary nature of magnet school application and attendance meant that no student would be forced to attend a school that he or she did not want to choose. Any busing that occurred via the magnet schools was solely by choice. And the magnet schools provided equal educational opportunity for every student in the community as, in theory, every student, regardless of his or her neighborhood, could attend one of the most attractive schools in the system.

Magnet Success and Criticism

While both sides may have greeted the settlement as a welcome resolution of the case, not all members of the community supported the magnet schools. Michael J. Rone, a self described "concerned parent," wrote Judge Hand describing the "crusade" he had

⁴⁸ Hazel Fournier, interviewed by the author.

⁴⁹ "Mobile County Public Schools: Information for Parents and Interested Citizens," Papers of the League of Women Voters, Box 7, Folder 42, University of South Alabama Archives.

been on to help grant his daughter entry to Phillips Preparatory School. He told Judge Hand that in his and his wife's struggle for their daughter's admission "we have consistently run into a brick wall with 'Judge Hand's Birdie Mae Davis Ruling' all over it." Mr. Rone believed that his daughter was not granted entry to Phillips because of its use of quotas, and described the predicament as "where our judicial system requires them not to fill vacancies at one of the best schools in the system because the waiting list they have is not of the proper racial persuasion, this too is a form of discrimination of the worst kind." ⁵⁰

Judge Hand responded to Mr. Rone, assuring him that the ruling in the *Birdie Mae Davis* case was a consent decree between the plaintiffs and defendants. Hand explained that both sides had agreed to the resolution, "and presented it to this Court for determination as to whether it violated any of the laws of the United States, or the prior rulings of the Supreme Court relative to such efforts." Hand described the agreement as "a solution of a legal problem that hopefully will permit this school system to be dismissed from this lawsuit within your and my lifetime. I can assure you I look forward to that day." Hand confessed that he was "unaware of any complaint that has been filed by either side that the consent decree, and I underscore the word consent has been violated." Once again Hand reinforced the compromise reached between the parties — not a decision that he had made.

⁵⁰ William Brevard Hand, to Michael J. Rone, 1 November 1989, *Birdie Mae Davis v. Board of Commissioners*, *Mobile County* legal files, Box 18, Miscellaneous Correspondence Folder, United States District Court Southern District of Alabama, Mobile, Alabama.

⁵¹ William Brevard Hand, to Michael J. Rone, 1 November 1989, *Birdie Mae Davis v. Board of Commissioners*, *Mobile County* legal files, Box 18, Miscellaneous Correspondence Folder, United States District Court Southern District of Alabama, Mobile, Alabama.

Members of the community also expressed confusion over the settlement of the *Birdie Mae* case. Mrs. S.S. Steele challenged the development of the magnet schools: "The solution is that unequal schools will solve the problem of unequal schools. Huh? This is too deep for me." She continued, "The federal judge in his wisdom has issued a verdict in favor of magnet schools, which by definition are unequal. They are to be better than other schools. The only point of the Birdie Mae Davis case was the schools were unequal." 52

Many parents criticized some of the basic principles of the magnet program. One white parent warned that the school board was "leaving themselves open for a reverse-discrimination law suit" as some white children were kept out of magnet schools and placed on waiting lists. Black citizens criticized the magnet schools as a "revolving door," where black students are 'admitted to the magnet schools, fail or withdraw from frustration with the lack of success, and are replaced by other blacks in an effort to keep up the numbers." Certain county residents felt neglected by the development of the magnet schools as the school system funneled money into inner-city schools while neglecting outlying schools. The *Register* reported that "Voters in the county felt they were getting the short end of the stick in a school system that was putting money into court-ordered inner-city magnet programs. It was a deep-seated feeling they were being neglected." Standard or standard or

⁵² "Too deep for me," *Mobile Register*, 16 December 1988.

^{53 &}quot;Magnet mix a success," *Mobile Register*, 7 January 1996.

⁵⁴ "Opposition to desegregation started system's decline," *Mobile Register*, 27 December 1992.

Despite criticism of the concept in the late 1980s, the magnet schools in Mobile flourished throughout the 1990s. The exaltation began in 1989 when the *Press* praised the magnet schools in a February editorial: "The magnet schools are a unique solution to the twin problems of upgrading the quality of public education and clearing away the remnants of segregation. The alternative facing the school system was massive crosstown busing that threatened to be disruptive of all learning." Once again the point is made clear that the school board and the public feared busing. Writing in 1996, Brett Blackledge acknowledged that "magnet schools have thrived in the past several years as an alternative to busing that would have scattered students countywide." The magnet schools served about six percent of the 65,000 students in the system. The success of the magnet schools was also evident in that the schools continued to have waiting lists for admission and they continued to have racially balanced student populations.

While the magnet schools received mixed responses from the community, a plaintiff in the *Birdie Mae Davis* case, Reverend Jesse McDaniel, commended the goals of the magnet programs and believed that "the principles of the schools should be extended to other schools." While some in the community and the school system

^{55 &}quot;School Plan an attraction for excellence," *Mobile Press*, 1 February 1989.

⁵⁶ "Magnet mix a success," *Mobile Register*, 7 January 1996.

⁵⁷ "Magnet Schools Offer An Option for Students in Mobile County," *The Business View*, Volume XXXVIII, April 2007. Further evidence of the magnet program's success can be derived from the fact that they continued to maintain racially balanced student populations. Unlike the first experiment with LeFlore High School, the magnet elementary and middle schools succeeded in attracting white students. While this may not prove a larger level of success, it does demonstrate that the schools effectively succeeded in achieving their goals. Also, according to an interview with Hazel Fournier in May 2008 the magnet schools continue to have waiting lists.

⁵⁸ "Magnet mix a success," *Mobile Register*, 7 January 1996.

viewed the magnet program as a panacea to the school desegregation case, problems arose in their implementation. The court order required that the magnet schools should not disrupt the racial balance of other schools. For example, a black student at a predominantly white school would stand a slimmer chance of being accepted to a magnet school than a white student at the same school. If that black student in predominantly white school left said school, then that would cause the ratio of white students in the school to be even higher, thus not encouraging desegregation.

The school board amended the original proposal in November 1988. Judge Hand had set a deadline of 9 December for changes to the plan he approved in June. The amendments to the plan dealt mainly with issues about inner-city schools. Speaking to the *Press Register*, board President Gilliard praised the "tremendous document" which would "be the pride of Mobile for a long time to come." He continued, "the school system owes a great deal to the team that worked on this system.' He cited Superintendent Billy Salter; associate Superintendents Dr. Lynette Gaines, Paul Sousa, and Charles Ratcliffe; assistant superintendents Hazel Fournier and Anna Clausen, inhouse attorney Connie Aune, 'and of course our brilliant attorney Mr. Campbell. They weren't working for a salary. The [sic] were working for an ideal.'" On 22 November 1988 Judge Hand tentatively approved the plan and ordered that any objections to the plan be brought forward on 5 January 1989. Robert Campbell stated that the system did not "anticipate any objections."

⁵⁹ "Consent decree resolving desegregation suit amended," *Mobile Register*, 3 November 1988.

⁶⁰ "Davis settlement gets tentative OK, *Mobile Register*, 23 November 1988.

The plan outlined the actions that would end segregation to the greatest extent feasible. Many of the suggestions in the Mobile Plan resulted from new remedies, such as magnet schools, which had been approved by courts in other desegregation cases. Campbell stated there were no major objections to the plan. He added, "There will be some complaints in the future about little items. We will address them and if they are valid, of course, we will adjust to it. But if they are not valid, we don't intend to amend this plan indefinitely. We presented a plan, we believe it will work and we are going to abide by it."

The court order approving the Mobile Plan was signed 13 January 1989 which addressed, among other things, a five-year construction plan, remediation measures, magnet schools, renovation at Blount High School and the only remaining unitary issue, student assignment. The 1989 agreement also sought to compensate black employees who had been passed over for promotions. The agreement contained injunctions and other measures designed to eliminate the last vestiges of segregation. Majority black schools received top priority for improved facilities and programs. In March of 1989 the school board approved the submission of an application for a \$2 million grant for magnet schools from the United States Department of Education. The consent decree included a four-year monitoring period. If at the end of four years, the school system implemented

⁶¹ "Desegregation case settlement approved," *Mobile Register*, 6 January 1989.

⁶² "Consent decree resolving desegregation suit amended," *Mobile Register*, 3 November 1988.

⁶³ "School board agrees to pay Davis Suit Fees," *Mobile Register*, 9 March 1989.

the changes they agreed to, then the parties agreed to "jointly move for dismissal of the case." ⁶⁴

With the adoption of the magnet schools, every student had an opportunity to attend one of the top schools in the system. And because of the voluntary nature of the desegregation plan, communities were able to maintain control of their neighborhood schools. This fact demonstrates that the issue for some citizens was not integration per se, but the use of mandatory reassignment. When a quality education was offered, parents welcomed the opportunity for their children to attend integrated schools. According to a semi-annual report filed to the court in 1992, of the almost 3,000 students in the magnet elementary and middle school program, about sixteen hundred students were white. 65 And as the school board continually publicized the schools' waiting lists, a strong demand for the magnet program existed. A unified school board using new remedies developed a desegregation plan. The Mobile Plan helped shape the future of Mobile County schools as it provided the route for the school system to be freed from federal oversight. The next chapter examines school desegregation in Mobile County in the 1990s. It traces the steps towards the case's eventual dismissal and chronicles racial conflict among board members.

⁶⁴ "Davis Settlement gets tentative agreement," *Mobile Register*, 23 November 1988.

⁶⁵ See APPENDIX FOUR, TABLE SIX.

CHAPTER FIVE

SCHOOL DESEGREGATION 1989 –1997

With the Mobile Plan, the school board laid the foundation for the dismissal of the Birdie Mae Davis case. If the board complied with the mandates of the agreement, it would be free from judicial oversight as early as 1993. Judge Hand's ruling and public support against forced desegregation methods gained support with Supreme Court rulings in the 1990s that curbed federal involvement in school desegregation. The federal government sought to limit its involvement in school desegregation in the 1990s, many predominantly one-race schools existed and persisted throughout the country, and other evidence demonstrated that an apparent achievement gap remained between African American and white students. Even as many vestiges of segregation reappeared, Mobile and the United States of the 1990s were not the same as they had been in the 1950s. Students were no longer segregated solely by race. For example, in 1996 the Register highlighted Princeton-bound African American Spencer Merriweather as one of the county's top students. Also, issues such as race grew even more complicated as Latinos and Asians increasingly comprised significant portions of the population. While the racial issues in Mobile remained mainly between black and white, increased diversity in the rest of the United States raised important questions about the meaning of minority

¹ "A Long Time Divided," *Mobile Register*, 7 January 1996.

status in the twenty-first century.² Nevertheless, many of the racial issues in the 1990s Mobile retained the identity of black and white. In fact, despite a unified school board having developed the Mobile Plan in 1989, the 1990s also witnessed black school board members and citizens again lamenting charges of racism.

The 1990s witnessed more Supreme Court decisions that facilitated the of local school desegregation cases. In Board of Education v. Dowell (1991), the Court ruled that once a system had achieved unitary status, desegregation no longer had to be a goal. The goal was desegregation to the "extent possible" as long as the school system had attempted in good faith to fulfill its court order and come into accordance with Green. The court agreed with the argument that the school system "which had previously been judged to be unitary, no longer had to desegregate its schools and could return to neighborhood schools even if these would be segregated." This ruling allowed for Oklahoma City, for example, which had been declared unitary, to return to de facto segregation in neighborhood schools. The Supreme Court's ruling in Freeman v. Pitts (1992), a case concerning DeKalb County, Georgia, allowed for school districts to be released from the responsibility of school desegregation regardless if they had achieved all of the Green Factors. A school system could be freed from court control from one of the Green Factors as it met the standards. School systems did not have to meet all six Green factors concurrently to have a case dismissed. This case further strengthened the

² Robert Norrell, *The House I Live In: Race in the American Century* (New York: Oxford University Press, 2005).

³ Jeffery Raffell, *Historical Dictionary of School Segregation and Desegregation* (Westport: Greenwood Press, 1998), 24.

court's ruling in the *Dowell* case. In *Missouri v. Jenkins* (1995), the Court declared that desegregation cases were not intended to operate in perpetuity. The Court ruled that remedies for desegregation should be limited and that the ultimate goal of desegregation cases was to return control to the local school districts. These changes in the laws in the late twentieth century allowed for desegregation cases to end throughout the country. As Richard Kluger noted in 2004, for the past two decades school desegregation had disappeared from public discourse.⁴

Desegregation in the 1990s: Mobile

In May 1990, the *Press Register* ran a series of articles in May 1990 examining the role race relations had played in the community over the previous decades. The daily described the 1960s and 1970s as a time of "turbulent and reformative race relations in the public schools . . . then the unitary and togetherness may well be the definitive education keywords of the 1980s and 90s." Describing the goals for the school system Hazel Fournier, Assistant Superintendent for Student Services, explained that "We're trying to create a unitary school system and while we're still under court order to do it, we are moving forward toward this goal." Superintendent Billy Salter echoed similar feelings: "It's not perfect but we've made tremendous strides. Today on most campuses we see black and white students working together, having friendships, and pushing for

⁴ Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality* (New York: Knopf, 2004), 773.

the same agenda: To be proud of their school." Fournier described a unitary system as one that provided "equal educational opportunities for every child regardless of race."

Judge Hand held a meeting with school officials to discuss the system's progress concerning the *Birdie Mae Davis* case in October 1991. Hand found that "no serious objections" could be found to the board's efforts towards complying with the consent decree. Thus, Hand had "every reason to feel . . . the litigation will be terminated at the end of the reporting period." He went on to say that the end of litigation would be a positive step for the school system due to its expense and the community perception that the court controlled the school system: "When that occurs, in my opinion, the school board will be in a better position with the general public." As he concluded, "It is my fervent wish that nothing be done to rock that boat so the apple cart will not be upset." Judge Hand made known that he hoped to have the case settled and out of court. As he had made clear throughout the 1980s he did not believe that the federal court should be developing educational policy. Hand believed that education should be left to the local community and as long as the school board did not violate any federal law, the court had no role in its operation.

The Supreme Court issued its ruling in the DeKalb County, Georgia case in April 1992. The *Register* reported that the ruling meant "little to local schools." The decision allowed for school systems to be freed from court oversight as each one of the *Green*

⁵ "Unitary system desired," *Mobile Register*, 15 May 1990.

⁶ "Unitary system desired," *Mobile Register*, 15 May 1990.

⁷ "Hand: Schools on course to end federal oversight," *Mobile Register*, 5 October 1991.

Factors was met. In a sense, the *Birdie Mae Davis* case served as a precursor for this decision as the DeKalb County school board studied Mobile's case. Campbell explained that "We sent our consent decree and the plan we submitted to the court over to DeKalb County a few years ago as a model plan." Campbell indicated that the board would be pressing for dismissal of the case within the year, per the 1989 agreement. He noted that the ruling would change little and the system would continue on its current path: "I would recommend we proceed on due course as we have been, but it's not that I wouldn't use the (Georgia) case if things blow up."

Campbell noted that the recent ruling was related to more conservative justices on the Supreme Court and the Justice Department who sought to end the federal role as plaintiff intervenor in school desegregation cases. Alabama Department of Education attorney Jim Ippilito added: "There are always going to be places across the nation where you simply are not going to have racial mix. I don't think that violates anything as long as they are moving in that direction." Campbell welcomed the decision as a sign of an imminent dismissal: "I look forward to getting out of court and not having to go back." ¹⁰

The 1989 Consent Decree stated that four years after the Court's final approval, both parties would move for the dismissal of the case with a unitary ruling if the terms of the agreement had been met. The federal district court made it clear that it wanted to end the desegregation case in 1993. In December, Judge Hand explained that he believed that

⁸ "Ruling may mean little to local schools," *Mobile Register*, 2 April 1992.

⁹ "Ruling may mean little to local schools," *Mobile Register*, 2 April 1992.

¹⁰ "Ruling may mean little to local schools," *Mobile Register*, 2 April 1992.

the case should be dismissed, telling two board members that "you're going to have to stand on your two feet sooner or later, not on mine. They are getting old and I am getting tired." While the school board appreciated Hand's enthusiasm for dismissing the case, they realized that ending the case "would lead to costly appeals from opposing attorneys" as they had not fulfilled enough of the requirement of the 1989 agreement. The board's attorney proposed continued negotiations to resolve any remaining issues. The plaintiffs in the case, represented by attorney Greg Stein, agreed: "It would be a legal error and would be a common-sense error to dismiss the case at this point . . . I think it would be a mistake to dismiss the lawsuit." Hand concurred with both parties that all of the conditions had not been met, but it was "certainly not for the lack of desire to comply." ¹³ Hand believed that the school board had complied with the "spirit" of the order and would work on the remaining issues without the oversight of the federal court. After agreeing with both sides that it was too early to end the case, Hand expounded that "it's of no particular skin off the court's nose for the case to stay on the docket, other than some determination that all things have to come to an end and life has to go on to other things."14

¹¹ "Judge says Birdie Mae Davis case should end," *Mobile Register*, 18 December 1993.

¹² "Judge Says Birdie Mae Davis case should end," *Mobile Register*, 18 December 1993.

¹³ "Judge Says Birdie Mae Davis case should end," *Mobile Register*, 18 December 1993; One of the remaining issues pertained to the installation of air conditioning at certain schools. The *Register* reported that Hand told plaintiffs "he survived his school years without air conditioning and is not convinced that installing units in all schools is critical to resolving the desegregation case."

¹⁴ "Judge Says Birdie Mae Davis case should end," *Mobile Register*, 18 December 1993.

Although the plaintiffs and the defendants in the Birdie Mae Davis case had accepted a consent decree and were working towards dismissal of the case together, discord remained on the board. African American board members and other community members thought that the school system should meet all of the stipulations set forth in the 1989 consent decree, prior to dismissal. Joseph Mitchell, a black school board member, found problems with the school system and the movement towards dismissal. He declared that separate and unequal schools remained in Mobile County. Mitchell argued that the court should not be too quick to dismiss the case due to the remaining vestiges of segregation. As he told Judge Hand, "'I have not seen intentional discrimination . . . but what I have seen, judge, is a certain type of malicious indifference' toward black students and historically black schools." ¹⁵ He accused the system of "putting things on the back burner that could help minority students." At one point during Mitchell's pleadings, Campbell "turned to law partner Frank Taylor . . . and said 'He's using this as a forum for something else." Board President Hazel Fournier agreed with Mitchell, arguing that the school board violated the court order in several instances. She warned against the dangers of ending the desegregation suit, holding that dismissal would turn back the clock on progress made in the Mobile County public schools. ¹⁷ As Fournier feared,

¹⁵ "Judge Says Birdie Mae Davis case should end," *Mobile Register*, 18 December 1993.

¹⁶ "Judge Says Birdie Mae Davis case should end," *Mobile Register*, 18 December 1993.

¹⁷ Cox and Gilliard retired from the School Board in 1990. Their retirement allowed for the vacancies of the two predominantly African American districts. In 1990 Hazel Fournier and Joseph Mitchell won election to the School Board.

"there's lots to be done in the spirit of the law. I'm afraid that if you say the spirit of the law has been met, then somebody will decide to rest on his laurels." ¹⁸

The morning of the meeting, the *Register* printed an article examining the racial balance in the school system. The article reported that "despite creating magnet schools, offering enhanced programs and redrawing school boundaries, the system has not been able to dramatically affect the racial composition of most of its 93 elementary and secondary schools . . . there are only 18 schools that reflect the overall system's racial balance, an increase from nine schools when the system was 53 percent white and 45 percent black in 1988." The article further contended that the "Mobile schools with the highest concentration of poverty also have the largest percentage of minorities." Campbell countered that there had been substantial gains toward federal desegregation orders and that no one expected the schools to be racially balanced – "We just want a par." Hand ordered another four-year monitoring period for the school system in 1993.

A year later a split perception of the *Birdie Mae Davis* case remained among some of the most prominent school leaders. Hazel Fournier expressed reservations over racial problems that might continue despite the suit's dismissal. She feared that a white superintendent and a majority white school board would be unresponsive to the needs of

¹⁸ "Judge Says Birdie Mae Davis case should end," *Mobile Register*, 18 December 1993.

¹⁹ "Desegregation suit may end, but schools lack racial balance," *Mobile Register*, 17 December 1993. See APPENDIX FOUR, TABLE SIX, *Birdie Mae Davis v. Board of Commissioners, Mobile, County*, legal files, Box 18, United States District Court Southern District of Alabama, Mobile, Alabama, Semi-annual Federal Court Report, filed 15 April 1992.

²⁰ "Desegregation suit may end, but schools lack racial balance," *Mobile Register*, 17 December 1993.

²¹ "Desegregation suit may end, but schools lack racial balance," *Mobile Register*, 17 December 1993.

minority students: "I am real worried about it. What direction we are going to take from here, I don't know." Superintendent Sousa countered that "I believe, personally, we've done a good job. I think the system will continue the philosophy of Birdie Mae Davis, that we wouldn't backslide."²²

Competing perceptions of the reality of school desegregation in Mobile County appeared once more in 1995. In March, the board considered pushing for the *Birdie Mae* Davis case's dismissal in order to accelerate a building plan, estimated at \$50 million for new schools. If the suit were dismissed, then the school board would be free from federal oversight and could proceed without the court. Campbell expressed an encouraging view towards a dismissal, from a legal perspective: "As far as your counsel is concerned, I don't think it's a legal issue anymore. It's a political issue now."23 The plaintiffs criticized the board's construction plan. Reverend Jesse McDaniel stated that "We denounce your school construction plans . . . You have allocated some 72 percent of the bond money to white majority schools and 27 percent to minority schools. We have already lost some 16 schools in our community."²⁴ McDaniel continued, "we're willing to compromise on certain issues if you're willing to compromise . . . We don't want your bond to be discredited." Dr. Beatrice Morse, a monitor for the plaintiffs added that "New capital projects need to be approved by the plaintiffs . . . the plaintiffs know better than anybody else the debilitating effects of attending deteriorating schools." Commissioner

²² "Strife goes on for Mobile's school system," *Mobile Register*, 3 January 1994.

²³ "Desegregation still an issue?" *Mobile Register*, 9 March 1995.

²⁴ "School plan blasted over race bias," *Mobile Register*, 24 August 1995.

David Thomas described the plan as "grossly out of compliance with federal court rulings" and "'he accused the board of 'voting solidly along racial lines' and perpetuating 'very regressive political changes." He called for a "balm to cure an ailing and unhealthy educational system."

Commissioner Charles Jordan seemed somewhat befuddled by what he perceived to be a change of heart by the black school board members: "We've been in this process for some time . . . Everybody had input. If everyone was honest with you, they will tell you we agreed on the plan. Before the last meeting there was not a doubt in my mind that we'd have 5 – 0 vote. But something happened to change that." At a school board meeting, a parent from Dodge Elementary School in West Mobile, Melissa White, encouraged the board to break the deadlock that prevented building projects from progressing. She described the situation at Dodge: "Ten years ago, a new wing was staked out at Dodge . . . Over time, the stakes have disappeared, but no new wing was built. Dodge was built for 450 students and we have now have over 800." She also gave details of some of the hardships that the students at Dodge endured, such as walking across campus from the portable buildings to the auditorium in the rain. She then

compared the board's impasse to a parable in which a group of jealous and prejudiced men chose to freeze to death rather than share their wood for a fire, 'They didn't die from cold without, they died from cold within . . . Please put aside your differences . . . We are different by circumstance, but we are divided by choice.' ²⁷

²⁵ "School plan blasted over race bias," *Mobile Register*, 24 August 1995.

²⁶ "School plan blasted over race bias," *Mobile Register*, 24 August 1995.

²⁷ "School plan blasted over race bias," *Mobile Register*, 24 August 1995.

Discussion continued a week later when the plaintiffs submitted an alternative building plan. The new plan added \$13 million to the previous plan, already at \$54 million. When pressed by Commissioner Jeanne Andrews where the money would come from, the plaintiffs responded that they did not know. However, the adoption of a plan that involved spending more money in the predominantly black districts seemed to reinforce the movement towards accepting neighborhood schools. Beatrice Morse opined:

Black children have yielded to most desegregation plans . . . we have yielded to non-contiguous zones, busing plans. We have borne the burdens of most desegregation plans. Small kids are getting bused long distances; they are still not getting a quality education and they're still not desegregated . . . It seems that white flight is going to continue to keep schools of one race . . . We can't control that. We want is a quality education. ²⁸

The school board resolved the bond issue in October 1995.²⁹ The plan, which spread the bond money more evenly among the districts, reinforced the continued move toward neighborhood schools. Beatrice Morse praised the board "for coming together" in a "just, moral and reasonable approach." Campbell commented that this trend marked a larger trend in school desegregation: Before, if the racial balance shifted 5 percent or 10 percent, you re-bused them . . . Now, we're on more back to the neighborhood schools concept and that's a new twist."³⁰

With the end of the desegregation suit in sight, the *Press Register* ran a series of articles in January 1996 examining the state of desegregation and educational experiences

²⁸ "Black plaintiffs submit more costly school plan," *Mobile Register*, 31 August 1995.

²⁹ "School construction plan back on track," *Mobile Register*, 12 October 1995.

³⁰ "School construction plan back on track," *Mobile Register*, 12 October 1995.

of different students within the Mobile County school system. The *Register* examined the experiences of both black and white students. Reporter Brett Blackledge found that "a white student is more likely to be enrolled in academically challenging classes; a black student is more likely to be labeled academically challenged." Blackledge found that despite the school system's enrollment of 65,000 students being split racially almost fifty-fifty, white students received seventy-two percent of the highest diplomas the system awarded. Classes serving students labeled moderately or mildly retarded had a seventy four-percent ratio of black students to white students. Blackledge concluded that black students were twice as likely as white students to be suspended from school. He further discovered that standardized tests results revealed a performance gap based on race. In 1995, the *Register* examined the experience of teachers within the system, reporting that, typically, teachers with the least experience taught in majority black schools. Blackledge concluded that "after three decades of court-ordered

³¹ "Different race means different challenge: More black students are placed in classes for moderate or mildly retarded students than in classes for the intellectually gifted," *Mobile Register*, 7 January 1996.

³² "Different race means different challenge: More black students are placed in classes for moderate or mildly retarded students than in classes for the intellectually gifted," *Mobile Register*, 7 January 1996.

³³ "Many more blacks get suspended: Their parents tend to think disparity is unfair, but educators deny any biased treatment," *Mobile Register*, 7 January 1996.

³⁴ "Test Results a matter of racial separation: Scores in Mobile County show gap between predominantly black and white schools," *Mobile Register*, 7 January 1996.

³⁵ "Black Schools get the green teachers: Analysis shows that inexperienced teachers are more likely to be assigned to Mobile's majority-black schools," *Mobile Register*, 1 October 1995.

desegregation, the black educational experience in Mobile County doesn't measure up to the white experience."³⁶

Subsequent to Blackledge's articles, the *Register* challenged the community to encourage every single student to learn. The paper stated, "The very existence of a desegregation case chains the Mobile County school system to an embarrassing past." But the paper stated that the school system could move beyond that past and offered some starting points. First, it encouraged the school board to "build rather than dismantle ... It's up to the Mobile County school board to build a new kind of system that raises expectations for all students. The success of Mobile County's magnet schools provides a good example." Second, the paper urged the community to "confront the race issue." The paper described the conflicting perspectives of the *Birdie Mae Davis* case in the community as limiting the system's progress: "Unfortunately, black parents in Mobile County hang onto the Birdie Mae Davis case as their only hope for equity for their children." Just as dangerous the paper pointed out "some white officials in the school system want to dismiss the topic of race altogether. Neither position will help heal its wounds." The paper encouraged laying "out all the facts about race in the schools" to begin a conversation about the problems of the system. With these steps the Register concluded, the "bitter battles of the past" could be laid to rest: "What could emerge from

³⁶ "A Long Time Divided," *Mobile Register*, 7 January 1996. While racial disparities existed, differences due to geography also existed. Another article ran concurrent with the series fount that "some predominantly white schools in outlying areas of Mobile County suffer from some the same disparities found in inner city schools. Commissioner Jordan opined, "There is a general feeling in the rural areas that most of the money, and most of the attention and most of the improvement has been directed more to the city schools: that they have been forsaken . . . and I have to admit that that is probably true," "Rural whites have similar woes," *Mobile Register*, 7 January 1996.

old divisiveness about race is a new kind of system that challenges all students to learn, regardless of the color of their skin."³⁷

As the case neared resolution, distrust of the school system remained among many black citizens. Hazel Fournier described the school board's contemporary outlook on the Birdie Mae Davis case as an "era of benign neglect." Attorney Robert Campbell countered this perspective by arguing that the leaders within the black community feared they would lose their voice without the case: "That fear is not a legal argument for not dismissing this case." The school board had the difficult task of finding solutions to the many immediate problems; however, it was not in a position to supply immediate relief to larger ones. Many black parents continued to identify and oppose racial disparities in the system. They argued that the school system had begun limiting its support of the magnet schools and other aspects of the 1989 agreement, including construction delays. 40 However, Campbell did not correlate the problems the parents had with the continuation of the case. As he opined "I don't feel like it's a vestige of past segregation in the schools. I think people aren't treating each other properly today for a number of reasons that have nothing to do with the desegregation case."⁴¹ One of original plaintiffs, O.B. Purifoy, weighed in on the school system's efforts: "The Birdie Mae Davis case is

³⁷ "Schools must challenge all students to learn," *Mobile Register*, 14 January 1996.

³⁸ "What's driving desegregation case?" *Mobile Register*, 8 January 1996.

³⁹ "What's driving desegregation case?," *Mobile Register*, 8 January 1996.

⁴⁰ "Voting rules request denied," *Mobile Register*, 6 March 1997. Jesse McDaniel stated that magnet school funding was "being put on a back burner by the administration."

⁴¹ "What's driving desegregation case" *Mobile Register*, 8 January 1996.

virtually over, but the causes of the case are still there. I believe we're trying to overcome that."⁴²

Looking back on the process of school desegregation in 1996, Judge Daniel Thomas, who presided over the Birdie Mae Davis case for its first eight years, reminisced that "I, myself, thought integration was OK. But I do think that the government and the NAACP pushed it too far. I did my best to slow it down. I did not try to stop it." But with benefit of hindsight, Judge Thomas ruled, "I was too patient." The same article noted the shift in the black community's approach to the issue of school desegregation. Essentially, the goals of the original plaintiffs were access and equality. In the beginning, the avenue to obtain these objectives was integration. However, the focus came to be the improvement of neighborhood schools. 44 Brett Blackledge reported that some black parents "lost faith that white parents will ever embrace the concept" (of integration). He quoted the Reverend Jesse McDaniel, who questioned: "What would you suggest, that we continue to bear all the burdens of integration?" McDaniel described Mobile as "in the Christian term, is a lukewarm place . . . It's not cold. It's not hot. It's not cold enough to seek warmth. It's not hot enough to demand the quality that it deserves. It would really have to be pushed in order for it to move." Hazel Fournier agreed: "We're not there yet. We're not ready to give equal educational opportunity to all children."⁴⁶ Ollie Mae

⁴² "What's driving desegregation case?" *Mobile Register*, 8 January 1996.

⁴³ "Focus shifting from integration," *Mobile Register*, 8 January 1996.

⁴⁴ "Focus shifting from integration," *Mobile Register*, 8 January 1996.

⁴⁵ "Focus shifting from integration," *Mobile Register*, 8 January 1996.

⁴⁶ "A Long Time Divided," *Mobile Register*, 7 January 1996.

McDuffie, Birdie Mae Davis's mother, noted that "I don't think this desegregation did anything for them . . . There are a lot of children out there being held back because of their skin color. The road is still tough." O.B. Purifoy commented, "We brought about changes in the community that would have not come about had it not been for the Birdie Mae Davis case . . . But they're not as far reaching as they should have been."

The constant theme of who had to bear the burden of desegregation remained. Typically, black children would attend white schools, but white students would not show up when were assigned to black schools. These actions resulted in schools closing in black neighborhoods, black students being bused, and many black teachers losing their jobs. An advisor in the *Birdie Mae Davis* case, Beatrice Morse, pointed out her "hope that separate can one day be equal because desegregation has never been equal."

The one remaining issue in the *Birdie Mae Davis* case in the 1990s was that of predominantly one-race schools. In 1996 forty-three of the school system's ninety-seven campuses had student populations that were racially identifiable. Attorney Robert Campbell summed up the problem in Mobile, which communities throughout the nation dealt with: "You can't get white kids to go to black schools. Black kids don't want to be

⁴⁷ "A Long Time Divided," *Mobile Register*, 7 January 1996.

⁴⁸ "A Long Time Divided," *Mobile Register*, 7 January 1996.

⁴⁹ "Focus shifting from integration," *Mobile Register*, 8 January 1996.

⁵⁰ Birdie Mae Davis v. Board of Commissioners, Mobile County, legal files, Box 17, United States District Court, Southern District of Alabama, Mobile, Alabama, Semi-annual Federal Court Report, filed 1 December 1996. See APPENDIX FOUR, TABLE SEVEN.

bused anymore. The people no longer want their schools closed. You're stuck."⁵¹ To counter this quandary, the agreement stressed the reduction of class sizes in black schools and remediation for black students and upgrading facilities for black schools. Jesse McDaniel equated the situation of the school system and the *Birdie Mae Davis* case to the relationship between "water and the ship. Even though the water is the ship's worst enemy, it's the only means by which the ship can get across."⁵² As McDaniel added, "We need to assure the students. . . . that wherever they are, they will have equal treatment, and show them that their needs will be addressed, addressed as a person rather than as a race."⁵³

The school board members of the mid 1990s held divergent views on race relations in the public schools. A unified school board worked together to develop the Mobile Plan in 1988. However, the longest tenured school board members of the 1990s began serving in 1988, after the agreement had been reached. Racial tensions manifested themselves in the interaction between the new school board members. Commissioner Charles Jordan quipped that "I don't buy that treatment business . . . I don't buy it at all. Let's face it. Racism is for real. But as far as it being practiced as a rule in the Mobile

⁵¹ "Focus shifting from integration," *Mobile Register*, 8 January 1996.

⁵² "Focus shifting from integration," *Mobile Register*, 8 January 1996.

⁵³ "A Long Time Divided," *Mobile Register*, 7 January 1996; Calls against perceived racism on the board occurred throughout the 1980s and 1990s. Examples include "Fournier 'fed up' with board 'racism," *Mobile Register*, 17 April 1993; "Racism charged by Dr. Gilliard," *Mobile Register*, 9 March 1981; "Gilliard says school board is anti-black," *Mobile Register*, 17 November 1984; "Cox sees black/white bias on school board elections," *Mobile Press Register*, 22 November 1984; "Gilliard says racist attitude still strong," *Mobile Register*, 15 May 1985.

County public school system, I don't buy that one iota." Superintendent Sousa echoed a similar sentiment: "To me, that's ludicrous . . . I think we have made tremendous gains and have worked hard for all kids." Jordan explained that "The school system's position, in my opinion, is that we're to offer the education and put the machinery in place to educate the children, to do everything we can to do that . . . Quite honestly, I don't know what else we can do. We cannot cure all the social ills of America. That's not the school system's place."

While Commissioner Jordan did not see evidence of racism being practiced as a rule in the Mobile County school system, black school board members did. In 1993

Hazel Fournier leveled charges of racism against the board. According to a 1993 article,

Fournier believed that the three white school commissioners decided behind closed doors how they would vote, leaving the black commissioners voiceless:

I think they're saying to the minority members, 'We'll have it our way in spite of the court decision that led to the two minority members being on the board . . . But we are taxpayers and our concerns should be realistically addressed . . . It says their three votes could accomplish or pass anything at that table that they wanted, regardless of the input that was received from us.

One school board member, N.Q. Adams, responded to the charges stating, "That's ridiculous. I have never in my life voted racially to exclude black members . . . I am not racially motivated at all and it irritates me that the only thing they think of is race."

Commissioner Andrews contended, "I'm appalled that such a thing would be said.

⁵⁴ "A Long Time Divided," *Mobile Register*, 7 January 1996.

⁵⁵ "A Long Time Divided," *Mobile Register*, 7 January 1996.

⁵⁶ "A Long Time Divided," *Mobile Register*, 7 January 1996.

That's absolutely not true. Not one vote has ever been racially motivated and that's outrageous that such a statement would be made." Commissioner Mitchell however, disagreed, and echoed Fournier's charges:

I am at this point convinced that the actions of these people are racist and bigoted. It provokes a particular type of anger that these people are either profoundly stupid or malicious and calculating . . . I believe their intent malicious and calculating and is to divide the community both racially and by class.⁵⁷

Interim Superintendent Paul Sousa opined that "I can't see racial patterns voted on the board . . . I think it is a difference of opinion on the board, but I don't think it's racial." The executive director of the Mobile County Education Association stated, "The board obviously has some compatibility problems. I think the easiest thing to say sometimes is that it's racial. But I would hate to make that conclusion." ⁵⁸

Two months earlier, the *Register* ran a story examining the impact of racial division on the city's image. Dr. Dallas Blanchard of the University of West Florida argued that the division on Mobile's governmental boards, including the school board, "fosters the perception of Mobile being backward, non-progressive and yoked in the past" with an "elitist attitude that if you're not part of an old family, you don't have a voice . . . Mardi Gras epitomizes Mobile the elite throwing candy to the peasants. ⁵⁹

⁵⁷ "Fournier 'fed up' with board 'racism,'" *Mobile Register*, 17 April 1993.

⁵⁸ "Fournier 'fed up' with board 'racism,'" *Mobile Register*, 17 April 1993.

⁵⁹ "Mobile's image hurt by division," *Mobile Register*, 14 February 1993.

The Final Resolution of Birdie Mae Davis

Judge Brevard Hand ended the *Foster-Buskey* case in October 1996, agreeing that the system had reached court-ordered minority hiring goals. Superintendent Paul Sousa explained that "It shows the Mobile County public school system is working towards ending these long-term lawsuits." The same month, Judge Hand ordered a hearing for January 1997 to determine if the system had met the court-ordered desegregation orders. This action set the stage for the dismissal and conclusion of the *Birdie Mae Davis* case. Hand stated in an order that "The court's patience, and that of the community as a whole, is running very thin." He then quoted the Walrus in *Alice in Wonderland*: "The time has come . . . to speak of many things."

Plaintiffs' attorney Greg Stein and defense attorney Campbell reached a settlement calling for the end of the *Birdie Mae Davis* case and all legal issues related to the schools. To have the legal action discontinued, the board agreed to maintain some practices developed under *Birdie Mae Davis* such as the magnet schools and bi-racial community meetings. ⁶² These points were accepted as part of a gentleman's agreement and not included in the court records. However, ending the case did not find unanimous community support. Campbell described the plaintiff class as being fractured amongst itself:

⁶⁰ "Discrimination case against Mobile schools is finally put to rest," *Mobile Register*, 12 October 1996.

⁶¹ "The Time has come' for Birdie Mae Davis case," *Mobile Register*, 16 January 1997.

⁶² "Bye, Bye Birdie? Judge Ready to end school race case, but upset plaintiffs object," *Mobile Register*, 1 March 1997.

The plaintiffs don't appear to have a consensus among themselves. Some of the plaintiffs are fearful that without the federal court order we will go back to the things of the past. Other plaintiffs seem to have a wish list for more things than the court order called for. And there are other people that just want to fight.⁶³

Campbell stressed the importance of resolving the case and finding a compromise to prevent further litigation: "Cases should not languish in federal court until the millennium . . . If the parties take a winner-take-all attitude . . . the case will more than likely result in an appeal." Campbell described further appeals and time spent in court as backward steps for the school system and the community. Campbell forewarned: "If this thing goes to war on Tuesday it could polarize the races. There have been twenty years of forward steps, not backward. You don't want to undo that."

Some plaintiffs and other citizens created a non-profit corporation, Friends of Birdie Mae, on 18 February 1997 to raise awareness and money to prolong the case. Black parents and community leaders filed "objections claiming that they had received more than 2,700 signatures from black parents and black citizens opposed to closing the case." Some plaintiffs referred to their attorney Greg Stein as a "sell out." The *Mobile Beacon* recorded that Stein had been labeled a "turn-coat." They hired local attorney Rayford Etherton to represent their cause in court. Etherton filed a brief with the court in which he described the agreement between the plaintiffs and the defendants as

^{63 &}quot;The Time has come' for Birdie Mae Davis case," *Mobile Register*, 16 January 1997.

⁶⁴ "The Time has come' for Birdie Mae Davis case," *Mobile Register*, 16 January 1997.

⁶⁵ "Bye, Bye Birdie? Judge ready to end school race case, but upset plaintiffs object," *Mobile Register*, 1 March 1997.

⁶⁶ "Federal Judge To Make Decision On Birdie Mae Davis," *Mobile Beacon*, 15 March 1997.

"unenforceable and therefore meaningless." He continued: "Simply put, the defendants can easily ignore both the spirit and the letter of the agreement, and there is nothing the plaintiffs can do about it." Etherton stated in a brief that to dismiss the suit "would be a grave injustice to those for whom this action was initiated . . . but also to the Mobile community at large." The *Mobile Beacon* reported that at a

previous meeting held in Barton Academy a few weeks earlier, Mr. Sousa told the parties who met in the interest of the Birdie Mae Davis case and Magnet School Concept that he has received a large number of phone calls from both black and white citizens who want the Birdie Mae Davis case to close. The way he put it, it appeared that many blacks wanted the case to end. But after the Beacon's newsman made a private survey on this question, no blacks supported this statement by Mr. Sousa. 68

Members of the plaintiff class continued to seek more compromises, even though the school board had complied with the 1989 Consent Decree.

The plaintiffs hoped to add the issue of voting rights to the case. Commissioner David Thomas proposed that the school board adopt a supermajority voting system.

When the issue came before Judge Hand in March 1997, Hand declared that the issue of voting rules "may be the subject of another lawsuit but it's not part of this litigation." Norman Chachkin, an attorney for the NAACP Legal Defense Fund, expressed a similar point of view pertaining to the issue of supermajority voting: "There is not much point in

 $^{^{67}}$ "Bye, Bye Birdie? Judge ready to end school race case, but upset plaintiffs object," *Mobile Register*, 1 March 1997.

⁶⁸ "Federal Judge To Make Decision On Birdie Mae Davis," *Mobile Beacon*, 15 March 1997.

⁶⁹ "Voting rules request denied," *Mobile Register*, March 6, 1997.

raising a demand such as requiring a supermajority vote on the board for several reasons."⁷⁰

The lead council for the plaintiffs, Greg Stein, the United States Justice

Department, and the NAACP LDF agreed that the school board had achieved the goals of the 1989 agreement. Campbell commented on the approaching hearing stating that "It's really going to be the Justice Department lawyers, the plaintiffs' lawyer and me on one side of the room and the other guy on the other side of the room . . . It's kind of a funny feeling, I don't know if I like it or not." Campbell later added that sitting down with all the parties in the case "sent a loud, loud clear message to Judge Hand." Commenting on the final agreement between the two sides, Beatrice Morse, a monitor appointed by the court, claimed that "It has no teeth. It's full of ambiguities and qualifiers that render the good, noble language useless." A year earlier, Beatrice Morse had told the *Register* that "They put a lot of things in place, but they did not put the supporting services in place to make it work."

Nonetheless, on 27 March Judge Hand dismissed the *Birdie Mae Davis* case. The dismissal received a mixed response from the community.⁷⁵ Writing in 1996, Brett Blackledge noted:

⁷⁰ "Voting rules request denied," *Mobile Register*, 6 March 1997.

^{71 &}quot;Birdie Mae Davis resolution today?," *Mobile Register*, 5 March 1997.

⁷² "Birdie Mae case dismissed," *Mobile Register*, 28 March 1997.

⁷³ "Voting rules request denied," *Mobile Register*, 6 March 1997.

⁷⁴ "A Long Time Divided," *Mobile Register*, 7 January 1996.

⁷⁵ "Birdie Mae case dismissed," *Mobile Register*, 28 March 1997.

The goals of desegregation remain the same today, although the methods to accomplish them have changed. What was once a fight for integration has evolved into a battle for equity as black plaintiffs have shifted from improving the racial balance at schools to improving their own neighborhood schools.⁷⁶

Not missing an opportunity to voice an opinion on the settlement, the editorial page of the *Register* weighed in as the school system moved into a "new, uncertain era." When questioning whether the dismissal of the case resulted from the elimination of the "disparity between whites and blacks in Mobile Schools," the editorial answered: "Absolutely not." The paper acknowledged that citizens, black and white, preferred neighborhood schools and that the judge dismissed the case and that voluntary choice served as the reason for any remaining segregation. However, the daily challenged the public to settle "the racial divide that still haunts the schools." The *Register* offered three suggestions. First,

Acknowledge the wrongs that the system committed by spending so much money and effort fighting desegregation. The battle may have staved off change, but it also fostered distrust in the hearts of many black families. That distrust, if left untreated, will keep Mobile from confronting the race issue and healing old wounds.

Second, "Mobile County can attack the social ills that infect the poor black among us, sentencing their children to a life of few expectations and low achievement." And the paper once again praised the principles of the magnet schools: "A system with a real vision for improvement can challenge all students – black and white – to reach their full potential. Indeed, the magnet schools have become a stellar example of what high

⁷⁶ "Focus shifting from integration," *Mobile Register*, 8 January 1996.

⁷⁷ "With desegregation suit over, focus on future," *Mobile Register*, 30 March 1997.

standards and discipline can achieve." The editorial closed by noting the school board's responsibility: "The dismissal of the Birdie Mae Davis case has lifted a burden for Mobile County. It has also opened an opportunity. Now the school system has the freedom – and the obligation – to choose the best route that will improve education for everyone, regardless of skin color."

 $^{^{78}}$ "With desegregation suit over, focus on future," Mobile Register, 30 March 1997.

CONCLUSION

A GRAY HISTORY

Following the signing of the 1989 Consent Decree, Major Womack wrote an editorial for the *Inner City News*. He noted that "throughout the history of America, Blacks have told whites what they wanted; but we have always settled for what whites wanted us to have." After tracing the results of desegregation in Mobile and the perceived losses of "heritage and pride," Womack closed his editorial: "When the books are closed on the Birdie Mae Davis case will Blacks have gotten what we asked for, or will Blacks have settled for what whites wanted us to have? Have we overcome, yet?" Womack's perspective seemed to echo the 1968 Kerner Commission report which stated, "What white Americans have never fully understood – but what the Negro can never forget – is that white society is deeply implicated by the ghetto. White institutions created it, white institutions maintain it, and white society condones it." At some level, this disconnect between the races remained throughout school desegregation. The conflicting perspectives manifested themselves most visibly with the election of black school commissioners and the tension on the school board throughout the 1980s and

¹ "The Birdie Mae Davis Case: 'Mobile's Example of the Black Evolution in America," *Inner City News*, 21 January 1989.

² Matthew Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton: Princeton University Press, 2006), 2.

1990s. Despite continuing tensions and new charges of racism, a unified school board did negotiate a settlement to the *Birdie Mae Davis* case.

The thirty-four years of litigation that comprised the *Birdie Mae Davis* case had a significant impact on Mobile County schools. In total, the board created seven magnet schools to attract white students into previously majority black schools. Despite this and other efforts, the *Register* reported in 1997 that "at least a third of Mobile County public schools [were] still all one race or have only about 10 percent of another race. Two-thirds of the racially balanced campuses are magnet schools specifically created for that purpose." As of 1997, the school system bused about 2,800 students out of their district to attend schools. The black community witnessed twelve schools closed as desegregation relied heavily on attempting to integrate black students into white schools. The *Register* reported in 1997 that the teaching staff in Mobile was 72 percent white and 28 percent black while the administrative staff had a racial composition of sixty percent white and forty percent black.³ The *Register* pointed out in 1996 that "the system is the second most segregated in the country when compared to 44 others of similar size. Only the Fulton County, Ga., system outside Atlanta is more segregated."⁴

Despite the persistent de facto segregation and achievement gap between black and white students, it would be difficult to ignore the gains that had been made in the black freedom struggle. One year prior to the dismissal, the *Mobile Register* displayed a

³ "Much changed, much not," *Mobile Register*, 1 March 1997; "Legacy of Birdie Mae," *Mobile Register*, 1 March 1997.

⁴ "Long Time Divided, *Mobile Register*, 7 January 1996; "Still Segregated," *Mobile Register*, 7 January 1996. The *Mobile Register* included "How the Register did this analysis to explain their findings."

photograph of African American Spencer Merriweather in front of Murphy High School, where he served as student government president and was revered as one of the top students in the system. Murphy was the same school that Governor George Wallace had called in the National Guard to prevent integration of Alabama's public schools some thirty-three years earlier. Just as this move could be viewed as a positive step towards racial equality, the *Register* reported that the experiences for black and white students did not match up. In fact Merriweather commented, "I'm the exception to the rule . . . desegregation 'did what it was supposed to do in getting the kids here. But it hasn't gotten them together." The intricacies and nuances of racial discrimination and segregation in America had been in existence for almost four centuries. It would be difficult to believe that such long lasting habits, customs, preferences could be abolished overnight or within a matter of a few years or a generation. As Martin Luther King Jr. once stated, "the arc of the moral universe is long, but it bends towards justice." When describing the entire process of school desegregation and the resolution of the Birdie Mae Davis case, Judge Brevard Hand explained to one parent: "Few, if any, human endeavors are perfect. We simply do the best we can with the circumstances presented and keep searching for a better solution. Maybe someday we will find these solutions."⁷ However, Dr. King reminded the readers of his "Letter from a Birmingham Jail," written

However, Dr. King reminded the readers of his "Letter from a Birmingham Jail," writter

⁵ "A long time divided," *Mobile Register*, 7 January 1996.

⁶ Clayborne Carson and Kris Shepard, eds. *A Call to Conscience: The Landmark Speeches of Dr. Martin Luther King, Jr.* (New York: Warner Books, 2001), 199.

⁷ William Brevard Hand, to Michael J. Rone, 1 November 1989, *Birdie Mae Davis v. Board of Commissioners*, *Mobile County* legal files, Box 18, Miscellaneous Correspondence Folder, United States District Court Southern District of Alabama, Mobile, Alabama.

twenty days after the initiation of the *Birdie Mae Davis* lawsuit, that the passage of time alone would not solve the country's racial and social ills:

Such an attitude stems from a tragic misconception of time, from the strangely irrational notion that there is something in the very flow of time that will inevitably cure all ills. Actually, time itself is neutral; it can be used either destructively or constructively. More and more I feel that the people of ill will have used time much more effectively than have the people of good will.⁸

As the country moves forward into the twenty-first century, perhaps Hazel Fournier will prove to be prophetic when she pointed out that "The system will continue to perform very poorly until we have high expectations for every child. That has not happened.

We've got people who still believe economics means that a child will never score well on a test."

After the dismissal of the *Birdie Mae Davis* case, the trend toward neighborhood schools continued. In the fall of 1999, the school system limited the number of crosstown busing routes for the purpose of integration by two-thirds, leaving only twenty routes. The opening of three schools, Howard Elementary School, Calloway-Smith, and Ella Grant Elementary, all in inner-city locations, allowed for students who had been previously bused up to fourteen miles to attend the newest schools in the district, in their own neighborhood. Many citizens expressed excitement with the new schools and showed much neighborhood pride because of them. Superintendent Harold Dodge noted

⁸ Martin Luther King, Jr., Why We Can't Wait (New York: Harper & Row, 1963), 89.

⁹ "Test results a matter of racial separation," *Mobile Register*, 7 January 1996.

¹⁰ "Busing's quiet decline," *Mobile Register*, 19 September 1999.

that the convenience of attending a neighborhood school included the benefits of parent volunteers and parental involvement in school activities.¹¹

As Mobile County moved into a new century, free of desegregation litigation, ambivalence about the state of race relations remained. Not all citizens greeted the end of forced busing enthusiastically. Reverend Jesse McDaniel explained that he did not welcome neighborhood schools because he did "not believe that the Mobile community has done enough to create culturally diverse and equal neighborhoods."¹² Access to the best education possible remained a paramount concern for many people seeking to ensure high expectations and success for all the students in post-desegregation Mobile. Mary Jane Hartzog, director of the Mobile County Education Association, expressed hesitation over neighborhood schools: "My concern is that we don't get into a situation where we have de facto segregation of our schools and we don't provide children with the opportunities to go to schools with students of different backgrounds." The school system continued busing for students seeking majority to minority transfers. Hazel Fournier reminded people about the original intent of busing: "I think people forget busing was to provide children the opportunity to get a better education. It was about providing access to courses they had been denied before."14

While critics remained, magnet schools continued to be a source of community pride in the early twenty-first century. The board voted in 1999 to continue the magnet

¹¹ "Busing's quiet decline," *Mobile Register*, 19 September 1999.

¹² "Busing's quiet decline," *Mobile Register*, 19 September 1999.

¹³ "Busing's quiet decline," *Mobile Register*, 19 September 1999.

¹⁴ "Busing's quiet decline," *Mobile Register*, 19 September 1999.

schools despite being free from any court order mandating them. Superintendent Harold Dodge explained that "The magnet schools have been successful; they are well-liked." Earlier in the year, the board agreed to abolish the policy of limiting the chances of a student entering a magnet school if he or she were in the minority of the racial composition of his or her own neighborhood school. Campbell warned, however, that "if this makes the schools more segregated, there's always the possibility of another lawsuit." Cecil Carlton, Assistant Superintendent for Curriculum, countered that the decision only affected a small number of students. The *Register* reported 210 black students and 348 white students had been affected under the previous rules. The *Register* also commented that "With the opening of new and better-equipped neighborhood schools in the last few years, more parents can now send their kids to nearby classrooms that more closely reflect their neighborhood's racial makeup. That has caused fewer eligible students to apply to magnet schools, creating more vacancies."

The Mobile Area Chamber of Commerce reported in April 2007 that 10,000 students applied each year to magnet programs that served only 3,000 of these students. The Chamber of Commerce described the schools as "widely successful" and "amazing, producing many of the best and brightest in Mobile." Once again, the Chamber of

¹⁵ "No changes planned for magnet schools," *Mobile Register*, 9 November 1999.

¹⁶ "Magnet schools get a break," *Mobile Register*, 11 March 1999.

¹⁷ "Magnet schools get a break," *Mobile Register*, 11 March 1999.

¹⁸ "Magnet schools get a break," *Mobile Register*, 11 March 1999.

¹⁹ "Magnet Schools Offer An Option for Students in Mobile County," *The Business View*, Volume XXXVIII, April 2007, 8.

Commerce acted similar to other southern Chambers of Commerce from an earlier generation which had hoped to advertise their area as no longer being held down by a history of discrimination, but being instead a dynamic and progressive area looking toward the future. While success continued at the magnet elementary and middle schools, LeFlore High School failed to attract white students in substantial numbers. In 2006, LeFlore Magnet School ceased operations and became LeFlore Preparatory Academy.

After four decades, school desegregation had brought about significant changes to Mobile County. The school board, now with African American members, no longer operated a dual school system based solely on race. However, throughout the history of school desegregation the importance of neighborhood schools to many members of the community, black and white remained a constant theme. This desire to maintain local authority trumped more aggressive desegregation plans. In the end, the plan that ended the *Birdie Mae Davis* case relied on voluntary methods developed by local educational leaders with the assistance of national experts. This emphasis on local control shows that for a desegregation plan to work, the majority of the community must accept it. Forced plans, such as busing, faced resistance and criticism and caused disruption to the school system. However, the continuation of attendance plans based on neighborhood schools perpetuated schools with a stark majority of one race due to the prevalence of housing segregation. While many vestiges of a segregated school system were dismantled over the previous six decades, some of the legacies of segregation remain. This study

²⁰ "LeFlore can't find its racial balance," *Mobile Press Register*, 21 June 2005.

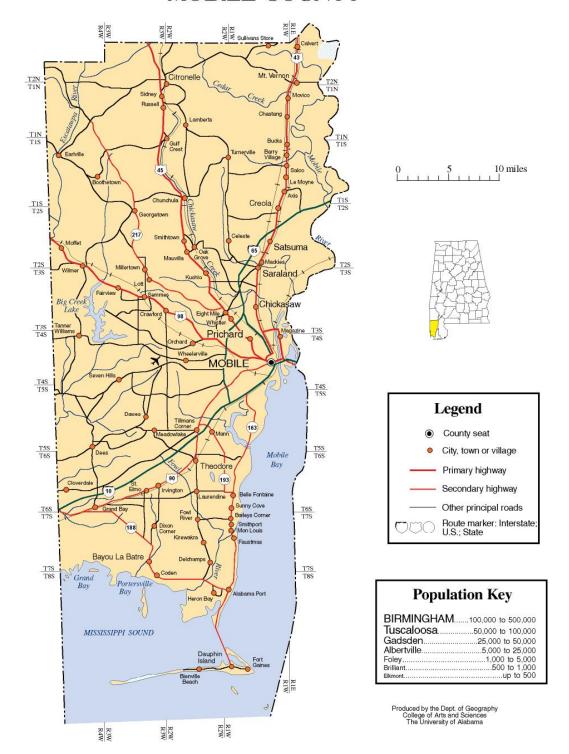
²¹ "College prep new focus for LeFlore," *Mobile Press Register*, 16 March 2006.

demonstrates that a local community can help shape and change federal desegregation orders.

The final conclusion on school desegregation remains unknown, but on a local level a mixed judgment exists on the success and failure of school desegregation.

Similarly, many observers hold varying views of school desegregation overall as many scholars continue to evaluate the meaning of *Brown v. Board of Education* and school desegregation in twentieth century American history. The answer may not be found on either end of the spectrum of success and failure. Race relations in the United States evade simple categorization; issues cannot be viewed as simply an unmitigated failure or a triumphant victory. Instead, through the lens of local school desegregation, a grayer cast about race relations emerges – one of tremendous strides but still burdened by the past.

MOBILE COUNTY



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^{*} Judge Hand allowed the author to conduct an interview; however, the interview was not recorded. This work does not directly quote anything directly from that interview. But the author is grateful for the opportunity to interview the Judge and the conversation with Hand helped shape the project.

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APPENDIX ONE

DESEGREGATION IN MOBILE, ALABAMA TIMELINE

| 1896 | Plessy v. Ferguson |
|----------------|---|
| 1954 | First black police officer hired in Mobile |
| 1954 | Brown v. Board of Education Topeka, Kansas |
| 1955 | Brown v. Board of Education Topeka, Kansas II |
| 1956 | NAACP shut down by the State of Alabama; Non-Partisan Voters |
| 0 1 1056 | League formed |
| September 1956 | Dorothy Danner attempts to enroll her adopted black daughter into |
| | a white school. School board rejects Danner's request; A cross is |
| 1050 | burned in her yard |
| 1959 | Bus company hires first black drivers |
| 1961 | Federal judge rules that the city's golf course must be integrated |
| 1962 | Lunch counter desegregation |
| November 1962 | John LeFlore and black citizens petition entry into white schools |
| 27 March 1963 | Birdie Mae Davis et. al. v. Board of School Commissioners of Mobile County filed |
| September 1963 | First two African American students attend Murphy High School in |
| | Mobile, Alabama |
| 1964 | Civil Rights Act of 1964 |
| 1965 | Voting Rights Act |
| 14 June 1967 | Justice Department joins case as plaintiff intervenor |
| 1968 | Green v. County School Board of New Kent County, 391 U.S. 430; |
| | Fifth Circuit Court of Appeals orders the establishment of a unitary |
| | school system |
| 1969 | Alexander v. Holmes County [Mississippi] Board of Education, 396 |
| | U.S. 19; Fifth Circuit Court of Appeals orders HEW to consult with |
| | the district court to develop a desegregation plan |
| 1970 | District Court orders mid-school year acceptance of the HEW plan; |
| | Non-conformers prevent plan from being implemented |
| 20 April1971 | Swann v. Charlotte-Mecklenburg |
| 9 July 1971 | Consent Decree, Comprehensive Plan for a Unitary School System, |
| | established based on Swann; begins three year period for the school |
| | system to develop a unitary system |
| 1 October 1971 | Judge William Brevard Hand takes over the Birdie Mae Davis case |
| | from Judge Daniel Thomas |
| | 170 |

| 1973 1974 | Keyes v. Denver School District No. 1, 413 U.S. 189 Milliken v. Bradley, 418 U.S. 717 |
|-----------------|--|
| 1974 | William Feild report |
| 1975 | Brown v. Board of School Commissioners; Bolden v. Mobile |
| December 1976 | School Board hires attorney Robert Campbell |
| 1977 | Milliken v. Bradley II, 433 U.S. 267 |
| 1978 | Election of the first African American School Commissioners |
| 1980 | Mount Vernon parents protest their schools |
| 1981 | Fifth Circuit Court of Appeals divides, creating Eleventh Circuit |
| 2, 02 | Court of Appeals in Atlanta, Georgia; LeFlore High School opens as a magnet school within a school |
| 1982 - 1983 | Community Committees meet to develop a desegregation plan |
| October 1983 | Birdie Mae Davis hearings held |
| 1984 | Judge Hand appoints Special Master Lino Graglia |
| 1984 | Plaintiffs appeal the appointment of Lino Graglia and all merits of the case |
| 1985 | Eleventh Circuit Court of Appeals rejects plaintiffs appeal |
| September 1985 | Justice Department argues the school system had failed to achieve unitary status |
| 1986 | Riddick v. School Board of the City of Norfolk, Virginia, 784 F.2 |
| 1700 | 521 |
| March 1986 | Judge Hand rules that the school system had achieved unity in all |
| 1/10/10/17 | but two <i>Green</i> Factors: Student Assignment and Principal |
| | Assignment |
| 1987 | Plaintiffs propose the Dentler Plan |
| January 1987 | Bradford Reynolds visits Mobile |
| April 1987 | Birdie Mae Davis King returns to Mobile |
| July 1987 | Griggs-Burroughs busing |
| November 1987 | Robert Gilliard elected first black president of the School Board |
| May 1988 | School Board presents Mobile Plan |
| June 1988 | Judge Hand approves the Mobile Plan |
| 13 January 1989 | Birdie Mae Davis consent decree based on the Mobile Plan signed |
| 1989 | Council Traditional School and Phillips Preparatory School established |
| 1990 | Dunbar and Old Shell Road Schools established |
| 1991 | Chickasaw and Clark Magnet Schools established |
| 1991 | Board of Education of Oklahoma v. Dowell, 498 U.S. 327 |
| 1992 | Freeman v. Pitts, 503 U.S. 467 |
| December 1993 | Judge Hand orders additional four year monitoring period of the |
| | Birdie Mae Davis case |
| 1995 | Missouri v. Jenkins, 115 S. Ct. 2038 |
| 1996 | Judge Hand dismisses Foster-Buskey |
| February 1997 | Friends of Birdie Mae formed |
| 27 March 1997 | Judge Hand dismisses the Birdie Mae Davis case |
| | <u>~</u> |

APPENDIX TWO

MOBILE COUNTY SCHOOL SUPERINTENDENTS

| 1952 - 1970 | Dr. Cranford Burns |
|-------------|---------------------------|
| 1970 - 1976 | Dr. Harold R. Collins |
| 1976 – 1978 | Dr. Richard LoDestro |
| 1978 | Larry Newton |
| 1978 | Lenwood A. "Pete" Landrum |
| 1978 - 1986 | Dr. Abe L. Hammons |
| 1986 – 1991 | Billy Salter |
| 1991 – 1993 | Dr. Doug Magann |
| 1993 – 1998 | Paul Sousa |
| 1998 - 2007 | Dr. Harold Dodge |

Source: "School turbulence nothing new here," *Mobile Register*, 1 February 1993. The *Register* included a brief description of each superintendent through Sousa.

APPENDIX THREE

MOBILE COUNTY SCHOOL COMMISSIONERS

| 1988 - 1994 | N. Q. Adams |
|-------------|-----------------------|
| 1974 - 1983 | Dan Alexander |
| 1990 - 1998 | Jeanne Andrews |
| 1984 - 1990 | Charles Belk |
| 1970 - 1983 | Norman Berger |
| 1976 - 1983 | Hiram Bosarge |
| 1978 - 1990 | Norman Cox |
| 1956 - 1974 | William B. Crane |
| 1974 - 1984 | Ruth Drago |
| 1990 - 2008 | Hazel Fournier |
| 1960 - 1966 | Jack Gallalee |
| 1978 - 1990 | Robert Gilliard |
| 1994 - 2006 | John Holland |
| 1994 - 1997 | Charles Jordan |
| 1983 - 1988 | Judy McCain |
| 1956 - 1974 | Charles McNeil |
| 1983 - 1988 | Howard "Chip" Mathis |
| 1990 - 1994 | Joseph Mitchell |
| 1966 - 1978 | Homer Sessions |
| 1994 - 2006 | David Thomas |
| 1988 - 1994 | Marion "Sugar" Warren |
| 1997 - 2000 | Michael Watson |
| 1970 – 1976 | Robert Williams |

Source: *Directories of the Mobile County Public Schools*, Mobile Public Library, Local History and Genealogy Library. Special thanks to School Board Secretary Sharon Abrams for locating school board records that helped create this chart.

APPENDIX FOUR

TABLES OF THE RACIAL COMPOSITIONS OF MOBILE COUNTY PUBLIC

SCHOOLS

TABLE 1
RACIAL COMPOSITIONS OF MOBILE COUNTY PUBLIC SCHOOLS, 1972

| | | Number of | | D |
|------------------------------|-----------------|------------|------------------|-------------------|
| | Manakan CDI 1 | White (Non | | Percentage of |
| | Number of Black | Black) | | black students in |
| School (grades served) | Students | Students | Total Population | each school |
| Alba (1 - 12) | 172 | 1360 | 1532 | 11% |
| Baker (1 - 12) | 118 | 1051 | 1169 | 10% |
| Blount (9-12) | 2222 | 0 | 2222 | 100% |
| Citronelle (6 - 12) | 436 | 684 | 1120 | 39% |
| Davidson (9 - 12) | 760 | 1292 | 2052 | 37% |
| Grand Bay | 233 | 636 | 869 | 27% |
| Toulminville (9- 12) | 1291 | 10 | 1301 | 99% |
| Mobile County High (7-12) | 233 | 636 | 869 | 27% |
| Montgomery (9 - 12) | 31 | 901 | 932 | 3% |
| Murphy (9-12) | 1127 | 1737 | 2864 | 39% |
| Rain (9 - 12) | 341 | 832 | 1173 | 29% |
| Satsuma (9-12) | 212 | 961 | 1173 | 18% |
| Shaw (9-12) | 440 | 1268 | 1708 | 26% |
| Theodore (7-12) | 367 | 1515 | 1882 | 20% |
| Vigor (9-12) | 956 | 711 | 1667 | 57% |
| Williamson (9-12) | 811 | 497 | 1308 | 62% |
| Adams (6-8) | 168 | 819 | 987 | 17% |
| Azalea (6-8) | 395 | 836 | 1231 | 32% |
| Clark (6-8) | 763 | 404 | 1167 | 65% |
| Dunbar (6-8) | 991 | 6 | 997 | 99% |
| Eanes (6-8) | 587 | 883 | 1470 | 40% |
| Hillsdale (6-8) | 256 | 569 | 825 | 31% |
| Mobile County Training (6-8) | 615 | 10 | 625 | 98% |

Table 1-Continued

| | | Number of | | Dagaanta aa af |
|-------------------------|-----------------|----------------------|------------------|---------------------------------|
| | Number of Black | White (Non Black) | | Percentage of black students in |
| School (grades served) | Students | Students | Total Population | each school |
| Phillips (6-8) | 653 | 735 | 1388 | 47% |
| Scarborough (6-8) | 282 | 581 | 863 | 33% |
| Semmes (1-8) | 18 | 1233 | 1251 | 1% |
| Washington (6-8) | 959 | 10 | 969 | 99% |
| Austin (1-5) | 121 | 224 | 345 | 35% |
| Belsaw (6-8) | 207 | 40 | 247 | 84% |
| Brazier (K-5) | 936 | 0 | 936 | 100% |
| Brookley (1-5) | 118 | 412 | 530 | 22% |
| Burroughs (1-6) | 308 | 146 | 454 | 68% |
| Calcedeaver (1-6) | 0 | 177 | | 0% |
| Grand Bay (1-6) | 145 | 737 | 882 | 16% |
| Chickasaw (1-5) | 176 | 396 | 572 | 31% |
| Council (1-5) | 431 | 4 | 435 | 99% |
| Craighead (1-5) | 851 | 197 | 1048 | 81% |
| Chricton (1-5) | 301 | 226 | 527 | 57% |
| Dauphin Island (1-6) | 0 | 34 | 34 | 0% |
| Davis (1-6) | 131 | 717 | 848 | 15% |
| Dickson (1-5) | 278 | 392 | 670 | 41% |
| Dixon (1-6) | 181 | 212 | 393 | 46% |
| Dodge (1-5) | 237 | 490 | 727 | 33% |
| Eight Mile (1-5) | 215 | 300 | 515 | 42% |
| Fonde (1-5) | 126 | 502 | 628 | 20% |
| Fonvielle (1-5) | 1086 | 0 | 1086 | 100% |
| Forest Hill (1-5) | 181 | 496 | 677 | 27% |
| Glendale (1-5) | 599 | 174 | 773 | 77% |
| Griggs (1-6) | 43 | 880 | 923 | 5% |
| Hall (6-8) | 521 | 536 | 1057 | 49% |
| Hamilton (1-5) | 109 | 393 | 502 | 22% |
| Hollingers Island (1-6) | 2 | 360 | 362 | 1% |
| Indian Springs (1-5) | 107 | 272 | 379 | 28% |
| Lee (1-5) | 139 | 605 | 744 | 19% |
| Leinkauf (1-5) | 219 | 145 | 364 | 60% |

Table 1 - Continued

| | | Number of | | D |
|-------------------------|-----------------|----------------------|------------------|---------------------------------|
| | Number of Black | White (Non Black) | | Percentage of black students in |
| School (grades served) | Students | Students | Total Population | each school |
| Lott (1-5) | 152 | 396 | | 28% |
| Maryvale (1-5) | 300 | 332 | 632 | 47% |
| Mertz (1-5) | 109 | 310 | 419 | 26% |
| Morningside (1-5) | 176 | 566 | 742 | 24% |
| Old Shell Road (1-5) | 427 | 48 | 475 | 90% |
| Orchard (1-5) | 209 | 716 | 925 | 23% |
| Palmer (1-5) | 537 | 52 | 589 | 91% |
| Robbins (1-5) | 890 | 5 | 895 | 99% |
| St. Elmo (7-8) | 50 | 462 | 512 | 10% |
| Saraland (1-5) | 126 | 532 | 658 | 19% |
| Shepard (1-5) | 151 | 305 | 456 | 33% |
| Tanner Williams (1-6) | 3 | 344 | 347 | 1% |
| Thomas (1-5) | 95 | 161 | 256 | 37% |
| Westlawn (1-5) | 137 | 413 | 550 | 25% |
| Whistler (1-5) | 166 | 101 | 267 | 62% |
| Whitley (1-5) | 402 | 18 | 420 | 96% |
| Will (1-5) | 245 | 446 | 691 | 35% |
| Williams (1-5) | 126 | 295 | 421 | 30% |
| Wilmer (1-6) | 55 | 334 | 389 | 14% |
| Woodcock (1-5) | 276 | 117 | 393 | 70% |
| Mt. Vernon (1-5) | 326 | 58 | 384 | 85% |
| Owens (K) | 517 | 0 | 517 | 100% |
| Prichard Middle (6-8) | 390 | 146 | 536 | 73% |
| Stanton Road (K-5) | 835 | 85 | 920 | 91% |
| Augusta Evans (Special) | 144 | 91 | 235 | 61% |
| Trinity Gardens (6-8) | 814 | 206 | 1020 | 80% |
| Total | 30,630 | 35,120 | 65,750 | 47% |

Source: *Birdie Mae Davis v. Board of Commissioners*, *Mobile County* legal files, Box 14, United States District Court Southern District of Alabama, Mobile, Alabama. Semi-annual Federal Court Report, filed 30 March 1972.

 ${\it TABLE~2} \\ {\it RACIAL~COMPOSITIONS~OF~MOBILE~COUNTY~PUBLIC~SCHOOLS}, 1976$

Number of White (Non Percentage of Number of Black Black) black students in School (grades served) Students Students **Total Population** each school Alba (1-12) 165 1248 1413 12% Baker (1-12) 131 1521 1652 8% 0 Blount (9-12) 2026 2026 100% 443 912 1355 33% Citronelle (6-12) Davidson (9-12) 781 2224 35% 1443 Toulminville (9-12) 0 1338 100% 1338 Mobile County High (7-12) 234 799 1033 23% Montgomery (9-12) 32 1192 3% 1160 2476 45% Murphy (9-12) 1113 1363 Rain (9-12) 370 826 1196 31% 195 1395 14% Satsuma (9-12) 1200 Shaw (9-12) 470 1393 1863 25% Theodore (9-12) 1605 16% 261 1344 Vigor (9-12) 1276 941 2217 58% Williamson (9-12) 1195 320 79% 1515 Adams (6-8) 142 962 1104 13% Azalea (6-8) 348 853 1201 29% 191 85% Belsaw (6-8) 34 225 Clark (6-8) 673 507 1180 57% **Dunbar** (6-8) 748 0 100% 748 Eanes (6-8) 968 781 1749 55% 207 803 26% Hillsdale (6-8) 596 2 Mobile County Training (6-8) 511 513 100% Phillips (6-8) 690 606 1296 53% 34% Scarborough (6-8) 251 489 740 **Semmes (1-8)** 22 1638 1616 1% Washington (6-8) 879 0 879 100% Austin (1-5) 80 211 291 27% 294 84% Mt. Vernon (1-5) 56 350 0 Brazier (1-5) 646 646 100%

| Table 2-Continued | Number of Black | Number of White (Non Black) | | Percentage of black students in |
|-------------------------|-----------------|-----------------------------------|------------------|---------------------------------|
| | Students | Students | Total Population | each school |
| School (grades served) | | | | |
| Brookley (1-5) | 144 | 306 | 450 | 32% |
| Burroughs (1-6) | 280 | 131 | 411 | 68% |
| Calcedeaver (1-6) | 0 | 185 | 185 | 0% |
| Grand Bay (1-6) | 147 | 787 | 934 | 16% |
| Chickasaw (1-5) | 116 | 291 | 407 | 29% |
| Council (1-5) | 367 | 1 | 368 | 100% |
| Craighead (1-5) | 894 | 76 | 970 | 92% |
| Chricton (1-5) | 318 | 179 | 497 | 64% |
| Dauphin Island (1-6) | 0 | 48 | 48 | 0% |
| Davis (1-6) | 141 | 716 | 857 | 16% |
| Dickson (1-5) | 233 | 327 | 560 | 42% |
| Dixon (1-6) | 132 | 273 | 405 | 33% |
| Dodge (1-5) | 190 | 545 | 735 | 26% |
| Eight Mile (1-5) | 134 | 318 | 452 | 30% |
| Fonde (1-5) | 186 | 555 | 741 | 25% |
| Fonvielle (1-5) | 770 | 0 | 770 | 100% |
| Forest Hill (1-5) | 106 | 340 | 446 | 24% |
| Glendale (1-5) | 645 | 76 | 721 | 89% |
| Griggs (1-6) | 36 | 998 | 1034 | 3% |
| Hall (6-8) | 684 | 447 | 1131 | 60% |
| Hamilton (1-5) | 73 | 468 | 541 | 13% |
| Hollingers Island (1-6) | 0 | 314 | 314 | 0% |
| Indian Springs (1-5) | 85 | 306 | 391 | 22% |
| Lee (1-5) | 131 | 693 | 824 | 16% |
| Leinkauf (1-5) | 216 | 130 | 346 | 62% |
| Lott (1-5) | 131 | 466 | 597 | 22% |
| Maryvale (1-5) | 304 | 253 | 557 | 55% |
| Mertz (1-5) | 76 | 250 | 326 | 23% |
| Morningside (1-5) | 187 | 423 | 610 | 31% |
| Old Shell Road (1-5) | 253 | 36 | 289 | 88% |
| Orchard (1-5) | 130 | 671 | 801 | 16% |
| Palmer (1-5) | 531 | 15 | 546 | 97% |
| Robbins (1-5) | 683 | 1 | 684 | 100% |

Table 2-Continued

| | | Number of | | |
|------------------------------|-----------------|------------|-------------------------|-------------------|
| | | White (Non | | Percentage of |
| | Number of Black | Black) | | black students in |
| School (grades served) | Students | Students | Total Population | each school |
| St. Elmo (7-8) | 148 | 885 | 1033 | 14% |
| Saraland (1-5) | 101 | 471 | 572 | 18% |
| Shepard (1-5) | 68 | 247 | 315 | 22% |
| Tanner Williams (1-6) | 1 | 379 | 380 | 0% |
| Thomas (1-5) | 157 | 101 | 258 | 61% |
| Westlawn (1-5) | 86 | 434 | 520 | 17% |
| Whistler (1-5) | 150 | 64 | 214 | 70% |
| Whitley (1-5) | 343 | 0 | 343 | 100% |
| Will (1-5) | 167 | 327 | 494 | 34% |
| Williams (1-5) | 100 | 222 | 322 | 31% |
| Wilmer (1-6) | 47 | 369 | 416 | 11% |
| Woodcock (1-5) | 335 | 50 | 385 | 87% |
| Prichard Middle School (6-8) | 547 | 56 | 603 | 91% |
| Trinity Gardens (6-8) | 805 | 212 | 1017 | 79% |
| Stanton Road (1-5) | 699 | 12 | 711 | 98% |
| Continuous Learning Center | 60 | 7 | 67 | 90% |
| Augusta Evans (Special) | 171 | 89 | 260 | 66% |
| Total | 28,718 | 35,733 | 64,451 | 45% |

Source: *Birdie Mae Davis v. Board of Commissioners, Mobile County* legal files, Box 13, United States District Court Southern District of Alabama, Mobile, Alabama. Semi-annual Federal Court Report, filed 13 April 1976.

TABLE 3
RACIAL COMPOSITIONS OF MOBILE COUNTY PUBLIC SCHOOLS, 1980

| | Number of Black | Number of White (Non Black) | , | Percentage of black students in |
|----------------------------------|-----------------|-----------------------------------|-------------------------|---------------------------------|
| School (grades served) | Students | Students | Total Population | each school |
| Alba (6-12) | 103 | 666 | 769 | 13% |
| Baker (7-12) | 216 | 1274 | 1490 | 14% |
| Blount (9-12) | 1431 | 0 | 1431 | 100% |
| Citronelle (6-12) | 415 | 927 | 1342 | 31% |
| Davidson (9-12) | 744 | 1204 | 1948 | 38% |
| Toulminville (9-12) | 1055 | 0 | 1055 | 100% |
| Mobile County High School (9-12) | 101 | 501 | 602 | 17% |
| Montgomery (9-12) | 51 | 1214 | 1265 | 4% |
| Murphy (9-12) | 1027 | 1264 | 2291 | 45% |
| Rain (9-12) | 382 | 788 | 1170 | 33% |
| Satsuma (9-12) | 148 | 1151 | 1299 | 11% |
| Shaw (9-12) | 255 | 1128 | 1383 | 18% |
| Theodore (9-12) | 231 | 1259 | 1490 | 16% |
| Vigor (9-12) | 1237 | 607 | 1844 | 67% |
| Williamson (9-12) | 976 | 93 | 1069 | 91% |
| Adams (6-8) | 111 | 803 | 914 | 12% |
| Azalea (6-8) | 291 | 678 | 969 | 30% |
| Belsaw (6-8) | 125 | 20 | 145 | 86% |
| Clark (6-8) | 527 | 349 | 876 | 60% |
| Dunbar (6-8) | 518 | 0 | 518 | 100% |
| Eanes (6-8) | 587 | 369 | 956 | 61% |
| Hillsdale (6-8) | 177 | 524 | 701 | 25% |
| Mobile County Training (6-8) | 342 | 7 | 349 | 98% |
| Mobile County (7-8) | 81 | 322 | 403 | 20% |
| Phillips (6-8) | 560 | 392 | 952 | 59% |
| Pillans/Hall (6-8) | 748 | 462 | 1210 | 62% |
| Prichard Middle (6-8) | 443 | 4 | 447 | 99% |
| Scarborough (6-8) | 153 | 343 | 496 | 31% |
| Semmes (6-8) | 30 | 988 | 1018 | 3% |
| Washington (6-8) | 526 | 0 | 526 | 100% |

Table 3-Continued

| School (grades served) | Number of Black Students | Number of White (Non Black) Students | Total Population | Percentage of black students in each school |
|-------------------------|-----------------------------|---|------------------|---|
| Austin (K-5) | 76 | 208 | 284 | 27% |
| Baker (K-6) | 70 | 878 | 948 | 7% |
| Mount Vernon (K-5) | 231 | 69 | 300 | 77% |
| Brazier (K-5) | 656 | 0 | 656 | 100% |
| Brookley (K-5) | 190 | 427 | 617 | 31% |
| Burroughs (1-6) | 223 | 153 | 376 | 59% |
| Calcedeaver (K-6) | 0 | 209 | 209 | 0% |
| Grand Bay (K-6) | 173 | 1019 | 1192 | 15% |
| Chickasaw (K-5) | 144 | 331 | 475 | 30% |
| Council (K-5) | 384 | 2 | 386 | 99% |
| Craighead (K-5) | 943 | 32 | 975 | 97% |
| Chricton (K-5) | 400 | 105 | 505 | 79% |
| Dauphin Island (1-6) | 0 | 37 | 37 | 0% |
| Davis (K-6) | 111 | 982 | 1093 | 10% |
| Dickson (K-5) | 264 | 524 | 788 | 34% |
| Dixon (K-6) | 179 | 351 | 530 | 34% |
| Dodge (K-5) | 252 | 780 | 1032 | 24% |
| Eight Mile (K-5) | 157 | 383 | 540 | 29% |
| Fonde (K-5) | 227 | 570 | 797 | 28% |
| Fonvielle (K-5) | 822 | 0 | 822 | 100% |
| Forest Hill (K-5) | 129 | 423 | 552 | 23% |
| Glendale (K-5) | 820 | 7 | 827 | 99% |
| Griggs (K-6) | 26 | 1289 | 1315 | 2% |
| Hamilton (K-5) | 102 | 523 | 625 | 16% |
| Hollingers Island (K-6) | 4 | 311 | 315 | 1% |
| Indian Springs (K-5) | 140 | 382 | 522 | 27% |
| Lee (K-5) | 119 | 969 | 1088 | 11% |
| Leinkauf (K-5) | 299 | 102 | 401 | 75% |
| Lott (K-6) | 137 | 665 | 802 | 17% |
| Maryvale (K-5) | 557 | 182 | 739 | 75% |
| Mertz (K-5) | 84 | 218 | 302 | 28% |

Table 3-Continued

| School (grades served) | Number of Black Students | Number of White (Non Black) Students | | Percentage of black students in each school |
|-----------------------------------|-----------------------------|---|----------------------|---|
| Morningside (K-5) | Students 191 | Students 430 | Total Population 621 | each school |
| Old Shell Road (K-5) | 230 | 60 | | 79% |
| Orchard (K-5) | 170 | 758 | | 18% |
| Palmer (1-5) | 575 | 2 | | 100% |
| Robbins (1-5) | 691 | 0 | | 100% |
| St. Elmo (7-8) | 154 | 802 | ~~- | 16% |
| Saraland (K-5) | 95 | 539 | | 15% |
| Semmes (K-5) | 7 | 909 | | 1% |
| Shepard (K-5) | 63 | 247 | | 20% |
| Tanner Williams (K-6) | 3 | 414 | | 1% |
| Thomas (K-5) | 236 | 45 | | 84% |
| Westlawn (K-5) | 150 | 437 | | 26% |
| Whistler (1-5) | 202 | 44 | | 82% |
| Whitley (K-5) | 388 | 0 | 388 | 100% |
| Will (K-5) | 132 | 333 | 465 | 28% |
| Williams (K-5) | 106 | 276 | 382 | 28% |
| Wilmer (K-6) | 43 | 473 | 516 | 8% |
| Woodcock (K-5) | 387 | 36 | 423 | 91% |
| Owens (K) | 138 | 11 | 149 | 93% |
| Trinity Gardens (6-8) | 564 | 143 | 707 | 80% |
| Warren (K) | 150 | 18 | 168 | 89% |
| Prichard Middle (6-8) | 443 | 4 | 447 | 99% |
| Whistler (K) | 89 | 71 | 160 | 56% |
| Stanton Road (K-5) | 710 | 8 | 718 | 99% |
| Augusta Evans (Special) | 163 | 86 | 249 | 65% |
| Continuous Learning Center (7-11) | 9 | 10 | 19 | 47% |
| Total | 27,289 | 36,117 | 63,406 | 43% |
| | | | | |

Source: *Birdie Mae Davis v. Board of Commissioners*, *Mobile County* legal files, Box 15, United States District Court Southern District of Alabama, Mobile, Alabama. Semi-annual Federal Court Report, filed 16 April 1980.

TABLE 4
RACIAL COMPOSITIONS OF MOBILE COUNTY PUBLIC SCHOOLS, 1984

| | | Number of | | |
|------------------------------|-----------------|------------|------------------|-------------------|
| | | White (Non | | Percentage of |
| | Number of Black | Black) | | black students in |
| School (grades served) | Students | Students | Total Population | each school |
| Alba (6-12) | 114 | 893 | 1007 | 11% |
| Baker (7-12) | 258 | 1655 | 1913 | 13% |
| Blount (9-12) | 976 | 0 | 976 | 100% |
| Citronelle (9-12) | 222 | 547 | 769 | 29% |
| Davidson (9-12) | 505 | 960 | 1465 | 34% |
| Mobile County (7-12) | 192 | 905 | 1097 | 18% |
| LeFlore (9-12) | 1083 | 3 | 1086 | 100% |
| Montgomery (9-12) | 60 | 1191 | 1251 | 5% |
| Murphy (9-12) | 1156 | 1340 | 2496 | 46% |
| Rain (9-12) | 480 | 791 | 1271 | 38% |
| Satsuma (9-12) | 137 | 1180 | 1317 | 10% |
| Shaw (9-12) | 250 | 911 | 1161 | 22% |
| Theodore (9-12) | 231 | 1569 | 1800 | 13% |
| Vigor (9-12) | 1325 | 548 | 1873 | 71% |
| Williamson (9-12) | 819 | 19 | 838 | 98% |
| Adams (6-8) | 123 | 927 | 1050 | 12% |
| Azalea (6-8) | 438 | 639 | 1077 | 41% |
| Belsaw | 137 | 41 | 178 | 77% |
| Citronelle (6-8) | 88 | 481 | 569 | 15% |
| Clark (6-8) | 523 | 338 | 861 | 61% |
| Dunbar (6-8) | 411 | 2 | 413 | 100% |
| Eanes (6-8) | 576 | 195 | 771 | 75% |
| Hillsdale (6-8) | 180 | 590 | 770 | 23% |
| Mobile County Training (6-8) | 334 | 5 | 339 | 99% |
| Phillips (6-8) | 509 | 291 | 800 | 64% |
| Pillans (6-8) | 878 | 569 | 1447 | 61% |
| Scarborough (6-8) | 375 | 564 | 939 | 40% |
| Semmes (6-8) | 60 | 961 | 1021 | 6% |
| Theodore (7-8) | 129 | 996 | 1125 | 11% |
| Table 4-Continued | | | | |

186

| School (grades served) | Number of Black Students | Number of White (Non Black) Students | Total Population | Percentage of black students in each school |
|-------------------------|-----------------------------|---|------------------|---|
| Washington (6-8) | 661 | 0 | 661 | 100% |
| Alba (K-5) | 67 | 553 | 620 | 11% |
| Austin (K-5) | 156 | 211 | 367 | 43% |
| Baker (K-6) | 133 | 1180 | 1313 | 10% |
| Belsaw | 289 | 60 | 349 | 83% |
| Brazier (K-5) | 745 | 0 | 745 | 100% |
| Brookley (K-5) | 283 | 457 | 740 | 38% |
| Burroughs (K-6) | 235 | 90 | 325 | 72% |
| Calcedeaver (K-6) | 0 | 156 | 156 | 0% |
| Castlen (K-6) | 176 | 968 | 1144 | 15% |
| Chickasaw (K-5) | 240 | 273 | 513 | 47% |
| Council (K-5) | 524 | 1 | 525 | 100% |
| Chricton (K-5) | 616 | 33 | 649 | 95% |
| Dauphin Island (K-6) | 0 | 60 | 60 | 0% |
| Davis (K-6) | 172 | 1041 | 1213 | 14% |
| Dickson (K-5) | 318 | 422 | 740 | 43% |
| Dixon (K-6) | 191 | 614 | 805 | 24% |
| Dodge (K-5) | 271 | 768 | 1039 | 26% |
| Eight Mile (K-5) | 209 | 357 | 566 | 37% |
| Fonde (K-5) | 349 | 496 | 845 | 41% |
| Fonvielle (K-5) | 955 | 0 | 955 | 100% |
| Forest Hill (K-5) | 125 | 421 | 546 | 23% |
| Glendale (K-5) | 1031 | 0 | 1031 | 100% |
| Griggs (K-6) | 15 | 1043 | 1058 | 1% |
| Hall (K-5) | 899 | 17 | 916 | 98% |
| Hamilton (K-5) | 228 | 448 | 676 | 34% |
| Hollingers Island (K-6) | 0 | 401 | 401 | 0% |
| Holloway (K-5) | 669 | 3 | 672 | 100% |
| Indian Springs (K-5) | 229 | 363 | 592 | 39% |
| Lee (K-5) | 145 | 991 | 1136 | 13% |
| Leinkauf (K-5) | 445 | 132 | 577 | 77% |
| Lott (K-5) | 160 | 771 | 931 | 17% |
| Table 4-Continued | | | | |

| | Number of Black | Number of White (Non Black) | | Percentage of black students in |
|--|-----------------|-----------------------------------|----------------------|---------------------------------|
| School (grades served) Maryvale (K-5) | Students 666 | Students 111 | Total Population 777 | each school 86% |
| • | | | | |
| Meadowlake (K-6) | 40 | 618 | | 6% |
| Mertz (K-5) | 113 | 172 | | 40% |
| Morningside (K-5) | 233 | 364 | | 39% |
| Old Shell Road (K-5) | 253 | 33 | | 88% |
| Orchard (K-5) | 253 | 551 | | 31% |
| Palmer (K-5) | 619 | 1 | v_v | 100% |
| Robbins (K-5) | 837 | 0 | | 100% |
| Saraland (K-5) | 101 | 434 | | 19% |
| Semmes (K-5) | 6 84 | 972 | | 1% |
| Shepard (K-5) | | 214 | | 28% |
| Tanner Williams (K-6) | 1 | 455 | | 0% |
| Thomas (K-5) | 307 | 19 | | 94% |
| Westlawn (K-5) | 305 | 346 | | 47% |
| Whistler (K-5) | 255 | 35 | | 88% |
| Whitley (K-5) | 332 | 524 | | 100% |
| Will (K-5) | 177 | 524 | | 25% |
| Wilman (K-5) | 144 | 269 | | 35% |
| Wilmer (K-6) | 51 | 523 | | 9% |
| Woodcock (K-5) Trinity Gordons Middle School (6) | 470 | 19 | 489 | 96% |
| Trinity Gardens Middle School (6-8) | 553 | 129 | 682 | 81% |
| Prichard Middle (6-8) | 387 | 1 | 388 | 100% |
| Continuous Learning Center (9) | 57 | 10 | 67 | 85% |
| Augusta Evans (Special) | 188 | 111 | 299 | 63% |
| Regional School for Deaf and Blind (K-12) | 27 | 30 | 57 | 47% |
| M.A.R.C. (Special) | 31 | 31 | 62 | 50% |
| Total | 29,595 | 37,413 | 67,008 | 44% |

Source: *Birdie Mae Davis v. Board of Commissioners*, *Mobile County* legal files, Box 19, United States District Court Southern District of Alabama, Mobile, Alabama. Semi-annual Federal Court Report, filed 1 December 1984.

 ${\it TABLE 5} \\ {\it RACIAL COMPOSITIONS OF MOBILE COUNTY PUBLIC SCHOOLS, 1988} \\$

| | | Number of White | | Percentage of |
|----------------------------------|-------------------|----------------------|------------------|-------------------------------|
| School (grades served) | Black Students | (Non Black) Students | Total Population | black students in each School |
| Alba (9-12) | 64 | 550 | | 10% |
| Baker (9-12) | 220 | 1114 | | 16% |
| Blount (9-12) | 733 | 0 | | 100% |
| Citronelle (9-12) | 242 | 529 | | 31% |
| Davidson (9-12) | 496 | 734 | | 40% |
| LeFlore (9-12) | 945 | 3 | 948 | 100% |
| Mobile County High School (9-12) | 141 | 520 | 661 | 21% |
| Montgomery (9-12) | 79 | 1295 | 1374 | 6% |
| Murphy (9-12) | 1160 | 1462 | 2622 | 44% |
| Rain (9-12) | 514 | 622 | 1136 | 45% |
| Satsuma (9-12) | 131 | 1089 | 1220 | 11% |
| Shaw (9-12) | 432 | 781 | 1213 | 36% |
| Theodore (9-12) | 183 | 1663 | 1846 | 10% |
| Vigor (9-12) | 1310 | 630 | 1940 | 68% |
| Williamson (9-12) | 812 | 45 | 857 | 95% |
| Adams (6-8) | 113 | 822 | 935 | 12% |
| Alba (6-8) | 36 | 463 | 499 | 7% |
| Azalea (6-8) | 397 | 461 | 858 | 46% |
| Baker (7-8) | 56 | 639 | 695 | 8% |
| Belsaw (6-8) | 113 | 29 | 142 | 80% |
| Chastang (6-8) | 551 | 138 | 689 | 80% |
| Citronelle (6-8) | 87 | 459 | 546 | 16% |
| Clark (6-8) | 681 | 288 | 969 | 70% |
| Dunbar (6-8) | 435 | 1 | 436 | 100% |
| Eanes (6-8) | 663 | 168 | 831 | 80% |
| Hillsdale (6-8) | 197 | 623 | 820 | 24% |
| Mobile County Training (6-8) | 276 | 6 | 282 | 98% |
| Mobile County Middle (7-8) | 85 | 332 | 417 | 20% |
| Phillips (6-8) | 472 | 221 | 693 | 68% |
| Pillans (6-8) | 956 | 489 | 1445 | 66% |
| Scarborough (6-8) | 486 | 409 | 895 | 54% |
| Semmes (6-8) | 52 | 976 | 1028 | 5% |
| | | | | |

Table 5-Continued

| | Number of Black | Number of White (Non Black) | 1 | Percentage of black students in |
|-------------------------|-----------------|-----------------------------|------------------|---------------------------------|
| School (grades served) | Students | Students | Total Population | each school |
| Theodore (7-8) | 95 | 923 | 1018 | 9% |
| Washington (6-8) | 566 | 0 | 566 | 100% |
| Alba (K-5) | 78 | 563 | 641 | 12% |
| Austin (K-5) | 173 | 244 | 417 | 41% |
| Baker (K-6) | 181 | 1449 | 1630 | 11% |
| Belsaw (K-5) | 288 | 81 | 369 | 78% |
| Brazier (K-5) | 665 | 1 | 666 | 100% |
| Brookley (K-5) | 282 | 441 | 723 | 39% |
| Burroughs (K-6) | 177 | 348 | 525 | 34% |
| Calcedeaver (K-6) | 0 | 149 | 149 | 0% |
| Castlen (K-6) | 126 | 778 | 904 | 14% |
| Chickasaw (K-5) | 442 | 268 | 710 | 62% |
| Council (K-5) | 558 | 1 | 559 | 100% |
| Chricton (K-5) | 587 | 26 | 613 | 96% |
| Dauphin Island (K-6) | 0 | 57 | 57 | 0% |
| Davis (K-6) | 146 | 715 | 861 | 17% |
| Dickson (K-5) | 334 | 434 | 768 | 43% |
| Dixon (K-6) | 178 | 661 | 839 | 21% |
| Dodge (K-5) | 287 | 869 | 1156 | 25% |
| Eight Mile (K-5) | 264 | 325 | 589 | 45% |
| Fonde (K-5) | 372 | 422 | 794 | 47% |
| Fonvielle (K-5) | 887 | 0 | 887 | 100% |
| Forest Hill (K-5) | 220 | 337 | 557 | 39% |
| Glendale (K-5) | 946 | 1 | 947 | 100% |
| Griggs (K-6) | 107 | 885 | 992 | 11% |
| Hall (K-5) | 935 | 17 | 952 | 98% |
| Hamilton (K-5) | 315 | 295 | 610 | 52% |
| Hollingers Island (K-6) | 1 | 440 | 441 | 0% |
| Holloway (K-5) | 696 | 3 | 699 | 100% |
| Indian Springs (K-5) | 274 | 340 | 614 | 45% |
| Lee (K-5) | 161 | 886 | 1047 | 15% |
| Leinkauf (K-5) | 500 | 156 | 656 | 76% |

Table 5-Continued

| Table 5-Commuea | Number of Black | Number of White (Non Black) | | Percentage of black students in |
|---|-----------------|-----------------------------|-------------------------|---------------------------------|
| School (grades served) | Students | Students | Total Population | each school |
| Lott (K-5) | 185 | 803 | 988 | 19% |
| Maryvale (K-5) | 859 | 50 | 909 | 94% |
| Meodowlake (K-7) | 53 | 686 | 739 | 7% |
| Mertz (K-5) | 134 | 219 | 353 | 38% |
| Morningside (K-5) | 281 | 302 | 583 | 48% |
| Old Shell Road (K-5) | 261 | 20 | 281 | 93% |
| Orchard (K-5) | 271 | 586 | 857 | 32% |
| Palmer (K-5) | 538 | 0 | 538 | 100% |
| Robbins (K-5) | 706 | 0 | 706 | 100% |
| St. Elmo (K-6) | 133 | 478 | 611 | 22% |
| Saraland (K-5) | 107 | 453 | 560 | 19% |
| Semmes (K-5) | 11 | 1068 | 1079 | 1% |
| Shepard (K-5) | 116 | 233 | 349 | 33% |
| Tanner Williams (K-6) | 5 | 472 | 477 | 1% |
| Thomas (K-5) | 298 | 20 | 318 | 94% |
| Westlawn (K-5) | 321 | 350 | 671 | 48% |
| Whistler (K-5) | 288 | 46 | 334 | 86% |
| Whitley (K-5) | 297 | 3 | 300 | 99% |
| Will (K-5) | 233 | 589 | 822 | 28% |
| Williams (K-5) | 216 | 257 | 473 | 46% |
| Wilmer (K-6) | 45 | 517 | 562 | 8% |
| Woodcock (K-5) | 491 | 19 | 510 | 96% |
| Prichard Middle School (6-8) | 340 | 0 | 340 | 100% |
| Continuous Learning Center (9) | 48 | 11 | 59 | 81% |
| M.A.R.C (Special) | 38 | 29 | 67 | 57% |
| Regional School for Deaf and Blind (K-12) | 29 | 36 | 65 | 45% |
| Augusta Evans (Special) | 211 | 124 | 335 | 63% |
| Total | 30,474 | 37,047 | 67,521 | 45% |

Source: *Birdie Mae Davis v. Board of Commissioners, Mobile County* legal files, Box 16, United States District Court Southern District of Alabama, Mobile, Alabama. Semi-annual Federal Court Report, filed 15 April 1988.

TABLE 6
RACIAL COMPOSITIONS OF MOBILE COUNTY PUBLIC SCHOOLS, 1992

| | | Number of | · | |
|------------------------------|-----------------|------------|------------------|-------------------|
| | N. 1 (D) 1 | White (Non | | Percentage of |
| Cabaal (and day assured) | Number of Black | Black) | | black students in |
| School (grades served) | Students | Students | Total Population | each school |
| Alba (9-12) | 62 | 554 | | 10% |
| Baker (9-12) | 201 | 1028 | | 16% |
| Blount (9-12) | 866 | 0 | 866 | 100% |
| Citronelle (9-12) | 191 | 494 | 685 | 28% |
| Davidson (9-12) | 474 | 756 | 1230 | 39% |
| Grand Bay (9-12) | 95 | 389 | 484 | 20% |
| LeFlore (9-12) | 1353 | 221 | 1574 | 86% |
| Montgomery (9-12) | 74 | 1294 | 1368 | 5% |
| Murphy (9-12) | 986 | 1188 | 2174 | 45% |
| Rain (9-12) | 406 | 405 | 811 | 50% |
| Satsuma (9-12) | 162 | 1008 | 1170 | 14% |
| Shaw (9-12) | 495 | 550 | 1045 | 47% |
| Theodore (9-12) | 200 | 1671 | 1871 | 11% |
| Vigor (9-12) | 1274 | 341 | 1615 | 79% |
| Williamson (9-12) | 961 | 8 | 969 | 99% |
| Adams (6-8) | 390 | 749 | 1139 | 34% |
| Alba (6-8) | 61 | 515 | 576 | 11% |
| Azalea (6-8) | 579 | 564 | 1143 | 51% |
| Baker (7-8) | 71 | 559 | 630 | 11% |
| Chastang (6-8) | 833 | 157 | 990 | 84% |
| Citronelle (6-8) | 84 | 488 | 572 | 15% |
| Clark (4-8) | 340 | 471 | 811 | 42% |
| Dunbar (4-8) | 283 | 308 | 591 | 48% |
| Eanes (6-8) | 870 | 93 | 963 | 90% |
| Hillsdale (6-8) | 334 | 521 | 855 | 39% |
| Mobile County Training (6-8) | 753 | 5 | 758 | 99% |
| Phillips (6-8) | 296 | 370 | 666 | 44% |
| Pillans (6-8) | 939 | 316 | 1255 | 75% |
| Scarborough (6-8) | 480 | 321 | 801 | 60% |
| Semmes (6-8) | 81 | 966 | 1047 | 8% |
| Theodore (6-8) | 156 | 903 | 1059 | 15% |
| Washington (6-8) | 779 | 7 | 786 | 99% |
| | | | | |

Table 6-Continued

| School (grades served) | Number of Black Students | Number of White (Non Black) Students | Population | Percentage of black students in each school |
|-------------------------|-----------------------------|---|------------|---|
| Alba (K-5) | 54 | 553 | 607 | 9% |
| Austin (K-5) | 179 | 316 | 495 | 36% |
| Baker (K-6) | 153 | 988 | 1141 | 13% |
| Belsaw (K-5) | 252 | 92 | 344 | 73% |
| Brazier (K-5) | 539 | 2 | 541 | 100% |
| Brookley (K-5) | 322 | 370 | 692 | 47% |
| Burroughs (K-6) | 168 | 376 | 544 | 31% |
| Calcedeaver (K-6) | 2 | 147 | 149 | 1% |
| Castlen (K-6) | 122 | 867 | 989 | 12% |
| Chickasaw (K-3) | 107 | 121 | 228 | 47% |
| Council (K-5) | 217 | 243 | 460 | 47% |
| Craighead (K-5) | 800 | 0 | 800 | 100% |
| Chricton (K-5) | 601 | 29 | 630 | 95% |
| Dauphin Island (K-6) | 0 | 72 | 72 | 0% |
| Davis (K-6) | 112 | 650 | 762 | 15% |
| Dickson (K-5) | 200 | 536 | 736 | 27% |
| Dixon (K-6) | 175 | 672 | 847 | 21% |
| Dodge (K-5) | 267 | 728 | 995 | 27% |
| Eight Mile (K-5) | 267 | 251 | 518 | 52% |
| Fonde (K-5) | 388 | 405 | 793 | 49% |
| Fonvielle (K-5) | 830 | 2 | 832 | 100% |
| Forest Hill (K-5) | 259 | 235 | 494 | 52% |
| Glendale (K-5) | 576 | 0 | 576 | 100% |
| Griggs (K-6) | 96 | 856 | 952 | 10% |
| Hall (K-5) | 783 | 17 | 800 | 98% |
| Hamilton (K-5) | 359 | 304 | 663 | 54% |
| Hollingers Island (K-6) | 5 | 378 | 383 | 1% |
| Holloway (K-5) | 623 | 1 | 624 | 100% |
| Indian Springs (K-5) | 228 | 280 | 508 | 45% |
| Lee (K-5) | 179 | 861 | 1040 | 17% |

| Table 6-Continued | | Number of White (Non | | Percentage of |
|--|-----------------|----------------------|------------------|-------------------|
| | Number of Black | Black) | | black students in |
| School (grades served) | Students | Students | Total Population | each school |
| Leinkauf (K-5) | 522 | 148 | 670 | 78% |
| Lott (K-5) | 173 | 850 | 1023 | 17% |
| Maryvale (K-5) | 777 | 27 | 804 | 97% |
| Meadowlake (K-6) | 54 | 707 | 761 | 7% |
| Mertz (K-5) | 143 | 165 | 308 | 46% |
| Morningside (K-5) | 329 | 259 | 588 | 56% |
| Old Shell Road (K-3) | 111 | 122 | 233 | 48% |
| Orchard (K-5) | 375 | 459 | 834 | 45% |
| O'Rourke (K-6) | 116 | 596 | 712 | 16% |
| Palmer (K-5) | 382 | 0 | 382 | 100% |
| Robbins (K-5) | 562 | 0 | 562 | 100% |
| St. Elmo (K-6) | 118 | 483 | 601 | 20% |
| Saraland (K-5) | 120 | 421 | 541 | 22% |
| Semmes (K-5) | 16 | 1094 | 1110 | 1% |
| Shepard (K-5) | 144 | 180 | 324 | 44% |
| Tanner Williams (K-6) | 12 | 428 | 440 | 3% |
| Thomas (K-5) | 333 | 31 | 364 | 91% |
| Westlawn (K-5) | 309 | 370 | 679 | 46% |
| Whistler (K-5) | 296 | 58 | 354 | 84% |
| Whitley (K-5) | 418 | 10 | 428 | 98% |
| Will (K-5) | 275 | 488 | 763 | 36% |
| Williams (K-5) | 190 | 238 | | 44% |
| Wilmer (K-6) | 39 | 575 | 614 | 6% |
| Woodcock (K-5) | 477 | 14 | 491 | 97% |
| Grand Bay Middle (7-8) | 90 | 291 | 381 | 24% |
| Toulminville (K) | 132 | 2 | | 99% |
| M.A.R.C. (Special) | 52 | 26 | 78 | 67% |
| Regional School for Deaf and Blind (K-12) | 25 | 40 | 65 | 38% |
| Belsaw Middle (6-8) | 132 | 25 | 157 | 84% |
| Continuous Learning Center (9) | 73 | 10 | 83 | 88% |
| Augusta Evans | 189 | 107 | 296 | 64% |
| (Special) | - 37 | -07 | | 2 1/0 |
| Table 6- <i>Continued</i> | | | | |

| | | Number of | | |
|-------|-----------------|------------|-------------------------|-------------------|
| | | White (Non | | Percentage of |
| | Number of Black | Black) | | black students in |
| | Students | Students | Total Population | each school |
| Total | 30,979 | 35,793 | 66,772 | 46% |

Source: *Birdie Mae Davis v. Board of Commissioners, Mobile County* legal files, Box 18, United States District Court Southern District of Alabama, Mobile, Alabama. Semi-annual Federal Court Report, filed 15 April 1992.

TABLE 7
RACIAL COMPOSITIONS OF MOBILE COUNTY PUBLIC SCHOOLS, 1996

| School (grades served) | Number of Black Students | Number of White (Non Black) Students | Total Population | Percentage of black students in each school |
|------------------------------|-----------------------------|---|------------------|---|
| Alba (9-12) | 66 | 558 | 624 | 11% |
| Baker (9-12) | 212 | 1032 | 1244 | 17% |
| Blount (9-12) | 881 | 0 | 881 | 100% |
| Citronelle (9-12) | 195 | 585 | 780 | 25% |
| Davidson (9-12) | 551 | 707 | 1258 | 44% |
| Grand Bay (9-12) | 126 | 421 | 547 | 23% |
| LeFlore (9-12) | 1578 | 79 | 1657 | 95% |
| Montgomery (9-12) | 64 | 1340 | 1404 | 5% |
| Murphy (9-12) | 1065 | 966 | 2031 | 52% |
| Rain (9-12) | 487 | 324 | 811 | 60% |
| Satsuma (9-12) | 156 | 1095 | 1251 | 12% |
| Shaw (9-12) | 638 | 376 | 1014 | 63% |
| Theodore (9-12) | 276 | 1648 | 1924 | 14% |
| Vigor (9-12) | 1335 | 154 | 1489 | 90% |
| Williamson (9-12) | 1010 | 5 | 1015 | 100% |
| Adams (6-8) | 379 | 641 | 1020 | 37% |
| Alba (6-8) | 54 | 458 | 512 | 11% |
| Azalea (6-8) | 573 | 390 | 963 | 60% |
| Baker (7-8) | 74 | 580 | 654 | 11% |
| Chastang (6-8) | 807 | 76 | 883 | 91% |
| Citronelle (6-8) | 92 | 546 | 638 | 14% |
| Clark (4-8) | 417 | 470 | 887 | 47% |
| Dunbar (4-8) | 363 | 368 | 731 | 50% |
| Eanes (6-8) | 912 | 30 | 942 | 97% |
| Hillsdale (6-8) | 310 | 245 | 555 | 56% |
| Mobile County Training (6-8) | 624 | 0 | 624 | 100% |
| Phillips (6-8) | 346 | 456 | 802 | 43% |
| Pillans (6-8) | 805 | 193 | 998 | 81% |
| Scarborough (6-8) | 498 | 200 | 698 | 71% |
| Semmes (6-8) | 71 | 969 | 1040 | 7% |
| Theodore (7-8) | 140 | 842 | 982 | 14% |
| | | | | |

Table 7-Continued

| School (grades served) | Number of Black Students | Number of White (Non Black) Students | Total Population | Percentage of black students in each school |
|-------------------------|-----------------------------|---|------------------|---|
| Alba (K-5) | 37 | 456 | 493 | 8% |
| Austin (K-5) | 186 | 220 | 406 | 46% |
| Baker (K-6) | 145 | 1127 | 1272 | 11% |
| Belsaw (K-5) | 228 | 49 | 277 | 82% |
| Brazier (K-5) | 521 | 0 | 521 | 100% |
| Brookley (K-5) | 281 | 265 | 546 | 51% |
| Burroughs (K-6) | 190 | 307 | 497 | 38% |
| Calcedeaver (K-6) | 1 | 199 | 200 | 1% |
| Castlen (K-6) | 130 | 929 | 1059 | 12% |
| Chickasaw (K-3) | 119 | 131 | 250 | 48% |
| Council (K-5) | 250 | 261 | 511 | 49% |
| Craighead (K-5) | 605 | 4 | 609 | 99% |
| Chricton (K-5) | 530 | 3 | 533 | 99% |
| Dauphin Island (K-6) | 0 | 75 | 75 | 0% |
| Davis (K-6) | 107 | 674 | 781 | 14% |
| Dickson (K-5) | 217 | 526 | 743 | 29% |
| Dixon (K-6) | 211 | 724 | 935 | 23% |
| Dodge (K-5) | 262 | 526 | 788 | 33% |
| Eight Mile (K-5) | 253 | 143 | 396 | 64% |
| Fonde (K-5) | 507 | 221 | 728 | 70% |
| Fonvielle (K-5) | 746 | 0 | 746 | 100% |
| Forest Hill (K-5) | 325 | 105 | 430 | 76% |
| Glendale (K-5) | 449 | 0 | 449 | 100% |
| Griggs (K-6) | 60 | 706 | 766 | 8% |
| Hall (K-5) | 700 | 5 | 705 | 99% |
| Hamilton (K-5) | 376 | 312 | 688 | 55% |
| Hollingers Island (K-6) | 8 | 401 | 409 | 2% |
| Holloway (K-5) | 707 | 0 | 707 | 100% |
| Indian Springs (K-5) | 187 | 255 | 442 | 42% |
| Lee (K-5) | 154 | 750 | 904 | 17% |

Table 7-Continued

| School (grades served) | Number of Black | Number of White (Non Black) | Territoria | Percentage of black students in |
|---|-----------------|-----------------------------------|----------------------|---------------------------------|
| Leinkauf (K-5) | Students 578 | Students 81 | Total Population 659 | each school 88% |
| Lott (K-5) | 180 | 807 | 987 | 18% |
| Maryvale (K-5) | 949 | 14 | 963 | 99% |
| Meadowlake (K-6) | 42 | 717 | 759 | 6% |
| Mertz (K-5) | 187 | 116 | 303 | 62% |
| Morningside (K-5) | 463 | 150 | 613 | 76% |
| Old Shell Road (K-3) | 125 | 121 | 246 | 51% |
| Orchard (K-5) | 387 | 287 | 674 | 57% |
| O'Rourke (K-6) | 147 | 798 | 945 | 16% |
| Palmer (K-5) | 309 | 0 | 309 | 100% |
| Robbins (K-5) | 584 | 1 | 585 | 100% |
| St. Elmo (K-6) | 99 | 472 | 571 | 17% |
| Saraland (K-5) | 105 | 429 | 534 | 20% |
| Semmes (K-5) | 16 | 1087 | 1103 | 1% |
| Shepard (K-5) | 183 | 208 | 391 | 47% |
| Tanner Williams (K-5) | 12 | 398 | 410 | 3% |
| Thomas (K-5) | 308 | 7 | 315 | 98% |
| Westlawn (K-5) | 326 | 224 | 550 | 59% |
| Whistler (K-5) | 235 | 13 | 248 | 95% |
| Whitley (K-5) | 402 | 0 | 402 | 100% |
| Will (K-5) | 306 | 359 | 665 | 46% |
| Williams (K-5) | 227 | 153 | 380 | 60% |
| Wilmer (K-6) | 47 | 717 | 764 | 6% |
| Woodcock (K-5) | 505 | 3 | 508 | 99% |
| Grand Bay Middle School (7-8) | 71 | 328 | 399 | 18% |
| Toulminville (K) | 332 | 11 | 343 | 97% |
| Regional School for Deaf and Blind (K-12) | 32 | 32 | 64 | 50% |
| Augusta Evans (Special) | 156 | 81 | 237 | 66% |
| Mobile Mental Health | 14 | 20 | 34 | 41% |
| Belsaw Middle (6-8) | 109 | 29 | 138 | 79% |
| C.I.T.Y. (9-12) | 11 | 5 | 16 | 69% |

| Table 7-Continued School (grades served) | Number of Black Students | Number of White (Non Black) Students | Total Population | Percentage of black students in each school |
|---|-----------------------------|---|------------------|---|
| Continuous Learning Center | 109 | 33 | 142 | 77% |
| Easter Seal (K) | 4 | 11 | 15 | 27% |
| Wilmer Hall | 5 | 5 | 10 | 50% |
| Learning Tree | 4 | 12 | 16 | 25% |
| Total | 31,460 | 32,836 | 64,296 | 49% |

Source: *Birdie Mae Davis v. Board of Commissioners*, *Mobile County* legal files, Box 17, United States District Court Southern District of Alabama, Mobile, Alabama. Semi-annual Federal Court Report, filed 1 December 1996.