

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

SONNIE WELLINGTON HEREFORD,)	
IV, <i>et al.</i> ,)	
)	
PLAINTIFFS,)	NO.: 5:63-cv-00109-MHH
)	
and)	
)	
UNITED STATES OF AMERICA,)	
)	
PLAINTIFF-INTERVENOR,)	
)	
v.)	
)	
HUNTSVILLE BOARD OF)	
EDUCATION, <i>et al.</i> ,)	
)	
DEFENDANTS.)	

**UNOPPOSED MOTION FOR PARTIAL UNITARY STATUS AS TO
FACULTY AND STAFF**

On April 24, 2015, this Court entered the Proposed Consent Order submitted by the Huntsville City Board of Education (“District”) and United States, via the Department of Justice (“DOJ”). (Doc. 450). Since that time, the District has worked to implement the terms of the Consent Order in cooperation with the DOJ. The Consent Order states that the District may move for “declaration of partial unitary status when the District can demonstrate to the Court that it has implemented in good faith a section or sections of this Consent Order for a reasonable period of time.” (Doc. 450, p. 91). In compliance with the Consent



Order and consistent with Freeman v. Pitts, 503 U.S. 467, 489 (1992), the District moves this Court for a declaration of partial unitary status as to faculty and staff.

The Consent Order requires the parties, prior to the filing of any motion for partial unitary status, to “confer to determine whether they can agree that the District can demonstrate that it has implemented in good faith a section or sections of this Consent Order for a reasonable period of time.” (Doc. 450, p. 91-92). The District has conferred with the DOJ regarding this Motion. The District provided the DOJ a draft copy of this Motion and corresponding Brief in Support on February 7, 2022. The DOJ reviewed the District’s positions and arguments. After the DOJ completed its review, the parties completed a teleconference on August 30, 2022, for the purpose of discussing the District’s Motion and the parties’ positions. After this call, the DOJ provided the District a follow-up request for information on September 8, 2022. The District responded to this request for information on September 30, 2022.

On November 1, 2022, the District presented the Motion to the Board at a public Board meeting. The meeting was broadcast via the ETV channel. The broadcast was uploaded online via the District’s website for the community to review. On November 2, the District began soliciting community feedback regarding the Motion via an online form on the District’s website. In addition, the District publicly posted the Motion, brief in support, and all supporting evidence

on the District's website. The District's public posting included an executive summary of the Motion that explained the Motion, the applicable legal standard, timeline, and what this Motion means for the District. On November 3, District counsel notified counsel for the proposed private plaintiffs via email that the Motion was available online and provided counsel a web link to the Motion.

On December 5, 2022, the District held a public meeting on the Motion. At the meeting, counsel for the District provided background information, a summary of the Motion and evidence, and a timeline. After counsel for the District's presentation, the District opened the floor to the community to provide feedback or ask questions. Three individuals spoke. All three were current members of the Desegregation Advisory Committee ("DAC") and included current DAC Chair, Mr. Chris Gregory.

On February 10, 2023, the District received a comment from the online web form regarding the Motion. This was the only comment the District received. The comment requested information about the procedures for citizens to request to speak at a public hearing ordered by the Court, if applicable. Holly McCarty, the Board Member for District 2, responded and indicated that the Court will decide whether or not to hold any additional hearings, and if the Court requests commentary from citizens, a procedure would be put into place at that time.

On March 3, 2023, counsel for the United States notified counsel for the District that the United States would not oppose the District's Motion at this time. Counsel for the United States indicated that it would likely file a response to the District's Motion. On April 5, 2023, counsel for the proposed private plaintiffs notified counsel for the District that the proposed private plaintiffs would not oppose the District's Motion.

In support of this Motion, the District submits the following:

1. Brief of the Huntsville City Board of Education in Support of the Motion for Partial Unitary Status as to Faculty and Staff.
2. Corresponding evidentiary support, including:
 - a. The affidavit of Lee Simmons and attached exhibits;
 - b. The affidavit of Micah Fisher and attached exhibits;
 - c. The affidavit of Dr. George Smith and attached exhibits; and
 - d. The affidavit of Superintendent Christie Finley and attached exhibit.

RESPECTFULLY SUBMITTED this 5th day of April 2023.

/s/ Christopher M. Pape

Christopher M. Pape

J.R. Brooks

Zachary B. Roberson

McKala R. Troxler

Attorneys for Defendant

OF COUNSEL

LANIER FORD SHAVER & PAYNE, P.C.

P. O. Box 2087

Huntsville, AL 35804

Phone: 256-535-1100

Fax: 256-533-9322

CERTIFICATE OF SERVICE

I certify that I have filed the foregoing with the Clerk of the Court using the CM/ECF electronic filing system which will send notification of such filing to those parties of record who are registered for electronic filing, and further certify that those parties of record who are not registered for electronic filing have been served by mail by depositing a copy of the same in the United States mail, first class postage prepaid.

/s/ Christopher M. Pape

Christopher M. Pape