

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS

DEC 22 2009

JAMES W. McCORMACK, CLERK  
By: L. Downs  
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**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**LITTLE ROCK SCHOOL DISTRICT, et al**

**PLAINTIFFS**

**VS.**

**NO. 4:82 - CV - 00866 - BSM**

**PULASKI COUNTY SPECIAL SCHOOL  
DISTRICT, et al**

**DEFENDANTS**

**AMICUS CURIAE BRIEF**

COME Reddie Ray, Mark Perry and Ben E. Rice and for their Amicus Curiae brief and state:

1. Said Reddie Ray, Mark Perry and Ben E. Rice are residents of the North Pulaski/Jacksonville zone of the Pulaski County Special School District (PCSSD). Ray is a former president of the PCSSD board of directors; Perry is a State Representative with school age children and Rice is a retired attorney.

2. On or about August 19, 2003, the Hon. William Wilson ruled in favor of a motion by PCSSD to set aside a scheduled election on the issue of forming a separate school district in the North Pulaski County/Jacksonville area of PCSSD. This election had been approved by the Arkansas State Department of Education after its receipt of a petition signed by more than 4,000 residents asking for the election.

The US District Court ruling was based upon the premise that PCSSD had not yet achieved unitary status and that the formation of a separate school district would violate the terms of the 1989 Desegregation Settlement Agreement among the State of Arkansas,

the Little Rock School District, the North Little Rock School District and PCSSD.

The 1989 Desegregation Settlement Agreement resulted from the landmark Supreme Court decision that "separate but equal " schools attended on the basis of race were not in fact equal and violated the constitutional rights of those who were not receiving an equal education. Brown v. Board of Education, 347 US 483 (1954).

The 1989 Desegregation Settlement Agreement addresses race based school attendance. Interestingly, in 2007 the Supreme Court cited Brown , *supra* , in holding that school districts should not regulate school attendance on the basis of race. Excepted from that ruling were schools operating under court approved desegregation orders. Parents Involved in the Community vs. Seattle School District No. 1, et al, 127 SCt 2738 (2007). If this court should rule that NLR and PCSSD are unitary, that exception should not apply. In actuality, where there is a distinction without a difference, the exception should not apply. For example, the student racial percentages of the PCSSD and the proposed Jacksonville - North Pulaski District are essentially the same.

The federal courts ruled that residents from the North Pulaski County/Jacksonville area had no standing to appear in opposition to the PCSSD motion to deny or set aside the scheduled election. Hence, this Amicus Curaie brief is appropriate under the ruling in Ladue v. Goodhead, 181 Misc. 807, 44 N.Y.S.2d 783, 787 which held that a person who has no right to appear in a suit but is allowed to introduce argument, authority or evidence to protect his interests.

3. The Little Rock School District has been declared unitary and petitions have been filed by the North Little Rock School District and PCSSD asking that those school districts also be declared unitary. A hearing on the NLR petition is set for January

15, 2010 and a hearing on the PCSSD unitary petition is set for January 25, 2010.

4. In the event that this Court should rule that both PCSSD and the North Little Rock School District have achieved unitary status, then the reasons for Judge Wilson's August 19, 2003 ruling would be moot. A detachment election should be authorized and scheduled by this Court.

In the alternative, A.C.A. Sec.6-20-416 provides, *inter alia*, that the State is authorized to create a new school district in Pulaski county as part of the State's efforts to resolve this litigation. Further on July 29, 2009, the PCSSD board of directors voted to establish specific boundaries of a new Jacksonville School district, to become effective if and when a new Jacksonville School District is created, and if necessary, approved by this Court. The boundaries approved by the PCSSD board of directors for the new Jacksonville School District are set forth in Exhibit A, which is attached hereto and incorporated herein by reference. All of the statements in this paragraph 4 are acknowledged on page 9 of the brief filed herein on behalf of PCSSD.

5. This Court has authority, on its own motion, to determine the issues relating to a separate North Pulaski County/Jacksonville school district in the event that all districts herein are determined to be unitary. It would be in the best interest of all parties for this court to rule in favor of the creation of a separate Jacksonville school district, with all outstanding issues to be resolved by negotiation between PCSSD and the new school district within a reasonable time to be set by the Court. If all issues could not be negotiated satisfactorily within the specified reasonable time, then the State of Arkansas should be empowered to resolve all outstanding issues on the detachment, including the establishment of a detachment election, if necessary. Such action by this

Court would serve to eliminate and curtail further litigation.

6. The feasibility and desirability of a Jacksonville school district is well established. Earlier, at the request of State Representative Will Bond, the Arkansas General Assembly approved the expenditure of about \$250,000 for a feasibility study on the formation of a separate Jacksonville school district. In what is popularly known as "The Gordon Report," dated June 30, 2006, it was recommended that a Jacksonville school district be created.

Further, proponents of a new school district for Northeast Pulaski County commissioned a feasibility study by Donald M. Stewart, Ed.D. In his August 2008 report, Dr. Stewart also recommended that a new school district be formed in the Jacksonville area.

7. An important factor in the matter is the education of dependents of military personnel stationed at Little Rock Air Force Base in Jacksonville. Lisa Otey is the wife of a member of the U. S. Air Force at LRAFB. The interests of military dependents in having a stable and viable school district are best stated by her in a column authored by her which appeared in the *Arkansas Democrat-Gazette* on September 13, 2009. A copy of said column is attached hereto as Exhibit B and is incorporated herein by reference as if set forth herein word for word.

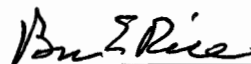
8. The school patrons of the North Pulaski County - Jacksonville area have long suffered from neglect by the PCSSD as they have watched their tax dollars being spent on school facilities located elsewhere in the PCSSD. The North Pulaski - Jacksonville area invokes the poetic message of English poet William Ernest Henley (1849 -1903) in his poem titled "Invictus". That poem is attached hereto and incorporated

herein by reference as exhibit C. The last four lines of that poem spell out what we seek:

“It matters not how strait the gate,  
How charged with punishments the scroll  
I am the master of my fate;  
I am the captain of my soul.”

9. There should be a “global” order entered herein which recognizes the need for and establishes the process for the creation of an independent Jacksonville - North Pulaski County School District.

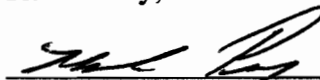
Respectfully submitted,



Ben E. Rice, Retired Attorney



Reddie Ray, Past PCSSD President



Mark Perry, State Representative

Certificate of service to:  
Mr. John W. Walker  
Mr. Scott Richardson  
Mr. Mark Burnett  
Mr. Christopher Heller  
Mr. Stephen W. Jones  
Mr. John Claybourn Fendley, Jr.  
Mr. Samuel Jones, III  
Office of Desegregation Monitor

## EXHIBIT A

### II. PROPOSED NEW DISTRICT

#### A. Physical Description of the Proposed New District:

Beginning at the northeast corner of Pulaski County (NE Corner of Section 4, Township 4N, Range 10 west) and proceeding due west along the Pulaski County line, which borders Lonoke and Faulkner Counties, to the NW corner of Section 6, Township 4N, Range 11 west; then, proceeding due south along the Faulkner and Pulaski County lines to the southwest corner of Section 31, Township 4N, Range 11 west; then proceeding due east along the section line to the Northeast corner of Section 5, Township 3 north, Range 11 west to intersection with Jim Hall Road; then proceeding due south on Jim Hall Road along the east line of Section 5, Township 3 north, Range 11 west to Old Tom Box Road; then west to Bayou Meto Creek; then south along Bayou Meto Creek to the South line of the North  $\frac{1}{2}$  of the North  $\frac{1}{2}$ , Section 9, Township 3 North, Range 11 West; then east along the South line of the North  $\frac{1}{2}$  of the North  $\frac{1}{2}$  said Section 9 to the east line of said Section 9 and the city limits of the City of Jacksonville; then southerly along the west city limits of the City of Jacksonville to the SW corner of Sec 2, T-2-N, R 11 W; then due east along section line to Arkansas Highway 161; then south along boundary of Jacksonville City limits to point where city limits adjoin north border of Section 12, Township 2 north, Range 11 west; then proceed east to the Lonoke County line; then extending into Lonoke County and include the portion of Lonoke County, Township 2 north, Range 10 west, and Township 3 north, Range 10 west, which is presently a part of Pulaski County Special School District; then north following Lonoke-Pulaski County line to point of beginning.



# Independent district would best serve base

BY LISA OTEY  
SPECIAL TO THE DEMOCRAT-GAZETTE

Our nation's warriors have a lot on their minds these days. Whether they're wondering when the next set of deployment orders will come or if their current set of deployment orders will be extended, one thing is certain: they shouldn't have to worry about the quality of their children's education. Locally, an independent Jacksonville School District could take that worry off their shoulders.

As the mother of three school-age children and as a military spouse, I know firsthand the value of a good education for my children. All three of my children attended Pulaski County Special School District schools last spring. Two are attending North Little Rock School District schools this fall, while the youngest is on base at Arnold Drive Elementary.

The only reason he's staying at

## Commentary

Arnold Drive is because the school's standardized test scores are through the roof when compared with other elementary schools in PCSSD. These military kids are so resilient, they're even outperforming their peers who are in newer facilities to the south. Arnold Drive has a great faculty and staff, but parental involvement is also very high, which has a direct correlation to student achievement.

When military members arrive here for the first time, they're often shocked at the physical presence of the schools that service the base. You only get one chance to make a first impression, and that's when a parent drives into a school's parking lot. Arnold Drive was built as a temporary building in the 1960s. It's still stand-

ing, but it's showing its age.

Some have pointed out that military members don't have a "dog in this fight" for an independent Jacksonville district, but I say they do. The federal government pumps about a quarter of a million dollars annually into the Pulaski County Special School District to offset the costs of educating military children.

To ensure a quality education for their children, many military parents choose to live in another district or pay private school tuition. My concern is that many junior enlisted members can't afford to live in other districts or bear the costs of a private education. The educational needs of their children should be met if they choose to live in base housing. They deserve no less.

Being a military child is tough. Military children have special needs that their civilian counterparts sim-

ply don't have. Not many children of civilians see one parent, or both in some cases, pulled away from home for four months to a year at a time, especially to a combat zone where mom or dad could be seriously injured or give the ultimate sacrifice. A civilian child's parent might be gone for a week or two during the school year, but it's probably not to Baghdad, Iraq, or Kandahar, Afghanistan.

Our nation's military members deserve better than what they're currently receiving from PCSSD. Anyone who has dealt with the district knows it can be bulky and cumbersome. There comes a point when something gets so big that it simply becomes ineffective.

Should it have to take all of Jacksonville's residents simply moving to another district before PCSSD gets the hint? If it were only that easy. Folks such as our nation's young-

est military members have a limited choice in where they can afford to live. They should be able to live in base housing and know that their children are going to receive a quality education.

Historically speaking, Jacksonville and its residents have always supported the men and women of the base—and their children—since the base was built in the 1950s. The folks outside the base's gate truly understand the needs of our military children and will no doubt see that those needs are met. That's why I support an independent Jacksonville School District. When that happens, it will be one less burden our nation's warriors will carry into battle with them.

*Lisa Otey is the wife of Col. Greg Otey and mother of three children. She lives on the Little Rock Air Force Base in Jacksonville.*

ARKANSAS DEMOCRAT-GAZETTE - 13 SEP 09

EXHIBIT B

## EXHIBIT C

### INVICTUS

Out of the night that covers me,  
Black as the Pit from pole to pole  
I thank whatever gods may be  
For my unconquerable soul.

In the fell clutch of circumstance  
I have not winced nor cried aloud.  
Under the bludgeonings of chance  
My head is bloody, but unbowed.

Beyond this place of wrath and tears  
Looms but the Horror of the shade,  
And yet the menace of the years  
Finds, and shall find, me unafraid.

It matters not how strait the gate,  
How charged with punishments the scroll  
I am the master of my fate;  
I am the captain of my soul.



CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A COPY OF SAID AMICUS CURIAE BRIEF WAS SERVED ON THE FOLLOWING REPRESENTATIVES OF ALL INTERESTED PARTIES BY ORDINARY US MAIL THIS 22D DAY OF DECEMBER, 2009

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