

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JEFFREY HART :  
Plaintiff 72-CV-1041  
-against- : U.S. District Court  
COMMUNITY SCHOOL DISTRICT 21 Brooklyn, New York

Defendant :  
February 22, 2008  
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11:30 a.m.

ANJAN RAU, et ano  
Plaintiffs 08-CV-210  
-against- :  
NEW YORK CITY DEPARTMENT  
OF EDUCATION

Defendant :  
----- X

BEFORE:  
HONORABLE JACK B. WEINSTEIN  
United States District Judge

APPEARANCES:  
For the Plaintiff: JAMES I. MEYERSON  
64 Fulton Street  
SUITE 502  
New York, New York 10038

1 For the Defendant: GAIL RUBIN  
Community School Chief, Affirmative Litigation  
2 District and Division  
NYC Board of Ed. New York City Law Department  
3 100 Church Street  
New York, New York 10007  
4

5 For NYS Third Party: WILLIAM H. BRISTOW III  
6 Assistant Attorney General  
120 Broadway  
7 New York, New York 10271-0332  
8

9 For Plaintiff  
Interveners JONES DAY  
51 Louisiana Avenue, N.W.  
Washington, DC 20001  
10 BY: SHAY DVORETZKY  
11

12 Parent Speakers: PAMELA KELTER  
13 MARIANNE RUSSO  
14 MR. RONALD STEWART  
15

16  
17 Court Reporter: RONALD E. TOLKIN, RMR  
Official Court Reporter  
18 225 Cadman Plaza East  
Brooklyn, New York 11201  
19 718-613-2647  
20

21 Proceedings recorded by mechanical stenography, transcript  
22 produced by Computer-Assisted Transcript.

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1 THE COURT: Good morning, everybody.

2 I don't know if you can hear me back there. If  
3 you'd like, you can sit in the jury box or sit up in the front  
4 if you have any trouble hearing.

5 THE CLERK: Civil cause for motion, Jeffrey Hart and  
6 Anjan Rau versus New York City Department of Education, et al.  
7 Counsel, please note your appearances.  
8 For plaintiff and Hart.

9 MR. MEYERSON: Your Honor, James Meyerson for the  
10 plaintiff.

11 THE COURT: Good to see you again.

12 MR. MEYERSON: Good to see you, Your Honor. It has  
13 been a long journey.

14 THE CLERK: Community School 21?

15 MS. RUBIN: Gail Rubin from New York City Law  
16 Department.

17 THE CLERK: For Rau?

18 MR. DVORETZKY: Shay Dvoretzky from Jones Day.

19 MR. BRISTOW: Your Honor, William Bristow for the  
20 state defendants in the Hart matter.

21 THE COURT: Who do you represent?

22 MR. BRISTOW: Your Honor, we were faxed a copy  
23 yesterday of the February 14th order at the AG's office.

24 THE COURT: So you represent the state?

25 MR. BRISTOW: Yes. I believe there are two state

1 third-party defendants.

2 THE COURT: All right. We're pleased to have you.  
3 As the United States was also invited through the United  
4 States attorneys but declined. I'm happy to hear you.

5 MR. DVORETZKY: Good morning, Your Honor.

6 We filed our motion to intervene in this case, and  
7 we believe that the requirements of Rule 24 for intervention  
8 are satisfied. Nobody has opposed that motion or indicated  
9 that the Rule 24 requirements are not met. Regardless of the  
10 outcome of the City's motion before the Court today, to  
11 terminate or modify this Court's 1974 order, there are  
12 additional claims that remain to be litigated, particularly  
13 focusing on retrospectively for Nakita Rau.

14 THE COURT: You have a separate case.

15 MR. DVORETZKY: We have filed a separate case as  
16 well as a motion to intervene here.

17 THE COURT: Well, those issues will be handled in  
18 that separate case.

19 MR. DVORETZKY: They can be handled in either forum,  
20 and in filing both the motion to intervene and the separate  
21 case, we were, in effect, using belts and suspenders. That  
22 said, I think, first of all, that the requirements of Rule 24  
23 are satisfied here and that Ms. Rau's claim, Nakita's claim,  
24 may turn, in some large measure, on the Court's interpretation  
25 of its prior 1974 orders. And for that reason, it would be

1 appropriate to litigate that claim here.

2 In addition, no matter what the outcome of the case  
3 here today, no one can be sure that the Hart litigation will,  
4 in fact, be over even if you grant the relief that the City is  
5 seeking, because we can't preclude the possibility of a motion  
6 for reconsideration by someone or a notice of appeal. If  
7 something like that were to happen, we'd like to be parties to  
8 represent our interests.

9 THE COURT: Thank you.

10 MS. RUBIN: Your Honor, we have no objection to the  
11 motion to intervene. Shall I address the motion to terminate.

12 THE COURT: Please.

13 MS. RUBIN: We are here on behalf of the Chancellor  
14 and the Department of Education in a motion to end the  
15 remedial order governing United States Supreme Court  
16 precedent mandates that if we can show that we have reasonably  
17 complied over a reasonable period of time and that there are  
18 no vestiges of segregation remaining, that the order should be  
19 lifted.

20 We think we have put in factual and material to  
21 demonstrate this, and I don't believe that there's any factual  
22 dispute about what has been going on for the last 30 plus  
23 years in District 21 and Mark Twain.

24 Your order in 1974 led to the establishment of a  
25 wonderful school, a racially mixed school, an excellent

1 school. Highly competitive school. It was a success beyond  
2 our wildest expectations at the time. It has continued that  
3 way for many years, in compliance with the order. We've put  
4 in data which demonstrates that we have done admissions in  
5 accordance with the requirements of the order, and it's our  
6 belief that there are no vestiges remaining from the original  
7 finding of segregation, which, as you recall, was tied to the  
8 feeder patterns at Mark Twain.

9 In accordance with the order, the district changed  
10 the feeder patterns at the time, and if you look at the  
11 schools in the district, they are basically racially mixed.  
12 And Mark Twain, again, is a wonderful, successful, integrated  
13 place for many years. So we're here, at this point, to say  
14 that we think we've complied. We think that the tests have  
15 been met and we're asking you to terminate the remedial order.

16 THE COURT: Thank you.

17 MR. MEYERSON: Your Honor, we take a very limited  
18 position. We do agree that the desegregation of Mark Twain,  
19 as we frame the desegregation of the Mark Twain school has  
20 been fully achieved. We believe, based upon your finding in  
21 1990, the Court felt at that time it was fully achieved. That  
22 the defendants in the initiating litigation have fully  
23 complied with the desegregation order of 1974. And again, we  
24 believe your 1990 order, in effect and substance, stated that.  
25 We think what you should do at this point in time is simply

1 dismiss the case making the requisite findings of full  
2 compliance and effective desegregation. The Court should be  
3 very narrow in the scope of its order.

4 With respect to the intervention, we've taken no  
5 position. Although reflecting on it, in light of what counsel  
6 has stated, it does raise the issue of whether or not a formal  
7 dismissal at this time is not, in effect, retroactive to 1990  
8 when you made the fundamental findings that full compliance  
9 had been achieved at that time. And that your reflection that  
10 the continuing jurisdiction of the Court, yourself had  
11 reflection that the continuing jurisdiction of the Court was  
12 no longer necessary. Having said that and understanding that  
13 you've never formalized that, we believe that you should  
14 formalize that as I have previously discussed.

15 THE COURT: Thank you.

16 Does the state wish to add anything?

17 MR. BRISTOW: No, Your Honor.

18 THE COURT: The motion to intervene is going to be  
19 denied for two reasons. First, implicit is the contention  
20 that the law has changed making the 1974 remedial order  
21 invalid as applied to the proposed intervenors' children  
22 unfounded. If the facts were the same today as they were in  
23 1974, the same decree would issue because the plaintiffs  
24 proved both de facto and de jure segregation. Brown v. Board  
25 of Education of Topeka still rules. Segregation of this kind

1 that we had in Mark Twain was illegal and would still be  
2 illegal. Moreover, the Supreme Court has not declared, in any  
3 of its cases since Brown, that racial and other socio economic  
4 factors cannot be taken into account in administering local  
5 schools. The Supreme Court's ruling in the Seattle school  
6 case and the Missouri case of last year, which are relied  
7 upon, in effect, by the proposed intervenor has not changed  
8 the legal landscape as it applies to the situation now.

9 Majority opinion offered by the chief justice in  
10 Seattle is summarized as follows:

11 "The school districts," that is the Seattle and  
12 Missouri school districts," have not carried their heavy  
13 burden of showing that the interest they seek to achieve  
14 justifies the extreme means they have chosen, discriminating  
15 among individual students based on race by relying upon racial  
16 classifications in making school assignments."

17 And he went on:

18 "Although remediating the facts of past  
19 intentional discrimination is a compelling interest under the  
20 strict scrutiny test, that interest is not involved here that  
21 is in Seattle, because the school cases there were never  
22 segregated by law nor subject to a court ordered desegregation  
23 order."

24 That is not the case in the Mark Twain litigation  
25 where there was segregation and both de jure and de facto, and

1 there was an order, which was affirmed on appeal.

2 He went on to say, the chief justice:

3 "Moreover, these cases are not governed by  
4 Grutter v Bolinger --" those were the Michigan college cases  
5 -- "in which the court held for strict scrutiny purposes, a  
6 government's interest in student body diversity "in the  
7 context of higher education" is compelling."

8 The Grutter court noted that it is:

9 "Not in interest in simple ethnic diversity" in  
10 which a specified percentage of the student body is, in  
11 effect, guaranteed to be members of selected ethnic groups  
12 that can justify the use of race, but a far broader array of  
13 qualifications and characteristics of which racial or ethnic  
14 origin is a single though important element."

15 Now, in Brown, the chief justice directly addressed  
16 the problem of the difference between the considerations in  
17 graduate school and in grade school. It is a particular  
18 anomaly, I believe, for the chief justice to make this  
19 distinction, because the whole theory and history of the NAACP  
20 and NAACP Legal Defense Fund was to start with the appellate  
21 -- excuse me, to start with the graduate and undergraduate  
22 colleges where they saw that segregation would make it  
23 impossible for people who are segregated to be successful in  
24 their careers; and then having established that position, move  
25 down to grade school.

1           What Chief Justice Warren said, in Brown, was:

2            "In finding that a segregated law school for  
3 Negroes could not provide them equal educational  
4 opportunities, this Court relied, in large part, on those  
5 qualities which are incapable of objective measurement but  
6 which make for greatness in a law school. The Court, in  
7 requiring in *McLaurin* that a Negro admitted to a white  
8 graduate school be treated like all other students, again  
9 resorted to intangible considerations. His ability to study,  
10 to engage in discussions, and exchange views with other  
11 students, and in general, to learn his profession, are  
12 important."

13           Then the Chief Justice Warren went on to say this:

14            "Such considerations apply with added force to  
15 children in grade and high schools. To separate them from  
16 others of similar age and qualifications, solely because of  
17 their race, generates a feeling of inferiority as to their  
18 status in the community that may affect their hearts and minds  
19 in a way unlikely ever to be undone.

20            Segregation of white and colored children in  
21 public schools has a detrimental effect upon the colored  
22 children. The impact is greater when it has a sanction of the  
23 law. The policy of separating the races is usually  
24 interpreted as denoting the inferiority of the Negro group,"  
25 and then he went onto explain why this retarded education of

1 an important segment of the community in Brown.

2 Now, there were four justices in the Seattle case  
3 who agreed with the chief justice. There were four who agreed  
4 with Justice Breyer, who said a variety of things but this is  
5 a quotation that seems, to me, to sum it up:

6 "These cases consider the longstanding effort  
7 of two local school boards to integrate their public schools.  
8 The school board plans before us resemble many others adopted  
9 within the last 50 years by primary and secondary schools  
10 throughout the nation. All of these plans represent local  
11 efforts to bring about the kind of racially integrated  
12 education that Brown v Board of Education long promised  
13 efforts that this Court has repeatedly required, permitted,  
14 and encouraged local authorities to undertake. This Court has  
15 recognized that the public interest at stake in such cases are  
16 compelling. We have approved narrowly tailored plans that are  
17 no less race conscience than the plans before us, and we have  
18 understood that the constitution permits local communities to  
19 adopt desegregation plans even where it does not require them  
20 to do so." Now, that takes care of eight justices on two  
21 sides of the issue.

22 The ninth justice was Justice Kennedy, and he wrote  
23 the critical decision in this case -- or these cases. They  
24 were combined. The principal set forth by the supreme court  
25 in Marks v United States is:

1 "When a fragmented court decides a case and no  
2 single rationale explains the result and enjoys the assent of  
3 five justices, the holding of the Court may be viewed as that  
4 position taken by those members who concurred in the judgment  
5 on the narrowest grounds." That's from the Grutter case.

6 Now, in the Grutter case that meant that the view of  
7 Justice Powell, who concurred in the Bakke case, you remember  
8 that was the California case:

9 "That student body diversity is a compelling  
10 state interest that can justify the use of race in university  
11 admissions."

12 I remind you again that the chief justice pointed  
13 out that that problem is at least as great and is as important  
14 at grade schools.

15 That, therefore, brings us to the Kennedy opinion in  
16 the Seattle cases which constitutions, therefore, the ruling  
17 opinion for the purposes of application. Justice Kennedy  
18 wrote:

19 "This nation has a moral and ethical obligation  
20 to fulfill its historic commitment to creating an integrated  
21 society that insures equal opportunity for all its children.  
22 A compelling interest exists in avoiding racial isolation, an  
23 interest that a school district in its discretion and  
24 expertise may choose to pursue. Likewise, a district may  
25 consider it a compelling interest to achieve a diverse student

1 population." Which is just what was done in Mark Twain, not  
2 only by dealing with the racial discrimination but by  
3 providing all these special programs for all kinds of talented  
4 children in arts and computers, in the various forms of  
5 athletics and so on, which I will refer to in a moment.

6 "Race may be one component," he went on, "of  
7 that diversity, but other demographic factors plus special  
8 talents," he said, "and these should also be considered. The  
9 government is not permitted to do, absent a showing of  
10 necessity," not made here, that is in the Seattle case, "is to  
11 classify every student on the basis of race and to assign each  
12 of them to schools based on that classification." Which was  
13 not what was done in Mark Twain.

14 "The decision today," Justice Kennedy said,  
15 "should not prevent school districts from continuing the  
16 important work of bringing together students of different  
17 racial, ethnic, and economic backgrounds. Those entrusted  
18 with directing our public schools can bring to bare the  
19 creativity of experts, parents, administrators, and other  
20 concerned citizens, to find a way to achieve the compelling  
21 interest they face without resorting to widespread government  
22 allocation of benefits and burdens on the basis of racial  
23 classifications alone."

24 Now, the second reason the motion to intervene must  
25 be denied is because this case is closed. The docket sheet

1 indicates that it's closed, the Court of Appeals repeatedly  
2 stated that it's closed and it is closed. However, the  
3 supreme court has stated that defendants are entitled to a  
4 certificate of closure, and it will be issued forthwith.

5           The defendants have complied with the 1974 remedial  
6 order. Mark Twain has been desegregated. The Court has no  
7 further jurisdiction over the case and, therefore,  
8 intervention in a case which is not alive makes no sense  
9 whatsoever. If the plaintiffs wish to intervene, wish to  
10 bring any unconstitutional issue to the Court's attention, it  
11 will be in the parallel case that's brought. And in due  
12 course, the city and any other authorities will make the  
13 necessary motions and conduct the necessary discovery.

14           I should point out, since there are a number of  
15 people from the community here, that the Court has received  
16 many letters from parents whose children currently attend Mark  
17 Twain or have attended in the past. Students from this  
18 wonderful school created by so many devoted teachers,  
19 students, parents, government officials from local, state, and  
20 federal levels have contributed to making this a better  
21 borough, city, state, and country. And in their letters,  
22 these parents raise the concern that there should not be any  
23 radical changes that would tend to destroy this stellar model  
24 of urban education.

25           Now, it's the Court's understanding, from the city's

1 submission, that it is not the intention of the city to  
2 destroy this school. On the contrary, the city wants to  
3 continue to improve it. Based on the arguments today and in  
4 the briefs, the Court is convinced that the City and the  
5 Department of Education are acting in good faith, and that  
6 they intend to continue the school along these present  
7 excellent lines.

8           However, to assure the many people who continue to  
9 write to the Court, the Court requests a letter from the  
10 Chancellor or the mayor indicating that:

11           1. The September 2008 admission policy will not  
12 appreciably change with respect to selection criteria, with  
13 respect to talents and the like;

14           2. Students currently attending satisfactorily will  
15 be permitted to graduate on schedule;

16           3. Mark Twain will continue to be conducted as a  
17 superior magnet school as in the past and;

18           4. Mark Twain will be conducted as it has been for  
19 many years now, as an integrated and desegregated school.

20           That should be no problem.

21           The Court, that is I, I'm the Court, visited the  
22 school yesterday. I had the marshal drive me over with my  
23 clerks, and it was closed due to the school holiday, which was  
24 all right because I didn't want to go inside and annoy  
25 everybody. The Court would like to bring to the chancellor's

1 attention, if you will, that the lovely metal gates at the  
2 school entrance on Neptune Avenue are rusting. Try to see  
3 that they're painted promptly. That may improve morale. The  
4 sign indicating that it is a magnet school also needs touching  
5 up. See that that is done, please.

6           The Court would like to thank the concerned parents  
7 for writing and voicing their concerns, and for the parties  
8 for submitting briefs. It wishes, again, to note the  
9 contribution made to the desegregation of this school and to  
10 its improvement by the attorneys in this case, James Meyerson,  
11 who was a very, very young man when he started for the  
12 plaintiffs. Elliot Hoffman for the Chancellor in '74, Gail  
13 Rubin for the Chancellor now.

14           Hyman Bravin, is he still alive?

15           MR. MEYERSON: No, he is dead.

16           THE COURT: I thought he passed away. He did a  
17 wonderful job for the defendants, third-party defendants. And  
18 United States attorney Edward Boyd and Robert Hammer  
19 represented the state at that time. James Hollingsworth for  
20 the City Housing Authority. And then we had two wonderful  
21 expert you remember, Dan Dodson for the plaintiffs. And who  
22 was the expert -- Glaser, Mason Glaser for the defendants. He  
23 was very good. The principal was wonderful and so was the  
24 staff and the teachers and the parents and others.

25           The Court would, at this time, also like to mention

1 Curtis J. Berger, the Special Master in this case. He made a  
2 wonderful contribution. His unfortunate death has deprived us  
3 of innovative and workable methods of ending segregation in  
4 urban environments. There was a memorial written to him  
5 published in '99 Columbia Law Review called "Scholar and  
6 Teacher: People, Person and Institution Conciliator." It  
7 contains a picture of him. You will remember it and him.

8 MR. MEYERSON: I certainly do.

9 THE COURT: Unfortunately, he is dead.

10 So is there anything further?

11 MS. RUBIN: No, Your Honor.

12 THE COURT: We have copies of the draft of my  
13 opinion for anybody who wishes it, and we have copies of this  
14 article memorializing this great man. If there is nothing  
15 further, this hearing is adjourned.

16 A PARENT: Your Honor?

17 THE COURT: I'm sorry. If you'd like to be heard,  
18 please come forward. You can sit down right here. Give your  
19 name.

20 MS. KELTER: My name is Pamela Kelter, K-E-L-T-E-R.  
21 My child is a student at Mark Twain. I had to write this.

22 THE COURT: Okay.

23 MS. KELTER: Every parent wants the best for their  
24 child. Every parent wants an opportunity for their child to  
25 grow, flourish, and blossom. Some of us have every resource

1 to give our children those opportunities, not wasting a single  
2 moment, not leaving anything up to chance. Other parents must  
3 rely on society and its effort to create school environments  
4 that provide better educational opportunities for all  
5 children. Most children only have the second choice. Public  
6 school is a gateway for many children to become something  
7 beyond their wildest dreams. An opportunity for their  
8 lifetime.

9 Turning over the court order at Mark Twain could  
10 have a severe impact on the school, jeopardizing the education  
11 of 1,300 students each year. The court order designates that  
12 Mark Twain is a state magnet school. The state gives Mark  
13 Twain approximately \$300,000 annually for this magnet status.  
14 Taking away the court order risks this status.

15 Additionally, just a few weeks ago, Mark Twain was  
16 notified by the Department of Education that this year's  
17 school budget will be cut by \$120,000 and that number will  
18 double next year.

19 The court order also designates free busing for  
20 students living within District 21, this too would be  
21 jeopardized. How many parents will permit their children to  
22 travel to Coney Island by mass transit?

23 Mark Twain is not located on the edge of several  
24 neighborhoods, it is not located in a strategic site, making  
25 it susceptible to minority group isolation.

1 Mark Twain's unique talent testing is included in  
2 the court order. As this labor intensive process does not  
3 streamline well with the rest of the city's standardized  
4 testing, it too is at jeopardy. Mark Twain's funding,  
5 transportation, and selective testing process are all wrapped  
6 up in this court.

7 What is not seen or mentioned here in the newspapers  
8 is the blood and sweat that has poured into Mark Twain since  
9 the 1970's to make it a rock solid institution. The  
10 enthusiastic, hope, and unity that must have been planted then  
11 is still with the school now. Mrs. Moore and all her staff  
12 dedicate themselves to improving and enriching all students in  
13 the school. Students who have such diverse backgrounds and  
14 diverse resources. Students who have emotional,  
15 environmental, and family challenges are scaffolded into  
16 adulthood with care and love and understanding.

17 Families who are financially challenged are given an  
18 opportunity and a guiding hand by the schools, an opportunity  
19 that would not be possible without the teamwork of dedicated  
20 teachers and counselors at Mark Twain. I don't think the  
21 color of these students is noted, but many students of color  
22 are helped.

23 Chancellor Klein has never visited the school. He  
24 has never seen the joy and excitement, the unabashedly  
25 enthusiastic teamwork.

1 District 20 and 21 have other gifted and talented  
2 schools, many of them are dominated by Asian and/or white  
3 students. Mark Twain has a diversified population, much like  
4 the city we live in.

5 In the recent 2007 supreme court case, Justice  
6 Kennedy states in his opinion, "In the administration of  
7 public schools by the state and the local authorities it is  
8 permissible to consider the racial make up of schools and to  
9 adopt general policies to encourage a diverse student body,  
10 one aspect of which is its racial composition."

11 Ultimately, all children who attend Mark Twain, win.  
12 They are better prepared to know, to understand, and to work  
13 with people of all races and backgrounds.

14 THE COURT: Thank you for your very eloquent  
15 statement. Would you please bring that, and these other  
16 letters, to the attention of the Chancellor.

17 You might want to visit the school. It is a  
18 beautiful spot, and it has a tennis court.

19 MS. KELTER: Those aren't our tennis courts.  
20 Mrs. Moore won't allow the children to go out there.

21 THE COURT: She doesn't allow them to use the tennis  
22 courts?

23 MS. KELTER: What happened, several years ago --

24 THE COURT: I thought they were part of the school.

25 MS. KELTER: They're part of the park. Several

1 years ago they did a Walk-A-Thon and one of the children was  
2 mugged in the middle of the Walk-A-Thon. So for safety, we  
3 don't use the facility.

4 THE COURT: I'm sorry to hear it.

5 MS. KELTER: The neighborhood is not where it should  
6 be.

7 THE COURT: It has improved a lot from what it was  
8 when I first started. Bring that to the Chancellor's  
9 attention and maybe they can do something with the park  
10 Department.

11 Would you like to be heard too? Give your name  
12 please.

13 MS. RUSSO: Marianne Russo. We would just like to  
14 note that the city education department has changed from the  
15 Board of Education to DOE, and therefore, the admission  
16 process or the selection process at Mark Twain has also been  
17 changed with incoming from District 20 and Region 7 and now  
18 the OC both. We believe, as parents, that the DOE, at the  
19 present time, has mismanaged the selection process.

20 THE COURT: Who has?

21 MS. RUSSO: That they are no longer following the  
22 court order regarding priorities to Coney Island residents and  
23 District 21. Also, in their documents they're stating that it  
24 is now a city-wide school. One data that was presented by PTA  
25 before DOE made these changes to admissions, out of 170

1 children from the Coney Island area that applied, 40 were  
2 accepted. This year, though, in 2007, September of 2007, out  
3 of, again, almost the same, 100 something children, only 14  
4 were admitted. So therefore, we're asking the Court to assign  
5 an independent panel to review that DOE at this time to see if  
6 it's following the court order, because we believe they are  
7 not.

8 THE COURT: I'm not in a position to do that.  
9 Will you bring it to the attention of the  
10 Chancellor?

11 MS. RUBIN: Yes.

12 THE COURT: The original intention was to  
13 desegregate 21 and then it was expanded to the city as a  
14 whole, partly to help the students in District 21. I know  
15 that there was another intermediate magnet school established  
16 in the district, but I'm not in a position to get involved in  
17 that kind of detail. I'm sorry.

18 MS. RUSSO: Thank you.

19 THE COURT: Is your child a student there now?

20 MS. RUSSO: Yes.

21 THE COURT: Well, I think that your child will be  
22 protected.

23 MS. RUSSO: We're also concerned with other children  
24 in District 21 no longer are protected.

25 THE COURT: Of course you want a good balanced

1 school .

2 MS. RUSSO: It is now the intention of the  
3 Chancellor to make it a city-wide school .

4 THE COURT: Okay. Bring that to the attention of  
5 the Chancellor .

6 MS. RUBIN: Okay .

7 THE COURT: Sir, come forward and give your name .

8 MR. STEWART: My name is Ronald Stewart,  
9 S-T-E-W-A-R-T. I am currently a resident of Coney Island,  
10 Judge Weinstein. I testified when we were both young men,  
11 some years ago .

12 THE COURT: You still look pretty good .

13 MR. STEWART: You too, Judge. I was 17 years old.  
14 I testified in this court situation. I'm still a resident of  
15 Coney Island. I went to Mark Twain prior to it becoming a  
16 gifted and talented school. In fact, you asked me what did I  
17 think before -- Referee Curtis Borg, who I escorted throughout  
18 the community, took him to the homes of the African-American  
19 parents who expressed their concern, and you asked me what did  
20 I think. At the time I felt that the school should have  
21 remained as it was. I said we should bring in quality  
22 teachers, bring in materials that we felt was needed at the  
23 time .

24 I knew Doris Hart. I remember Mr. Meyers who  
25 represented the NAACP. And I didn't know that Mr. Berger had

1 since deceased; a great, great mind, great thinker. I knew  
2 Jeffrey Hart, who was the complainant. I'm happy to hear what  
3 your decision is. As Mrs. Russo said, this is a community  
4 school. District 21 has benefited for many years. Two of my  
5 daughters attended Mark Twain as a gifted -- one is now -- she  
6 is now making more money than me. She went to Howard  
7 University. I had another daughter went to Morgan State.  
8 Both live in the District of Columbia.

9 I think all parents in this district, the number one  
10 concern is education that their child receives is a quality  
11 education. Over the years I wasn't too pleased with the  
12 amount of children that were going into District 21. As Mrs.  
13 Russo said, the schools in the area, 188 and 288 and PS-90,  
14 one or two of the students, particularly black and Hispanic,  
15 entered the school.

16 But I am a member of the community education  
17 council, the president, and we're diligently working with the  
18 district to make sure that your decision is met. That there  
19 is diversity and fairness, and Mark Twain has given a lot of  
20 its students, in this area, a quality education and an  
21 opportunity to display their gifts and talents and move onto  
22 greater heights. We need the school to remain as it is. Of  
23 course, we need to monitor and make sure that there is  
24 fairness.

25 So I'm happy that the decision for you to have it

1 remain as it is and, hopefully, that Mark Twain can continue  
2 to do the quality work that it is doing. And we feel that  
3 District 21 should have preference to children there, because  
4 they see it as a community school. A lot of the black parents  
5 felt, during that period, that we lost the school. But over  
6 the years we've worked with the district at the time, whoever  
7 was in the school board, to make sure that your decision was  
8 met. That's basically what I needed to say.

9 THE COURT: Thank you.

10 If you would bring that to the attention of the  
11 Chancellor. Please, do.

12 MS. RUBIN: Yes, Your Honor.

13 THE COURT: Anybody else wish to be heard?

14 All right. This hearing is completed, and thank you  
15 all very much.

16 MS. RUBIN: Thank you, Your Honor.

17 MS. RUBIN: Do you want to have a status conference?

18 THE COURT: On the other case? No. Why?

19 MS. RUBIN: In your order that a status conference  
20 would follow.

21 THE COURT: We had it. The status is that you will  
22 proceed with that case, promptly, I assume. You will make a  
23 summary judgment and discovery motions. Who is the magistrate  
24 judge assigned?

25 MS. RUBIN: Magistrate Matsumoto.

1 THE COURT: Well, she'll take care of whatever  
2 problems you have. Thanks very much. Nice to see you all.  
3 Good-by.

4 MR. BRISTOW: Thank you, Your Honor.

5 MS. RUBIN: Thank you, Your Honor.

6 (Proceeding Concluded.)  
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