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HOLTON V. CITY OF THOMASVILLE SCH. DIST.
425 F.3d 1325 (11th Cir. 2005)

FACTS

Until 1965, the City of Thomasville School District (the District) in Georgia operated a *de jure* segregated school system with two elementary schools for Black students, four elementary schools for white students, one high school for Black students and another for white students.¹ In 1965, the District implemented its first desegregation plan, permitting parents to choose which school their children would attend.² This method failed to accomplish any desegregation.³ After communicating with the Department of Health, Education, and Welfare (HEW), the District adopted a new plan in 1970 to create a single high school, a single middle school, and four elementary schools, among which parents could choose to send their children.⁴ HEW accepted the plan in 1970, finding that it would accomplish the purposes of Title VI.⁵ The District continues to maintain this school structure.⁶

Shernika Holton, the Thomas County NAACP, and ten other representative parents of Black children attending elementary, middle, and high schools in the District brought a lawsuit alleging the District failed to meet its constitutional obligation to desegregate the schools.⁷ They requested judicial supervision of the District's desegregation efforts.⁸ The district court granted Plaintiff's motion for partial summary judgment,

¹ Holton v. City of Thomasville Sch. Dist., 425 F.3d 1325, 1330 (11th Cir. 2005); Black's Law Dictionary 1388 (8th ed. 2004). *De jure* segregation is segregation permitted by law. *Id.* *De facto* segregation is segregation occurring without state authority, usually on the basis of socioeconomic factors. *Id.*

² Holton, 425 F.3d at 1330.

³ *Id.*

⁴ See *id.* (stating that the plan originally created a single high school, a single middle school, a single school for all sixth grade students and a single school for all fifth grade students, but eventually the District reconfigured the schools into one high school and one middle school).

⁵ *Id.*

⁶ See *id.* (stating that one of the traditionally black elementary schools closed in 2002).

⁷ *Id.* at 1328. The district court certified a class action lawsuit of "all present and future parents or guardians of African American children enrolled or eligible to be enrolled within the Thomasville City School District." *Id.* at 1329 (quoting Thomas County Branch of NAACP v. City of Thomasville Sch. Dist., 187 F.R.D. 690, 700 (M.D. Ga. 1999)). Plaintiff's brought the claim under both the Fourteenth Amendment and 42 U.S.C. § 1983 and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d. *Id.* The district court and the Eleventh Circuit treated the two causes of action as being coextensive. *Id.* at 1329 n.1.

⁸ See *id.* at 1328–29 ("The Plaintiff seek a permanent injunction requiring the District to (a) disestablish its racially segregated school system; (b) adopt and implement a plan effectively to desegregate its buildings and classrooms; (c) provide equal educational facilities, resources, materials, and instruction to all students, and to provide compensatory instruction to students previously denied that opportunity; (d) cease all discriminatory imposition of discipline; and (e) desegregate all student activities, and cease discrimination against black students in this area.").

presuming that any present racial imbalances stemmed from the District's previous *de jure* segregation.⁹ After a bench trial, the district court also examined the District's facilities, transportation services, and extracurricular activities but found no racial imbalances present.¹⁰ Thus, the court found the District had satisfied its constitutional obligation to desegregate.¹¹

HOLDING

The Eleventh Circuit Court of Appeals affirmed the district court's decision to decline making a unitary status finding.¹² Additionally, the court upheld the factual findings,¹³ the burden of proof placed on the District,¹⁴ and the standard used to determine the existence of intentional discrimination.¹⁵ The Eleventh Circuit, however, found that the district court failed to apply the correct standard when analyzing the constitutionality of the District's ability-groups or tracking practices and remanded the case for reconsideration of the issue.¹⁶

ANALYSIS

The Plaintiffs raised five issues on appeal.¹⁷ The Eleventh Circuit reviewed the district court's findings of fact for clear error and reviewed *de novo* the district court's interpretation and application of the law.¹⁸ The analysis began with a brief summary of school desegregation law.

Although all *de jure* segregated school systems do not have to eliminate the vestiges of past discrimination to the maximum extent possible,¹⁹ they do have an affirmative constitutional obligation to desegregate by taking all steps necessary to eliminate the vestiges of the unconstitutional *de jure* system to the extent practicable.²⁰ If a school fails to

⁹ *Id.* at 1329.

¹⁰ *Id.* at 1336.

¹¹ *Id.* at 1328.

¹² *Id.* at 1340.

¹³ *Id.* at 1352.

¹⁴ *Id.* at 1346.

¹⁵ *Id.* at 1348.

¹⁶ *Id.* at 1346.

¹⁷ *Id.* at 1336.

¹⁸ *Id.* at 1337.

¹⁹ *Id.* (citing *Missouri v. Jenkins*, 515 U.S. 70, 101 (1995)).

²⁰ *Id.* (citing *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954) and *Brown v. Bd. of Educ.* 349 U.S. 294 (1955) (finding all *de jure* segregated school systems under a constitutional obligation to desegregate); *Freeman v. Pitts*, 503 U.S. 467, 485 (1992) (defining a district's duty to desegregate as eliminating the vestiges of the unconstitutional *de jure* system); *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15 (1971) (explaining that a *de jure* district has an affirmative duty "to convert to a unitary system in which racial discrimination would be eliminated root and branch") (quoting *Green v.*

meet this obligation, the courts have broad power to intervene to the extent of the constitutional violation.²¹ To determine if a school district has eradicated prior *de jure* segregation, courts must consider any racial imbalance in a school's faculty, staff, transportation, extracurricular activities, facilities and student attendance patterns.²² Racial imbalances stem from comparing "the proportion of majority to minority students in individual schools with the proportions of the races in the district as a whole."²³ If the court finds racial imbalances exist, the burden shifts to the school district to show that the imbalances are not from past *de jure* or present intentional discrimination.²⁴ In this case, the parties refer to the burden shifting as the "Keyes presumption,"²⁵ stemming from the Supreme Court's opinion in *Keyes v. School District No. 1*.²⁶ One way the school district can meet its burden is to attribute the racial imbalances to demographic forces.²⁷ Proving that demographic factors are a substantial cause of the racial imbalance overcomes the Keyes presumption and no constitutional violation exists.²⁸ Additionally, once a district remedies racial imbalances from the *de jure*

County Sch. Bd., 391 U.S. 430, 437–38 (1968)); *Manning ex rel. Manning v. Sch. Bd.*, 244 F.3d 927, 943 (11th Cir. 2001) (stating that a district need only eliminate the vestiges of discrimination "to the extent practicable") (quoting *Lockett v. Bd. of Educ.*, 111 F.3d 839, 842 (11th Cir. 1997)).

²¹ *Holton*, 425 F.3d at 1337. ("Once a right and a violation have been shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies.") (quoting *Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. at 15).

²² *Id.* at 1337–38 (citing *Green*, 391 U.S. at 435) (listing specific facets of a school system courts must examine to determine if the district eliminated past discrimination); *Freeman*, 503 U.S. at 486 (stating that the facets listed in *Green* must be free from racial discrimination before the Constitutional obligation to desegregate is met).

²³ *Holton*, 425 F.3d at 1338 (quoting *Freeman*, 503 U.S. at 474).

²⁴ *Id.* (citing *Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. at 26 (explaining that racial imbalances in a prior *de jure* segregated district shifts the burden of proof to the district); *Freeman* 503 U.S. at 494 (stating that the in a prior *de jure* segregated school system, the school district bears the burden of showing that current imbalances are not traceable, in a proximate way, to the prior violation)).

²⁵ *Holton*, 425 F.3d at 1338 n.8.

²⁶ *Keyes v. School District No. 1, Denver, Colo.*, 413 U.S. 189 (1973) (finding that the deliberate segregation of one school area can prove a segregation policy in the entire school district). In *Keyes*, the Supreme Court considered whether proof of intentional segregation of a portion of a school district was sufficient to prove segregation of the entire school district. *Id.* at 200. No statute ever proscribed or permitted segregation in the Denver school district, but the School Board manipulated the policies causing segregation in a certain area. *Id.* at 191. The district court intervened to desegregate one area of the school district, but petitioners sought the court's intervention for all the schools in the district. *Id.* at 192. The Court affirmed that where no *de jure* segregation has ever existed, plaintiffs must prove that segregation exists, and that intentional state action caused or maintained it. *Id.* at 198. The Court held that a "finding of intentionally segregative school board actions in a meaningful portion of a school system . . . creates a presumption that other segregated schooling within the system is not adventitious." *Id.* at 208. In other words, in cases where the court finds that school authorities intentionally segregated part of a school system, the school authorities bear the burden of showing that their actions regarding the other segregated schools in the district were not motivated by segregative intent. *Id.* at 208–09.

²⁷ *Holton*, 425 F.3d at 1338.

²⁸ *See id.* at 1339 (stating that if demographic factors substantially caused the racial imbalances, the presumption that segregative intent is the cause is overcome, and no constitutional violation exists) (citing *Manning ex rel. Manning*, 244 F.3d at 944).

violation, no further duty exists to remedy segregation caused by demographic factors.²⁹ A school district need not prove that demographics are the sole cause of the racial imbalances.³⁰ To preserve the presumption of *de jure* segregation, the plaintiff must show the demographic shift resulted from the *de jure* system or some other discriminatory conduct.³¹

Plaintiffs claimed that the district court failed to determine whether the District achieved "unitary status."³² Lower courts use the term unitary status inconsistently to mean a district that has met its constitutional obligation to desegregate or to mean a school that has desegregation plans though past vestiges of the segregation might still exist.³³ The Eleventh Circuit found no error in the district court's decision not to determine whether unitary status exists for two reasons.³⁴ First, courts usually only assess unitary status to decide when to end judicial supervision of desegregation,³⁵ but in this case, no court has supervised the District's desegregation.³⁶ Thus, the court reasoned no unitariness analysis is applicable.³⁷ Second, the substance of the inquiry is more important than the terminology.³⁸ However, if the district court inquires into whether the District eliminated the vestiges of the prior *de jure* segregation system, the terminology used to phrase the inquiry is immaterial.³⁹

Next, Plaintiffs argued that the district court misapplied the *Keyes* presumption.⁴⁰ Specifically, Plaintiffs argued that the court failed to require the District to demonstrate (1) that it eliminated the vestiges of segregation to the extent practicable, (2) that its policies did not contribute to the

²⁹ *Id.* at 1338 (citing *Freeman*, 503 U.S. at 494) (explaining that if a district remedies racial imbalance from the *de jure* violation, then the court does not require it to remedy imbalances from demographic factors); *Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. at 31–32 (stating that after a district's Constitutional obligation to desegregate is met, courts should not intervene to fix the racial composition of a school without proof that the district deliberately fixed or altered the demographic patterns)).

³⁰ *Holton*, 425 F.3d at 1339 ("[A] plaintiff does not undermine the strength of a defendant's demographic evidence by merely asserting that demographics alone do not explain the racial imbalances." (quoting *Manning ex rel. Manning*, 244 F.3d at 944–45)).

³¹ *Id.* (citing *Manning ex rel. Manning*, 244 F.3d at 944–45).

³² *Id.*

³³ *Id.* at 1339–40.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *See id.* at 1340 ("The district court's opinion makes clear that it found that the defendants had eliminated the vestiges of their prior discrimination; thus, it is wholly irrelevant what precise language the district court used to announce its findings.") (quoting *Lee v. Etowah County Bd. of Educ.*, 963 F.2d 1416, 1424 n. 9 (11th Cir. 1992)).

⁴⁰ *Id.* at 1340; *see Keyes*, 413 U.S. 189 (holding that "a finding of intentionally segregative school board actions in a meaningful portion of a school system . . . creates a presumption that other segregated schooling within the system is not adventitious").

imbalances, and (3) that demographic changes were a substantial cause of the racial imbalance.⁴¹

Regarding part one, the Eleventh Circuit found that while the district court did not use the terminology "to the extent practicable," its detailed finding illustrates the substance of the court's inquiry was correct.⁴² The district court properly focused on whether the vestiges of the previous *de jure* system still existed by evaluating student assignments, facilities, faculty and staff assignments, transportation and extracurricular activities, curriculum and class assignments, gifted and special education programs and discipline system for racial imbalances.⁴³ In the areas where the district court found racial imbalance, it examined whether the District had proved by a preponderance of the evidence the imbalances are not traceable to past segregation.⁴⁴ The court found the imbalances stemmed from demographic or other external factors.⁴⁵ Then the court looked for present purposeful discrimination in those areas and found none.⁴⁶ Thus, the district court's analysis tracked precisely the methodology prescribed by the Supreme Court for determining whether a school district has satisfied its constitutional obligation to desegregate even though the District did not use the phrase "to the extent practicable."⁴⁷ The Eleventh Circuit reasoned that a finding that imbalances are not traceable to past *de jure* segregation is a finding that the vestiges of *de jure* segregation were eliminated to the extent practicable.⁴⁸

Regarding part two, the Eleventh Circuit reiterated that the District bears the burden of showing that present racial imbalances are not traceable in a proximate way to the past segregation,⁴⁹ which was the standard applied by the district court.⁵⁰ The District is not required to prove that its policies do not contribute to the current racial imbalances.⁵¹ The latter standard comes from *Keyes*,⁵² which involved a school district trying to prove that an entire school system was not infected with intentional segregation after the

⁴¹ *Holton*, 425 F.3d at 1340.

⁴² *Id.* at 1341.

⁴³ *Id.* at 1342 (citing *Thomas County Branch of NAACP v. City of Thomasville Sch. Dist.*, 299 F. Supp 2d 1340, 1354–58 (M.D.Ga. 2004)).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.* at 1342–43.

⁴⁸ *Id.* at 1342.

⁴⁹ *Id.* at 1343 ("The school district bears the burden of showing that any current [racial] imbalance is not traceable, in a proximate way, to the prior violation.") (quoting *Freeman*, 503 U.S. at 494).

⁵⁰ *Id.* (citing *Thomas County Branch of NAACP*, 299 F. Supp 2d at 1352).

⁵¹ *Id.* at 1344.

⁵² *Id.* at 1343; see *Keyes*, 413 U.S. 189 (holding that "a finding of intentionally segregative school board actions in a meaningful portion of a school system . . . creates a presumption that other segregated schooling within the system is not adventitious").

court found intentional discrimination in some of the system's schools.⁵³ Here, the entire district concededly was segregated.⁵⁴ Thus, the court concluded that the standard was inapplicable to the case at bar.⁵⁵ The court further stated that even if the presumption applied, the District only had to prove either that its policies were not intentional or that its policies were not factors in causing the imbalance.⁵⁶ The district court found intentional discrimination did not cause the imbalances, and thus, did not need to consider the other factor.⁵⁷

Regarding part three, the Eleventh Circuit found that while the district court did not say that demographic factors substantially caused the racial balances, its detailed analysis and findings indicate this.⁵⁸ The district court relied on data showing that for the first six years after adopting the second desegregation plan, the District's schools "closely tracked" the racial composition of the District as a whole.⁵⁹ Further data showed a decline in the number of white students enrolled and population shifts in Thomasville.⁶⁰ Relying on this information, the district court concluded that demographic changes caused the present imbalances.⁶¹ The Eleventh Circuit noted that Plaintiffs failed to show otherwise.⁶²

Plaintiffs further argued that the district court failed to apply the correct standard when analyzing the constitutionality of the District's ability-groups or tracking practices.⁶³ Plaintiffs stated that precedent permits tracking only when it "is not based on the present results of past segregation or will remedy such results through better educational opportunities."⁶⁴ The Eleventh Circuit agreed that the district court committed a reversible error by failing to apply this standard.⁶⁵ The court reasoned that ability-grouping is not per se unconstitutional even if it causes racial imbalances,⁶⁶ but found that the judiciary must ask if the tracking is based on the present results of past discrimination or is designed to remedy such results.⁶⁷ The district court

⁵³ *Holton*, 425 F.3d at 1343.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* at 1344.

⁵⁹ *Id.* at 1345 (citing *Thomas County Branch of NAACP*, 299 F. Supp 2d at 1355).

⁶⁰ *Id.*

⁶¹ *Id.* at 1346.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.* (quoting *Ga. State Conference of Branches of NAACP v. Georgia*, 775 F.2d 1403, 1414 (11th Cir. 1985)).

⁶⁵ *Id.*

⁶⁶ *Id.* at 1346-47 (citing *Castaneda v. Pickard*, 648 F.2d 989, 994 (5th Cir. 1981)).

⁶⁷ *Id.* at 1347.

only analyzed the tracking for intentional discrimination.⁶⁸ The Eleventh Circuit remanded this issue.⁶⁹

Plaintiffs further argued that the district court failed to apply a standard for determining whether the District has present intentional discrimination.⁷⁰ Plaintiffs argue that the court should ask whether race is a substantial motivating factor behind the District's actions.⁷¹ The Eleventh Circuit agreed that the district court could have articulated its standard more clearly but found no error in the substance of the district court's inquiry and finding.⁷² To establish a present intent to discriminate, the plaintiffs must prove that the District acted with a discriminatory purpose.⁷³ According to the court, a discriminatory purpose ". . . implies more than intent as volition or intent as awareness of consequences. It implies that the decision maker. . . selected . . . a particular course of action at least in part 'because of,' not merely 'in spite of,' its adverse effects upon an identifiable group."⁷⁴ The district court conducted this inquiry when it examined the evidence to see if the District acted because of race.⁷⁵ This is a factual inquiry, and the Eleventh Circuit acknowledged that it cannot reverse the district court's finding regarding intentional discrimination unless it is a clearly erroneous finding of fact or based on an erroneous view of the law.⁷⁶ The court found no erroneous view of the law of intentional discrimination in this case.⁷⁷

Lastly, Plaintiffs claim that the district court's findings of fact were clearly erroneous because the evidence did not show significant demographic changes, and the District could have counteracted the shifts by implementing attendance zones.⁷⁸ The Eleventh Circuit concluded that the standard of review of the district court's findings of fact is clearly erroneous,⁷⁹ and the Plaintiffs only presented an alternative view of the evidence not an error.⁸⁰ The court found that the district court thoroughly evaluated the evidence, and

⁶⁸ *Id.*

⁶⁹ *Id.* at 1348.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.* at 1349.

⁷⁴ *Id.* (quoting *Hernandez v. New York*, 500 U.S. 352, 360 (1991)).

⁷⁵ *Id.* at 1350.

⁷⁶ *Id.* (quoting *Barber v. Int'l Bd. of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers*, 778 F.2d 750, 754 (11th Cir. 1985)).

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.* ("If the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact it would have weighed the evidence differently.") (quoting *Anderson v. Bessemer City, N.C.*, 470 U.S. 564, 573-74 (1985)).

⁸⁰ *Id.* at 1351.

its theory was more than plausible, despite conflicting evidence.⁸¹ Additionally, the court noted that courts may not intervene to maintain racial balance without a constitutional violation.⁸² A private choice to resegregate has no constitutional implications.⁸³ Thus, the district court cannot rearrange attendance zones to achieve greater racial balance without exceeding its authority.⁸⁴

CONCLUSION

The Eleventh Circuit takes a functional approach to school desegregation case law by refusing to strike down several of the district court's findings simply because the court did not use certain terminology in its opinion. This logic seems consistent with reasoning from the Supreme Court. For example, as the Eleventh Circuit noted, the Supreme Court explained that "it is a mistake to treat words such as 'dual' and 'unitary' as if they were actually found in the Constitution. The constitutional command of the Fourteenth Amendment is that '[n]o State shall . . . deny to any person . . . the equal protection of the laws.'"⁸⁵ Thus, the Eleventh Circuit concluded that if the district court applies the correct substantive judicial inquiries to a school desegregation case, it is not required to find that the school achieved "unitary status."⁸⁶

The Eleventh Circuit used the same reasoning to equate the district court's finding that racial imbalances were not traceable to past discrimination with a finding that the vestiges of past *de jure* discrimination have been eliminated to the extent practicable.⁸⁷ As the Eleventh Circuit indicated, the district court's failure to use the phrase "to the extent practicable" in its opinion hardly seems noteworthy when the substance of the inquiry is correct. Similarly, the Eleventh Circuit equated the district court's findings that demographic changes were responsible for the racial imbalances with a finding that the demographic factors were a "substantial cause of the racial imbalances," although the court never used those words.⁸⁸

The district court probably should mention the tests articulated by the Supreme Court for deciding school segregation cases, however, to distill any question about the level of scrutiny applied. The word "substantial" could indicate a higher burden for the school district. The Eleventh Circuit's

⁸¹ *Id.*

⁸² *Id.* at 1352.

⁸³ *Id.*

⁸⁴ *Id.* at 1353.

⁸⁵ *Id.* at 1340 (quoting *Bd. of Educ. v. Dowell*, 498 U.S. 237, 245 (1991)).

⁸⁶ *Id.*

⁸⁷ *Id.* at 1341–42.

⁸⁸ *Id.* at 1346.

decision not to remand the case for a technical violation as opposed to a substantive one seems reasonable, however, because the reference to "responsible" indicates that demographic forces were the sole cause instead of merely a cause of the racial imbalances.

The Eleventh Circuit's narrow interpretation of *Keyes* also seems in accordance with the Supreme Court's reasoning. When considering what, if any, burden of proof the District must bear, the Eleventh Circuit distinguished the burden shifted in *Keyes* from the burden shifted in *Swann v. Charlotte-Mecklenburg Board of Education*⁸⁹ and *Freeman v. Pitts*.⁹⁰ In *Swann* and *Freeman*, the Supreme Court found that in a prior *de jure* school system, the school district bears the burden of showing that any current racial imbalances are not traceable to a past or prior violation.⁹¹ In *Keyes*, on the other hand, a formally dual school system had never existed, but rather plaintiffs alleged discrimination on the part of the school board in implementing its facially neutral policies.⁹² The Supreme Court stated that where the plaintiffs proved intentional discrimination in a portion of the schools within a district, the burden shifts to the district to prove that the other segregated schools in the system are not also the result of the intentionally segregative actions.⁹³ The Court seems to limit the burden shift in *Keyes* to fact-specific cases, instead of generally shifting the burden of proof in cases involving current intentional discrimination. Thus, in this case, the District bore no extra burden to disprove current intentional discrimination; plaintiffs still carried the heavy burden to demonstrate that

⁸⁹ *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1 (1971) (finding that the district court has broad powers to eliminate vestiges of past discrimination in prior *de jure* school districts). In *Swann*, the State previously had a policy to separate pupils in schools solely based on race but failed to create an acceptable plan to integrate the school system. *Id.* at 5-6. The Court found that where a school failed to come forward with a plan, the district court may make limited use of ratios of white to black students in shaping a remedy, that pairing and grouping noncontiguous school zones was permissible, and that ordering a system of busing was allowed where assigning children to the school nearest their home would not dismantle the dual system. *Id.* at 26, 28, 30. The Court affirmed that in a system where formal desegregation existed, the school district had a duty to eliminate from the public schools all vestiges of state-imposed segregation in violation of the equal protection clause. *Id.* at 14. The Court reasoned that the district courts have broad power to fashion a remedy to accomplish this objective, which was not restricted by Title IV of the Civil Rights Act of 1964. *Id.* at 16-17.

⁹⁰ *Holton*, 425 F.3d at 1338 n.8; *Freeman*, 503 U.S. 467 (finding that a district court can gradually stop supervision of a school district before it has completely eliminated all the vestiges of the *de jure* system). In *Freeman*, the district court was overseeing the implementation of a plan to eliminate the vestiges of the unconstitutional *de jure* school system. *Id.* at 471. The court relinquished jurisdiction when the school had reached unitary status in some but not all areas. *Id.* The Supreme Court found that a district court could relinquish supervision before full compliance had been achieved in all factors. *Id.* at 490. The Court reasoned that once the district court determines, *inter alia*, that retention of control is not necessary to achieve compliance in all areas and that the district has shown a good faith commitment to integration, the court has discretion to make an incremental withdrawal of supervision. *Id.* at 491.

⁹¹ *Holton*, 425 F.3d at 1338.

⁹² *Keyes*, 413 U.S. at 191.

⁹³ *Id.* at 209.

the district acted with discriminatory purpose. Similar to all other equal protection claims, the District did not have to defend its policies merely because of the racially disproportionate impact.

Perhaps in future cases involving current racial imbalances, the school district's neutral policies will so greatly affect racial imbalance, the court will force the district to provide a justification for its actions and lighten the Plaintiff's burden. Arguably, however, a finding that demographic changes caused the racial imbalances is a finding that the District did not act with discriminatory purpose. In that context, the District in this case, would have met any additional burden shift as well.

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