

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

DEC 5 1977

MURRAY L. HARRIS, CLERK
By *Devin Stanley*
Deputy

J. and R. DOE AS GUARDIAN AD LITEM FOR I. ROE, J. D. DOE, E. DOE, D. DOE AND O. DOE; J. AND E. ROE AS GUARDIAN AD LITEM FOR O. ROE, F. ROE, and N. ROE; F. BOE AS GUARDIAN AD LITEM FOR Z. BOE, S. BOE and X. BOE; H. and J. LOE AS GUARDIAN AD LITEM FOR A. LOE, L. LOE, M. LOE, G. LOE and R. LOE; ON BEHALF OF THEMSELVES AND OTHER SIMILARLY SITUATED,

PLAINTIFFS §

VS. §

CIVIL ACTION NO. TY-77-261-CA

JAMES PLYER, SUPERINTENDENT OF THE TYLER INDEPENDENT SCHOOL DISTRICT, IN HIS OFFICIAL CAPACITY; ROBERT DOBBS, CHARLES CHILDERS, CARL ROSS, MARTIN EDWARDS, VERNON GOSS, MICHAEL BREEDLOVE and ROBERT RANDALL IN THEIR OFFICIAL CAPACITY AS MEMBERS OF THE BOARD OF TRUSTEES OF THE TYLER INDEPENDENT SCHOOL DISTRICT,

DEFENDANTS §

DEFENDANTS' ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

Come now the Defendants, JAMES PLYLER, Superintendent of the TYLER INDEPENDENT SCHOOL DISTRICT, in his Official Capacity, ROBERT DOBBS, CHARLES CHILDERS, CARL ROSS, MARTIN EDWARDS, VERNON GOSS, MICHAEL BREEDLOVE, and ROBERT RANDALL, in their Official Capacity as Members of the Board of Trustees of the TYLER INDEPENDENT SCHOOL DISTRICT, and in response to Plaintiffs' Original Complaint, file this their Original Answer, and for such would respectfully show the Court the following:

I.

Defendants are without information or knowledge sufficient to form a belief as to the truth of the Plaintiffs' allegations set forth in Paragraphs 1 through 6 of the Plaintiffs' Original Complaint.

II.

Defendants admit the allegations contained in Paragraphs 7 and 8 of Plaintiffs' Original Complaint with the exception that ROBERT DOBBS should be substituted for LEWIS LAMPKIN as an Elected Member of the Board of Trustees of the TYLER INDEPENDENT SCHOOL DISTRICT.

III.

Defendants admit the allegations contained in Paragraphs 9 and 10 of Plaintiffs' Original Complaint as to the jurisdiction and venue in this cause of action.

IV.

Defendants admit that the TYLER INDEPENDENT SCHOOL DISTRICT is a Public School District receiving federal funding, thereby making it subject to the provisions of 42 U.S.C. Section 2000(d), Title VI of the Civil Rights Act of 1964.

V.

Defendants admit that effective September 1, 1975, Section 21.031 of the Texas Education Code went into effect and that it provides for the admission of students into the School Districts in the State of Texas.

VI.

Defendants admit that on or about July 15, 1977, the Board of Trustees of the TYLER INDEPENDENT SCHOOL DISTRICT promulgated a policy regarding the admission of students into the TYLER INDEPENDENT SCHOOL DISTRICT. Defendants further admit that the

policy adopted by the TYLER INDEPENDENT SCHOOL DISTRICT and its Board of Trustees is essentially what is set out verbatim in Plaintiffs' Paragraph 13 of Plaintiffs' Original Complaint.

VII.

Defendants deny the allegations contained in Paragraph 14 of Plaintiffs' Original Complaint.

VIII.

Defendants are without information or knowledge sufficient to form a belief as to the truth of the allegations of Plaintiffs' ability to afford tuition or actual denial of each minor child from attending school within the TYLER INDEPENDENT SCHOOL DISTRICT as set forth in Paragraph 15 of Plaintiffs' Original Complaint.

IX.

Defendants are without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations as set forth in Paragraph 16 of Plaintiffs' Original Complaint.

X.

Defendants are without information or knowledge sufficient to form a belief as to the truth of Plaintiffs' ancestry as set out in Paragraph 17 of Plaintiffs' Original Complaint. Defendants deny that only school age children bearing Spanish surnames or being of Mexican ancestry have been required to produce documentation of their status before being admitted to TYLER INDEPENDENT SCHOOL DISTRICT schools.

XI.

Defendants deny the allegations contained in Paragraph 18 of Plaintiffs' Original Complaint.

XII.

Defendants reallege their answers to Paragraphs 1 through 18 of Plaintiffs' Original Complaint in answer to Plaintiffs' Paragraph 19. Defendants do not deny that the implementing of a policy that only required children with Spanish surnames or of apparent Mexican ancestry to produce documentation of U. S. citizenship or legal status when other children were not required to produce such documentation would be a discriminatory policy. However, Defendants deny that any such policy exists within the TYLER INDEPENDENT SCHOOL DISTRICT.

XIII.

Defendants reallege their answers to Paragraphs numbered 1 through 18 of Plaintiffs' Original Complaint in answer to Plaintiffs' Paragraph 21.

Defendants deny the allegations contained in Paragraph 22 of Plaintiffs' Original Complaint.

XIV.

Defendants reallege their answers to Paragraphs numbered 1 through 18 of Plaintiffs' Original Complaint in answer to Plaintiffs' Paragraph 23.

Defendants deny the allegations contained in Paragraph 24 of Plaintiffs' Original Complaint.

XV.

Defendants reallege their answers to Paragraphs numbered 1 through 18 of Plaintiffs' Original Complaint in answer to Plaintiffs' Paragraph 25.

Defendants do not deny that a policy requiring only children with Spanish surnames or of Mexican ancestry to produce documentation and their resultant exclusion from a tuition-free education would result in a national origin discrimination, but Defendants

do deny that any such policy exists within the TYLER INDEPENDENT SCHOOL DISTRICT.

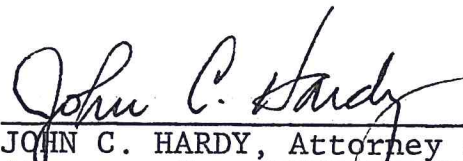
XVI.

Defendants reallege their answers to Paragraphs numbered 1 through 18 of Plaintiffs' Original Complaint in answer to Paragraph 27 of Plaintiffs' Original Complaint.

Defendants deny that they have attempted to regulate immigration and naturalization. Defendants would further show, if the same be necessary, that the policy in effect within the TYLER INDEPENDENT SCHOOL DISTRICT is the policy set down by the Texas Legislature to oversee education within the State of Texas, which is a legitimate State objective.

WHEREFORE, Defendants move and pray that upon the trial hereof, Plaintiffs be denied the right to attend TYLER INDEPENDENT SCHOOL DISTRICT schools free of charge without the showing of the documentation required by School and State policy, that no Injunction be issued, that this Court declare the policy of the TYLER INDEPENDENT SCHOOL DISTRICT and Section 21.031 of the Texas Education Code to be valid and correctly administered and that Plaintiffs' attorneys be denied any attorney's fees and costs of court and that Plaintiffs recover nothing as prayed for, and that Defendants have their costs incurred herein and recover such other and further relief that they may show themselves justly entitled to receive.

Respectfully submitted



JOHN C. HARDY, Attorney at Law,
Attorney for TYLER INDEPENDENT
SCHOOL DISTRICT and Attorney for
BOARD OF TRUSTEES OF TYLER IND.
SCHOOL DISTRICT

WILSON, MILLER, SPIVEY, SHEEHY,
KNOWLES & HARDY
200 Peoples Bank Bldg. South
Tyler, Texas 75702

CERTIFICATE OF SERVICE

I, JOHN C. HARDY, hereby certify that a true and correct copy of the foregoing has been placed in the United States Mails with proper postage affixed thereto and mailed on the 5th day of December, 1977, to MR. PETER ROOS, c/o Mexican-American Legal Defense and Education Fund, 145 Ninth Street, San Francisco, California 94103, and that copy has this date been mailed to MR. LARRY DAVES by placing the same in the United States Mails with proper postage affixed thereto and being addressed to MR. LARRY R. DAVES, P. O. Box 1115, Tyler, Texas 75710.



JOHN C. HARDY