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# Desegregation in Higher Education: Twenty-five Years of Controversy from Geier to Ayers

ELLEN B. DAVIS\*

Thirty-nine years ago the United States Supreme Court stated that the Constitution prohibits any educational system that is segregated. *Brown v. Board of Education* (1954) declared separate but equal schools at every level of education to be unconstitutional. However, decades later, state boards of education around the nation face litigations which have arisen because their desegregated systems have not produced integrated schools.

A current Mississippi legal action claims that disparity in funding and in other areas has resulted in a great disparity between the state's historically black colleges and universities (HBCUs) and the historically white institutions. The governor and the state college board claim that bringing all of the HBCUs in Mississippi to absolute parity is a fiscal impossibility. Furthermore, it is questionable whether Mississippi needs (and can continue to support) eight public institutions of higher education that offer the same programs and services but have different admission standards.

Conversely, the HBCU's record of service, as demonstrated by the black plaintiffs, is indisputable. The state's plan, however, would close or merge all HBCUs (with the exception of Jackson State University) and merge the historically white Mississippi University for Women, which had no part in the original suit. The only consensus among the decisionmakers — the parties who must agree on a plan to present to the court — is that not every point of view can be easily satisfied. Blacks want their institutions enhanced, fully funded, and independent of any outside intrusion into policy or mission while the white power structure maintains that segregated education should not be publicly supported regardless of motive. Finally, neither group desires to make the "politically incorrect" decision.

Mississippi power brokers on both sides would do well to remember the words of George Santayana: "... Those who cannot remember the past

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are condemned to fulfill it."<sup>1</sup> (Santayana, 1906). When educators fail to achieve effective compromise and shy away from proper judgment because of political concerns, the dilemmas are left for the courts to resolve. Courts rely on quantifiable results, measured by statistics, which while indicating change, are not necessarily an accurate reflection of minority access to higher education. Nor does a court's need for quantifiable data address the more complex problem of the future role of HBCU in American education. In fact, Mississippi need only look at one of its neighbors to observe the influence of the courts on governance in higher education.

### CASE IN POINT: *GEIER V. ALEXANDER*

In 1968 a group of plaintiffs filed suit in federal court to prevent the expansion of the University of Tennessee (UT) in the Nashville metropolitan area. Although the university had operated its Nashville center (UT-N) since 1947, recent events had led those who supported Tennessee State University (TSU), an historically black public institution in Nashville, to fear that continued growth at UT-N would have a negative impact on TSU. The suit, which was originally filed as *Sanders v. Ellington*<sup>2</sup> and brought to summary judgment as *Geier v. Alexander*,<sup>3</sup> cited the fact that the two institutions were duplicating programs and competing for qualified students. It seemed to most observers that the future of a fully desegregated system of public higher education was not compatible with the continuing side-by-side existence of the two institutions.

The suit continued with proposals and counterproposals from all parties. The concern at TSU was that the character and mission of the institution remain intact. The U.S. Justice Department which entered the suit as a plaintiff intervenor, focused on the fact that open admissions policies in Tennessee had not dismantled the dual system of education and the fact that current efforts by the defendants were not adequate to achieve equity. Several plans were filed with the court over the years until it finally became evident to the court, in 1977, that the parties involved could not or would not reach a solution. Therefore, the court decided that the two institutions, UT-N and TSU, would be merged, with TSU remaining the identifiable entity and governance belonging to the Tennessee Board of Regents.

Together with the order to merge, the court determined that some quantifiable means of monitoring the desegregation process in all public col-

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1. Santayana, 1906.

2. 288 F.Supp 1263 (M.D. Tenn. 1968).

3. 593 F.Supp 1263 (M.D. Tenn. 1984), *affm'd*, 801 F.2d 799 (6th Cir. 1986).

leges and universities of the state must be established. As ordered, the Tennessee Higher Education Committee (THEC) began collecting data on enrollment and employment. THEC's Desegregation Monitoring Committee (DMC) set desegregation goals for each institution (with the exception of TSU) and reported annually to the court on each institution's progress in satisfying immediate and long-range goals.

Only for TSU were specific goals established by the court itself. In the other schools under the scrutiny of the DMC the court failed to provide any specific goals other than to order that employment goals should follow the Equal Employment Opportunity Commission's guidelines. The court set as the target year 1993, by which time TSU should have attained a 50% white undergraduate enrollment. It was additionally determined that, by 1990, 50% of all administrative positions at TSU should be filled by whites. Whether by intention or not, the burden of desegregation was placed squarely on historically black TSU which would essentially have to change its entire character and mission in order for the desegregation plan to succeed.

### **Fifteen Years of Monitoring: Results**

A study of the fifteen years of effort by the seven public institutions of Middle Tennessee, identified in the original 1977 order, to enlarge the access of blacks to higher education reveals that the merger between TSU and UT-N did not alter the role of TSU as it is perceived by the community of Middle Tennessee. Despite the fact that many black students now attend historically white institutions, TSU continues to educate the majority of black undergraduate and graduate students in Tennessee. In 1990, 7,287 black undergraduate students were enrolled in public higher education institutions in Middle Tennessee. Fifty-six percent, or 4,114 of these students were enrolled at TSU. Almost 70% of the black graduate students attending public institutions in Middle Tennessee were enrolled at TSU.<sup>4</sup>

A greater change has occurred in employment of blacks in the area's institutions. Black faculty employment at TSU declined from 92% in 1976 to about 67% in 1990. For administrative and professional employees, the change was from 85% combined employment in 1976 to 61% in 1990. In 1990, the historically white institutions employed more blacks in the administrative category than TSU.<sup>5</sup>

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4. Ellen B. Davis, *Twenty Years After Sanders v. Ellington: Desegregation of Public Higher Education in Middle Tennessee* (1992) (unpublished Ed.D. dissertation, Memphis State University).

5. *Id.*

The data collected by the DMC presents two views of the progress made by minorities in enrollment and employment. The principal concern of the DMC has been determining the level of success met by each institution in its goal of equal access. The best way to improve minority participation in higher education is to develop a fully integrated system. Although the number of white undergraduates and graduate students at TSU was four times larger in 1990 than it was in 1976, the fact remains that the majority of white students choose to attend historically white institutions.

The DMC data presents the actual numbers of minority students and employees at each institution and the percentage of the desegregation goal which each institution has achieved. This percentage is used by the court to determine an institution's progress toward desegregation. Less obvious is the fact that the actual numbers of individuals represented by some of these high percentages of success are very small. Moreover, some of the changes in goal achievement during the fifteen years resulted from action by the DMC to lower an institution's achievement goal, not from the addition of minority students. Nowhere in its drive to increase the access of minorities to employment and educational opportunities does the court or THEC address the question of the value of HBCU to the minority student.

### **TSU After the Merger: Stronger or Weaker?**

The merger of TSU and UT-N was central to the desegregation progress of Middle Tennessee. The first year of merged operation was 1979, when enrollment at TSU increased by almost 3,000 students, fifty-one percent of whom were white. However, this figure was less than the combined enrollment of the two institutions in 1978, the year before the merger. By 1986, TSU had lost about 1,700 students; but the white minority percentage remained about the same.<sup>6</sup>

TSU's total faculty and other professional employment increased 22% in the year of the merger. Minority (white) employment increased by 63%. By 1984, TSU's faculty and other professional employment had been reduced to compensate for the loss in enrollment. There was no corresponding dramatic change in either enrollment or employment at any of the other institutions in the study at the time of the merger.<sup>7</sup>

Another change which coincided with the merger concerned the transfer of control of the UT-N campus, located in downtown Nashville, to TSU. This transfer caused some programs to be located entirely at either TSU's main campus or the downtown campus. Since students began to be

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6. Davis, *supra* note 4.

7. *Id.*

separated according to academic program of choice, some resegregation may be said to have occurred.

### Conclusions About Mergers

What conclusions may be drawn about desegregation progress after the merger order? It is evident that there has been desegregation progress in Middle Tennessee's public higher education institutions. What is not so evident is whether or not this progress as it is presently occurring is the kind of change that was intended by the plaintiffs, and whether it is providing African Americans with greater opportunity for education and employment. As to the first point, only interviews with those involved will supply the answer. As to the second point, opinion is mixed at best.

### A QUESTION OF IDENTITY

Middle Tennessee shares with Mississippi the problem of responding in a manner that will overcome a century of inequity. Since *Plessy v. Ferguson*,<sup>8</sup> which made separate but equal systems legal, minority students have been victimized by unequal funding, unequal facilities, and unequal opportunities. This is historical fact. It is economic fact, however, that one hundred years of inequity cannot and will not be overcome in one legislative session. In fact, there persists the question whether such an effort should even be attempted. Proponents of historically black institutions such as TSU can provide long lists of positive effects which justify the continued existence and enhancement of their institutions. Critics question whether segregated education, no matter how laudable its intentions or results, should be funded by the states. No other special interest, religion-based or gender-based, has been allowed to fund separate schools with public money.

Judging by the experience of Middle Tennessee, it seems clear that states and educators must make some hard choices. Institutions that retain a specifically black identity will not easily be able to reach the level of integration which reflects the population. They are being challenged to change their very character, while historically white schools are being asked only to broaden access.

TSU had not achieved by 1990 the 50% goal for enrollment and employment set by the court. Although it was approaching the employment goal, it remained far below the undergraduate enrollment goal. Whether or not the litigation in Tennessee was successful remains unclear. TSU has received more funding. It remains essentially black in character

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8. 163 U.S. 537 (1896).

and mission. There are more minority students and employees in both types of institutions, historically black and historically white. But in terms of enrollment, both undergraduate and graduate, black student enrollment at the seven Middle Tennessee institutions had grown by 2% or less. And although there had been more of an increase in employment percentages, in many cases these percentages represented fewer than twenty people. Therefore, in absolute numbers as compared to population, African-Americans remain underrepresented.

### **FINDING SOLUTIONS**

There is no one solution that will satisfy all points of view. Blacks should be free to choose to attend historically black institutions. But should these institutions be publicly supported, or should they be private, just as those institutions identified by religious affiliation or gender are private? Is this an argument for a reconsideration of the tuition voucher for students who desire a specific environment in which to pursue higher education? Where, in a pluralistic society, will public funds achieve the best effect? Perhaps instead of being used to support segregated schools where certain students may experience encouragement in a non-hostile environment, this money would be better spent at the headstart level, in elementary and secondary schools, in an effort to decrease the cultural and social differences which divide people. If it is true that prejudice is learned at an early age, then perhaps efforts to bridge cultural and social gaps should begin early as well, before students begin to devalue others and, ultimately, themselves.