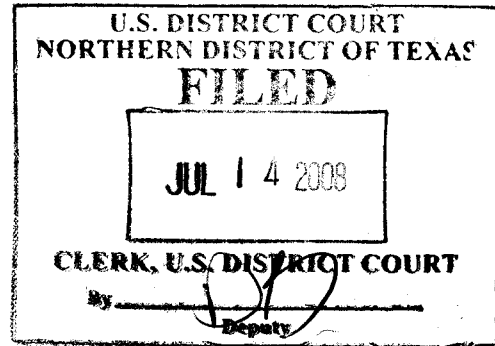


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS



ANTHONY and SHARON PETERSON,
individually and as next friends of
ESSANCE PETERSON; ESSANCE PETERSON,
Individually; Tomika Davis, individually and as next
friend to CEDERIC LADERRO DAVIS; CEDRIC
DAVIS, Individually; ZAKAYA PAYNE,
Individually and as next friend to both MARQUABIOUS
BERNARD HALL and MAI-TIARA SONJAE HALL;
MARQUABIOUS BERNARD HALL, Individually;
MAI-TIARA SONJAE HALL, Individually; JOHN
WILLIAMS, Individually and THE COALITION
TO MAXIMIZE EDUCATION, Individually
Plaintiffs

23507

Case No. 08 CV 1191-M

Vs.

Case No. _____

DALLAS INDEPENDENT SCHOOL
DISTRICT and JOHN DOES 1-10,
Defendants

ORIGINAL COMPLAINT

This action is filed pursuant to Title 20 of the United States Code, Section 1706;
Title 42 of the United State Code, Section 1973c and 1983; the First and Fourteenth
Amendments to the Constitution of the United States; the Declaratory Judgments Act;
28 U.S.C.A. § 2201; Article 1. Sections 13, 15, and 19 of the Texas Constitution; and the Texas
Open Meetings Act ("TOMA"), Tex. Gov' T CODE ANN. § 551.001. et seq. (Vernon 2005).

1. Jurisdiction is founded upon Title 28 of the United State Code, Sections 1331,
1343(a) (3), and 1391 (b) and the above-mentioned statutory and constitutional provisions.
Defendant Dallas Independent School District (DISD) is located within this Court's
Jurisdiction.

2. Plaintiffs allege the DISD is discriminating against African-American and lower-income students by providing inferior educational facilities and fewer educational opportunities in predominantly African American areas of Dallas.
3. Plaintiffs allege that DISD has failed to comply with the Texas Open Meetings Act in reference to the 2008 Bond Referendum package by holding public meetings in places other than DISD facilities. This intentional attempt to avoid the provisions of the Texas Open Meetings Act, deprived the public of its mandated right to hear the benefits as well as the drawbacks of any proposed public bond campaign.
- 4 Defendant DISD is an independent school district and political subdivision of the State of Texas and can be served by citation by serving 1) Superintendent Michael Hinojosa and, 2) Board President, Jack Lowe, both at 3700 Ross Avenue, Dallas, Texas, 75204.
5. Defendants John Doe 1-10 are employees or agents of Defendant DISD.

Parties

6. Essance Peterson resides in Dallas, Texas and is a student at Maynard Jackson Middle School.
7. Cedric Lederro Davis resides in Dallas, Texas and is a student at Maynard Jackson Middle School.
8. Marquabious Bernard Hall resides in Dallas, Texas and is a student at Maynard Jackson Middle School.
9. Mai-Tiara Shonjae Hall resides in Dallas, Texas and is a student at Maynard Jackson Middle School.
10. Anthony Peterson and Sharon Peterson resides in Dallas, Texas and are the parents of Essance Peterson.
11. Tomika Davis resides in Dallas, Texas and is the mother of Cedric Laderro Davis.
12. Zakaya Payne resides in Dallas, Texas and is the mother of Marquabious

Bernard Hall and Mai-Tiara Shonjae Hall.

13. John Williams resides in Plano, Texas and is the former Bond Administrator for DISD.

14. The Coalition to Maximize Education, is an unincorporated association, which represents the unnamed interests of parents and students in the affected areas of the Dallas Independent School District.

Factual Allegations

15. DISD consistently provides lower-quality academic programs, equipment, facilities and materials at school facilities located in minority communities, and particularly at those located in African-American communities. In addition to large numbers of African-American and Hispanic students, these schools usually include large numbers of economically disadvantaged student of all races. The end result of DISD's policies and practices are fewer resources and opportunities for African American and low-income students.

16. In 2002, DISD adopted a 1.3 billion construction bond program, and in 2008, the District again adopted a 1.35 billion school construction bond, but these funds have largely been directed to projects outside of the African-American community.

17. On numerous occasions complaints were made by then Bond Manager John Williams to DISD Management about program funds being appropriated and approved by the school board for schools in the African American neighborhoods but being re-allocated and diverted to other schools in DISD. Because of his inquiries into the inequities of the program, Mr. Williams was terminated from his position, and denied employment anywhere in the bond program, though he was the most qualified. Mr. Williams was damaged economically and professionally by this wrongful termination and "black-balling ."

18. In the 2002 DISD Facilities Study, there were a number of schools that did not make the list of schools to be repaired because there was a shortage of bond money to cover all of the needs. Approximately 2.3 billion dollars worth of needs were assessed in 2002. In the 2008 Facilities Studies, the schools that were overlooked in 2002 were not put at the top Of the list to be repaired, but were factored in as if they had not been overlooked in 2002. The majority of the schools that had unaddressed needs were in the African American Community.

19. DISD's neglect of Maynard Jackson, for example, resulted in the exposure to poisonous sewage gases in the facility. Numerous reports were given to the Administration about the situation. For years there have been sewer problems at this school and in some instances raw sewage was on the front lawn of the campus. The stench was so strong that students and personnel complained.

20. Maynard Jackson was constructed as an elementary school with the open concept. It is now a Junior High School and some classrooms are divided by 4' bookshelves. This is in no way an environment is conducive to learning for Junior High students when the classrooms are not divided, and the building is structurally designed for elementary students. Maynard Jackson restrooms are located inside many of the class rooms. Many of them have no stall doors, creating and untenable privacy situation for the coeducational students.

21 In the 2007 school year, the DISD did not fund nor secure the appropriate core curriculum staff at Maynard Jackson, including mathematics coaches and after school programs instructors.

22. Over 2 years ago, DISD took over the Wilmer Hutchins Independent School District, whose approximately 2700 students (mostly African American) were bused to over 100 already low-performing and maintenance-deficient campuses.

23. Declining facilities and inadequate academic opportunities have forced parents in minority communities to send their children away from neighborhood schools, because of the

void of DISD-created opportunities, and to the parents' financial detriment.

24. DISD has long neglected Roosevelt High School, South Oak Cliff High School, D. A. Hulsey Middle School and James Madison for example, and enrollment in these schools is declining due to dilapidated facilities, inadequate equipment and libraries, and fewer educational opportunities, such as advanced classes, internships, or special programs.

25. As attendance declines at schools in the African American community, DISD closes or consolidates the schools, claiming that attendance figures do not justify continued operation of these facilities, thus DISD perpetuates the cycle of driving students and resources out of African American communities

26. At the February, 2008 meeting, the board of trustees of Defendant DISD scheduled the election regarding the proposed 1.35 billion dollar construction bond program. The bond proposal was prepared with minimal input from the African American community.

27. On May 10, 2008 the bond was approved by the electorate by a vote of 10,178 FOR and 8,693 AGAINST, being approved by only 4% of the eligible voters, mainly outside of the African American community as well.

28. Left unrestrained with 1.35 billion dollars in new bond proceeds, the DISD is certain to continue its pattern and practice of diverting resources away from communities that are in the most need by opting to project where the growth patterns may be and not looking at where they currently are and have been for over the past seven years. The projects that were not addressed in the 2002 bond program should have been moved to the head of the list in 2008, but were not. A great number of those projects were in the African American community, and still stand unaddressed.

Claims

Count One: 20 U.S.C. § 1706

29. Paragraphs I through 28 are incorporated by reference as thought fully set forth herein.

30. DISD has violated and is violating 20 U.S.C. § 1706 by providing inferior educational opportunities and facilities for African-American, and low-income students

Count Three: 42 USC. § 1983

31. Paragraphs 1 through 28 are incorporated by reference as though fully set forth
Herein

- (a) Plaintiffs have been denied the equal protection of the laws insofar as facilities and educational opportunities in African American and low-income communities are inferior to those in other parts of DISD.
- (b) New schools are not being constructed in African American communities, but in areas where there is projected growth.

Count Three: The Texas Open Meetings Act

32. Paragraph 1 through 28 are incorporated by reference as though fully set forth
Herein

- (a) DISD informed the public that there could be no meetings at school district facilities because the DISD staff could not participate in meetings about the bond campaign. Therefore only the “pro- bond” Facilities Task Force conducted the community meetings.

Count Four: Nuisance

Paragraphs 1 though 28 are incorporated by reference as though fully set forth
Herein

33. DISD created and is perpetuating a nuisance by exposing students, teachers, and staff to toxic gases in Maynard Jackson Middle School.

35. Attorney’s Fees: It was necessary to secure the services of a licensed attorney in order to secure and preserve the rights of the students, parents, and other plaintiffs affected by the policies and procedures of DISD in this matter. Plaintiffs request that all reasonable attorneys’ fees of Plaintiff be awarded to the Plaintiffs, against the Defendants.

Prayer for Relief

Wherefore, Plaintiffs request that this court:

- a. Award compensatory damages against the Defendants;
- b. Award costs of this action to Plaintiffs;
- c. Award reasonable attorney's fees and costs to Plaintiffs;
- d. Temporarily enjoin Defendant DISD from selling the 2008 bonds or, in the alternative, inequitably allocating their proceeds;

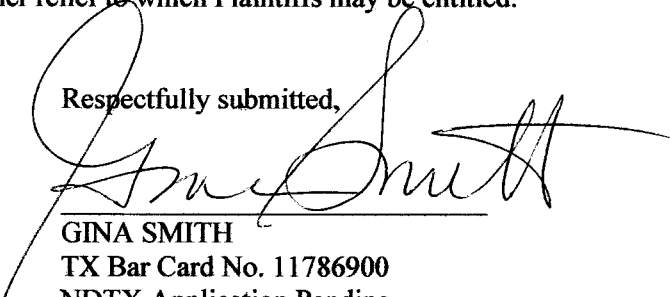
e. Permanently enjoin Defendant DISD from selling the 2008 bonds or, in the Alternative:

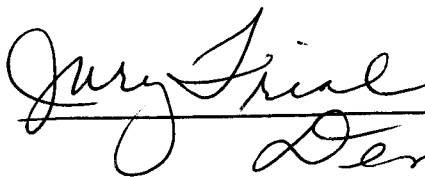
f. Permanently enjoin Defendant DISD from policies and practices that force students to be bused or transported away from their neighborhood schools, including policies and practices related to closing and or consolidating schools in minority neighborhoods;

g. Permanently enjoin Defendant DISD from policies and practices that result in unequal facilities, equipment, libraries and instructional programs in African American and low-income neighborhoods.

- h. Order the replacement or full repair of affected schools;
- i. Award the declaratory relief requested by Plaintiffs;
- j. Award reasonable attorneys' fees to Plaintiffs;
- k. Award such other and further relief to which Plaintiffs may be entitled.

Respectfully submitted,


GINA SMITH
TX Bar Card No. 11786900
NDTX Application Pending
1700 N. Hampton, Ste. 104
DeSoto, TX 75115
972.224.7555 fax 972.224-3919


Demanded

THE STATE OF TEXAS

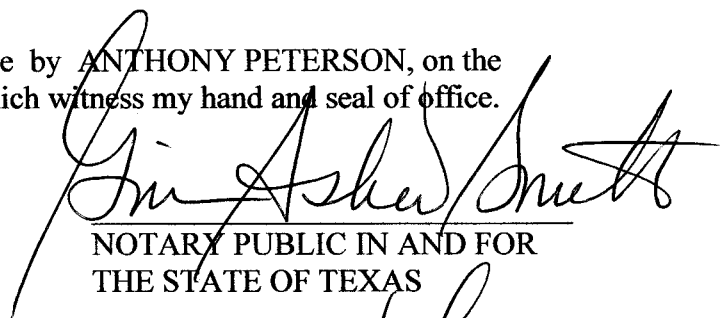
COUNTY OF DALLAS

VERIFICATION

Before me on this day personally appeared ANTHONY PETERSON, and on oath stated that he has knowledge of the facts and allegations set out in the above petition, and that the facts and allegations are true and correct.


ANTHONY PETERSON

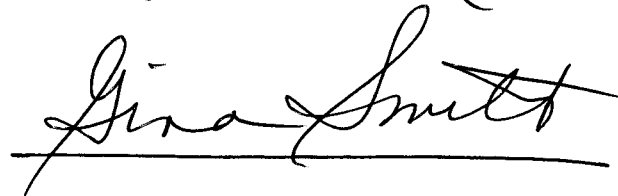
SUBSCRIBED AND SWORN TO, before me by ANTHONY PETERSON, on the
14th day of July, 2008, to certify which witness my hand and seal of office.


NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

My commission expires:

7/5/09

Jury Trial Demanded



JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Anthony Peterson et al
DALLAS

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

Dallas Ind. School District et al
DALLAS

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Gina Smith (972) 224-7555
1700 N. HAMPTON Rd, Ste 104 De Soto, TX 75115

Attorneys (If Known)

8-08 CV 1191-M

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☒ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

20 USC § 1706; 42 USC § 1983
Discrimination in provision of educational facilities

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE