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## THE BUREAU OF NATIONAL AFFAIRS, INC.

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Complete TITLE of Case	MARTIN LUTHER KING JUNIOR ELEMENTARY SCHOOL CHILDREN, et al., Plaintiffs, v. ANN ARBOR SCHOOL DISTRICT BOARD, Defendant.	
Docket Number	No. <u>7-71861</u>	
COURT	UNITED STATES DISTRICT COURT FOR THE <u>EASTERN</u> <u>DISTRICT OF MICHIGAN, SOUTHERN DIVISION</u>	
Opinion Filed	Date <u>July 12, 1979</u>	
JUDGE	HON. CHARLES W. JOINER	
ATTORNEYS	(Names)	(Addresses)
	Mr. Gabe Kaimowitz	Michigan Legal Services
	Mr. Kenneth Lee Lewis	220 Bagley Avenue
		Room 900
		Detroit, Michigan 48226
		, For Plaintiff
ATTORNEYS	(Names)	(Addresses)
	Mr. John B. Weaver	Butzel, Long, Gust, Klein &
	Mr. John H. Dudley, Jr.	Van Zile
		1081 First National Building
		Detroit, Michigan 48226
		, For Defendant



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARTIN LUTHER KING JUNIOR ELEMENTARY  
SCHOOL CHILDREN, et al.,

Plaintiffs,

v.

Civil Action  
No. 7-71861

ANN ARBOR SCHOOL DISTRICT BOARD,

Defendant.

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MEMORANDUM OPINION AND ORDER

The issue before this court is whether the defendant School Board has violated Section 1703(f) of Title 20 of the United States Code as its actions relate to the 11 black children who are plaintiffs in this case and who are students in the Martin Luther King Junior Elementary School operated by the defendant School Board. It is alleged that the children speak a version of "black English," "black vernacular" or "black dialect" as their home and community language that impedes their equal participation in the instructional programs, and that the school has not taken appropriate action to overcome the barrier.



The statute under which this action is now pressed  
reads as follows: 1/

No State shall deny equal educational opportunity  
to an individual on account of his or her race,  
color, sex, or national origin, by -

\* \* \* \* \*

(f) the failure by an educational agency  
to take appropriate action to overcome  
language barriers that impede equal partic-  
ipation by its students in its instructional  
programs.

20 U.S.C. 1703(f).

A major goal of American education in general, and of  
King School in particular, is to train young people to communicate  
both orally (speaking and understanding oral speech) and in writing  
(reading and understanding the written word and writing so that  
others can understand it) in the standard vernacular of society.  
The art of communication among the people of the country in all  
aspects of people's lives is a basic building block in the de-  
velopment of each individual. Children need to learn to speak  
and understand and to read and write the language used by society  
to carry on its business, to develop its science, arts and culture,

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and to carry on its professions and governmental functions. Therefore, a major goal of a school system is to teach reading, writing, speaking and understanding standard English.

The problem in this case revolves around the ability of the school system, King School in particular, to teach the reading of standard English to children who, it is alleged, speak "black English" as a matter of course at home and in their home community (the Green Road Housing Development).

This case is not an effort on the part of the plaintiffs to require that they be taught "black English" or that their instruction throughout their schooling be in "black English," or that a dual language program be provided. In this respect, it is different from the facts in Cintron v. Brentwood Union Free School District, 455 F. Supp. 57 (E.D. N.Y. 1978). It is a straightforward effort to require the court to intervene on the children's behalf to require the defendant School District Board to take appropriate action to teach them to read in the standard English of the school, the commercial world, the arts, science and professions. This action is a cry for judicial help in opening the doors to the establishment. Plaintiffs' counsel says that it is an action to keep another generation from becoming functionally illiterate. The statute set out above is the remaining basis for the plaintiffs' claims.



HISTORY OF LITIGATION TO DATE

This action was commenced on July 28, 1977 by 15 black pre-school or elementary school children residing in a housing project located on Green Road in Ann Arbor, Michigan, all of whom either were attending or were eligible to attend Martin Luther King Junior Elementary School in that city. The plaintiffs asserted that the defendant Ann Arbor School District Board and the Michigan State Board of Education, along with certain individual teachers and administrators, violated the law in a number of respects. They alleged that in the process of determining the eligibility of all students for special education services, pursuant to M.C.L.A. § 380.1701 et seq., the defendants had failed to determine whether the plaintiffs' learning difficulties stemmed from cultural, social or economic deprivation. They demanded the establishment of a program which would enable plaintiffs to overcome the cultural, social and economic deprivations which allegedly prevented them in varying degrees from making normal progress in school. The plaintiffs asserted that these omissions constitute a violation of:



1. Their civil rights protected by 42 U.S.C. §§ 1983 and 1985(3);

2. Their rights to equal protection of the laws guaranteed by the Fourteenth Amendment of the United States Constitution;

3. Their right to equal educational opportunity protected by 20 U.S.C. §§ 1703(f) and 1706;

4. Their right to the benefits of federal financial assistance, pursuant to 42 U.S.C. § 2000d;

5. Their right to a free education guaranteed by Articles VIII and II of the Michigan Constitution and M.C.L.A. § 380.1147; and

6. Their right to be free from tortious abrogation of their constitutional rights.



This court at an earlier date considered motions filed by the defendants and has dismissed all of the claims made relating to cultural, social and economic deprivations and all but the claim made by the plaintiffs under Sections 1703(f) and 1706 of Title 20 of the United States Code. Martin Luther King School Children v. Michigan Board of Education, 463 F. Supp. 1027 (E.D. Mich. 1978). The court also denied the request of the plaintiffs for a preliminary injunction and to have this action certified as a class action.<sup>2/</sup> Since that time this court, at the request of the plaintiffs, has dismissed the Michigan Superintendent of Public Instruction and his employees, agents and assigns in their official capacities, and the Michigan Board of Education from the action. The court has also stricken four of the plaintiff children from the action because they have since moved out of the school district.

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THE PARTIES TO THIS LITIGATION

THE PLAINTIFFS

Each of the plaintiff children is or has been a student at the Martin Luther King Junior Elementary School. Each of them resides in the Green Road Housing Project in Ann Arbor, a small public housing project established as a part of an effort to provide "scatter housing" for low income families in the city of Ann Arbor. Green Road Housing Project is located in a middle to upper income residential area next to the University of Michigan's North Campus. Each of the plaintiff children is a black child. They are among more than 500 children in attendance at the King School. Each of the children has experienced reading difficulties sometime during his or her time at the King School.

1. Michael Blair is completing the 7th grade at Clague Middle School. He attended King School from kindergarten through the 6th grade.

2. Anthony Blair is completing the 6th grade at King School and will attend Clague Middle School in the fall of 1979. He has attended King School from kindergarten through the 6th grade.



3. Gerard Blair is at the present time repeating 2nd grade at King School. He has attended King School from kindergarten through the 2nd grade.

4. Tyrone Blair is completing the 1st grade at King School. He also attended kindergarten at King School.

5. Dwayne Brenen is completing the 7th grade at Clague Middle School. He attended King School for grades 1 through 6 and part of kindergarten.

6. Kihilee Brenen is completing the 4th grade at the Northside Elementary School. He attended King School for kindergarten and the 1st grade. He transferred from King to Northside after one month in the 2nd grade.

7. Tito Brenen is completing the 1st grade at King School. He attended kindergarten at King School last year.

8. Carolyn Davis is completing the 6th grade at King School. She will attend Clague Middle School in the fall of 1979. She attended King School for grades 3 through 6.



9. Gary Davis is completing the 4th grade at King School. He attended grades 1 through 4 at King.

10. Jacqueline Davis is completing the 3rd grade at King School. She attended kindergarten through 3rd grade at King School.

11. Tyrone Davis is completing the 1st grade at King School. He attended kindergarten at King School last year.



THE DEFENDANT

The Ann Arbor School District Board operates the Martin Luther King Junior Elementary School. The school is comprised of a school population which is approximately 80% white, 13% black and 7% Asian, Latino, or other. There are 20 teachers on the faculty, 3 of whom are black. There is no evidence in the case to indicate that the Ann Arbor School District Board currently operates a dual school system or that it has done so in the past. In fact the evidence suggests that the ethnic makeup of the student and teacher population at King School is substantially in line with that of the district.

The Martin Luther King Junior Elementary School has available to its instructional staff one or more learning consultants or helping teachers, a speech therapist, a psychologist, and a language consultant. These professionals are used by the staff in accordance with the rules of the School Board and law to provide additional assistance in connection with the educational program of the school. In addition, the school arranges for special tutors and at times utilizes parent helpers.



## ISSUES

Section 1703(f) of Title 20, U.S.C., set out above, is the sole remaining basis for the plaintiffs' claims.

The issues raised by the language of 20 U.S.C. § 1703(f) are:

1. Whether the children have a language barrier.
2. Whether, if they have a language barrier, that barrier impedes their equal participation in the instructional program offered by the defendant. (In this case the evidence has largely been directed at learning to read, the most basic of all instructional programs of the school.)
3. Whether, if there is a barrier that does so impede, the defendant Board has taken "appropriate action to overcome the language barrier."
4. Whether, if the defendant Board has not taken "appropriate action," this failure denies equal educational opportunity to plaintiffs "on account of race."



The case is divided for discussion into three distinct parts. The first part involves a description of what has been established by the evidence as that body of knowledge known generally by linguists, psychologists and educators about the problems presented. The second part looks at the educational program in King School as it relates to the particular children in this case. The third part applies the legal rules to the evidence as set out in the first two parts.



REPORT ON CURRENT STATE OF KNOWLEDGE

The court heard from a number of distinguished and renowned researchers and professionals who told the court about their research and discoveries involving "black English" and how it impacts on the teaching of standard English.<sup>3/</sup> They also informed the court on the results of other research relied on by professionals and expressed their opinions. Information about this area of education and linguistics is being uncovered as rapidly as research projects are reaching maturity. The court believes that the research results and the opinions of the researchers and professionals are better received as evidence in the case, on the record and subject to cross-examination, than simply by reading the reports and giving consideration to what appears in those reports as was done in Brown v. Board of Education, 347 U.S. 483 (1954). The knowledge produced by the various research projects forms a background basis against which the actions of the School District Board and the teachers in this case can be tested. The research product does permit inferences to be drawn but it must be remembered that this case is a case against one school board for its actions and it must be judged for its actions alone. "[S]chools are not fungible and the fact that some or even most may practice discrimination does not warrant blanket condemnation." Norwood v. Harrison, 413 U.S. 455, 471 (1973). The following is a brief summary of some of the research reported as it relates to the problems before the court.



## LANGUAGE BARRIER

All of the distinguished researchers and professionals testified as to the existence of a language system, which is a part of the English language but different in significant respects from the standard English used in the school setting, the commercial world, the world of the arts and science, among the professions and in government. It is and has been used at some time by 80% of the black people of this country and has as its genesis the transactional or pidgin language of the slaves, which after a generation or two became a Creole language. Since then it has constantly been refined and brought closer to the standard English as blacks have been brought closer to the mainstream of society. It still flourishes in areas where there are concentrations of black people. It contains aspects of Southern dialect and is used largely by black people in their casual conversation and informal talk. There are many characteristic features found in "black English" but some of the principal ones identified by the testifying experts as being significant are:

1. The use of the verb "be" to indicate a reality that is recurring or continuous over time.

2. The deletion of some form of the verb "to be."



3. The use of the third person singular verbs without adding the "s" or "z" sound.

4. The use of the "f" sound for the "th" sound at the end or in the middle of a word.

5. The use of an additional word to denote plurals rather than adding an "s" to the noun.

6. Non-use of "s" to indicate possessives.

7. The elimination of "l" or "r" sounds in words.

8. The use of words with different meanings.

9. The lack of emphasis on the use of tense in verbs.

10. The deletion of final consonants.

11. The use of double subjects.

12. The use of "it" instead of "there."



The features of this language system have been described in a number of carefully researched projects. <sup>4/</sup>

The substance of the thoughtful testimony of the experts also indicated that because "black English" does not discriminate among some sounds which are distinguished in standard English, teachers experience difficulty in getting the students to use correct pronunciation. The experts further testified, however, that efforts to instruct the children in standard English by teachers who failed to appreciate that the children speak a dialect which is acceptable in the home and peer community can result in the children becoming ashamed of their language, and thus impede the learning process. In this respect, the black dialect appears to be different than the usual foreign languages because a foreign language is not looked down on by the teachers. The evidence also suggests that there are fewer reading role models among the poor black families than among families in the rest of society.

Finally, it is clear that black children who succeed, and many do, learn to be bilingual. They retain fluency in "black English" to maintain status in the community and they become fluent in standard English to succeed in the general society. They achieve in this way by learning to "code switch" from one to the other depending on the circumstances.



All of the experts testified that the language used is a specific system that has been used by blacks and continues to be used by blacks in casual conversation and informal talk. It is a language system having its genesis among black people. In many areas of the country where blacks predominate, many among them, particularly the poor and those with lesser education and their children, speak this dialect among themselves although they may be quite capable of speaking eloquently in standard English and although they do speak standard English when talking to community outsiders. "Black English" is a dialect of a segment of the black population and is used by them only a part of the time.



IMPEDIMENTS TO EQUAL PARTICIPATION  
IN THE INSTRUCTIONAL PROGRAM

A child who does not learn to read is impeded in equal participation in the educational programs. Such a child cannot fully participate in the educational programs which to a significant degree require the student to acquire knowledge from the written word. Reading of all kinds is a major method by which modern society passes on its information and culture among its members and to its children. It is the way in which society conveys its commands and gives direction to its members.

The research evidence supports the theory that the learning of reading can be hurt by teachers who reject students because of the "mistakes" or "errors" made in oral speech by "black English" speaking children who are learning standard English. This comes about because "black English" is commonly thought of as an inferior method of speech and those who use this system may be thought of as "dumb" or "inferior." The child who comes to school using the "black English" system of communication and who is taught that this is wrong loses a sense of values related to mother and close friends and siblings and may rebel at efforts by his teachers to teach reading in a different language. <sup>5/</sup>

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#### APPROPRIATE ACTION

The experts offered a number of suggestions of what is appropriate action. Dr. Geneva Smitherman suggested that highly skilled linguists are needed to teach the children. Others suggested that children's speech should not be corrected initially until the correction can be made without upsetting the child and the feelings toward mother and home.

Others suggested that students should be started in "black English" and then bridged into standard English and that persons using standard English should also be reverse bridged into "black English."

Others suggested the use of specifically identified reading programs, some of which are written in "black English." The use of books of all sorts, including comic books, was urged to induce the unmotivated to read.

Dr. Dan Fader stressed the need to make certain that the school system provides models for accepting reading as an important and standard part of a person's life. Particularly



for students who do not have parents and siblings who read at home, it is important, he stressed, that children see people read and that they understand that what people read affirmatively affects their lives. He suggests that time must be set aside in each school during which everyone - children, teachers, administrators, secretaries, janitors, and all others who are present in the school system - reads, and then, in later conversation, attempts to convey what was gained from the reading. Dr. Fader suggests that the real problem comes from the 4th grade on when the students' extra-curricular activities compete for their time and energy. At this time, the students lose interest, particularly if they don't see value in continuing to develop their reading skills, unless they are specially motivated by parents, peers or teachers. For this reason, he suggests adult reading models outside the home be brought to bear upon the children's lives.

Dr. Ronald Edmunds reported on conclusions drawn from an extensive research project on "Search for Effective Schools." After having utilized an acceptable, well-developed procedure, he has identified 5 criteria essential to an effective school. He defines an effective school as one in



which all but severely handicapped children achieve in math and reading to a satisfactory degree when measured not against each other but against a concrete body of knowledge. It appears that Dr. Edmunds has contributed much to assist school boards and major school administrators in understanding and assessing the quality of their educational efforts.

Dr. Edmunds' criteria for an effective school are:

1. Style of leadership in the building - strong principal. Participation by principal in basic classroom decisions relating to how the day is organized and how time is spent and what materials to use and subjects to emphasize.
2. Emphasis on learning and teaching by everyone in the building, including janitors, secretaries, parents, as well as teachers and students.
3. Building ambiance: a clean, orderly, safe environment.
4. Teaching expectations - all students are expected to profit from what goes on in the school.



5. Presence of a standard testing device to measure pupil progress in relation to the school's emphasis.

The sum total of the testimony of the experts was a series of suggestions that are clearly appropriate for consideration by administrators and teachers.

Plaintiffs themselves urge a simple remedy. They would require the defendant School Board to identify each student who speaks "black English" and then use the best of the knowledge available in the Ann Arbor school system to teach standard English, after taking into account the "black English" background of the children.



## SUMMARY

The language of "black English" has been shown to be a distinct, definable version of English, different from standard English of the school and the general world of communications. It has definite language patterns, syntax, grammar and history.

In some communities and among some people in this country, it is the customary mode of oral, informal communication.

A significant number of blacks in the United States use or have used some version of "black English" in oral communications. Many of them incorporate one or more aspects of "black English" in their more formal talk.

"Black English" is not a language used by the mainstream of society - black or white. It is not an acceptable method of communication in the educational world, in the commercial community, in the community of the arts and science, or among professionals. It is largely a system that is used in casual and informal communication among the poor and lesser educated.



The instruction in standard English of children who use "black English" at home by insensitive teachers who treat the children's language system as inferior can cause a barrier to learning to read and use standard English. The language is not as discriminating in its use of sounds as is standard English and much of its grammar is simpler. There are fewer reading models in the life of a child who uses "black English."



II

APPLICATION OF THE CURRENT STATE OF KNOWLEDGE  
TO THE CHILDREN IN THIS CASE AND KING SCHOOL

LANGUAGE BARRIER

The plaintiff children use a version of "black English" in their informal conversations in their homes and in the small community of the Green Road Housing Development. It is the accepted way of speaking in that environment. Their mothers sometimes use a version of "black English" in speaking with the children in the home setting, but can speak standard English. The mothers testified clearly in standard English and a number of letters written by one or more of them appear in the record and show that they can use standard English effectively.

The teachers in King School had no difficulty in understanding the students or their parents in the school setting and the children could understand the teachers and other children in that setting. In other words, so far as understanding is concerned in the school setting, although there was initially a type of language difference, there was no barrier to understanding caused by the language.



There seems to be no problem existing in this case relating to communication between the children and their teachers or between the children and other children in the school. The answers given by plaintiffs to interrogatories posed by defendants confirm this finding.

Although the evidence in this case indicates that the plaintiffs at times speak "black English" at home, they also to a greater or lesser degree depending on age speak and understand standard English in school and in the home.

If a barrier exists because of the language used by the children in this case, it exists not because the teachers and students cannot understand each other, but because in the process of attempting to teach the students how to speak standard English the students are made somehow to feel inferior and are thereby turned off from the learning process.

There is no direct evidence that any of the teachers in this case has treated the home language of the children as inferior, but it is clear to the court that although some of



the teachers rebel at calling the home language "black English" they are acutely aware of it. Each teacher, the court believes, makes his or her own assessment of the language system used by the student in the home environment and attempts to use all of his or her skills to teach the student to read and speak standard English. The teachers do not, however, admit to taking that system into account in helping the student read standard English.

It is not an issue in this case that the students have been misclassified as handicapped. The procedures used in making the classifications completely follow the law.

As indicated later in this memorandum, the teachers all testified that they treated the plaintiff students just as they treated other students. In so doing, they may have created a barrier to learning reading if the research reported is to be given any credence. The reason the teachers are teaching standard English is because it is the language by which the mainstream of society operates. The vernacular of "black English" has never been such a language. By requiring a student to switch without even recognizing that he or she is switching impedes the learning of reading standard English.



ACTIONS TAKEN BY TEACHERS AT KING SCHOOL

Each of the teachers who testified in this case testified that he<sup>1</sup> or she attempts to use a variety of materials that are standard for teaching reading. Some of these materials are specially designed to help students who speak "black English" to learn to read standard English. The materials are used in the way in which the materials are designed to be used. Although the teachers give special attention to the plaintiff students and have provided an exceptional amount of special assistance in connection with their efforts to help them read, they do not treat them differently from other students in the class. They indicated that the plaintiff children are treated the same way as are students from Japan, China, Korea, Greece, and Spain, who are learning English while they are going to school. They do not use special methods or criteria or procedures to teach "black English" speaking youngsters. They do use books that are prepared by well-regarded teachers of reading and published by well-regarded educational publishers, and that assist students to learn and develop in accordance with their capabilities. Some of these books and materials are the very ones suggested as appropriate by the experts testifying in the case. As students change in ability, they shift to more difficult or easier material. On one occasion, one student was held back a grade when the language proficiency was not sufficient to



permit the student to succeed in the higher grade. That student was benefited by the grade retention. The students have been provided with assistance in reading help and some of them have been offered tailor-made programs in oral reading and phonics for their assistance. By way of example, the students in this case have received the following type of assistance:

A. Michael Blair received assistance in reading from a helping teacher during four of the seven grades he attended at King School. A curriculum plan devised for Michael by the teacher consultant during the 5th grade recommended the encouragement of his individual reading by the use of magazines, newspapers, comic books and a variety of paperbacks.

B. Anthony Blair received the assistance of a helping teacher in the 3rd grade and was instructed on a one-on-one basis in the 4th grade.

C. Gerard Blair received the assistance of a teacher aide in the 1st grade and he worked with a teacher consultant in the 2nd grade. He was retained in 2nd grade for the year 1978-79.



D. Tyrone Blair received the assistance of a speech and language specialist during pre-school and worked at individual reading with his teacher in the 1st grade.

E. Tito Brenen was given one-to-one tutoring in kindergarten.

F. Gary Davis received 30 minutes or more individual reading help per day from his 1st grade teacher.

G. Jacqueline Davis had individual teacher help in reading during the 1st grade and worked with a teacher/consultant during the 2nd and 3rd grades.

H. Tyrone Davis received the assistance of a speech therapist in kindergarten for a severe multiple articulation problem.

There is no evidence in this case that any instructional program has been withheld from any plaintiff on account of his or her race.



IMPEDIMENTS TO EQUAL PARTICIPATION IN THE  
INSTRUCTIONAL PROGRAM

The evidence in this case suggests that each teacher made every effort to help and used the many and varied resources of the school system to try to teach the students to learn to read.

The evidence also suggests that the students, depending on their age, communicate orally quite well in standard English and except for a few limited times most, if not all, in-school talking is done in standard English.

The court heard from each of the children. They are attractive, likeable, at times shy, youngsters. Their speech in court was highly intelligible and contained only traces of "black English." This is true although the court heard tapes played of the same children in casual conversation in which talking among themselves their speech was a true "black English" vernacular. In oral speech, though, they seem to quickly adapt to standard English in settings where it appears to be the proper language.



The facts in this case indicate, however, that these children have not developed reading skills and the failure to develop these skills impedes equal participation in the instructional program.

The toughest question is whether it has been established that the failure to develop reading skills was caused by the language barrier. The evidence suggests other causes, such as absences from class, learning disabilities, and emotional impairment. However, the evidence also suggests that an additional cause of the failure to learn to read is the barrier caused by the failure of the teachers to take into account the "black English" home language of the children in trying to help them switch to reading standard English. When that occurs, the research indicates that some children will turn off and will not learn to read.

The court cannot find that the defendant School Board has taken steps (1) to help the teachers understand the problem; (2) to help provide them with knowledge about the children's use of a "black English" language system; and (3) to suggest ways and means of using that knowledge in teaching the students to read.



### III

#### APPLICATION OF LAW TO FACTS

When Congress enacted the Equal Educational Opportunities Act of 1974, it was responding to suggestions that attention should be shifted from busing to better education. In his message to Congress, the President urged the enactment of what is now § 1703 to provide a "broader base on which to decide future cases." He indicated that the statute should set "standards for all school districts throughout the Nation, as the basic requirements for carrying out, in the field of public education, the Constitutional guarantee that each person shall have equal protection of the laws." 118 Cong. Rec. 8931 (1972).

This effort went far beyond requiring standards of equal education for formerly segregated dual systems of education. It was intended to embrace all school systems under the Equal Protection Clause of the Fourteenth Amendment and the authority granted in that amendment to "enforce, by appropriate legislation, the provisions of this Article." See Martin Luther King School Children v. Michigan Board of Education, 463 F. Supp. 1027 (E.D. Mich. 1978).



This case is a judicial investigation of a school's response to language, a language used in informal and casual oral communication among many blacks but a language that is not accepted as an appropriate means of communication among people in their professional roles in society. The plaintiffs have attempted to put before this court one of the most important and pervasive problems facing modern urban America - the problem of why "Johnnie Can't Read" when Johnnie is black and comes from a scatter low income housing unit, set down in an upper middle class area of one of America's most liberal and forward-looking cities.

The problem posed by this case is one which the evidence indicates has been compounded by efforts on the part of society to fully integrate blacks into the mainstream of society by relying solely on simplistic devices such as scatter housing and busing of students. Full integration and equal opportunity require much more and one of the matters requiring more attention is the teaching of the young blacks to read standard English.



Some evidence suggests that the teachers in the schools which are "ideally" integrated such as King do not succeed as well with the minority black students in teaching language arts as did many of the teachers of black children before integration. The problem, of course, is multi-dimensional, but the language of the home environment may be one of the dimensions. It is a problem that every thoughtful citizen has pondered, and that school boards, school administrators and teachers are striving to solve.

Research indicates that the black dialect or vernacular used at home by black students in general makes it more difficult for such children to learn to read for three reasons:

1. There is a lack of parental or other home support for developing reading skills in standard English, including the absence of persons in the home who read, enjoy it and profit from it.
2. Students experience difficulty in hearing and making certain sounds used discriminatively in standard English, but not distinguished in the home language system.



3. The unconscious but evident attitude of teachers toward the home language causes a psychological barrier to learning by the student. .

Evidence is lacking in this case about parental reading models, although the mothers clearly have evidenced interest in the success of their children. There is no evidence that any of the teachers have in any way intentionally caused psychological barriers to learning. The mothers and the children were complimentary of their teachers. But the evidence does clearly establish that unless those instructing in reading recognize (1) the existence of a home language used by the children in their own community for much of their non-school communications, and (2) that this home language may be a cause of the superficial difficulties in speaking standard English, great harm will be done. The child may withdraw or may act out frustrations and may not learn to read. A language barrier develops when teachers, in helping the child to switch from the home ("black English") language to standard English, refuse to admit the existence of a language that is the acceptable way of talking in his local community.



The facts and law thus establish:

1. The plaintiff children do speak at home and in their local community a language that is not itself a language barrier. It is not a barrier to understanding in the classroom. It becomes a language barrier when the teachers do not take it into account in teaching standard English.

2. The evidence supports a finding that the barrier caused by a failure on the part of the defendant to develop a program to assist their teachers to take into account the home language in teaching standard English may be one of the causes of the children's reading problems.

3. The inability to read at grade level does impede the children's equal participation in the educational program of the school.

4. To the extent the defendant School Board has failed to take appropriate action, that failure impacts on race.

5. The obligation of the school system in this case is to take appropriate action to overcome the language barrier.



The court in this case has indicated that it has heard from impressive and experienced educators and researchers in the field of teaching reading who have pointed ways to the effective teaching of reading. A large amount of what has been testified to as appropriate action has been tried at King in one or another form. Materials suggested are available and have been used. It may be true that had the Ann Arbor school system used all of the ways suggested by the experts who testified in this case, some different results could have been achieved. It does not, however, seem to the court that the judicial forum is the appropriate place to make determinations of this sort. What is "appropriate" is not what this court believes should be done in light of evidence presented in this case. The courts are not the place to test the validity of educational programs and pedagogical methods. It is not for the courts to harmonize conflicting objectives by making judgments involving issues of pedagogy.

The appropriate standard is to examine the actions of the defendant School District Board and its teachers in this case and determine whether they make judgments and decisions in light of information they reasonably could be



expected to have and that those judgments and decisions are rational. They may not act blindly, callously, and thoughtlessly, without care. They must have as their goal the congressional requirement, the elimination of existing language barriers, and the steps that they take must be rational and logical in light of the situation confronting them and the knowledge reasonably available to them.

Except in one respect the defendant does take appropriate action to overcome the language barrier. The defendant's teachers do act in a responsible and rational manner to try to help the children. The mere fact that the defendant does or does not adopt a particular program demonstrated to this court as being effective does not permit this court to hold that the defendant has not taken appropriate action under the statute. The defendant has done much and the court finds, except as indicated below, that what it has done is appropriate under the statute, even though the court, other administrators, or other teachers might try something different.



However, the evidence suggests clearly that no matter how well intentioned the teachers are, they are not likely to be successful in overcoming the language barrier caused by their failure to take into account the home language system, unless they are helped by the defendant to recognize the existence of the language system used by the children in their home community and to use that knowledge as a way of helping the children to learn to read standard English.

The failure of the defendant Board to provide leadership and help for its teachers in learning about the existence of "black English" as a home and community language of many black students and to suggest to those same teachers ways and means of using that knowledge in teaching the black children code switching skills in connection with reading standard English is not rational in light of existing knowledge on the subject.

Section 1706 of Title 20 provides that an individual who has been "denied an equal educational opportunity" (as defined in § 1703) may "institute a civil action . . . for such relief as may be appropriate."



Although this statute is a direct congressional mandate to the federal courts to become involved in matters of this kind, this statute makes it clear that discretion is given to the judge to determine what is "appropriate." Accordingly, this court finds it appropriate to require the defendant Board to take steps to help its teachers to recognize the home language of the students and to use that knowledge in their attempts to teach reading skills in standard English. It is the intention of this court that the method of using the students' home language in teaching reading of standard English meet the test of reasonableness and rationality in light of knowledge on the subject. It is not the intention of this court to tell educators how to educate, but only to see that this defendant carries out an obligation imposed by law to help the teachers use existing knowledge as this may bear on appropriate action to overcome language barriers.

The other two factors particularly identified as creating difficulty in learning to read standard English are not the appropriate subject for court order. The court does not believe the language difference between "black



English" and standard English to be a language barrier in and of itself. The court cannot deal with the reading role model problem. In one sense it is a cultural, economic and social problem and not a language problem and thus is beyond the issues in this action. In the other sense its remedies involve pedagogical judgments that are for the educators and not for the courts.

The claims against the defendants other than the defendant School Board are dismissed. No action against individuals is permitted under 20 U.S.C. § 1706.

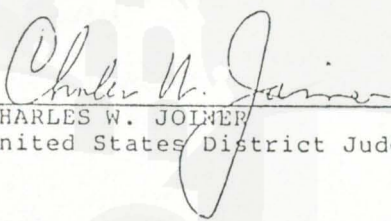
Counsel for the defendant is directed to submit to this court within thirty (30) days a proposed plan defining the exact steps to be taken (1) to help the teachers of the plaintiff children at King School to identify children speaking "black English" and the language spoken as a home or community language, and (2) to use that knowledge in teaching such students how to read standard English. The plan must embrace



within its terms the elementary school teachers of the plaintiff children at Martin Luther King Junior Elementary School. If the defendant chooses, however, it may submit a broader plan for the court's consideration, e.g., one embracing other elementary schools.

So ordered.

Dated: July 12, 1979  
Detroit, Michigan

  
\_\_\_\_\_  
CHARLES W. JOINER  
United States District Judge



FOOTNOTES

- 1/ Footnoted material referred to on page 2 of the Memorandum Opinion and Order.

Section 1706 of Title 20 gives to an individual who has been denied an equal educational opportunity the right to institute a civil action in the appropriate District Court of the United States for violation of 20 U.S.C. § 1703.

- 2/ Footnoted material referred to on page 6 of the Memorandum Opinion and Order.

Court Order dated September 23, 1977.

(i)



3/ Footnoted material referred to on page 13 of the  
Memorandum Opinion and Order.

Geneva Smitherman, Professor of Speech Communication and  
Director of the Center for Black Studies, Wayne State  
University;

Daniel N. Fader, Professor of English Language and Literature,  
University of Michigan;

Jerrie Scott, Assistant Professor of English and Linguistics,  
University of Florida;

William Labov, Professor of Linguistics at the University of  
Pennsylvania, with a secondary appointment in Psychology  
and Education;

J. L. Dillard, Assistant Professor, Department of Languages,  
Northwestern State University, Natchitoches, Louisiana;

Gary Simpkins, Director of Social Health Services and Chief  
of Mental Health, Watts Health Foundation;

Richard Bailey, Professor of English, University of Michigan;

Ronald Edmunds, Member of Faculty, Harvard Graduate School  
of Education; and

Kenneth Haskins, President, Roxbury Community College.



4/

Footnoted material referred to on page 16 of the Memorandum Opinion and Order.

G. Smitherman, A Comparison of the Oral and Written Styles of a Group of Inner-City Black Students, Ph.D. dissertation, University of Michigan, (1969);

G. Smitherman, Talkin' and Testifyin': The Language of Black America, (1977);

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R. Fasold and R. Shuy, Teaching Standard English in the Inner City, (1970);

W. Wolfram, A Sociolinguistic Description of Detroit Negro Speech, (1969);

R. Burling, English in Black and White, (1973);

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5/ Footnoted material referred to on page 18 of the  
Memorandum Opinion and Order.

J. L. Dillard, Black English, (1972);

A. Covington, "Teachers' Attitudes Toward Black English:  
Effects on Student Achievement," in Ebonics: The True  
Language of Black Folks, (R. Williams, ed. 1975);

W. Labov, "The Logic of Non-Standard English," Linguistic-  
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of a Group of Inner-City Black Students, Ph.D. dissertation,  
University of Michigan, (1969);

G. Smitherman, Talkin' and Testifyin': The Language of Black  
America, (1977);

R. Fasold and R. Shuy, Teaching Standard English in the Inner  
City, (1970);

R. Burling, English in Black and White, (1973);

R. Abrahams and R. Troike, eds., Language and Cultural Diversity  
in American Education, (1972).