

SUMMARY: AYERS SETTLEMENT

BACKGROUND

1. The original complaint was filed by a group of black Mississippians on January 28, 1975. On April 21, 1975, the United States intervened as a party plaintiff. The defendants are the Governor of the State of Mississippi in his official capacity; the Board of Trustees of State Institutions of Higher Learning (“the Board”); Delta State University, Mississippi State University, Mississippi University for Women, the University of Mississippi, and the University of Southern Mississippi; and, in their official capacities, the institutional executives of such universities, the Commissioner of Higher Education, and the individual members of the Board. On September 17, 1975, the District Court certified and defined a plaintiff class.

2. The Action first proceeded to trial in April 1987. The Class and the United States asserted many claims of discrimination against the Defendants. The Plaintiffs contended:

That Mississippi had established racially separated systems of public higher education and that the institutions designated to serve blacks were inferior to institutions serving whites.

That from 1954 forward the Defendants had continued the racially dual system of public higher education through policies and practices governing student admissions, employment of faculty and administrative staff, and through operation of historically white universities, or branches, close to historically black universities.

That black students and faculty had been denied equal educational opportunity by Defendants’ discrimination against ASU, JSU, and MVSU with respect to institutional missions, number and level and quality of buildings, and distribution of financial resources.

Plaintiffs sought extensive injunctive relief to remedy the alleged discrimination.

4. Defendants never disputed the existence of a segregated system through 1962. Defendants contended that after 1962 the State had maintained for years nondiscriminatory admissions and operational policies, and had expended substantial affirmative efforts in good faith, with respect to students, faculty, staff and resource allocation to promote desegregation of the universities. Defendants denied that Mississippi’s present university system was unlawful.

5. On December 10, 1987, the District Court ruled in favor of the Defendants and dismissed the Action. In 1990 the United States Court of Appeals for the Fifth Circuit affirmed the decision of the District Court. In 1992 the United States Supreme Court reversed the Court of Appeals and sent the case back for further proceedings in the District Court. On March 7, 1995, the District Court ruled in favor of the Plaintiffs on some issues and in favor of the Defendants on other issues. The District Court entered a remedial decree requiring the Defendants to take additional actions directed toward the further desegregation of Mississippi’s universities. Another appeal followed, and in 1997 the Court of Appeals sent the case back to the District Court with instructions for continued implementation of its remedial decree. The District Court has proceeded with such decree

implementation.

6. The Plaintiffs continue to challenge the adequacy of the District Court's remedial decree and the Board's implementation of it. Multiple judicial proceedings await the parties in 2001 and beyond if the Action is not settled. The parties believe that:

- a. continuing the litigation would further drain higher education resources;
- b. interfere with system administration; and
- c. strain relationships among university constituencies and public officials.

7. The Class, the United States and the Defendants have entered into an agreement to end the Action. The Settlement Agreement is intended to achieve a full, complete, and final settlement of the Action, but the Agreement is expressly subject to approval of the District Court. The Settlement Agreement:

- a. Sets out and defines all the terms and conditions of the Settlement;
- b. If approved by the District Court, binds all members of the Class;
- c. Is available for inspection and is on file with the Clerk of the United States District Court for the Northern District of Mississippi in Oxford, Mississippi;
- d. Is available for inspection at the admissions office on the main campuses of each of Mississippi's universities; and
- e. May be reviewed on the Board's web site.

AYERS SETTLEMENT AGREEMENT

1. Among other things, the Agreement provides:

a. **Financial assistance for summer developmental program.** A pool of funds is to be established and maintained for 10 years to supplement the financial aid presently available to summer program participants. Funding is to be in the amount of \$500,000 annually for five years, and \$750,000 annually for five additional years. All Mississippi universities may participate in the pool.

b. **Academic programs.** The Board authorizes continued implementation of the academic programs initiated under the District Court's 1995 decree and implementation of additional new academic programs at ASU, JSU, and MVSU. The Board further authorizes enhancement of existing specified academic program areas at ASU, JSU and MVSU.

c. **Endowments.** Publicly-funded and privately-funded endowments are to be created for the benefit of ASU, JSU, and MVSU. The publicly-funded endowment is to be created over a 14-year period in the total amount of \$70,000,000. The Board is to undertake to establish a privately-funded endowment over a seven-year period in the amount of \$35,000,000.

Capital improvements. Capital improvement projects are authorized for implementation

at ASU, JSU and MVSU over a five-year period. Total funding for the facilities and projects may not exceed \$75,000,000.

Funding. In addition to the funding described in paragraphs (a), (c) and (d) above and in paragraph (h) below, special *Ayers* funding is to be provided over a 17-year period in the total amount of \$245,880,000 for implementation of academic programs at ASU, JSU and MVSU. Annual appropriations are structured to decline over time. The \$3.6 million frozen by the District Court's July 6, 2000 order is to be released for use by ASU and MVSU. The total settlement funding is \$503,236,000, which amount includes funding to date under the remedial decree and the projected privately-funded endowment.

Comprehensive university. JSU is recognized as a comprehensive university as defined in the Agreement.

Mississippi Veterans Memorial Stadium and the Universities Center. Mississippi Veterans Memorial Stadium is to be designated as the home of the JSU Tigers and JSU is to become a member of the Stadium Commission. Subject only to the Board, JSU is to have control over the facility often referred to as the Universities Center.

Attorneys' fees. Private plaintiffs are to receive \$2,500,000 in payment of attorneys' fees, costs and expenses.

Settlement Order settling the 27 year-old *Ayers* case issued on February 15, 2002 by the United States District Court in Oxford, MS.