**Swann v. Charlotte-Mecklenburg Board of Education**

**Appellant:** James E. Swann

**Appellee:** Charlotte-Mecklenburg Board of Education

**Appellant's Claim:** That the local public school desegregation plan was inadequate to achieve integration and protect the civil rights of its students.

**Chief Lawyers for Appellant:** Julius LeVonne Chambers, James M. Nabritt III

**Chief Lawyers for Appellee:** William J. Waggoner, Benjamin S. Horack

**Justices for the Court:** Hugo L. Black, Harry A. Blackmun, William J. Brennan, Jr., Chief Justice Warren E. Burger, William O. Douglas, John Marshall Harlan II, Thurgood Marshall, Potter Stewart, Byron R. White

**Justices Dissenting:** None

**Date of Decision:** April 20, 1971

**Decision:** Ruled in favor of Swann by upholding the federal district court's ambitious desegregation plan designed to fully integrate the district's public schools.

**Significance:** The ruling affirmed the role of federal district courts in overseeing operations of local school districts.

Following the landmark Supreme Court decision in *Brown v. Board of Education* (1954) ending legally enforced racial segregation (keeping races apart) in public schools, progress toward racial integration (mixing of the races) continued to be slow. The tradition of having separate schools for black and white children was well established in American culture.

**A Southern Resistance**

The Southern states in particular immediately began thinking of ways to avoid obeying the Court's desegregation (ban segregation) directions given in *Brown*. In reaction, the Court in *Brown v. Board of Education II* (1955) directed the lower federal district courts to develop plans to force desegregation. Resistance persisted. One Virginia school board even closed its public schools to avoid integrating them. Tuition monies were granted to students to attend segregated private schools. In reaction, the Supreme Court in *Griffin v. County School Board* (1964) ordered the public schools to open again. "Freedom of choice" plans were also introduced in which children could choose which school to attend, white or black. The Court in *Green v. County School Board* (1968) ruled this approach was not strong enough to truly achieve integration. The Court held that the student bodies of each school should be similar in mix of races as the population in the area in general.

As white Americans fled the trouble-ridden cities to suburbs and predominately white schools, the distinct courts decided the primary way to swiftly integrate schools was through busing. Busing involved carrying students long distances on a daily basis to create more racially-mixed schools.

**The Charlotte-Mecklenburg School District**

The Charlotte-Mecklenburg School District of North Carolina was large, including both the city of Charlotte as well as the rural region of Mecklenburg County. The district included 101 schools scattered across some 550 square miles. Twenty-nine percent of the 84,000 school-age children in the area were black and most of them lived in one particular section of Charlotte. A desegregation plan was created in 1965 to integrate the public schools. The plan had redrawn school attendance zones and allowed students freedom of choice regarding which school they wished to attend. Almost 30,000 students were bused to distant schools under the plan. However, little integration resulted as over half of the black students remained in all-black schools. The schools remained generally the same as before.

**Swann Applies Green**

Inspired by the Court's decision in *Green,* James Swann and other residents of the school district finally filed a lawsuit in 1968 claiming the integration plan was not effective. Unlike previous court cases, however, that focused primarily on rural school districts, this case involved urban (city) schools. For example, the school district involved in the Green decision was a small rural school district. Charlotte-Mecklenburg, on the other hand, was what is known as a large "unified" school district including various communities.

Swann won his suit in federal district court. Overseeing a new Charlotte-Mecklenburg plan, the court created a much more ambitious and expensive plan in 1970 involving increased school busing. The plan stated that twenty-nine percent of each public school should consist of black students, reflecting the percentage of black students in the entire school district. An additional 13,000 students would need to be bused. To begin applying the plan the district had to buy one hundred new buses. The plan would cost a half million dollars a year in addition to one million dollars to get started. Not surprisingly, the new plan met considerable resistance from the school board.

The school board appealed the plan to the Fourth Circuit Court of Appeals. The appeals court, agreeing with the board, reversed part of the plan claiming it placed an unreasonable burden on the board. In response to Swann's defeat in the appeals court, the Legal Defense Fund of the National Association for the Advancement of Colored People (NAACP) appealed the decision to the U.S. Supreme Court which agreed to hear the case.

**To the Supreme Court**

Challenged in the Supreme Court, the Court in 1971 unanimously ruled in favor of Swann and the NAACP. The more extensive desegregation plan developed by the district court was to be followed. Chief Justice Warren E. Burger, writing for the Court, recognized that busing, though not necessarily a desirable means, may be the only means to begin the school integration process. Freedom of choice in deciding which school a child would like to attend could not adequately solve the segregation issue. As Burger stated,

In these circumstances, we find no basis for holding that the local school authorities may not be required to employ bus transportation as one tool of school desegregation. Desegregation plans cannot be limited to the walk-in [close-by] school.

Chief Justice Burger supplied broad guidelines to district court judges still dealing with segregated school systems. The mathematical ratios imposed on Charlotte-Mecklenburg, in which twenty-nine out of every one hundred students in each school would be black, was one approach meeting the Court's approval. Another tool was redesign of school attendance boundaries to include residential areas of both races.

**Courts in Charge of Schools**

The Court once again approved supervision of public school districts by federal district court judges. The Court commanded that district courts

**SCHOOL BUSING**

**T**he Court decision in *Swann v. Charlotte Mecklenburg Board of Education* (1971) firmly established that lower federal district courts could force school districts to adopt school busing plans to achieve racial integration. School busing, itself, was not new to students at the time. Almost forty percent of American schoolchildren in the 1960s rode buses to schools. But the nature of busing changed. Instead of riding to the nearest community school, now children began riding to distant schools in unfamiliar places. For example, in *Evans v. Buchanan* (1977) a massive desegregation busing plan was created in Delaware combining many school districts into one that held forty percent of all the state's school students.

Opposition to such busing was immediately strong from both white and black Americans. Though a number of children received improved educational opportunities in better supported suburban schools, many believed busing placed unnecessary hardships on the schoolchildren. The reasons were many. Often the rides were long, it was more difficult for many parents to participate in their children's education, participating in after-school activities was difficult, bused children lost their sense of community, some children became even more alienated (withdrawn) from school, and limited school funds were being used for busing rather than for education. Often children still tended to socialize with their own race in their new schools. This led to segregation within schools and sometimes actually increasing interracial hostilities and tensions of the community.

Through the 1980s opposition to busing grew steadily. Finally, in 1991 the Court essentially ended the forced-school busing era by ruling in *Board of Education of Oklahoma City Public Schools v. Dowell* that busing was intended only to be a temporary measure. Some school busing programs did continue, largely voluntarily under supervision of local school boards.

were to "make every effort to achieve the greatest possible degree of actual desegregation." The severity of the constitutional violation, Burger wrote, should determine the extent of the forced integration measures. In a later ruling the Court added that such fixes could be discontinued when integration was accomplished.

The Court's support of the Charlotte plan led to extensive busing programs in many parts of the United States during the 1970s, including Boston, Los Angeles, Cleveland, and other major cities. Busing became one of the most controversial social issues of the decade. The mood of the Supreme Court toward forced desegregation, particularly through busing, began to change by the 1980s with five new justices appointed. The Court became less supportive of such sweeping district court desegregation plans as approved in Charlotte-Mecklenburg. In fact, the 1971 *Swann* decision was the last unanimous ruling (all nine justices agreeing) by the Supreme Court in school desegregation cases, a remarkable trend that had started with the *Brown* decision in 1954.

Busing continued to spark controversy through the end of the century. Busing was highly unpopular among black Americans because of the distances their children were being taken and fears of safety in predominately white schools. Resistance was most pronounced in the North, perhaps less accustomed to long-distance busing than the largely rural South. Such court-ordered desegregation plans as adopted by Charlotte-Mecklenburg led to very mixed results in achieving integration through the years. Despite extensive busing, many schools still remained racially segregated to a large degree. The rise of largely white private schools and the trend of white families moving out of the cities to new school districts in the suburbs where few minorities lived were key reasons.