

FILED

STATE OF NORTH CAROLINA
COUNTY OF HALIFAX

2016 FEB -2 AM 9: 23

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 15 CVS 767

HALIFAX COUNTY, C.S.C.

LOTONYA SILVER, INDIVIDUALLY AND AS
GUARDIAN *AD LITEM* OF BRIANNA SILVER)
SILVER, LARRY SILVER, III AND DOMINICK)
SILVER; BRENDA SLEDGE, INDIVIDUALLY)
AND AS GUARDIAN *AD LITEM* OF ALICIA)
JONES; FELICIA SCOTT, INDIVIDUALLY AND)
AS GUARDIAN *AD LITEM* OF JAMIER SCOTT,)
HALIFAX COUNTY BRANCH #5401)
NATIONAL ASSOCIATION FOR THE)
ADVANCEMENT OF COLORED PEOPLE,)
COALITION FOR EDUCATION AND)
ECONOMIC SECURITY,)

PLAINTIFFS,)

v.)

THE HALIFAX COUNTY BOARD OF COMMISSIONERS,)
DEFENDANT.)

ORDER

THIS CAUSE came on to be heard and was heard before the undersigned Superior Court Judge presiding at the December 22, 2015 Special Session of Superior Court for Halifax County on the Defendant's Motion to dismiss this action pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure. In this cause the Plaintiffs seek a Declaratory Judgment asking this Court to declare that the maintenance by the Defendant of three separate school districts in Halifax County is an obstruction and denial of the right of the students of Halifax County to receive a sound basic education in violation of the Constitution of the State of North Carolina.

A dismissal pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure is appropriate when the complaint on its face reveals that no law supports the Plaintiffs' claim. Having reviewed the pleadings, the motions of the Defendant, the memoranda of law and arguments of counsel for the Defendant and counsel for the

Plaintiffs, the Court determines and finds that the Complaint of the Plaintiffs fails to state a claim upon which relief can be granted by this Court and the above-entitled action ought to be and the same is hereby dismissed with prejudice.

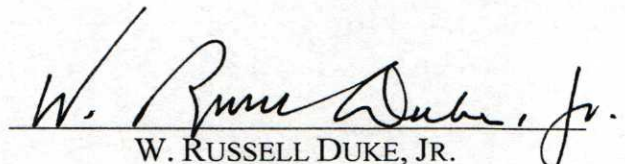
The Plaintiffs present no claim that the financial support, that is, money, allocated to the three existing school boards of Halifax County is constitutionally inadequate. The Plaintiffs instead maintain that because of the existence of three separate school boards in Halifax County the financial support allocated by the Defendant to the boards is allocated ineffectively and inefficiently. The Plaintiffs ask this Court to declare that the very design incorporating the three district system and the Defendant's maintenance of the same renders the Defendant unable to provide a sound basic education to the County's students and thereby violates the Constitution of the State of North Carolina.

Acknowledging Article IX, §2(2) of the Constitution of the State of North Carolina that allows the assignment to local government of some responsibility for the financial support of the free public schools, the Plaintiffs cite no provision of the Constitution of the State of North Carolina that is a clear foundation for nor offer any compelling authority supportive of the proposition that it is the constitutional responsibility of the Defendant to implement and maintain a public education system for Halifax County.

ORDER

NOW, THEREFORE, IT IS ORDERED that pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure this action is DISMISSED WITH PREJUDICE for the reason that the Plaintiffs' Complaint is not supported by the law and consequently fails to state a claim upon which relief can be granted.

This the 28th day of January, 2016.


W. RUSSELL DUKE, JR.
SUPERIOR COURT JUDGE PRESIDING