

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

FREEMAN ET AL. v. PITTS ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE
ELEVENTH CIRCUIT

No. 89-1290. Argued October 7, 1991—Decided March 31, 1992

In a class action filed by respondents, black school children and their parents, the District Court in 1969 entered a consent order approving a plan to dismantle the *de jure* segregation that had existed in the DeKalb County, Georgia, School System (DCSS). The court retained jurisdiction to oversee implementation of the plan. In 1986, petitioner DCSS officials filed a motion for final dismissal of the litigation, seeking a declaration that DCSS had achieved unitary status. Among other things, the court found that DCSS "has travelled the . . . road to unitary status almost to its end," noted that it had "continually been impressed by [DCSS'] successes . . . and its dedication to providing a quality education for all," and ruled that DCSS is a unitary system with regard to four of the six factors identified in *Green v. New Kent County School Bd.*, 391 U.S. 430: student assignments, transportation, physical facilities, and extracurricular activities. In particular, the court found with respect to student assignments that DCSS had briefly achieved unitary status under the court-ordered plan, that subsequent and continuing racial imbalance in this category was a product of independent demographic changes that were unrelated to petitioners' actions and were not a vestige of the prior *de jure* system, and that actions taken by DCSS had achieved maximum practical desegregation from 1969 to 1986. Although ruling that it would order no further relief in the foregoing areas, the court refused to dismiss the case because it found that DCSS was not unitary with respect to the remaining *Green* factors: faculty assignments and resource allocation, the latter of which the court considered in connection with a non-*Green* factor, the quality of education being offered to the white and black student populations. The court ordered DCSS to take measures to address the remaining problems. The Court of Appeals

reversed, holding, *inter alia*, that a district court should retain full remedial authority over a school system until it achieves unitary status in all *Green* categories at the same time for several years; that because, under this test, DCSS had never achieved unitary status, it could not shirk its constitutional duties by pointing to demographic shifts occurring prior to unitary status; and that DCSS would have to take further actions to correct the racial imbalance, even though such actions might be ``administratively awkward, inconvenient, and even bizarre in some situations," *Swann v. Charlotte-Mecklenburg Bd. of Education*, 402 U.S. 1, 28. *Held:*

FREEMAN v. PITTS

Syllabus

1. In the course of supervising a desegregation plan, a district court has the authority to relinquish supervision and control of a school district in incremental stages, before full compliance has been achieved in every area of school operations, and may, while retaining jurisdiction over the case, determine that it will not order further remedies in areas where the school district is in compliance with the decree. Pp.15-22.

(a) *Green* held that the duty of a former *de jure* district is to take all necessary steps to convert to a unitary system in which racial discrimination is eliminated, set forth factors that measure unitariness, and instructed the district courts to fashion remedies that address all these factors. Although the unitariness concept is helpful in defining the scope of the district court's authority, the term "unitary" does not have a fixed meaning or content and does not confine the court's discretion in a way that departs from traditional equitable principles. Under such principles, a court has the inherent capacity to adjust remedies in a feasible and practical way to correct the constitutional violation, *Swann, supra*, at 15-16, with the end purpose of restoring state and local authorities to the control of a school system that is operating in compliance, see, e. g., *Milliken v. Bradley*, 433 U.S. 267, 280-281. Where justified by the facts of the case, incremental or partial withdrawal of judicial supervision and control in areas of compliance, and retention of jurisdiction over the case with continuing supervision in areas of noncompliance, provides an orderly means for fulfilling this purpose. In particular, the court may determine that it will not order further remedies in the area of student assignments where racial imbalance is not traceable, in a proximate way, to constitutional violations. See *Pasadena City Bd. of Education v. Spangler*, 427 U.S. 424, 436. Pp.15-21.

(b) Among the factors which must inform the court's discretion to order the incremental withdrawal of its supervision in an equitable manner are the following: whether there has been full and satisfactory compliance with the decree in those aspects of the system where supervision is to be withdrawn; whether retention of control is necessary or practicable to achieve compliance in other areas; and whether the school district has demonstrated, to the public and to the parents and students of the once disfavored race, its good-faith commitment to the whole of the decree and to those statutory and constitutional provisions that were the predicate for judicial intervention in the first instance. In considering these factors a court should give particular attention to the school system's record of compliance; *i. e.*, whether its policies form a

FREEMAN v. PITTS

Syllabus

consistent pattern of lawful conduct directed to eliminating earlier violations. And with the passage of time the degree to which racial imbalances continue to represent vestiges of a constitutional violation may diminish, and the practicability and efficacy of various remedies can be evaluated with more precision. Pp.21-22.

2.The Court of Appeals erred in holding that, as a matter of law, the District Court had no discretion to permit DCSS to regain control over student assignments and three other *Green* factors, while retaining supervision over faculty assignments and the quality of education. Pp.22-29.

(a)The District Court exercised its discretion appropriately in addressing the *Green* elements, inquiring into quality of education, and determining whether minority students were being disadvantaged in ways that required the formulation of new and further remedies in areas of noncompliance. This approach illustrates that the *Green* factors need not be a rigid framework and demonstrates the proper use of equitable discretion. By withdrawing control over areas where judicial supervision is no longer needed, a district court can concentrate its own and the school district's resources on the areas where the effects of *de jure* discrimination have not been eliminated and further action is necessary. Pp.22-23.

(b)The related premises underlying the Court of Appeals' rejection of the District Court's order—first, that given noncompliance in some discrete categories, there can be no partial withdrawal of judicial control; and second, until there is full compliance, *Swann, supra*, requires that heroic measures be taken to ensure racial balance in student assignments systemwide—are incorrect under this Court's analysis and precedents. Racial balance is not to be achieved for its own sake, but is to be pursued only when there is a causal link between an imbalance and the constitutional violation. Once racial imbalance traceable to the constitutional violation has been remedied, a school district is under no duty to remedy an imbalance that is caused by demographic factors. *Id.*, at 31-32. The decree here accomplished its objective of desegregation in student assignments in the first year of its operation, and the District Court's finding that the subsequent resegregation is attributable to independent demographic forces is credible. A proper rule must be based on the necessity to find a feasible remedy that ensures systemwide compliance with the decree and that is directed to curing the effect of the specific violation. Pp.23-27.

(c)Resolution of the question whether retention of judicial control over student attendance is necessary or practicable to

FREEMAN v. PITTS

Syllabus

achieve compliance in other facets of DCSS must await further proceedings on remand. The District Court did not have this Court's analysis before it when it addressed the faculty assignment problem, and specific findings and conclusions should be made on whether student reassignments would be a proper way to remedy the defect. Moreover, the District Court's praise for DCSS' successes, dedication, and progress, and its failure to find that DCSS had acted in bad faith or engaged in postdecrete acts of discrimination with respect to those areas where compliance had not been achieved, may not be the equivalent of the necessary finding that DCSS has an affirmative commitment to comply in good faith with the entirety of the desegregation plan. Pp.27-29.
887 F.2d 1438, reversed and remanded.

KENNEDY, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and WHITE, SCALIA, and SOUTER, JJ., joined. SCALIA, J., and SOUTER, J., filed concurring opinions. BLACKMUN, J., filed an opinion concurring in the judgment, in which STEVENS and O'CONNOR, JJ., joined. THOMAS, J., took no part in the consideration or decision of the case.