



Jim Meyer
Judge

170TH DISTRICT COURT

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August 29, 2008

Hon. Gary L. Bledsoe; Hon. Robert Notzon; Hon. Donald J. McCarthy
Hon. Philip E. McCleery & Hon. Peter K. Rusek
(all via facsimile)

Re: Cause No. 2008-3046-4; *Bronner, et al vs. Waco Independent School District*; in
the 170th District Court of McLennan County, Texas

Dear Counsel:

From our hearing on August 26-28, 2008:

From the Plaintiffs, the Court heard:

- 1) Neighborhood support for G.L. Wiley Middle School, its programs, and the positive connection between teachers/administrators and students.
- 2) Suspicion, frustration and resentment over the turmoil surrounding closing Wiley two weeks prior to school starting.
- 3) A middle school principal who believes he had the school on the right track.
- 4) Concern about the future of that East Waco community.
- 5) At the core of the problems, a fundamental disagreement with how the Waco Independent School District School Board does business and the decisions they make.

From the Defendant, the Court heard:

- 1) G.L. Wiley Middle School has been academically unacceptable in accordance with state guidelines for five consecutive years.

- 2) Concerns about Wiley include declining population within the Wiley attendance zone, projected high dollar cost per student and low enrollment which has led to the lack of opportunities for extra-curricular activities at Wiley.
- 3) Belief that the best option at this point is to close Wiley and then work to insure that the students are incorporated successfully into other middle schools.
- 4) Administrators, staff and the middle schools involved have worked to implement the goal of successfully assimilating Wiley students into other middle schools – including regular students, special education students, life skills students, athletes, cheerleaders, student council members, etc.

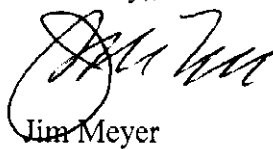
The Court finds:

- Unless a public school board is violating the law or a student's legal rights, it is not within a District Court's authority to interfere with or second guess the decisions made by a duly elected public school board in the carrying out of its duties.
- At this Temporary Injunction hearing, the burden of proof has been on the Plaintiffs to prove a probable right to recovery and a probable injury.
- Plaintiffs have alleged violations of the Open Meetings Act with regard to the August 7, 2008, school board meeting. The Court granted the Temporary Restraining Order based on those allegations, but does not find that they support the entry of a Temporary Injunction because the notice mistakes have been corrected by a subsequent meeting called in accordance with the Open Meetings Act. The Act does not prevent governmental bodies from curing prior Act violations.
- Plaintiffs have alleged other claims in seeking the issuance of a Temporary Injunction. The Court does not find a probable right of recovery or a probable injury with regard to any of those claims.
- Plaintiffs' Motion for Temporary Injunction is denied. The Temporary Restraining Order is set aside and of no further force or effect.

If Defendant's counsel will please prepare and present an Order which has been approved as to form by Plaintiffs' counsel.

This memorandum ruling shall not be considered as an order or findings of fact and conclusions of law, but shall have the same effect as if orally pronounced in open court.

Sincerely,^s



Jim Meyer
Judge, 170th District Court