

“This trial had to happen. It's not just the teachers. Every other union could ask 'why is our contract superceded' if nobody did anything wrong. Even taxpayer groups could say 'why are taxes being raised.' The whole thing could begin to unravel unless there is a finding of liability.”

— Ed Wells, an activist who convinced lawyer Bob Howard to take the case for the plaintiffs

a QUESTION of EQUALITY

People Who Care has little input

■ **Changed in '91:** The group that spearheaded the original legal challenge four years ago is not a plaintiff in the current class action.

By GERRI NIKOLAI
The Register Star

ROCKFORD — Will People Who Care, the group whose name has become synonymous with the lawsuit filed against Rockford School District, have anything to say about where the case goes after trial?

"Honestly, no, I don't think so," said Larry Curtin, a co-chairman of People Who Care four years ago and a signed plaintiff on the suit.

Who, then, will help write a remedy if one is ordered by the court?

"The same people who have written everything for the past three years," Curtin said. "Mr. Howard, Mr. Wells and school officials."

"Mr. Howard" is Bob Howard, the Chicago lawyer who filed the suit and has been directing the case ever since. "Mr. Wells" is Ed Wells, once Curtin's co-chairman in People Who Care and the man who recruited Howard as lawyer.

Division in group

When People Who Care disagreed with Howard over priorities in 1991, Wells split with the group. He remains close to Howard, who said Wells' opinion "carries a very great weight with me."

Curtin said he is not in contact with the lawyer.

Howard said he keeps in touch with some individuals who are members of People Who Care, but he has made it clear he takes no direction from the organization that started it all.

In a memo he wrote to another attorney in May 1992, Howard said, "... if the People Who Care Inc. group ever publicly purports to act as the plaintiff organization in the litigation, I will take appropriate action to make clear that (while some or all of the members of the organization may be members of the plaintiff class) the People Who Care Inc. organization is not the plaintiff organization in the lawsuit and has no standing with respect to the lawsuit."

Howard made the comment in a memo to School District lawyer Anthony Scariano, after Howard saw a letter People Who Care wrote to Judge Stanley Roszkowski in December 1991.

'Sum of unhappiness'

Glenda Shaver, who is on the group's executive committee, said the letter expressed "the sum of our unhappiness with the direction of the second order and our frustration at not having any input in the process."

The second order was an April 1991 agreement between the School District and plaintiffs. The district admitted no guilt, but agreed to many new programs for minority and low-income students. People Who Care felt the agreement did not give enough attention to middle and high schools.

Shortly after that order, in June 1991, Howard renewed his motion in court that the case be made a class action suit.

Roszkowski agreed. The judge ordered that the plaintiff class consists of all black and Hispanic students in the district, all students attending programs or schools that are "racially identifiable," and students who would be in such programs or at the former West High School under attendance policies of 1988-89.

Class action intent

Howard said the intent always was to treat the suit as a class action. He first filed for class action status in 1989, a few weeks after the suit was filed by People

Who Care and 10 families, with parents and children listed as plaintiffs.

"Once we had that second remedy in place, it seemed to us that motion had been pending for two years, and it was timely for the court to rule on it," Howard said.

People Who Care members Curtin and Shaver say they were aware the suit would become a class action, but they expected their organization would have a stronger voice.

"This whole thing is with our name," Shaver said. "Do the bring-

ers of the lawsuit lose all power? Does the attorney become all-powerful?"

She has not given up. Shaver has been contacting black and Hispanic groups, hoping to form a united plan for a remedy and for making it part of any new court order.

Not everyone is unhappy with Howard. The Rev. Louis Malone and Flossie Hoarde, who also signed as plaintiffs on behalf of their children, say Howard has brought about change and educated the community.

Hoarde said Howard represents "a large number of people, people who have cared but never had a chance to voice their opinions."

"I'm not disappointed with the way he's handled it," Malone said of Howard. "If he hadn't really dug into it, a lot of things we've had here for many years would never have been brought out."

"The reason we hired an attorney is we were not familiar with what should be done," Malone added. "I've felt comfortable with what he has done."

Are Rockford schools guilty?

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agreements that became court orders for an array of educational services: new buildings, books and curriculum changes, training for teachers and parents, integration of schools, and finding more minority children qualified for gifted and other special programs.

Howard has pushed for a trial because, if the School District is found guilty, it would be difficult for anyone to challenge the kind of programs in those court orders.

"A liability finding is a source of stability. It puts you in a situation where you can have a stable, secure, effective remedy without a lot of side-fighting," he said.

"If there is a liability finding, the court has the authority to not only issue a remedial order, but to require the district to take steps to finance a remedy."

How much money?

Defendants in the trial are Rockford School District and the Rockford Education Association, whose union contract rights have become a key side issue.

The School District would have liked to avoid a trial, its lead defense lawyer, Anthony Scariano, said.

"The district has no interest in spending the type of money it has to spend in taking this case to trial," Scariano said. "This is a plaintiff's decision."

The case so far has cost \$42 million, shouldered by taxpayers in addition to the district's annual budgets of nearly \$150 million. And the second order is not yet complete.

Both lawyers' bills are being paid by taxpayers; neither would speculate on what their trial bill will be. The budget for lawyers and the court-appointed monitor this year is \$2.9 million.

Issue of teacher rights

School officials hoped to avoid a trial by making the two agreements with the plaintiffs, but they knew a trial was coming after teachers won an appeal on contract rights in April 1992.

The union asked the U.S. Circuit Court of Appeals if the district could violate its contract, including the seniority clause, in assigning teachers. The Second Interim Agreement had disregarded that clause in order to assign more

experienced teachers to schools with high minority enrollments.

The Appeals Court agreed with the teachers, although the plaintiffs and district together had fought the union. The court said the contract could not be violated without proof the district was guilty of discrimination.

"Every educator and every expert we have consulted said that the ability to select and retain teachers on the basis of capability, rather than simply seniority rights, is a critical element in improving education for minority students," Howard said. "And that is a very significant part of the remedy."

Howard had charged that schools with heavy minority populations typically had newer teachers with less experience and training than schools with mostly white students. The union contract clause governed that, he said, because teachers with seniority clout often chose to work in schools with mostly white students.

Improvement insurance

But the discrimination case would have gone to trial, perhaps a year or so later, even if the teachers' rights issue had never been raised, Howard said.

A finding of guilt is necessary to ensure future moves to improve education for minorities, Howard said.

"In order to have a viable, long-term base for a remedy, we need a liability finding," he said.

Federal courts in recent years have undermined the long-term viability of consent decrees such as the First and Second Interim Agreements, Howard said.

"The courts say school districts have the ability to secure modifications of consent decrees to a much greater extent than post-liability remedy orders."

Howard remembers when School Board members last fall sought a change in Roosevelt School renovation plans, part of the Second Agreement.

"Our experience, unfortunately, has been that this district has not, in the long run, lived up to its agreements very well," he said.

"We believe a liability finding will have more significance as something people think they have to follow through on, rather than slip off on."

CHRONOLOGY of the LAWSUIT

Rockford School District discrimination lawsuit

By GERRI NIKOLAI
The Register Star

FEBRUARY 1989

School Board votes to close 10 schools, seven on west side that served primarily minority children. Closings are attempt to save \$7.3 million.

MAY 1989

People Who Care, led by activist Ed Wells, files in U.S. District Court a lawsuit charging decades of discrimination against minorities. Rockford School Board seeks dismissal of suit, but Judge Stanley Roszkowski rejects dismissal.

JULY 1989

People Who Care and Rockford School Board reach first compromise agreement. District agrees to reopen four west-side schools and put additional \$1.25 million in schools with mostly minority children. People Who Care lost the battle to retain West High School, however, it is converted into a middle school.

NOVEMBER 1989

Rockford voters approve a People Who Care plan to elect School Board members by district, an effort to increase chances of electing minorities. Rockford teachers, led by Rockford Education Association President Molly Phalen, ask to intervene in People Who Care lawsuit because they fear change of contract seniority rights.

JANUARY 1991

Roszkowski appoints Eugene Eubanks as monitor to review proposals and check district's compliance with first agreement.

APRIL 1991

Rockford schools and People Who Care reach second interim agreement. Plan will cost \$22 million to \$60 million. Included: reopening Marsh and Riverdahl schools and expanding Riverdahl, replacing Church School with a magnet school, putting a magnet school in Wilson, moving adult programs to Roosevelt, increasing percentage of minority students in special programs, prohibiting layoff of new minority teachers who would lose jobs under the union seniority rule, redesigning middle and high school curriculum, spending \$2 million in schools where most children are minorities, and paying all costs of the lawsuit.

JUNE 1991

Judge Roszkowski allows Rockford teachers to enter lawsuit but overrules their charges of contract violation.

JULY 1991

Rockford teachers appeal their contract violation case to U.S. Court of Appeals.

SEPTEMBER 1991

Teachers take their appeal to U.S. Court of Appeals, Chicago, charging the district with violating their contract. People Who Care and school leaders link efforts to defeat teachers' charges.



Ed Wells



Judge Stanley Roszkowski



Eugene Eubanks



Maurice Sullivan



Bill Bowen



Dr. Bernard Hamilton



Molly Phalen



Gov. Jim Edgar



Bob Howard



Judge P. Michael Mahoney

JANUARY 1992

School Board approves financial plan that calls for borrowing another \$25 million for discrimination lawsuit costs.

MARCH 17, 1992

New School Board is elected with six new members. This election was by districts, the first in school history. It is the first time the School Board contains two black members.

APRIL 1992

People Who Care charges district is delaying lawsuit agreement after School Board votes to ask Judge Roszkowski to reconsider opening of Roosevelt School. 7th U.S. Circuit Court of Appeals rules teachers' seniority rights violated because Rockford school leaders never admitted guilt nor were found guilty of discriminating against minorities.

MAY 12, 1992

People Who Care and School Board lawyers debate reopening of Roosevelt School before Judge Roszkowski. Both sides tell court they want a trial to establish whether Rockford schools have ever been guilty of discrimination against minorities. Lawyers argue that a ruling is needed to convince 7th U.S. Circuit Court of Appeals that change in teachers' contract is needed.

SEPTEMBER 1992

Superintendent Maurice Sullivan resigns and takes a job in Wisconsin.

OCT. 8, 1992

The Rockford School Board names Bill Bowen chief operations officer until a new superintendent is selected. Because Bowen is not certified for the top job, Bernard Hamilton becomes interim superintendent.

DEC. 3, 1992

State legislators approve a bill that allows school boards of districts with more than 20,000 students to lower the requirements for superintendents.

DEC. 14, 1992

A group led by former School Board member Michael Williams secures letters signed by more than 1,000 Rockford residents, in less than 24 hours, to protest the legislation.

JAN. 7, 1993

Gov. Jim Edgar approves the bill giving Bowen a shot at the top job. Less than two hours before the signing, a class-action lawsuit is filed in Winnebago County Court charging that the law is unconstitutional.

JAN. 22, 1993

People Who Care lawyer Bob Howard says School District is in a state of chaos as he asks judge to appoint a master.

JAN. 26, 1993

Bill Bowen is named superintendent through June 1994. Howard says he reserves the right to ask for a master if the School Board balks at implementing the court order.

FEB. 25, 1993

Federal Magistrate Judge P. Michael Mahoney tells lawyers for the schools and plaintiffs that he will not allow the discrimination trial, to begin April 5, to drag on for eight to 10 weeks. Mahoney tells lawyers to pare down their arguments or he will give each of them a designated amount of time to make their case.

MARCH 8, 1993

Mahoney tells the Rockford teachers union it will be a defendant in the case. The union had been an intervenor and had not wanted to take a side.

APRIL 5, 1993

Trial to begin to decide if Rockford School District intentionally discriminated against minority students for decades.