

UNITED STATES COURT OF APPEALS  
For the Fifth Circuit

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No. 97-30231

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MARY L. HELMS, individually and as next friend of Amy T. Helms;  
AMY T. HELMS, a minor; MARIE L. SCHNEIDER,

Plaintiffs - Appellants - Cross Appellees - Appellees,

VERSUS

CECIL J. PICARD, Louisiana Superintendent of Public Education;  
KENNETH DUNCAN, Louisiana State Treasurer; LOUISIANA STATE BOARD  
OF ELEMENTARY AND SECONDARY EDUCATION; JEFFERSON PARISH SCHOOL  
BOARD SYSTEM; ELTON LAGASSE, Superintendent of the Jefferson  
Parish School System; LAURIE E. ROLLING, President and member of  
the Jefferson Parish School Board; LIBBY MORAN, Vice President  
and member of the Jefferson Parish School Board; ROBERT WOLFE,  
member of the Jefferson Parish School Board; BARRY BORDELON,  
member of the Jefferson Parish School Board; O.H. GUIDRY, member  
of the Jefferson Parish School Board; CEDRIC FLOYD, member of the  
Jefferson Parish School Board; POLLY THOMAS, member of the  
Jefferson Parish School Board; GENE KATSANIS, member of the  
Jefferson Parish School Board; MARTIN MARINO, member of the  
Jefferson Parish School Board,

Defendants - Appellees - Cross Appellants,

and

RICHARD W. RILEY, Secretary of the United States Department of  
Education; UNITED STATES DEPARTMENT OF EDUCATION,

Defendants - Appellees,

and

SPECIAL EDUCATION SERVICES CORPORATION,

Defendant - Appellant,

and

GUY MITCHELL; JAN MITCHELL; EUGENE CERISE; KATHY CERISE,

Intervenor Defendants - Appellees - Cross Appellants.

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Appeals from the United States District Court  
for the Eastern District of Louisiana

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January 13, 1999

**ON PETITIONS FOR REHEARING AND SUGGESTIONS FOR REHEARING EN BANC**

(Opinion 8/17/98, 5 Cir., 97-30231, 151 F.3d 347)

Before DUHÉ, BENAVIDES and STEWART, Circuit Judges.<sup>1</sup>

PER CURIAM:

The Petitions for Rehearing are DENIED and the court having been polled at the request of one of the members of the court and a majority of the judges who are in regular active service not having voted in favor, (Fed. R. App. P and 5th Cir. R. 35) the Suggestions for Rehearing En Banc are also DENIED.

For clarity, we amend that part of the last sentence of the panel opinion following the number (2) to read as follows:

"...(2) we REVERSE the district court's grant of summary judgment in favor of Defendants and RENDER judgment in favor of Plaintiffs declaring that the Federal instructional materials program, 20 U.S.C. §§ 7301-7373, and its Louisiana counterpart, La.Rev.Stat.Ann. §§ 17:351-52, are unconstitutional as applied in Jefferson Parish, except as applied for the acquisition of textbooks which use is not challenged by this litigation; and (3)...."

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<sup>1</sup>Judges Wiener and Dennis did not participate in the consideration of the suggestion for rehearing en banc.