

Hart v. Community School Bd., 383 F. Supp. 699
U.S. District Court for the Eastern District of New York, April 2, 1974
Judge: Jack B. Weinstein

The evidence shows that Mark Twain is segregated. That segregation was brought about partly through the ghettoization of the core of Coney Island. It is also due to deliberately zoning out of the school white middle-class children, enhancing segregative tendencies and leading to gross under-utilization of Mark Twain's physical facilities.

Both the Community School Board of District 21 and responsible city educational officials recognize that they have the power to desegregate Mark Twain. They have refused to do so because they believe that such action might cause white children from District 21 to leave the public school system by moving to the suburbs, or by transferring to private schools, or by various forms of subterfuge, increasing segregation in the schools of District 21. On the local level there is fear – substantially unjustified – for the safety of white children who would be transferred to Mark Twain, concern over the teaching environment in a school where average reading and mathematics levels are much lower than those in any other school in the district; and some latent concern at the prospect of children attending a ghetto school.

Public officials responsible for new housing in the area have exacerbated the situation by applying housing policies mechanically, discouraging integrated occupation of new housing by child-rearing families of a variety of socio-economic levels. Persons now moving into the thousands of publicly assisted new apartments in this area are overwhelmingly black and Hispanic. The whites are primarily persons beyond child-bearing age. The result has been to insure that local schools zoned to the immediate neighborhood will be segregated.

Housing and school patterns feed on each other. The segregated schools discourage middle class whites from moving into the area and the segregated housing patterns lead to segregated schools.

The history of Mark Twain can be characterized as reflecting neither de jure segregation – required by law and custom, typical of southern and border-state schools of the recent past – nor de facto segregation, due to segregated neighborhoods arising from purely private decisions of residents without any interference by government, said to be typical of many metropolitan areas in the north. Rather, it reflects both these characteristics. Demographic trends have been accentuated by government choices. Decisions have been made knowing they would encourage segregation and failure to take available steps to reverse segregative tendencies have made a bad situation worse. Whether denominated de facto or de jure, the segregation of Mark Twain is unconstitutional.

In fairness to the devoted officials from every level of government involved in some way in education and housing, it must be noted that racism was not a significant factor in what occurred in Coney Island. There was no conspiracy to deprive minorities or to enhance the position of whites. On the contrary, those in education were and are devoted to improving the education of all the students in their charge; those in housing were and are dedicated to providing sound housing to all the people living in dreadful slums. Desegregation was the goal of all. But, as is the case of so many tragedies of our times, the many people of good will and fine intentions were overwhelmed by social tides beyond their individual control. And the bureaucracies, instead of imaginatively drawing together all agencies of the government, separately applied the logic of consistency to deaden the spirit of resistance, making segregation inevitable instead of only highly probable.