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Judge asked to remove property tax laws from constitution

By BOB JOHNSON The Associated Press 1/8/04 5:40 PM

BIRMINGHAM, Ala. (AP) -- Plaintiffs in Alabama's 20-year-old college desegregation case told a federal judge Thursday that Alabama's property tax laws are outdated, inadequate and designed to prevent black children from receiving an adequate education.

An attorney for the plaintiffs, James Blacksher, asked U.S. District Judge Harold Murphy to order the laws removed from the Alabama constitution so the Legislature can design a new property tax structure. He said because of the state's low property taxes, the Legislature has been unable to properly fund colleges and elementary and primary schools.

But Robert Hunter, an attorney representing the state, told Murphy it would be like "opening Pandora's Box" for a federal judge to consider rewriting the state constitution.

"They're saying let's not go trouble our elected governor or our elected legislators. And that we shouldn't bother with those pesky voters. They're saying let's leave it all to the court," Hunter said.

Blacksher told Murphy that Alabama's inability to properly fund education makes it harder for black, poor and middle class students to attend college, partly because the colleges are forced to keep raising tuition.

"In Alabama, those who can least afford college are disproportionately African-American," Blacksher said. He asked Murphy to schedule a full evidentiary hearing on the request. Such a hearing would be conducted like a trial, with attorneys calling witnesses and presenting evidence.

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Murphy said he would consider the arguments made Thursday and rule later on the request for a hearing.

One law that Blacksher said prevents Alabama from having an adequate tax system is the constitutional requirement that voters must approve all property tax increases. He said over the past 10 years, voters have turned down about 70 percent of all attempts by local governments to raise property taxes.

Hunter said Murphy considered all the pertinent issues in the case during two trials in the 1990s and that he should continue with plans to close the case in 2005.

In 1991, Murphy ordered Alabama to remedy lingering inequities in its colleges and universities resulting from a history of segregation. Under that order, Alabama's historically black public universities have received additional money to make up for historic inequities, and traditionally white universities have been given money to recruit black faculty.

State Rep. John Knight, D-Montgomery, the named plaintiff in the lawsuit, said he sees nothing wrong with asking the courts to reform Alabama's tax structure. He said numerous efforts to provide more money for education have failed, including last summer's referendum on a \$1.2 billion tax package, which voters defeated by a wide margin.

"I don't know many things that have happened in Alabama where courts have not played a role," Knight said. "Without federal courts intervening, nothing seems to happen."

Blacksher said it's not unusual for the federal courts to be asked to throw out parts of a state constitution. He cited segregated schools and poll taxes as once being permitted in the Alabama Constitution, but later thrown out by federal courts.

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