



SUPREME COURT RULES RACE CRITERIA UNCONSTITUTIONAL FOR PUBLIC SCHOOLS

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In a 5-4 decision, the U.S. Supreme Court ruled that public schools may not consider an individual's race when trying to create a diverse school body.

The case, *Parents Involved in Community Schools v. Seattle School Dist. No. 1*, involved school districts in Louisville, Ky. and Seattle, Wash.

Both school districts used race as at least one factor in determining which students attend their schools.

"Those plans generally gave students a choice of schools to attend, and most students got their first choice. But where the race of a student would make a difference in the desired racial composition of a particular school, the race characteristic of the student could determine where he or she went," Marcia Coyle of the National Law Journal told the NewsHour.

But parents in both districts sued, saying that classifying students on the basis of race was a violation of the equal protection clause of the Constitution, part of the 14th Amendment, which essentially says that all people are created equal and should be treated the same.

How the majority ruled

The Supreme Court agreed with the parents that the plans were unconstitutional.

Chief Justice Roberts, who wrote the case's main opinion, stated that "simply because the school districts may seek a worthy goal does not mean they are free to discriminate on the basis of race to achieve it.

"The way to stop discrimination on the basis of race is to stop discrimination on the basis of race," Roberts added.

He went on to argue that his side of the debate was "more faithful to the heritage of *Brown*," the 1954 landmark case *Brown v. Board of Education*, which outlawed school segregation.

Roberts had Justices Antonin Scalia, Clarence Thomas and Samuel Alito on his side.

A differing opinion

Justice Anthony Kennedy voted with the majority, but did not fully agree with Roberts' decision and wrote his own opinion.

Kennedy argued that school districts can use race as a factor without looking at the race of individual students. He suggested "strategic site selection of new schools," targeted recruitment of students and teachers and allocating resources for special programs.

The dissenting viewpoint

Justices John Paul Stevens, David Souter, Ruth Bader Ginsburg and Stephen Breyer disagreed with the majority.

Breyer wrote the longest dissent of his career in which he predicted that the decision could result in the re-segregation of schools.

"To invalidate the plans under review is to threaten the promise of Brown," Breyer wrote. "The plurality's position, I fear, would break that promise."

Breyer said the entire country would come to regret the decision, and then he made a general statement about the current court, saying, "It is not often in the law that so few have so quickly changed so much."

During President Bush's time in office, he has selected -- and the Senate confirmed -- two conservative-leaning justices, Roberts and Alito.

Impact on schools

Legal experts believe that Kennedy's opinion will shape future school diversity programs.

Theodore Shaw, president of NAACP Legal Defense Fund, which supported the diversity plans, said "I am grateful for the sliver of hope that Justice Kennedy's opinion holds out. He refused to join the most radical view, which would have made it impossible for school districts to do anything about racial segregation."

Others believe districts will not want to risk the time and money necessary for long court battles.

"They're going to conclude that it's just not worth it to try and get through that narrow window, especially when what they're trying to justify is something as ugly, and divisive, and politically unpopular as assigning children to schools on the basis of skin color," Roger Clegg, president of the Center for Equal Opportunity, which opposed the school districts' policies, told the NewsHour.

One possibility is that school districts will shift to using family income as a way to integrate schools. Because minority students tend to comprise a large portion of low-income groups, economic diversity tends to lead to racial diversity as well.

"That's bulletproof," Richard Kahlenberg, a senior fellow at the Century Foundation, a liberal-leaning think tank in Washington, told the Associated Press. "Using economic status is perfectly legal," he added.

--Compiled by Annie Schleicher for NewsHour Extra

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