

Parents Involved in Community Schools v. Seattle School Dist. No. 1

In Seattle, Washington and Jefferson County, Kentucky, school boards adopted racial tie-breaker plans designed to help integrate their respective school districts. Parents of nonminority students sued the school boards alleging that their children were discriminated against in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

1) How to Construe a Fractured Supreme Court Decision

In making sense of Supreme Court decisions, the general rule is that when no single opinion garners a majority of the Court's votes, the opinion in the majority bloc that is written on the narrowest grounds is construed as the controlling opinion of the Court and the opinion to be cited as precedent. In this case, Justice Kennedy signed onto the opinion written by Chief Justice Roberts in part and then wrote a concurrence that to explain where he disagreed. Justice Kennedy's opinion, the fifth vote in the result, is therefore the controlling opinion of the Court where he disagrees with the Robert's opinion.

2) Strict Scrutiny Review Applies.

The Supreme Court has a three tiered framework for analyzing the Constitutionality of government action. The lowest level of review is known as rational basis review. To satisfy rational basis review, the government action under review must be rationally related to a legitimate government interest. This is a catch-all category under which most government activity is reviewed. Under intermediate level review, a government action must be substantially related to an important government interest. Classifications based on gender or sex are generally reviewed under this standard. Finally, under strict scrutiny review, government actions must be narrowly tailored to serve a compelling governmental interest. Claims of infringement on fundamental rights are generally reviewed under this exacting standard. And since 1995, all racial classifications, whether those that are remedial in their nature or not, are subject to strict scrutiny review. The Supreme Court reaffirms this framework for analyzing race cases by applying strict scrutiny review. The Court states that the racial tie-breaker plan is a race conscious mechanism that triggers strict scrutiny review.

3) Compelling Governmental Interest

In the previous fifty years of jurisprudence, the Supreme Court has only recognized two interests as compelling in the race context. The first is the compelling interest in remedying the effects of past intentional discrimination of the sort condemned in *Brown v. Board of Education*. The second government interest the Court has recognized as compelling for using race is the diversity interest in higher education upheld in *Grutter v. Bollinger*.

4) Did Seattle and Louisville Articulate a Compelling Government Interest?

Justice Kennedy parts with the opinion of Chief Justice Roberts on this question. On this particular issue, Justice Kennedy and the four dissenting Justices speak for the Court. Justice Kennedy and the Chief Justice's opinion agree that the interests asserted by the

school districts in this case are different than the interests previously found to be compelling by the Supreme Court. Justice Kennedy, however, states unequivocally that a compelling interest exists in avoiding racial isolation, an interest that a school district may choose to pursue. In addition, a district may consider it a compelling interest to achieve a diverse student population. For the first time, a majority of the Supreme Court has articulated a new compelling interest that supports the use of race in governmental activity.

5) Narrow Tailoring

To be narrowly tailored, the government activity at issue must generally be shown to be carefully drawn to serve the interests asserted. Another factor considered in adjusting whether the government activity is narrowly tailored is whether the government considered and attempted alternative methods of achieving their stated goal.

6) Were the Seattle and Louisville Plans Narrowly Tailored?

It is on this prong of the strict scrutiny test that the Court finds these plans to be Constitutionally infirm. Specifically, the Court wrote that the districts failed to show that they considered methods other than explicit racial classifications to achieve their stated goals. As Justice Kennedy wrote, racial classifications should be used only as a last resort. Because five Justices find that the voluntary integration plans are not narrowly tailored, they are determined to be unconstitutional.