The Burger Court Opinion Writing Database

Pasadena City Board of Education v. Spangler

423 U.S. 1335 (1975)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University

HAB

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

May 4, 1976

Re: 75-164 - Pasadena City Bd. of Education v. Spangler

MEMORANDUM TO THE CONFERENCE:

In light of Bill Rehnquist's and Lewis' memos in this case we have four (including myself) as likely content with a remand for reconsideration of the annual reassignment matter.

With John out, that leaves a "neo" 4-4 and I therefore request Bill Rehnquist to try his hand at a memo. If he can muster a fifth vote, we may have a solution; otherwise possibly a 4-4.

Regards,

WEB

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

June 15, 1976

Re: 75-164 - Pasadena City Board of Education v. Spangler

Dear Bill:

I will join in an opinion consistent with your memorandum.

Regards,

WEB

Mr. Justice Rehnquist

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 22, 1976

RE: No. 75-164 Pasadena City Bd. Education v.Spangler

Dear Thurgood:

Please join me in your dissenting opinion in the above.

Sincerely,

Bill

Mr. Justice Marshall

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

June 9, 1975

No. 75-164, Pasadena Bd. v. Spangler

Dear Bill,

I agree with the memorandum you have circulated in this case.

Sincerely yours,

P.S.

Mr. Justice Rehnquist

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 24, 1976

Re: No. 75-164 - Pasadena City Bd of Education
v. Spangler

Dear Bill:

Please join me in your opinion for the Court.

Sincerely,

Byron

Mr. Justice Rehnquist

Copies to Conference

No. 75-164, Pasadena City Board of Education v. Spangler

MR. JUSTICE MARSHALL, dissenting.

I cannot agree with the Court that the District Court's refusal to modify the "no majority of any minority" provision of its order was erroneous. Because at the time of the refusal "racial discrimination through official action," Swann v. Board of Education, 402 U.S. 1, 31, 32 (1971), had apparently not yet been eliminated from the Pasadena school system, it is my view that the District Court did not abuse its discretion in refusing to dissolve a major part of its order.

In denying petitioners' motion for modification of the 1970 desegregation order, the District Court described a three-year pattern of opposition by a number of the members of the Board of Education to both the spirit and letter of the Pasadena Plan. It found that "the Pasadena Plan has not had the cooperation from the Board that permits a realistic measurement of its educational success or failure." 375 F. Supp., at 1308 (footnote omitted).

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Marshall

Circulated: JUN 25 19[illegible]

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75-164

Pasadena City Board of Education et al., Petitioners, *v.* Nancy Anne Spangler et al. | On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

[June —, 1976]

MR. JUSTICE MARSHALL, dissenting.

I cannot agree with the Court that the District Court's refusal to modify the "no majority of any minority" provision of its order was erroneous. Because at the time of the refusal "racial discrimination through official action," *Swann* v. *Board of Education,* 402 U. S. 1, 31, 32 (1971), had apparently not yet been eliminated from the Pasadena school system, it is my view that the District Court did not abuse its discretion in refusing to dissolve a major part of its order.

In denying petitioners' motion for modification of the 1970 desegregation order, the District Court described a three-year pattern of opposition by a number of the members of the Board of Education to both the spirit and letter of the Pasadena Plan. It found that "the Pasadena Plan has not had the cooperation from the Board that permits a realistic measurement of its educational success or failure." 375 F. Supp., at 1308 (footnote omitted). Moreover, the 1974 Board of Education submitted to the District Court an alternative to the Pasadena Plan, which, at least in the mind of one member of the Court of Appeals "would very likely result in rapid resegregation." 519 F. 2d., at 435. I agree with Judge Ely that "there is abundant evidence upon which the district judge, in the reasonable exercise of his discretion, could rightly determine that the 'danger' which

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 21, 1976

Re: No. 75-164 - Pasadena City Board v. Spangler

Dear Bill:

I am with you.

Sincerely,

Harry

Mr. Justice Rehnquist

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 4, 1976

No. 74-164 Pasadena City Bd. of Education v. Spangler

Dear Chief:

Bill Rehnquist's letter indicating that he could join an opinion vacating and remanding this case, prompts me to supplement - and possibly - clarify what I said at Conference.

My first vote was to reverse. In my view, the District Court erred in reaffirming in 1974 its 1970 injunctive order requiring "no majority of a minority" in any school. Thus, in affirming the 1974 action of the DC, I think CA 9 also erred.

If, however, an opinion for the Court is written that makes clear any order (e.g., the DC's 1974 order) requiring an annual "reshuffling" of students is invalid, I could join a vacating and remanding of CA 9's decision.

I agree with Bill that we need not consider (indeed, it is not before us) whether the 1970 order was valid at the time it was issued.

Although I could join an opinion along the foregoing lines, I might add a sentence or two to reaffirm my basic overall position as stated in Keyes.

Sincerely,

Lewis

The Chief Justice

CC: The Conference

LFP/gg

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 9, 1976

No. 75-164 Pasadena City Board of Education
v. Spangler

Dear Bill:

Please join me in your memorandum.

Sincerely,

Lewis

Mr. Justice Rehnquist

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 3, 1976

Re: No. 75-164, Pasadena City Board of Education v. Spangler

Dear Chief:

I passed my actual vote in this case at conference on Friday, although I attempted to discuss the issues which I thought were involved. I have now had an opportunity to think more about the matter, and to go back and read the opinions below.

I am of the view that when the board sought modification of the original desegregation order in 1974, it was entitled to obtain it to the extent of a declaration that the order could not require annual re-assignment of pupils solely by reason of demographic changes in the population of the school district. I am also of the opinion that since the board did not appeal from the original decree which contained the requirement of "no majority of any minority", and since it complied with that provision of the decree for at least one year, the question of whether that provision in the original decree was consistent with Swann is now moot. If, as of 1974, annual redistricting by reason of that provision was not required, there was no live issue as to whether it was properly required in the original decree.

I think the most accurate reflection of this view is a vote to vacate the judgment of the Court of Appeals and remand to it for further proceedings. The District Court denied any relief at all, as I understand it, and petitioner was certainly entitled to some relief. The Court

of Appeals, which filed three separate opinions, although observing in dicta that the District Court was probably wrong in some of its observations, affirmed the judgment of the District Court which had denied all relief.

It is conceivable that I could join an opinion affirming which was based on the views that I have expressed, but it doesn't seem to me that such a "bottom line" is nearly as consistent with those views as a vote to vacate and remand, which is my preference.

Sincerely,

The Chief Justice

cc: The Conference

P. 15, 18

WHR:DRAFT:6/4/76

No. 75-164

Pasadena City Board of Education, et al., Petitioners

v.

Nancy Anne Spangler, et al.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

Memorandum of MR. JUSTICE REHNQUIST.

In 1968, several students in the public schools of Pasadena, California, joined by their parents, instituted an action in the United States District Court for the Central District of California seeking injunctive relief from allegedly unconstitutional segregation of the high schools of the Pasadena Unified School District (PUSD). This action named as defendants the Pasadena City Board of Education, which operates the Pasadena Unified School District, and several of its officials. Before the defendants had filed an answer, the United States moved to intervene in the case pursuant to Title IX, Section 902, of the Civil Rights Act of 1964, 78 Stat. 266, 42 U.S.C. § 2000h-2. The District Court granted this motion. Later, however, the court granted defendant Board's motion to strike those portions of the United States' complaint in intervention which sought to include

7

cp. 1

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr.
Mr.

From: Mr.

Circulated:

Recirculated: JUN 10 1976

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75–164

Pasadena City Board of Education et al., Petitioners, *v.* Nancy Anne Spangler et al. | On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

[June —, 1976]

Memorandum of MR. JUSTICE REHNQUIST.

In 1968, several students in the public schools of Pasadena, Cal., joined by their parents, instituted an action in the United States District Court for the Central District of California seeking injunctive relief from allegedly unconstitutional segregation of the high schools of the Pasadena Unified School District (PUSD). This action named as defendants the Pasadena City Board of Education, which operates the Pasadena Unified School District, and several of its officials, Before the defendants had filed an answer, the United States moved to intervene in the case pursuant to Title IX, § 902, of the Civil Rights Act of 1964, 78 Stat. 266, 42 U. S. C. § 2000 h–2. The District Court granted this motion. Later, however, the court granted defendant Board's motion to strike those portions of the United States' complaint in intervention which sought to include in the case other areas of the Pasadena Public school system; the elementary schools, the junior high schools, and the special schools. This ruling was the subject of an interlocutory appeal, see 28 U. S. C. § 1292 (a)(1), to the Court of Appeals for the Ninth Circuit. That court reversed the District Court and ordered the United States' demand

HAB

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 25, 1976

MEMORANDUM TO THE CONFERENCE

Re: Holds for Pasadena Bd. of Educ. v. Spangler, No. 75-164

No. 75-1077, Bd. of Education of Chattanooga v. Mapp
No. 75-1564, Mapp v. Bd. of Education of Chattanooga

This class action lawsuit, involving the desegregation of the public schools of Chattanooga, Tennessee, has been in various stages of litigation since 1960. In 1971, the DC ruled that the Chattanooga Board of Education had failed to create a unitary system out of its previously de jure dual system. The court ordered development and submission of a plan for desegregating the Chattanooga schools. The court ordered implementation of the proposed plan, but gave only tentative interim approval to the portions governing attendance zoning for the four high schools pending further data on their capacity. The interim plan was intended to reduce the high degree of segregation then existing in these high schools to a ratio more nearly reflecting the overall racial balance of the school system. When this plan was put in operation, however, it did not achieve the indended result. Two of the high schools remained almost 99% black.

In 1973, the plaintiffs sought modification of the plan for the high schools on the ground that it had not achieved the desired racial balancing. The DC, however, rejected the request for modification. Instead it gave final approval to the high school zoning plan initially implemented in 1971. The District Court found that the