



South Dakota Legislative Research Council

Issue Memorandum 94-39

THE EDUCATION LAWSUIT: BEZDICHEK, ET AL. V. SOUTH DAKOTA

Introduction

On March 20, 1991, some schoolchildren, parents, and taxpayers from Brookings became the named plaintiffs in a lawsuit challenging the state's role in financing public education. That year, Superintendent Steve Doerr of Brookings and Mitchell's superintendent, John Christiansen, discussed the need to challenge the state aid to education formula. Since the action needed a direct connection to an aggrieved person, three members of the 1991 Brookings School Board, Tom Bezdichek, James Pickard, and Bob Burns, agreed to file the suit in their names. These three were joined by Bezdichek's and Pickard's school-age children. Bezdichek and Pickard were listed as parents, their children, as students, and Burns as a taxpayer. Joining these plaintiffs were the following twenty-eight school districts: Brookings, Roslyn, Wall, Arlington, Scotland, Britton, Wessington Springs, Elk Point, Alcester-Hudson, Lemmon, Miller, West Central, Hot Springs, Belle Fourche, Custer, Lennox, Vermillion, Lead-Deadwood, Brandon Valley, Spearfish, Huron, Mitchell, Aberdeen, Rapid City, Sioux Falls, Meade County, Bon Homme, and Newell. The plaintiffs were represented by Mark Meierhenry. The South Dakota Education Association and the National Education Association also joined the plaintiffs.

The defendants were the state of South Dakota, the Secretary of Education and

Cultural Affairs, Dr. John Bonaiuto, and the members of the State Board of Education in their official capacities. The defendants were represented by the South Dakota Attorney General's Office. The lead attorney for the defense was Chief Deputy Attorney General Larry Long. Nineteen school districts, represented by Robert Riter, Jr., and John Brown, joined the defendants as intervenors. The nineteen intervening school districts were: Bennett County, Bison, Eureka, Grant-Deuel, Haakon County, Jones County, Midland, Selby, Stanley County, Timber Lake, Groton, Ipswitch, Centerville, McLaughlin, Lyman County, Castlewood, Harding County, and Wagner.

The trial, which started on March 23, 1994, lasted thirty-one days. Circuit Judge Steve Zinter presided over the court trial in Hughes County Circuit Court in Pierre.

Plaintiffs' Claims

The plaintiffs argued that the school aid system does not meet the constitutionally guaranteed standard of uniform public education. They contended that a student receives unequal, nonuniform education depending on where the student is born and raised. The plaintiffs also contended that property taxes are not fair and uniform for school financing purposes.

Defendants' Contentions

The defendants argued that on a statewide basis, public education provides a reasonably equal educational opportunity. They contended that every child is taught by a qualified instructor and the system operates with uniform standards, regulations, and curricula. Moreover, each school district is unique and each school board makes its own decisions that affect funding. The formula is working properly; it is designed to give money to the districts with less property wealth.

Plaintiffs' Case and Witnesses

The plaintiffs called witnesses in three general categories to demonstrate that the system does not provide a general and uniform education for all children and that real property is not uniformly taxed for school purposes. First, the plaintiffs called state officials to establish the condition of the current system of education. The plaintiffs intended to show that property values, assessment practices, tax levies, and state aid are not uniform from one school district to another.

Second, the plaintiffs called several school superintendents from around the state to demonstrate nonuniformity by eliciting information on student-teacher ratios, teachers' salaries, technology such as computers used in the classroom, and the age and condition of school facilities. Many superintendents testified that their facilities and equipment were substandard. Under cross examination, each superintendent generally admitted that the students performed reasonably well on standardized tests. Also under cross examination, the superintendents admitted that their districts were not taxing at the maximum potential.

Third, the plaintiffs called expert witnesses whom they had hired for this lawsuit. Dr. Van Mueller testified on a "paired" study he conducted involving South Dakota schools. Dr. Mueller selected pairs of similar school districts to compare. He generally testified that some school districts had better facilities and course offerings than others. Dr. Richard Salmon and Dr. Kern Alexander, additional expert witnesses for the plaintiffs, provided numerous statistics that indicated that there is a difference in district spending per pupil and district wealth per pupil in South Dakota. Dr. Alexander stated his belief that more money should be poured into the formula to equalize education. Dr. Alexander testified that district wealth makes a difference in achievement scores and the overall quality of education received by students. However, when questioned by Judge Zinter, Dr. Alexander was unable to state at what point, or within what range, wealth makes a difference.

Defendants' Arguments and Witnesses

As indicated earlier, the defendants argued that South Dakota's students receive an adequate education because of uniform state regulations and mandates. The State Board of Education and the Department of Education and Cultural Affairs set standards and all school districts must meet those standards. To demonstrate that all students receive an adequate education, the defendants used the school district report cards, which show the level of achievement by South Dakota students on standardized tests.

Also, the defense claimed that each school district had the ability, through increased taxation or the passage of a bond issue, to remedy shortcomings in equipment, curriculum, or facilities. The defense also pointed out that the use of cooperatives has

allowed for expanded curricula in some small school districts. The defendants also pointed to a 1991 study which identified two problems with the formula, both of which have been remedied. The study found that there were low assessments of property values for tax purposes. New state laws have since forced counties to update and standardize their assessment practices. The second problem identified by that study was the hold harmless clause, which guaranteed that any changes by the Legislature would not cause a school district to receive less aid. The hold harmless clause has now been phased out. The defendants argued that these changes eliminated any disparities that existed.

The expert witnesses for the defendants were Dr. Craig Wood, Dr. Michael Miller, and Dr. David Thompson. The experts for the defendants testified that South Dakota's system achieves a high degree of overall uniformity and that the state aid formula has the effect of making the system more uniform.

Summary

The trial ended on May 13. At the outset of the trial, it was widely thought that the trial would be about the state aid to education formula. As it turned out, the state aid formula was the backdrop for evidence ranging from taxes to facilities to student achievement. A decision by Judge Zinter is expected sometime this fall. The findings of the court and its ruling will summarize the proceedings. During the trial it became evident that regardless of the outcome, the decision by Judge Zinter will be appealed to the State Supreme Court.

This issue memorandum was written by Dale Bertsch, Chief Analyst for Fiscal Research & Budget Analysis, and Jacquelyn Storm, Senior Legislative Attorney for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.
