SAN ANTONIO SCHOOL DISTRICT v. RODRIGUEZ (1973)

BACKGROUND

In the late 1960's and early 1970's, public schools in Texas received their operating funds from local, state, and federal sources. At the local level, school districts raised money through *property taxes*. The state then pitched in with additional funds to guarantee each child a "basic" education and, to a certain extent, reduce educational inequality across districts.

The system did not require complete equalization of dollars-per-pupil. In fact, significant disparities in the value of real estate resulted in (somewhat lesser) interdistrict disparities in per-pupil expenditures.

Example

			Per pupil			Per pupil
1967-68	Edgewood	Local	$26	Alamo Heights	Local	$333
		State	$222		State	$225
		Fed	$108		Fed	$36
		Total	$356		Total	$594

Mexican-American parents in the Edgewood school district sued the state, charging that the Texas School Finance System (TSFS) violates the Equal Protection Clause. In 1971, a three judge panel of the Federal District Court found for the parents, holding that (a) TSFS discriminates on the basis of wealth, (b) that wealth is a "suspect" classification, (c) that the right to an education is "fundamental", (d) that the proper standard of review is therefore Strict Scrutiny, and (e) that TSFS is not even a rational means of achieving any legitimate state interest (and hence cannot count as a necessary means of achieving any compelling state interest).

Texas appealed this decision to the US Supreme Court, and prevailed.

THE DECISION

In a 5-4 decision authored by Lewis Powell (and joined by Burger, Stewart, Blackmun, and Rehnquist), the Court found that

> wealth is not a suspect classification, and
> the right to an education is not fundamental

and therefore, that

the proper standard of review is the Rational Basis Test,

Moreover, the Court found that

Preserving local control is a legitimate state interest, and
TSFS is a rational means of preserving local control

and therefore, that

TSFS is constitutionally permissible under the Equal Protection Clause.

WHY WEALTH IS NOT A SUSPECT CLASSIFICATION

There are three possible ways of classifying the relevant disfavored class:

1. Persons who count as "poor" by some absolute standard (e.g., "poverty line")
2. Persons who are relatively poorer than others
3. Persons who reside in relatively poorer school districts.

A line of precedents suggests the general principle that poverty/wealth counts as a suspect classification only when the disfavored "poor" (a) "were completely unable to pay for some desired benefit" and (b) "as a consequence, they sustained an *absolute* deprivation of a meaningful opportunity to enjoy that benefit". [E.g., inability to pay for a lawyer, inability to pay for a court transcript, prison for those unable to pay fines, inability to get on the ballot for failure to pay a filing fee.]

1. Not all persons who fall below the poverty line live in "poor" school districts. So TSFS does not discriminate on the basis of *absolute personal wealth*. Moreover, living in a poor school district does not result in the *absolute* deprivation of the benefit of an education.

2. Leaving aside the poorest districts and the richest districts, there is an *inverse* correlation between the amount spent on education and median family income. That is, the higher the median family income, the less spent on education; and the lower the median family income, the more spent on education. So TSFS does not discriminate on the basis of *relative personal wealth*.

3. Although TSFS *does* discriminate on the basis of *relative school district wealth*, the class of disfavored persons is "large, diverse, and amorphous" and possesses none of the "traditional indicia of suspectness":

saddled with disabilities
subjected to a history of purposeful unequal treatment
relegated to a position of political powerlessness

WHY THE RIGHT TO AN EDUCATION IS NOT FUNDAMENTAL

Whether a right counts as fundamental does not depend on its "relative societal significance". For example, there is no fundamental right to "decent shelter" or to "welfare benefits". Whether a right counts as fundamental depends on whether it is "explicitly or implicitly guaranteed by the Constitution".

1. The right to an education is not *explicitly* guaranteed by the Constitution.

2. It may be that the right to a *basic* education is *implicitly* guaranteed by the Constitution, on the grounds that a basic education is a prerequisite for the meaningful exercise of other *explicitly* protected rights, such as the right to free speech and the right to vote. But TSFS *does* guarantee to all students a *basic* education. Furthermore, there is no *explicitly* guaranteed right to the *most effective* speech or to the *most informed* electoral choice. So there is no *implicitly* guaranteed right to the *best possible* education.

Since TSFS does not unfairly discriminate on grounds of wealth and violates no explicitly or implicitly protected Constitutional right, the proper standard for review is the Rational Basis Test, not Strict Scrutiny. In order to be constitutionally permissible, TSFS must bear a *rational* relation to a *legitimate* state purpose

APPLYING THE RATIONAL BASIS TEST: LOCAL CONTROL

It is widely accepted that local control is a "need that is strongly felt in our society". It is "not only vital to continued public support of the schools, but it is of overriding importance from an educational standpoint as well." Local control entails "the freedom to devote more money to the education of one's children", the ability "to tailor local programs to local needs", and the opportunity to experiment and innovate in the drive for educational excellence. So maintaining local control is clearly a *legitimate* state interest.

Although it is true that TSFS "does not provide the same level of local control and fiscal flexibility in all districts", the Rational Basis Test does not require the *least restrictive means* to the pursuit of some legitimate end. The Test merely requires that TSFS be *rationally related* to the achievement of local control. And here there is evidence to suggest that the relevant relation is rational. If the state steps in and equalizes per-pupil expenditures across districts, then it will have "increased control of the purse strings" of poorer districts, and this will arguably result in a *decrease* in effective local control in those districts. Inequality in per-pupil expenditures is therefore the inevitable result of devotion to a minimally acceptable level of local control in all school districts.

Thus, since TSFS bears a rational relation to a legitimate state purpose, it passes the Rational Basis Test, and is therefore constitutionally acceptable under the Equal Protection Clause.

WHITE'S DISSENT

White (joined by Douglas and Brennan) disputed Powell's contention that TSFS passes the Rational Basis Test. White accepted Powell's claim that preserving local control (in some sense) is a legitimate state interest, but he could find no *rational* relationship between TSFS and the "maximization of local initiative" (so understood):

> "[The State] utterly fails in achieving its purpose in districts with property tax bases so low that there is little if any opportunity for interested parents, rich or poor, to augment school district revenues."

White's point here is that local control is meaningless when there is little or no opportunity to exercise it. So the State's justification faces the following dilemma. Either it seeks to maximize *meaningless* local control, in which case the end is not legitimate, or it seeks to maximize *meaningful* local control, in which case the means in this case (namely, TSFS) are not rational. Either way, TSFS fails the Rational Basis Test.

White also disputed Powell's claim that it is difficult to identify the relevantly disfavored class. The class, wrote White, is constituted by "the parents and children in the Edgewood district" and, in general, "children and their parents who live in districts where the per-pupil tax base is sufficiently low to make impossible the provision of comparable school revenues by resort to the real property tax".

MARSHALL'S DISSENT

Marshall (joined by Douglas) agreed with White that it is not difficult to identify the relevantly disfavored class, namely the class of children in property-poor districts.

Marshall decried the majority's "rigidified approach to equal protection analysis," an approach that appeals to one of only two artificial tests (Rational Basis or Strict Scrutiny) to determine the constitutionality of state laws and policies under the Equal Protection Clause. He tried to establish that, in past cases, the Supreme Court "has applied a spectrum of standards" in this area. The proper standard in any Equal Protection case is determined by the interplay of two factors:

(a) the constitutional significance of the interests affected
(b) the invidiousness of the particular classification.

That is, the greater the constitutional significance of the interests affected and the greater the degree of invidiousness, the stricter the standard of review; and the lower the constitutional significance of the interests affected and the lower the degree of invidiousness, the more lenient the standard of review.

In this case, education counts as a "constitutionally significant" interest, inasmuch as it "directly affects the ability of a child to exercise his First Amendment rights, both as a source and as a receiver of information and ideas". Moreover, education "provides the tools necessary for political discourse and debate," and is therefore vital to the meaningful exercise of the constitutionally protected right to vote.

Moreover, the particular classification in this case is invidious, inasmuch as the basis of the classification is a characteristic (namely, the assessed value of real estate) over which the relevantly disfavored children (or their parents) have "no significant control". Moreover, there is little or no opportunity to change the basis of discrimination by legislative means, since the advantaged districts, which have a "strong vested interest in the preservation of the status quo," also have greater political clout.

Since the affected interest here (namely, education) is constitutionally significant, and the relevant discrimination is particularly invidious, it follows from Marshall's Equal Protection principle that the level of scrutiny required by this case is high (certainly higher than the Rational Basis Test, and perhaps just short of Strict Scrutiny).

Marshall then agreed with White that TSFS cannot even pass the Rational Basis Test. But he went further in suggesting, not merely that TSFS is not a rational means of maximizing meaningful local control, but also that Texas's appeal to local control "is offered primarily as an excuse rather than a justification for interdistrict inequality". Marshall pointed out that Texas regulates "the most minute details of local public education," from requiring courses and approving textbooks to establishing procedures for certifying teachers and legislating on the length of the school day. Moreover, said Marshall, if Texas were really interested in maximizing local control, there would be a greater correlation between quality of educational opportunity for schoolchildren and level of sacrifice on the part of property-owning parents in a district (as measured by the tax rate—notice that Edgewood's property tax rate is actually *higher* than the property tax rate in Alamo Heights). Marshall concluded that the appeal to the maximization of local control is not merely irrational: it's a "mere sham".

Marshall concluded that TSFS cannot survive the high level of scrutiny demanded in this case, and hence violates the Equal Protection Clause.

THE ARGUMENT FROM EQUALITY OF OPPORTUNITY

Implicit in some of Marshall's remarks is a different argument for holding TSFS unconstitutional under the *Due Process* Clause.

1. The right to equal educational opportunity is a fundamental right.

> "The right of every American to an equal start in life, so far as the provision of…education is concerned, is…vital."

2. TSFS infringes the right to equal educational opportunity by discriminating, in the allocation of educational funds, among children on the basis of the property tax base of the districts in which they live.

So, 3. TSFS infringes a fundamental right. [from 1, 2]

4. A state policy that infringes a fundamental right is constitutionally permissible under the Due Process Clause only when the policy passes the Strict Scrutiny Test, i.e., only when the policy is necessary to achieving a compelling state interest.

5. TSFS fails the Strict Scrutiny Test.

So, C. TSFS is constitutionally impermissible under the DP Clause. [from 3, 4, 5]

This argument bypasses the usual question that is raised in Equal Protection analysis, namely whether the relevant state policy engages in "suspect" classification. Instead, the argument focuses on fundamentality without committing one way or the other on the question of whether the right *to an education* is fundamental. The important question is whether the relevant state policy infringes the fundamental right *to equality of opportunity*.