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Edgewood Independent School
District, et al.
vs.
William Kirby, et al:
Statements and Findings

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HARLEY CLARK
DISTRICT JUDGE
280TH DISTRICT COURT

P.O. BOX 1748
COUNTY COURTHOUSE
AUSTIN, TEXAS 78767

April 29, 1987

EDGEWOOD INDEPENDENT SCHOOL DISTRICT, ET AL
VS.
WILLIAM KIRBY, ET AL

The Court's statement & findings regarding the fundamental right of our citizens to a state sponsored free public education.

They cannot vote yet; they are yet incompletely educated and quite inexperienced. Many are only beginning to learn to read and write. They are still wet and stand upon wobbly legs. They know not the way, so we must lead them. They know not how, so we must show them.

There are three million public school children in Texas.

The Texas Constitution guides the response our state government must make in regard to the education of these young citizens. In Article 7, section 1 it provides:

"A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the state to establish and make suitable provision for the support and maintenance of an efficient system of public free schools."

Our basic law also states, in Article 1, section 3:

"All free men, when they form a social compact, have equal rights...."

As well, by statute in the Texas Education Code, section 16.001, the Legislature has set policy regarding these matters:

"It is the policy of the State of Texas that the provision of public education is a state responsibility and that a thorough and efficient system be provided and substantially financed through state revenue sources so that each student enrolled in the public school system shall have access to programs and services that are appropriate to his or her educational needs and that are substantially equal to those available to any similar student, notwithstanding varying local economic factors."

I hold that under our state constitution education is a fundamental right for each of our citizens.

To expound a bit, by these edicts then the state is required to devise and continually sponsor a system of finance for our public schools that will give each school district the same ability as every other district to obtain, by state legislative appropriation or by local taxation or both, funds for educational expenditures including facilities and equipment. As a consequence, each student by and through his or her school district would have the same opportunity to educational funds as every other student in the state, limited only by discretion given local districts to set local tax rates. Equality of access to funds is the key and is one of the requirements of this fundamental right.

To test the current system against the requirements just mentioned I will make certain findings of fact. (This will not be an exhaustive list but will be illustrative only. A complete list will come later when the Court files findings of fact and conclusions of law.)

The findings are as follows:

1. Texas, in its creation and development of school district boundaries, did not follow any rational or articulated policy. Neither in their creation nor in their perpetuation has an effort been made to equalize local tax bases. There is no underlying rationale in the district boundaries of many school districts.
2. Historically, there has been a pattern of a wide variation of taxable property wealth per pupil among the state's school districts. These variations have consistently worked against the children attending low wealth districts by restricting the ability of these districts to raise funds from local sources.
3. By agreement of the parties, this case was tried using 1985-86 data as the determinative year.
4. The current Texas public education system is a State system which includes both state appropriations and revenues from local ad valorem taxes. The Texas system in 1985-86 was funded at approximately \$11,000,000,000.00, 42% of which was provided by the State and 49% of which was provided by local district taxes. The balance was furnished by other sources including the federal government. Of the total expenditures for public education in 1985-86 almost \$3,000,000,000.00 was expended by local districts from their local tax bases for enrichment over and above the state sponsored Foundation School Program. (PX 235, Walker and Kirby)

5. There are 1,063 districts in Texas. The wealthiest school district in Texas has over \$14,000,000.00 of taxable property wealth per student. The poorest district has approximately \$20,000.00 of taxable wealth per student. The 1,000,000 Texas public school students in the districts at the upper range of property wealth have more than 2½ times as much property wealth to support their schools as the 1,000,000 students in the bottom range of the districts; the 300,000 students in the lowest-wealth schools have less than 3% of the State property value to support their educational systems while the 300,000 students in the highest property wealth districts have almost 25% of the State's total property wealth. (Foster, Hooker, PX 102, PX 214, 215, 216)

6. The unequal opportunity to raise funds is exacerbated by the fact that the children with the greatest educational needs are heavily concentrated in the State's poorest districts, because there is a significantly higher percentage of families below the poverty level in low wealth districts than in high wealth districts.

7. In many instances wealthy and poor districts are to be found in the same county. As examples, North Forest, a black (90%) district in Harris County has \$67,630 of property value per student while the adjoining Houston I.S.D. has \$348,180; the largely Mexican-American (95%) Edgewood District has \$38,854 per student, Alamo Heights in the same county has \$570,109 per student; Wilmer-Hutchins, a predominantly black (82%) district in Dallas County, has \$97,681 per student while Carrollton-Farmers Branch has \$512,259 per student. (Foster, Hooker, Collins, PX 33, 210, 214)

8. If every district in the state were taxing the average of what all districts do in fact tax, the combined amounts of state aid and local tax revenue would vary widely across the wealth spectrum under the State's current funding formulas. The result would be:

a. State and local revenue available for the 150,000 students in the top range of wealth would be more than two times as much as state and local revenue available for the 150,000 students in the bottom range of wealth.

b. State and local revenue available for the 600,000 students in the top range of wealth would be more than one and one-half times as much as state and local revenue available for the 600,000 students in the bottom range of wealth. (Foster, PX 10)

9. Money spent on facilities in Texas public schools is raised exclusively from local school district tax money. The Texas finance formulas do not include the costs of facilities. (Kirby, Hooker, Foster, PX 235)

10. There is a direct positive relationship between the amount of property wealth per student in a district and the amount the district spends on education. Generally speaking, expenditures in a district are a function of property wealth in the district. (Hooker, Foster, Cardenas, Verstegan, PX 105, 107, 116, 214, 215, 216)

11. The 159 districts with market value of taxable property less than \$100,000 per student spent on average \$117.00 per student above the Foundation School Program while the 143 districts with taxable values of more than \$500,000 per student spent on average \$2,287.00 per student above the Foundation School Program. (Pl. Ex. 205)

12. The Foundation School Program does not cover the real cost of education and virtually all districts spend above the Foundation School Program to enrich the educational program and these expenditures are necessary to provide students an adequate educational opportunity.

13. The average tax rate in the State's 100 poorest districts is 74 cents contrasted with 47 cents in the 100 wealthiest; in those same districts the average expenditure per pupil in the poorest districts was \$2,978.00 as contrasted with \$7,233.00 in the 100 wealthiest. (PX 209, Hooker)

14. There are disparities in the levels of expenditures per pupil between wealthy and poor districts. The 200 school districts at the upper end of the wealth spectrum spent over twice as much per student in 1985-86 as the 200 districts at the lower end of the wealth spectrum, the 150,000 students at the upper end of school district wealth had more than twice as much spent on their education as the 150,000 students at the lower end of school district wealth, and the 600,000 students in the State's wealthiest school districts had 2/3 more spent on their education than the 600,000 students in the State's poorest districts. (P-IX 214, 215, 216, Hooker)

15. The State does not adjust Foundation School Program allotments to take into account mandated increases in the minimum salary schedule and the cost of expanding maximum class size mandates to higher grades; Foundation School Program allotments understate the true costs of meeting State requirements; and there are no State funds provided for facilities. In each instance this means that the necessary funds can only be raised through local property taxes, and the tax rates required to raise each \$100.00 of such funds vary widely across the wealth spectrum under the State's current funding formulas. (Pl. Ex. 108-A)

a. The average rate required for the 150,000 students in the bottom range of wealth is more than eighteen times as much as the average rate required for the 150,000 students in the top range of wealth.

b. The average rate required for the 300,000 students in the bottom range of wealth is more than eleven times as much as the average rate required for the 300,000 students in the top range of wealth.

c. The average rate required in the 100 districts in the bottom range of wealth is more than 20 times as much as the average rate required in the 100 districts in the top range of wealth.

d. The average rate required in the 200 districts in the bottom range of wealth is just under eight times as much as the average rate required in the 200 districts in the top range of wealth.

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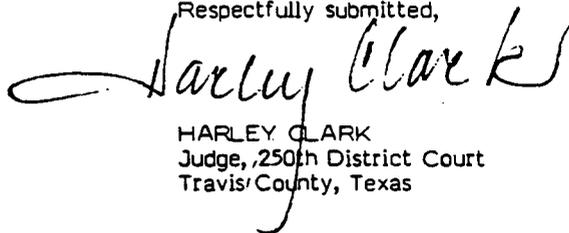
The Court does not detect in the evidence or the law a compelling reason or objective that would justify continuation of this discrimination.

It has been maintained by the state with evidence and argument that there is not a direct relation between educational expenditures and learning by students as reflected on academic tests such as the TEAMS tests used in this state. This Court, however, does not sit to resolve disputes over educational theory but to enforce our constitution. If one district has more access to funds than another district, the wealthier one will have the best ability to fulfill the needs of its students. The question of discrimination in educational quality must be deemed to be an objective one that looks to what the state provides its children and their school districts, not what the students or the districts are able to do with what they receive. (Mr. Justice Marshall's thoughts, Rodriguez, 93 S.Ct. 1278, 1322).

The facts I have recited and found indicate that our financial system, which includes the combination of state and local funds as they currently act in tandem, do not yet meet the requirements of our constitution.

With all due respects to history and to the legislature for its recent generous and thoughtful efforts to rectify this situation, by order of this Court the current system will be set aside.

Respectfully submitted,

A handwritten signature in cursive script that reads "Harley Clark". The signature is written in dark ink and is positioned above the typed name and title.

HARLEY CLARK
Judge, 250th District Court
Travis County, Texas

HC/bjv

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