

# DECISION SUMMARY

**PARENTS INVOLVED IN COMMUNITY SCHOOLS V. SEATTLE SCHOOL DISTRICT (“SEATTLE”)  
MEREDITH V. JEFFERSON COUNTY BOARD OF EDUCATION (“LOUISVILLE”)**



## **OPINION OF THE COURT (PARTS I, II, III-A, III-C) JUSTICES ROBERTS, SCALIA, THOMAS, and ALITO, JOINED BY JUSTICE KENNEDY**



**Standard of Review:** The appropriate standard of review to evaluate governmental use of individual racial classifications is strict scrutiny. (11-12)

### **Compelling Interest:**

- The compelling interest of remedying the effects of past intentional discrimination is not applicable to these plans. The harm being remedied by mandatory desegregation plans is the harm that is traceable to segregation, and the Constitution is not violated by “racial imbalance in the schools, without more.” (12)
- *Grutter* lives, but does not govern these cases. (16-17). The diversity interest in higher education recognized in *Grutter* differs from the “limited notion of racial diversity” asserted by the school districts. Here, race is not considered as part of a broader effort to achieve “exposure to widely diverse people, cultures, ideas, and viewpoints” and for some students is determinative alone. (13-15)



### **Narrow Tailoring:**

- Like the plan struck down in *Gratz*, the plans rely on racial classifications in a “nonindividualized, mechanical” way. (15)
- Race-Neutral Alternatives: “The districts failed to show that they considered methods other than explicit racial classifications to achieve their stated goals.” (27)
- “The minimal impact of the districts’ racial classifications on school enrollment casts doubt on the necessity of using racial classifications” (not that greater use of race would be preferable). (27)
- The “assignment of schoolchildren according to a binary conception of race... requires more than an amorphous end to justify it.” (27)



## **PLURALITY OPINION (PARTS III-B, IV) JUSTICES ROBERTS, SCALIA, THOMAS, and ALITO**



### **Racial Balancing:**

- “The racial classifications employed by the districts are not narrowly tailored to the goal of achieving the educational and social benefits asserted to flow racial diversity. The plans are directed only to racial balance, pure and simple, an objective this Court has repeatedly condemned as illegitimate.” (18)
- “Accepting racial balancing as a compelling state interest would justify the imposition of racial proportionality throughout American society” and “effectively assure that race will always be relevant in American life, and that the ultimate goal of eliminating [race] entirely from governmental decisionmaking... will never be achieved.” (22)



**Level of Diversity Needed:** The plans are not tied to any “pedagogic concept of the level of diversity necessary needed to obtain the asserted educational benefits.” (18) The districts present “no evidence that the level of racial diversity necessary to achieve educational benefits” coincided with the district’s racial demographics. (19)

**Local Control:** Deference to local school boards is “fundamentally at odds with our equal protection jurisprudence.” (37)



**Other Means to Promote Racial Diversity:** The plurality expresses no opinion, not even in dicta, on the validity of other means that do not utilize explicit racial classifications of individual students. (38)



**Brown v. Board of Education:** “It was not inequality of facilities but the legal separation of children on the basis of race that led the Court to find a constitutional violation in *Brown*.” (39) The schools’ use of race in assigning students is no different than what counsel in *Brown* sought to redress.

**Conclusion:** “The way to stop discrimination on the basis of race is to stop discriminating on the basis of race.” (41)



## **JUSTICE THOMAS, concurring**

Justice Thomas criticizes the dissent’s conception of a compelling interest (13-25) and advocates for a colorblind view of the Constitution (26-36).

- Racial imbalance is not segregation; segregation is the intentional separation of students on basis of race. (2)
- The government cannot make distinctions on the basis of race. (34) “What was wrong in 1954 cannot be right today.”(33)



### JUSTICE KENNEDY, concurring

**Compelling Interests:** “A compelling interest exists in avoiding racial isolation, an interest that a school district, in its discretion and experience, may choose to pursue. Likewise, a district may consider it a compelling interest to achieve a diverse student population.” (17-18)

**Narrow Tailoring:** Seattle/Louisville plans lack precision and do not articulate adequate justifications for their specific racial classifications; Louisville employs individual racial classifications in “broad and imprecise” terms and Seattle divides students into “blunt” racial categories, i.e. “white” and “non-white.” (4-7). “The schools could have achieved their stated ends through different means. (9-10).

**De Facto Segregation:** Cannot endorse the conclusion that “the Constitution requires school districts to ignore de facto segregation in schooling.” (7) The plurality’s suggestion that “the Constitution mandates that state and local school authorities must accept the status quo of racial isolation in schools is... profoundly mistaken.” (8)

**Race Matters:** “The enduring hope is that race should not matter; the reality is that too often it does.” (7) The plurality opinion implies “an all-too-unyielding insistence that race cannot be a factor in instances when, in my view, it may be taken into account” and is “too dismissive of the legitimate interest government has in ensuring all people have equal opportunity regardless of their race.” (7) In the real world, “colorblindness “cannot be a universal constitutional principle.” (8)

**Permissible Race-Conscious Measures:** Provides that race-conscious measures that do not treat students differently “solely on the basis of a systematic individual typing by race” are unlikely to warrant strict scrutiny. Schools can pursue diversity through race-conscious measures such as “strategic site selection of new schools; drawing attendance zones with general recognition of the demographics of neighborhoods; allocating resources for special programs; recruiting students and faculty in targeted fashion; and tracking enrollments, performance, and other statistics by race.” (8-9)

**Other Permissible Means:** School districts can also pursue diversity and/or avoid racial isolation through a “more nuanced, individual evaluation of school needs and student characteristics that might include race as a component.” (10)



### JUSTICE STEVENS, dissenting

Justice Stevens writes a separate dissenting opinion to emphasize that the plurality’s opinion does not comport with either the logic or spirit of *Brown*, and also asserted, “It is my firm conviction that no Member of the Court that I joined in 1975 would have agreed with today’s decision.” (6).



### JUSTICES BREYER, STEVENS, SOUTER, and GINSBURG, dissenting

**Level of Scrutiny:** Context should matter in the application of strict scrutiny. The test should be more lenient in cases where race is not being used to distribute scarce resources, stigmatize or exclude, impose unfair burdens, or keep the races apart. (34) The 14th Amendment intended to forbid practices that lead to racial exclusion. (28) In any case, the plans survive strict scrutiny because:



**Compelling Interest:** A compelling interest exists consisting of three elements: 1) historical and remedial—“an interest in setting right the consequences of prior conditions of segregation”; 2) educational—“an interest in overcoming the adverse educational effects produced by and associated with highly segregated schools”; 3) democratic—“an interest in producing an educational environment that reflects that ‘pluralistic society’ in which our children will live.” (37-40)



**Narrow Tailoring:** The plans are narrowly tailored because: 1) “the race-conscious criteria at issue only help set the outer bounds of broad ranges,” not quotas; 2) these limits on voluntary school choice plans are less burdensome than other race-conscious restrictions previously approved by the Court; 3) the plans represent the much-modified product of two communities’ lengthy experiences with desegregation; 4) the use of race-conscious elements is diminished compared with prior plans in those communities; and 5) there are no reasonably evident race-neutral alternatives. (45-55)



**De Facto/De Jure Segregation:** Courts have long accepted the legal principle that the “government may voluntarily adopt race-conscious measures to improve conditions of race even when it is not under a constitutional obligation to do so” (27)—the distinction between de jure and de facto segregation cannot be rationally drawn. (19-22)

**Consequences:** Plurality’s approach risks serious harm to the law and the Nation by undermining precedent (*What has happened to stare decisis?*), the longstanding respect for local decisionmaking, settled expectations, the Fourteenth Amendment and the Promise of *Brown*. (65-68)

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