

IN THE SUPREME COURT OF THE UNITED STATES

SWANN,)	SUPREME COURT
Petitioner)	CASE # 281
vs.)	(formerly # 1713)
)	
CHARLOTTE-MECKLENBURG)	
BOARD OF EDUCATION,)	

BRIEF OF AMICUS CURIAE
IN SUPPORT OF RESPONDENT

Comes now before this Court, Newton Collier Estes to file a brief in opposition to the Fourth Circuit Court's ordering busing of public school children to achieve arbitrary numerical racial balances in student bodies.

A. He states that his interest in this case is based on the belief that coercive busing would jeopardize his family's right to freely choose the activities they might wish to undertake in their pursuit of happiness.

1) He believes his right to choose what is best for his family may only be limited under our Constitution by the restriction that, in so doing, he does not deny anyone else what is rightfully his.

2) He wants to show the Court that he would become subject to taxation without representation if the elected officials in his locality should lose the authority to spend school tax monies according to the desires of the electorate.

3) He believes that he has the God-ordered duty to make decisions calculated to enhance his children's health, safety and happiness. He believes coercive busing would be tantamount to forcing him to delegate this duty to others, who could not be held responsible for the deterioration or loss of these fundamental goals of human endeavor.

4) He wants to show the Court that coercive busing would alienate the general public from its interest and support of public education. This circumstance would certainly lower the quality of education in this area, and quite probably would reduce school budgets to such an extent, that for many children there would be no nearby school open for classes.

B. He wishes to present logical argument showing Supreme Court ordered busing would nullify these basic tenets of our Constitution and Declaration of Independence.

. That the people are to be ruled only with their consent.

. That all powers not delegated by the Constitution to the federal government are reserved to the states and to the people.

. That a basic function of government is to act to insure domestic tranquility.

. That a basic function of government is to act to secure the blessings of liberty to its citizens.

. That the federal government's actions are to be motivated by the expressed desires of its citizens.

. That laws should be enacted without regard to race, color or creed.

. That the fundamental purpose of our Constitutional system is for the government to be controlled by the people - never that it should exercise tyranny over the people.

1) He states that no body of local citizens would benefit or be served by coercive busing, because there is no evidence that large numbers of parents of school children have joined into efforts to request this of local governments.

2) He suggests that the impetus for coercive busing arises from two sources.

a) The disappointment among those groups who were instrumental in the outlawing of de jure segregation and in the enactment of public accommodation legislation that the new opportunities to integrate have not been seized upon by those who were restrained by law from doing so in the past.

b) That Supreme Court rulings calling for "unitary" school systems, without further definition, has given some legal standing for actions designed to force citizens to do that which it was assumed they themselves would freely choose to do, but which, for reasons of their own, it has now become apparent they do not wish to do.

3) He states that a ruling requiring coercive busing would say, in effect, that local laws permitting students to attend their nearest school, or to transfer to a better one, are un-constitutional because they permit people to do what they wish, rather than forcing them to do what their federal government says they should wish to do.

4) He states that a ruling requiring coercive busing would in effect be judicial legislation in direct conflict with recently enacted laws at both the state and federal levels. Such action undertaken against the expressed will of the people would represent an act of tyranny by government over the people.

5) He suggests that the Court should reject those reasons given by the advocates of coercive busing because they are based on a proposition which, if accepted by the Court, would suggest to the American Negro citizen that his own government sees him as inferior to other races.

This comes when you accept that it is a deprivation for Negroes to associate primarily with Negroes. The same cannot also be said in a straightforward manner about whites in an effort to lessen the stigma; because the achievement of Western Civilization refutes it.

The acceptance of such arguments will place a heavy burden upon the Negro in his climb toward self-esteem.

6) He suggests a ruling requiring coercive busing would reinstate the condition prior to the 1954 Brown decision, because it would require school boards to exclude a student from attending his nearby school because of his race.

How much worse for this to be done by the federal government against the will of the majority - than by the states acting in accord with the Tenth Amendment and with the consent of the governed!

C. He suggests that the Court is now in a position to re-enunciate the principles upon which this country was founded. In so doing, it will relieve the great fear that ours may be the first generation recorded in the history of the United States which received freedom as its heritage, but failed to preserve it and pass it on to the next.

It can do so by premising its ruling on these fundamentals of freedom.

1) Our Constitution was instituted for the expressed purpose of guaranteeing that citizens would be ruled only with their consent.

2) That to legislate against the desires of most citizens constitutes tyranny which Americans would be rightful to oppose.

3) That the pursuit of happiness is deeply rooted in the right of an individual to freely choose the kind of neighborhood in which the fruits of his labor would allow him to live and send his children to school.

4) To deny American citizens these freedoms is to lose the right to require their allegiance.

A ruling which would accomplish these ends should state that the Constitution does not require coerced busing of students to achieve racial balance. It not only does not require it, but unless the affected people request it, the Constitutional idea of governing people only with their consent actually prohibits any branch of the federal government from requiring coercive school busing.

These Premises considered, I, Newton Collier Estes pray that this brief be accepted by the Court, and that I be permitted to argue this brief before the Court.

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