The Supreme Court of South Carolina

Abbeville County School District, et al., Appellants-Respondents,

v.

The State of South Carolina, et al., of whom Hugh K. Leatherman, Sr., as President Pro Tempore of the Senate and as a representative of the South Carolina Senate and James H. Lucas, as Speaker of the House of Representatives and as a representative of the South Carolina House of Representatives are, Respondents-Appellants,

and

State of South Carolina, Nikki R. Haley, as Governor of the State of South Carolina, are, Respondents.

Appellate Case No. 2007-065159

ORDER

On November 12, 2014, a majority of this Court found that the State of South Carolina, Governor Nikki R. Haley, President Pro Tempore Hugh K. Leatherman, Sr., and the South Carolina Senate, and Speaker Pro Tempore James H. Lucas and the South Carolina House of Representatives (collectively, the Defendants) violated their constitutional duty to ensure that the students of South Carolina receive a minimally adequate education. *Abbeville County School District v. State* (*Abbeville II*), 410 S.C. 619, 624, 767 S.E.2d 157, 159 (2014). [1] Moreover, the

[1] Specifically, the Court found that the Defendants had enacted what appeared to be a robust educational scheme; however, despite the Defendants' good intentions, the Record demonstrated that the statutory scheme resulted in abysmal student and school district performance. *Abbeville II*, 410 S.C. at 633–42, 767 S.E.2d 164–69.

Court stated that the Plaintiff Districts were partially responsible for their own problems, at times prioritizing popular programs such as student athletics above the academic environment. *Id.* at 660, 767 S.E.2d at 178. Therefore, the Court noted that "the Plaintiff Districts must work in concert with the Defendants to chart a path forward which appropriately prioritizes student learning," rather than placing sole blame on the Defendants. *Id.* at 660, 767 S.E.2d at 178–79.

To ensure the parties' compliance, the Court ordered "both the Plaintiff Districts and the Defendants to reappear before this Court within a reasonable time . . . and present a plan to address the constitutional violation announced today, with special emphasis on the statutory and administrative pieces necessary to aid the myriad troubles facing these districts at both the state and local levels." *Id.* at 661, 767 S.E.2d at 179. Until that time, the Court retained jurisdiction of the case. *Id.*

Following the Court's ruling, Speaker Pro Tempore Lucas formed the House Education Policy Review and Reform Task Force (the House Task Force). The House Task Force has conducted public hearings and is developing remedies addressing the findings of the Court. Similarly, President Pro Tempore Leatherman formed the Senate Finance Special Subcommittee for Response to the *Abbeville* Case (the Senate Special Subcommittee), which is in the process of developing remedies addressing the Court's findings. The Plaintiff Districts also formed a committee of education experts and others following the ruling to

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The Court noted that the evidence at trial demonstrated that insufficient transportation, poor teacher quality, high teacher turnover, local legislation, school district size, and poverty all potentially contributed to the problems facing the Plaintiff Districts. *Id.* at 642–50, 654–55, 767 S.E.2d at 169–73, 175–76.

The Court recognized that the "principle of separation of powers directs that the legislature, not the judiciary, is the proper institution to make major educational policy choices." *Id.* at 655–56, 767 S.E.2d at 176. Thus, the Court "charged [the Defendants] with identifying the issues preventing the State's current efforts from providing the requisite constitutional opportunity," ordering them "to take a broader look at the principal causes for the [poor student and district performance] beyond mere funding." *Id.* at 653, 660, 767 S.E.2d at 175, 178. To that end, the Court stated that it would likely be necessary to hold "lengthy and difficult discussions regarding the wisdom of continuing to enact multiple statutes which have no demonstrated effect on educational problems, or attempting to address deficiencies through underfunded and structurally impaired programming." *Id.* at 660, 767 S.E.2d at 178.

develop remedies addressing the Court's findings. The Plaintiff Districts reduced their proposed remedies to writing and presented them to the House Task Force and the Senate Special Subcommittee.

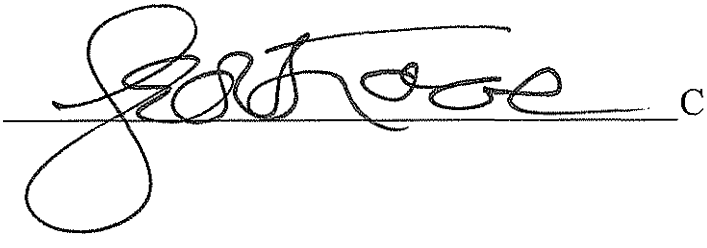
On June 18, 2015, the Plaintiff Districts filed a motion for entry of a supplemental order proposing a detailed framework and requesting the Court establish a more concrete timeline for addressing the constitutional violations announced by the Court in *Abbeville II*. We grant the Plaintiff Districts' motion as amended and order as follows:

1. Within one week of the conclusion of the 2016 legislative session, the Defendants will submit a written summary to the Court detailing their efforts to implement a constitutionally compliant education system, including all proposed, pending, or enacted legislation. This summary is intended to keep the Court informed, in a formal manner, of the Defendants' progress toward remedying the constitutional violations announced in *Abbeville II*— including alarmingly-low student and school district performance, insufficient transportation, poor teacher quality, high teacher turnover, local legislation, school district size, and poverty. We are mindful that staffing and other critical needs may require time to fully implement any proposed or adopted plan. Accordingly, the Defendants should advise as to an expected timeline for implementation of its proposed plan.

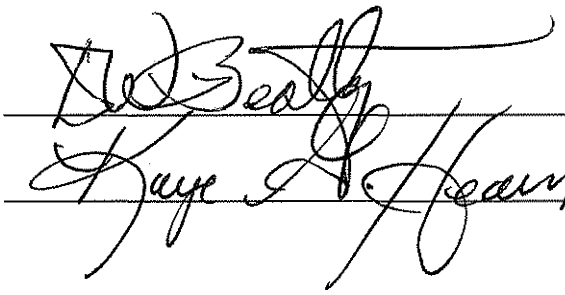
2. The Court will conduct a review of the Defendants' efforts to implement a constitutionally-compliant education system. As the Court assesses whether the efforts seem designed to provide a remedy for the constitutional defects identified in *Abbeville II*, it will give due consideration to the General Assembly's prerogative to choose the methodology by which the constitutional violation shall be remedied.

3. The Court will issue an order after conducting its review of the summary analyzing whether the Defendants' efforts are a rational means of bringing the system of public education in South Carolina into constitutional compliance, and whether or not the Court's continued maintenance of jurisdiction is necessary.

IT IS SO ORDERED.



C.J.



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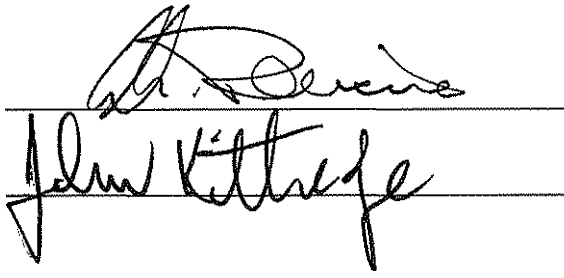
JUSTICE KITTREDGE: I adhere to my dissenting opinion and view that this Court has egregiously violated fundamental separation of powers principles by involving itself in a matter that lies exclusively in the Legislative Branch. While I would join the majority in vacating its September 24, 2015 order, I certainly would not replace it with a version that ostensibly violates separation of powers *less*. The principle of separation of powers demands complete adherence and countenances not the slightest transgression. I would deny the motion of the Plaintiff Districts.



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J.

Columbia, South Carolina

November 5, 2015

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