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Today's News

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Supreme Court Leaves Affirmative-Action Precedents Intact in Striking Down School-Integration Plans

By PETER SCHMIDT

Washington

The U.S. Supreme Court struck down two voluntary school-integration plans in a 5-to-4 decision issued this morning. But rather than reconsidering its past rulings on college affirmative action -- as some conservative advocates had requested and some lawyers for colleges had feared -- the court left those decisions solidly intact and cited them in striking down school-assignment policies based solely on race.

"The way to stop discrimination on the basis of race is to stop discriminating on the basis of race," Chief Justice John G. Roberts Jr. said in writing for the court's majority.

The two cases joined together in the decision issued today were *Meredith v. Jefferson County Board of Education,* involving public schools in Louisville, Ky., and its suburbs, and *Parents Involved in Community Schools v. Seattle School District No. 1.* The cases differed from past disputes over race-based student-assignment policies brought before the Supreme Court in that neither of the two districts named in the complaints was under court order to desegregate its schools. Because the policies at issue were adopted voluntarily, they were subject to a higher level of judicial scrutiny than court-ordered desegregation.

One of the key issues before the court was whether the policies at issue should be thought of as "affirmative action" and governed by the same legal principles and precedents as race-conscious college-admissions policies.

The court's last major rulings on race-conscious admissions were two 2003 decisions involving the University of Michigan at Ann Arbor. In one of the cases, *Grutter v. Bollinger,* the court narrowly upheld the consideration of race by the university's law school, based on its conclusions that promoting racial diversity on campuses serves a compelling government interest and that the law school treated applicants as individuals and did not give their race or ethnicity too much weight. In the companion case, *Gratz v. Bollinger,* the court struck down a point-based admissions formula used by Michigan's chief undergraduate school because it automatically treated students differently based on their race.

In today's decision, the court majority held that the school-integration policies at issue went well beyond the limits on affirmative action established in the *Grutter* and *Gratz* decisions because race was the sole factor considered by the schools in student assignment. In its *Grutter* and *Gratz* rulings, the court had held that race could be only one of several factors that colleges could take into consideration in admissions decisions. Even in regards to race, the school-assignment plans at issue had only a limited concept of diversity, classifying students as white or "nonwhite" in the case of Seattle and black or "other" in the case of Jefferson County.

In a dissent in which he was joined by the rest of the court's minority, Justice Stephen G. Breyer said the majority's opinion disregarded past Supreme Court precedents allowing voluntary integration plans that allowed race-based student assignments and holding that not all government use of racial classifications

should be treated in the same way.

The majority's opinion "reverses course and reaches the wrong conclusion," Justice Breyer wrote. "In doing so, it distorts precedent, it misapplies the relevant constitutional principles, it announces legal rules that will obstruct efforts by the state and local governments to deal effectively with the growing resegregation of public schools, it threatens to substitute for present calm a disruptive round of race-related litigation, and it undermines [*Brown v. Board of Education*'s] promise of integrated primary and secondary education that local communities have sought to make a reality."

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Justices Limit Use of Race in Placement of Students

By THE ASSOCIATED PRESS

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WASHINGTON (AP) -- The Supreme Court on Thursday rejected diversity plans in two major school districts that take race into account in assigning students but left the door open for using race in limited circumstances.

The decision in cases affecting schools in Louisville, Ky., and Seattle could imperil similar plans in hundreds of districts nationwide, and it further restricts how public school systems may attain racial diversity.

The court split, 5-4, with Chief Justice John Roberts announcing the court's judgment. The court's four liberal justices dissented.

The districts ''failed to show that they considered methods other than explicit racial classifications to achieve their stated goals,'' Roberts said.

Yet Justice Anthony Kennedy would not go as far as the other four conservative justices, saying in a concurring opinion that race may be a component of school plans designed to achieve diversity.

To the extent that Roberts' opinion could be interpreted to foreclose the use of race in any circumstance, Kennedy said, ''I disagree with that reasoning.''

He agreed with Roberts that the plans in Louisville and Seattle violated constitutional guarantees of equal protection.

Justice Stephen Breyer, in a dissent joined by the other liberals on the court, said Roberts' opinion undermined the promise of integrated schools that the court laid out 53 years ago in its landmark decision in Brown v. Board of Education.

''To invalidate the plans under review is to threaten the promise of Brown,'' Breyer said.

The two school systems in Thursday's decisions employ slightly different methods of taking students' race into account when determining which school they will attend.

Federal appeals courts had upheld both plans after some parents sued. The Bush administration took the parents' side, arguing that racial diversity is a noble goal but can be sought only through race-neutral means.

Louisville's schools spent 25 years under a court order to eliminate the effects of state-sponsored segregation. After a federal judge freed the Jefferson County, Ky., school board, which encompasses Louisville, from his supervision, the board decided to keep much of the court-ordered plan in place to prevent schools from re-segregating.

The lawyer for the Louisville system called the plan a success story that enjoys broad community support, including among parents of white and black students.

Attorney Teddy Gordon, who argued that the Louisville system's plan was discriminatory, said, ''Clearly, we need better race-neutral alternatives. Instead of spending zillions of dollars around the country to place a black child next to a white child, let's reduce class size. All the schools are equal. We will no longer accept that an African-American majority within a school is unacceptable.''

Louisville Mayor Jerry Abramson said he was disappointed with the ruling because Louisville's system had provided ''a quality education for all

students and broken down racial barriers'' for 30 years.

He said he was confident school leaders effective new guidelines.

The Seattle school district said it used race as one among many factors, relied on it only in some instances and then only at the end of a lengthy process in allocating students among the city's high schools. Seattle suspended its program after parents sued.

The opinion was the first on the divisive issue since 2003, when a 5-4 ruling upheld the limited consideration of race in college admissions to attain a diverse student body. Since then, Justice Sandra Day O'Connor, who approved of the limited use of race, retired. Her replacement, Justice Samuel Alito was in the majority that struck down the school system plans in Kentucky and Washington.

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