

CONSTITUTIONAL ISSUES IN SCHOOL DISTRICT DIVISION

Legislative Analysis Division
North Carolina General Assembly

NOTE ON TERMINOLOGY

As used in this presentation:

- School District Division – when an entire school district is restructured as multiple school systems
- School District Secession – when a school district breaks away from a larger system
 - Most examples around the country relate to secession, so that term is used most frequently in this presentation

CONSTITUTIONAL ISSUES IN SCHOOL DISTRICT DIVISION

- Since 2000, at least 71 communities in 21 states have attempted to secede from a larger school system—47 have been successful
- When looking at how or why districts have seceded, the primary constitutional issue relates to the Equal Protection Clause and segregation
- When looking at who decides whether the district will secede, other issues are raised, but that is beyond the scope of this presentation

STOUT V. JEFFERSON COUNTY BOARD OF EDUCATION (2018)

- 11th Circuit Court of Appeals recently reversed a trial court decision that would have allowed the city of Gardendale, AL to secede from Jefferson County Schools and create its own school system
- Trial court found that while there was evidence of a racially discriminatory motive for seceding, Gardendale could nonetheless form its own school system
- 11th Circuit affirmed the finding of racial discrimination, but reversed the decision regarding the remedy, stating that the district could not be allowed to secede

NOTE OF CAUTION

- This case is from the 11th Circuit, while North Carolina is governed by the 4th Circuit
- This case involves a district under a desegregation order, but none of the large districts in NC are currently under desegregation orders
- AL has a statutory mechanism for districts to secede on their own, but NC does not
- Any constitutional law case is highly fact specific

STOUT V. JEFFERSON COUNTY BOARD OF EDUCATION - FACTS

- Jefferson County Schools (JCS) is still under a desegregation order
- Several districts have seceded from JCS, which is explicitly authorized under AL law, causing shifting demographics
- In 2000, the student population in JCS was about 75% white and 23% black; by 2015, approximately 43% white and 47% black
- Approximately 88% of Gardendale is white, and less than 9% is black
- Schools in Gardendale were much more diverse, because students were bussed in from other areas

STOUT V. JEFFERSON COUNTY BOARD OF EDUCATION - FACTS, CONT.

- Campaign started to create municipal school system for Gardendale
- Public Facebook page titled “Gardendale City Schools” was created and administered by four individuals who eventually held leadership positions in the municipal school system
- Campaign leaders posted comments expressing concern about the changing demographics of Gardendale schools
- Leaders argued for greater control over their children’s education, improved academic quality of the schools, and control of its own revenue stream
- Leaders argued that students who lived outside of Gardendale were consuming resources without contributing financially

STOUT V. JEFFERSON COUNTY BOARD OF EDUCATION - FACTS, CONT.

- Leaders lamented Center Point, which was once predominantly white, and is now predominantly black
- Gardendale City Council voted to create its own school system in 2014

Which path will Gardendale choose?



Places that chose NOT to form and support their own school system:

- ✓ Adamsville/Forestdale
- ✓ Hueytown
- ✓ Pleasant Grove
- ✓ Center Point/Huffman

Communities that chose to form and support their own school system, and are listed as some of the best places to live in the country:

- ✓ Homewood
- ✓ Hoover
- ✓ Vestavia
- ✓ Trussville

On which list will you place Gardendale?

Flyer distributed by FOCUS Gardendale

**WAS THE PURPOSE OF SECESSION
DISCRIMINATORY?**
RELEVANT SUPREME COURT CASE LAW

- *Hunter v. Underwood* (1985)
 - A discriminatory purpose exists if “racial discrimination was a substantial or motivating factor behind enactment of the law”
- *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.* (1977)
 - Courts may consider circumstantial and direct evidence of discriminatory intent, including:
 - Racial impact of the official action
 - Historical background of the decision
 - Specific sequence of events leading up to the challenged decision
 - Procedural or substantive departures from the normal sequence
 - Legislative or administrative history

**WAS THE PURPOSE OF SECESSION
DISCRIMINATORY?, CONT.**
RELEVANT SUPREME COURT CASE LAW

- *Washington v. Seattle School Dist. No. 1* (1982)
 - Upheld use of statements made by citizen sponsors and proponents as evidence that a voter initiative was motivated by a discriminatory purpose
- *City of Cuyahoga Falls v. Buckeye Community Hope Foundation* (2003)
 - Statements made by decision makers or referendum sponsors during deliberation over a referendum may constitute relevant evidence of discriminatory intent in a challenge to an ultimately enacted initiative

**WOULD THE SECESSION IMPEDE
DESEGREGATION EFFORTS?**
RELEVANT SUPREME COURT CASE LAW

- *Wright v. Council of the City of Emporia (1972)*
- New school district may not be created where its effect would be to impede an existing desegregation order. Factors to determine impediment include:
 - Potential change in racial composition of the city and county schools
 - Ease of identifying the predominant race of the resulting school systems by reference to the racial composition of teachers and staff, the quality of school buildings and equipment, or the organization of sports activities
 - Message the secession would send to black schoolchildren

**STOUT V. JEFFERSON COUNTY BOARD OF
EDUCATION - 11TH CIRCUIT DECISION**

- Was the purpose of secession discriminatory?
 - Yes — 11th Circuit upheld trial court's finding that Gardendale Board violated equal protection clause because race was a motivating factor in Gardendale's decision to separate from JCS
 - Court relied on comments of the group's leaders in interviews and on Facebook, as well as promotional materials
 - Additionally, the court looked at the increased segregation that would occur
- Would the secession impede desegregation efforts?
 - Yes — 11th Circuit upheld trial court's finding that Gardendale did not meet its burden of showing that its separation would not impede JCS's effort to achieve unitary status

STOUT V. JEFFERSON COUNTY BOARD OF EDUCATION - 11TH CIRCUIT DECISION, CONT.

- However, 11th Circuit found that the trial court abused its discretion by coming up with its own plan for secession
- Request to secede should have been denied for two different reasons:
 - (1) Gardendale was found to have attempted to secede for a racially discriminatory purpose
 - (2) Gardendale had to show they would not have a negative effect on desegregation efforts, and they did not make that showing
- Either finding is enough to require the secession to be denied

TAKEAWAYS FOR NC

- Desegregation orders matter – without one, a legal challenge would have to show discriminatory intent
- Comments by government actors matter – even before they are government actors
- Discriminatory effect matters as evidence of discriminatory intent – but not likely to be sufficient without direct evidence