

[J-155-00 a-c][M.O. - Flaherty, C.J.]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

HARRISBURG SCHOOL DISTRICT; : No. 78 M.D. Appeal Dkt. 2000
HARRISBURG SCHOOL BOARD; :
JOSEPH C. BROWN; LINDA M. : Appeal from the Order of the
CAMMACK; JUDITH C. HILLI; WANDA R. : Commonwealth Court entered on 6/30/00
D. WILLIAMS, INDIVIDUALLY, AND AS : at No. 266 MD 2000
PARENT AND NATURAL GUARDIAN OF :
RAUWSHAN WILLIAMS; RICARDO A. :
DAVIS, INDIVIDUALLY, AND AS :
PARENT AND NATURAL GUARDIAN OF :
JEREMIAH STEPHENSON AND :
TIFFANY DAVIS; CLARICE CHAMBERS; :
JOY FORD, INDIVIDUALLY, AND AS :
PARENT AND NATURAL GUARDIAN OF :
CASEL J. FORD; SUSAN WILSON, :
INDIVIDUALLY, AND AS PARENT AND :
NATURAL GUARDIAN OF BRANDI :
WILSON AND SAMANTHA WILSON; :
GRACE BRYANT, INDIVIDUALLY, AND :
AS PARENT AND NATURAL GUARDIAN :
OF COREY BRYANT; GLENISE COBB- :
WINGFIELD, INDIVIDUALLY, AND AS :
PARENT AND NATURAL GUARDIAN OF :
JHONATHA WINGFIELD AND ASIA :
WINGFIELD :

v. :

EUGENE HICKOK, SECRETARY OF :
EDUCATION, COMMONWEALTH OF :
PENNSYLVANIA; STEPHEN R. REED, :
MAYOR OF HARRISBURG; TOM RIDGE, :
GOVERNOR OF PENNSYLVANIA; :
JANE/JOHN DOE I, JANE/JOHN DOE II, :
JANE/JOHN DOE III, JANE/JOHN DOE :
IV, JANE/JOHN DOE V, POTENTIAL :
MEMBERS OF THE BOARD OF :
CONTROL FOR THE HARRISBURG :
SCHOOL DISTRICT; SENATOR :
ROBERT C. JUBELIRER, PRESIDENT :

PRO TEMPORE OF THE SENATE OF :
THE COMMONWEALTH OF :
PENNSYLVANIA AND MATTHEW J. :
RYAN, SPEAKER OF THE HOUSE OF :
REPRESENTATIVES OF THE :
COMMONWEALTH OF PENNSYLVANIA, :
INTERVENORS :

APPEAL OF: GOVERNOR TOM RIDGE :
AND SECRETARY OF THE :
PENNSYLVANIA DEPARTMENT OF :
EDUCATION EUGENE HICKOK :

HARRISBURG SCHOOL DISTRICT; :
HARRISBURG SCHOOL BOARD; :
JOSEPH C. BROWN; LINDA M. :
CAMMACK; JUDITH C. HILLI; WANDA R. :
D. WILLIAMS, INDIVIDUALLY, AND AS :
PARENT AND NATURAL GUARDIAN OF :
RAUWSHAN WILLIAMS; RICARDO A. :
DAVIS, INDIVIDUALLY, AND AS :
PARENT AND NATURAL GUARDIAN OF :
JEREMIAH STEPHENSON AND :
TIFFANY DAVIS; CLARICE CHAMBERS; :
JOY FORD, INDIVIDUALLY, AND AS :
PARENT AND NATURAL GUARDIAN OF :
CASEL J. FORD; SUSAN WILSON, :
INDIVIDUALLY, AND AS PARENT AND :
NATURAL GUARDIAN OF BRANDI :
WILSON AND SAMANTHA WILSON; :
GRACE BRYANT, INDIVIDUALLY, AND :
AS PARENT AND NATURAL GUARDIAN :
OF COREY BRYANT; GLENISE COBB- :
WINGFIELD, INDIVIDUALLY, AND AS :
PARENT AND NATURAL GUARDIAN OF :
JHONATHA WINGFIELD AND ASIA :
WINGFIELD :

No. 79 M.D. Appeal Dkt. 2000

Appeal from the Order of the
Commonwealth Court entered on 6/30/00
at No. 266 MD 2000

v. :

EUGENE HICKOK, SECRETARY OF :
EDUCATION, COMMONWEALTH OF :
PENNSYLVANIA; STEPHEN R. REED, :

MAYOR OF HARRISBURG; TOM RIDGE, :
GOVERNOR OF PENNSYLVANIA; :
JANE/JOHN DOE I, JANE/JOHN DOE II, :
JANE/JOHN DOE III, JANE/JOHN DOE :
IV, JANE/JOHN DOE V, POTENTIAL :
MEMBERS OF THE BOARD OF :
CONTROL FOR THE HARRISBURG :
SCHOOL DISTRICT; SENATOR :
ROBERT C. JUBELIRER, PRESIDENT :
PRO TEMPORE OF THE SENATE OF :
THE COMMONWEALTH OF :
PENNSYLVANIA AND MATTHEW J. :
RYAN, SPEAKER OF THE HOUSE OF :
REPRESENTATIVES OF THE :
COMMONWEALTH OF PENNSYLVANIA, :
INTERVENORS :

APPEAL OF: SENATOR ROBERT C. :
JUBELIRER, PRESIDENT PRO :
TEMPORE OF THE SENATE OF THE :
COMMONWEALTH OF PENNSYLVANIA :
AND MATTHEW J. RYAN, SPEAKER OF :
THE HOUSE OF REPRESENTATIVES :
OF THE COMMONWEALTH OF :
PENNSYLVANIA, INTERVENORS :

HARRISBURG SCHOOL DISTRICT; :
HARRISBURG SCHOOL BOARD; :
JOSEPH C. BROWN; LINDA M. :
CAMMACK; JUDITH C. HILLI; WANDA R. :
D. WILLIAMS, INDIVIDUALLY, AND AS :
PARENT AND NATURAL GUARDIAN OF :
RAUWSHAN WILLIAMS; RICARDO A. :
DAVIS, INDIVIDUALLY, AND AS :
PARENT AND NATURAL GUARDIAN OF :
JEREMIAH STEPHENSON AND :
TIFFANY DAVIS; CLARICE CHAMBERS; :
JOY FORD, INDIVIDUALLY, AND AS :
PARENT AND NATURAL GUARDIAN OF :
CASEL J. FORD; SUSAN WILSON, :
INDIVIDUALLY, AND AS PARENT AND :
NATURAL GUARDIAN OF BRANDI :
WILSON AND SAMANTHA WILSON; :

No. 80 M.D. Appeal Dkt. 2000
Appeal from the Order of the
Commonwealth Court entered on 6/30/00
at No. 266 MD 2000

GRACE BRYANT, INDIVIDUALLY, AND :
AS PARENT AND NATURAL GUARDIAN :
OF COREY BRYANT; GLENISE COBB- :
WINGFIELD, INDIVIDUALLY, AND AS :
PARENT AND NATURAL GUARDIAN OF :
JHONATHA WINGFIELD AND ASIA :
WINGFIELD :

v. :

EUGENE HICKOK, SECRETARY OF :
EDUCATION, COMMONWEALTH OF :
PENNSYLVANIA; STEPHEN R. REED, :
MAYOR OF HARRISBURG; TOM RIDGE, :
GOVERNOR OF PENNSYLVANIA; :
JANE/JOHN DOE I, JANE/JOHN DOE II, :
JANE/JOHN DOE III, JANE/JOHN DOE :
IV, JANE/JOHN DOE V, POTENTIAL :
MEMBERS OF THE BOARD OF :
CONTROL FOR THE HARRISBURG :
SCHOOL DISTRICT; SENATOR :
ROBERT C. JUBELIRER, PRESIDENT :
PRO TEMPORE OF THE SENATE OF :
THE COMMONWEALTH OF :
PENNSYLVANIA AND MATTHEW J. :
RYAN, SPEAKER OF THE HOUSE OF :
REPRESENTATIVES OF THE :
COMMONWEALTH OF PENNSYLVANIA, :
INTERVENORS :

APPEAL OF: STEPHEN R. REED, :
MAYOR OF HARRISBURG, AND :
JANE/JOHN DOE, I, JANE/JOHN DOE, II, :
JANE/JOHN DOE, III, JANE/JOHN DOE, :
IV, JANE/JOHN DOE, V, POTENTIAL :
MEMBERS OF THE BOARD OF :
CONTROL FOR THE HARRISBURG :
SCHOOL DISTRICT

ARGUED: September 12, 2000

CONCURRING AND DISSENTING OPINION

MR. JUSTICE SAYLOR

DECIDED: November 27, 2000

I join the majority in holding that, on the record presented, the Commonwealth Court properly granted preliminary injunctive relief restraining effectuation of the Reed Amendment to the Education Empowerment Act. I write, however, to emphasize that the applicability of Article III, Section 32's proscription against special legislation should be determined according to the purpose of the constitutional provision, namely, the cessation of favoritism conferred for reasons unconnected to the general public interest. See generally In re Clark's Estate, 195 Pa. 520, 526, 46 A. 127, 129 (1900)(stating that "[w]here no legislative effort to evade the restrictions [of a constitutional prohibition against special legislation] appears, the courts will look beyond the mere form of the act, and examine its true intent and effect, in light of the purpose of the constitutional restriction"). In this regard, to the extent that the primary purpose and effect of the Reed Amendment is to establish a special, "seat-of-government" school system, the legislation is constitutionally infirm for the reasons stated by the majority. See also Harrisburg School Dist. v. Hickok, No. 266 M.D. 2000, slip op. at 17 (Pa. Cmwlth. June 30, 2000)(Pellegrini, J.)(indicating that such argument "treats the education of students of Harrisburg as more 'special' than that of other students in the Commonwealth, which is simply not true; all students are equally 'special' no matter whether they live in the state capital or not").

Nevertheless, the record also provides a basis for concluding that the General Assembly's action in passing the Reed Amendment was motivated by a goal grounded firmly in the interests of the general citizenry, namely, the repair of a profoundly troubled school system. Although the "seat of government" rubric employed by the Legislature

burdens the statute with an indicium of potential invalidity,¹ I would not at this juncture foreclose Appellants from demonstrating that there are objective, performance-based factors which would distinguish the Harrisburg school district from other districts in the Commonwealth demonstrating a poor record of performance, thus providing a rational basis for unique classification and treatment pursuant to the Act. In this regard, I disagree with the majority and the Commonwealth Court that this Court's precedent absolutely forecloses the employment by the Legislature of a fixed class of one to accomplish a permissible, rationally-based objective devoid of aspects of favoritism and special privilege. I also differ with the majority in its characterization that the Commonwealth Court held that the Reed Amendment is unconstitutional -- while the Commonwealth Court employed strong language, I read its holding as confined to the determination of Appellees' likelihood of success on the merits as it related to their entitlement to preliminary injunctive relief.

Accordingly, although I would affirm the grant of a preliminary injunction based upon the record of the limited proceedings generated for that purpose, I would presently refrain from determining the ultimate merits of the constitutional question pending before the Commonwealth Court.

¹ This effect would appear to be a perverse one, since Appellants' arguments suggest that this framework may have been employed precisely to avoid categorization as special legislation.