

SUPREME COURT OF NEW JERSEY

Abbott v. Burke, 196 N.J. 544

960 A.2d 360 (2008) · No. M-969/1372, September Term 2007 · Decided November 18, 2008

SUMMARY

The Supreme Court of New Jersey considered motions concerning the constitutionality of the School Funding Reform Act of 2008 as applied to pupils in Abbott districts and whether prior remedial orders remained necessary. The court held that the issues could not be resolved on an undeveloped record and remanded the matter for further proceedings. The opinion discusses New Jersey’s constitutional thorough-and-efficient-education requirement and the history of the Abbott school-funding litigation.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Per curiam; Chief Justice Rabner; Justice Long; Justice LaVecchia; Justice Albin; Justice Wallace; Justice Rivera-Soto; Justice Hoens
JURISDICTION	New Jersey
DECIDED	November 18, 2008
DOCKET	M-969/1372, September Term 2007
DISPOSITION	remanded
PROCEDURAL POSTURE	The State moved for declarations that the School Funding Reform Act of 2008 satisfied the New Jersey Constitution's thorough-and-efficient-education requirement and that prior Abbott remedial orders were no longer necessary. Plaintiffs cross-moved to preserve the status quo and maintain those orders. The Supreme Court considered the applications in the existing Abbott litigation.
STANDARD OF REVIEW	The Court could not resolve the constitutionality of SFRA on summary review of conflicting affidavits; a plenary evidentiary record, including live testimony and cross-examination, was required. The State bore the burden of proving that SFRA was constitutionally adequate as applied to Abbott districts.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of New Jersey; precedential.
PARTIES	Fred G. Burke, Commissioner of Education, Edward G. Hofgesang, New Jersey Director of Budget and Accounting, Clifford A. Goldman, New Jersey State Treasurer, New Jersey State Board of Education v.

Raymond Arthur Abbott, a minor, by his Guardian Ad Litem, Frances Abbott, Arlene Figueroa, Frances Figueroa, Hector Figueroa, Orlando Figueroa and Vivian Figueroa, minors, by their Guardian Ad Litem, Blanca Figueroa, Michael Hadley, a minor, by his Guardian Ad Litem, Lola Moore, Henry Stevens, Jr., a minor, by his Guardian Ad Litem, Henry Stevens, Sr., Caroline James and Jermaine James, minors, by their Guardian Ad Litem, Mattie James, Dorian Waiters and Khudayja Waiters, minors, by their Guardian Ad Litem, Lynn Waiters, Christina Knowles, Daniel Knowles and Guy Knowles, Jr., minors, by their Guardian Ad Litem, Guy Knowles, Sr., Liana Diaz, a minor, by her Guardian Ad Litem, Lucila Diaz, Aisha Hargrove and Zakia Hargrove, minors, by their Guardian Ad Litem, Patricia Watson, Lamar Stephens and Leslie Stephens, minors, by their Guardian Ad Litem, Eddie Stephens

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QUESTIONS PRESENTED

1. Whether the prior Abbott decisions and remedial orders categorically barred the Legislature and Executive from adopting an alternative school-funding formula.
2. Whether the Supreme Court could determine on the existing affidavit record that SFRA was constitutional as applied to Abbott-district students.
3. Whether the State was entitled to immediate relief from the prior Abbott remedial orders and whether those orders should remain in effect during further proceedings.
4. Whether current-year funding at 102 percent of the prior year's funding level was presumptively sufficient, subject to rebuttal by an Abbott district.

HOLDINGS

1. The prior Abbott decisions and remedial orders did not preclude the Legislature and Executive from developing and adopting an alternative funding approach, provided the State demonstrates that the approach is equitable and constitutionally adequate for Abbott-district students.
2. The Court could not determine on the existing record whether SFRA provided Abbott districts with sufficient resources to deliver a thorough and efficient education.
3. The State bears the burden of proving that SFRA provides sufficient resources to enable Abbott districts, including their at-risk students, to deliver a thorough and efficient education as defined by the Core Curriculum Content Standards.

4. The prior Abbott decisions and remedial orders remained in effect during the remand and until the Court approved an alternative funding program.
5. Funding an Abbott district at 102 percent of its prior-year funding level was presumptively sufficient for the current year, but an Abbott district could attempt to rebut that presumption by showing that it could not provide a thorough and efficient education with that funding.

KEY QUOTATIONS

“We begin our consideration of the applications before us by declaring that another funding approach may prove constitutionally satisfactory.” (196 N.J. at 372)

“The question is not suited to summary disposition. We have, therefore, determined to remand the matter for the development of an evidential record.” (196 N.J. at 372-73)

“Because our prior decisions and orders shall remain in effect during the pendency of the remand and until the Court approves an alternative funding program for the Abbott districts, we require maintenance of funding to the Abbott districts consistent with those standards.” (196 N.J. at 373)

FACTUAL BACKGROUND

New Jersey had long provided court-ordered funding and educational remedies to school districts with high concentrations of poor and at-risk students. In 2008, the Legislature enacted SFRA, a statewide funding formula designed to fund the resources necessary to meet the State's Core Curriculum Content Standards, including adjustments for at-risk, limited-English-proficient, and special-education students. The State claimed that SFRA could replace the existing Abbott parity and supplemental-program remedies, while plaintiffs disputed whether the formula adequately addressed Abbott districts' distinctive needs.

PROCEDURAL HISTORY

The Abbott litigation began in 1981 as a constitutional challenge to New Jersey's school-funding system. Earlier decisions invalidated deficient funding schemes and imposed parity and supplemental-program remedies for Abbott districts. After enactment of SFRA, the State sought immediate judicial approval of the new formula and relief from the prior remedies; the Supreme Court held that the disputed factual issues could not be resolved on affidavits and remanded for a plenary evidentiary hearing before a special master.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The matter was remanded to Superior Court Judge Peter E. Doyne, sitting as special master, for an expedited plenary hearing and development of a full evidentiary record. The State must prove that SFRA provides sufficient resources for Abbott districts to deliver a thorough and efficient education. Plaintiffs and amici bear the burden on factual claims concerning current-year funding inadequacy. The special master was directed to permit qualifying Abbott-district amicus participation, limit examination and cross-examination to counsel for

the State and plaintiffs, and file findings and conclusions within sixty days after the hearings. Jurisdiction was retained.

CASES CITED

- Robinson v. Cahill, 62 N.J. 473, 303 A.2d 273 (1973)
- Robinson v. Cahill, 70 N.J. 464, 360 A.2d 400 (1976)
- Abbott v. Burke, 100 N.J. 269, 495 A.2d 376 (1985)
- Abbott v. Burke, 119 N.J. 287, 575 A.2d 359 (1990)
- Abbott v. Burke, 136 N.J. 444, 643 A.2d 575 (1994)
- Abbott v. Burke, 149 N.J. 145, 693 A.2d 417 (1997)
- Abbott v. Burke, 153 N.J. 480, 710 A.2d 450 (1998)
- Abbott v. Burke, 177 N.J. 578, 832 A.2d 891 (2003)
- State v. Trump Hotels & Casino Resorts, 160 N.J. 505, 734 A.2d 1160 (1999)
- N.J. Ass'n on Correction v. Lan, 80 N.J. 199, 403 A.2d 437 (1979)
- Campbell County Sch. Dist. v. State, 907 P.2d 1238 (Wyo. 1995)

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