

Judge Seitz's favorable opinion in *Belton v. Gebhart*

Taken from the Master's Thesis of Liza R. Rognas

Judge Seitz's favorable opinion gave the NAACP Legal Defense Fund its first real victory in the school desegregation cases. After a thorough examination of the testimony on each side, and literally moving the court to the schools in question, he determined that the quality of education provided the black plaintiffs did not equal that of white students. Because the "colored" institutions were vastly inferior to white institutions, Seitz ordered that the plaintiffs be admitted to the schools from which they had previously been excluded. Unlike the federal court judges, Seitz rejected the defense's offer to equalize the schools in exchange for maintaining segregation.¹ Instead, he ordered an immediate remedy, integration, and encouraged the Supreme Court to reject *Plessy* and its separate-but-equal doctrine. In effect, Seitz stood *Plessy* on its head, even though his decision had no bearing outside Delaware. His decision determined that the schools were unequal and that he would not tolerate student separation based on race. This argument was first used by the NAACP under its Margold plan several years before.² "If this be a harsh test," Seitz wrote, "then I answer that a State which divides its citizens should pay the price."³

Seitz's approach to segregation in Delaware was clean and confident. He revealed how segregation enjoyed an element of protection in Delaware. Even legal remedies were difficult to reach in the courts because the school district in which the "colored" schools operated was not under the formal jurisdiction of the state school board. Only white schools functioned under school board supervision and regulation. "Colored" schools in Delaware had no direct link to county or state agencies, so no agency bore direct responsibility for maintaining the school. The legal vehicles enforcing Delaware's school segregation relied on a loose system of inter-agency cooperation, not upon contractual agreements with the state school board. Thus, enforcement of segregation in Delaware conveniently fell between legal cracks even though it existed under the umbrella of federal law, specifically *Plessy*, and under state statutes. School districts, for example, refused to bus black students to segregated schools, and they refused ridership on "white" buses that passed "colored" schools enroute to other destinations.⁴ Seitz quickly condemned this practice, stating that the district's excuse: "there are not enough Negroes to warrant the cost of a school bus," was unacceptable and that it was just "another way of saying they are not entitled to equal services because they are Negroes."⁵

Seitz's opinion provided rich ground for appeals to the Supreme Court, for he relied on expert witnesses whose testimony added integrity to the growing body of "intangible" evidence admitted by the courts. *Belton v. Gebhart* underscored the NAACP's assertion that segregation violated the Fourteenth Amendment because equality could not be ensured to the segregated party. Of course, Judge Seitz's acceptance of this idea did not enjoy approval by the State of Delaware, even though his decision was upheld when the defense appealed to the Delaware Supreme Court. When the case was finally appealed to the Supreme Court on *writ of certiorari*, *Belton v. Gebhart* became the only school segregation case brought by the defendants, not the plaintiffs, to the High Court.⁶

¹ *Belton v. Gebhart*, Opinion, 10-12, and 14.

² The second tier of the Margold plan as carried out by Charles Houston and Thurgood Marshall included an attack on segregation's constitutionality. Seitz's decision at the state-level embodied the exact response Houston and Marshall were looking for in the federal courts. See Kluger, *Simple Justice*, 446.

³ *Belton v. Gebhart*, Opinion, 9.

⁴ Some letters to plaintiffs from school district superintendent Miller refuse bus service to plaintiffs. See appendices to Initial Complaints in both cases for letters to this effect.

⁵ *Belton v. Gebhart*, Opinion, 14.

⁶ The name of the case changed to *Gebhart v. Belton*, when the former defendants appealed the case to the Supreme Court. See Greenberg, *Crusaders in the Courts*, 157.

Liza R. Rognas is a librarian and historian at The Evergreen State College Library in Olympia, Washington.