The State Of South Carolina

For State Supreme Court

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S.C. SUPREME COURT

Fifthteenth Judicial Circuit

Court Of Common Pleas

Kristi L. Harrington, Circuit Judge

Keion Griffin

Petitioner

v.

The State Of South Carolina

Respondent

2015-000024

The equal Protection clause of the Fourteenth amendment forbids discrimination except where the state can show that the racial classification is Precisely tailored to serve a compelling Governmental interest. See. Plyler v. Doe, 457 U.S. 202, 217 (1982). In United States v. Armstrong, the Supreme Court recognized that allegations of selective Prosecution based on race clearly the Genus of the challenge Petitioner Presents here - must be evaluated in light of ordinary "equal Protection standards" United States v. Armstrong, 514 U.S. 456 (1996); See also Wayte v. United States, 470 U.S. 598, 608 (1985); Hunter v. Underwood, 471 U.S. 222, 232 (1985). Thus there is no reason to believe that Prosecutorial decisions to seek the waiver of Jurisdiction are exempt from the dictates of the equal Protection clause, or that Proof of racial discrimination in such decisions is subject to Peculiar rules.

Under established equal Protection Principles, a non-white child is not required to Prove discriminatory intent by direct evidence. Rather, "invidious discriminatory Purpose may often be inferred from the totality of relevant facts...", Village of Arlington Heights v. Metropolitan Housing Corporation, 429 U.S. 252, 266 (1976); See also, Washington v. Davis, 426 U.S. 229, 242 (1976) Rogers v. Lodge, 458 U.S. 613, 618 (1982), and the appropriate analysis demands a "sensitive inquiry into such circumstantial and direct evidence of intent as may be available" Arlington Heights, 429 U.S. at 266. Sensitive inquiry is necessary both because race-based discrimination is rarely announced Publicly and because those responsible for key decisions may have more "subtle, less consciously held racial attitudes". See, Turner v. Murray, 476 U.S. 28, 31 (1986)

In Arlington Heights, the Supreme Court Provided Guidance concerning the Proof of covert forms of intentional discrimination. Its list of factors may constitute Prima facie evidence of racially discriminatory intent includes, but is limited to "the impact of the official action" "the historical background

background of the decision particularly if it reveals a series of official actions taken for invidious purposes" "departures from the normal procedural sequence." "substantive departures .... especially if the factors usually considered important by the decision maker strongly favor a decision contrary to the one reached" and "contemporary statements by members of the decision-making body" Arlington Heights, id at 266-268. Hunter, id at 232 (Arlington Heights supplies the proper analysis for selective prosecution claims).

In this case, strong evidence of several of these factors supports the inference that the solicitor's office is influenced by race in its determination to proceed with this prosecution.

Whether or not invidious intent exists must be evaluated based on the totality of the circumstances and the factors set out in Arlington Heights. A review of the totality of the circumstances and the Arlington factors here demonstrates that the legal standard is met.

A. Impact of the official action

The impact of the official action taken by Horry County Solicitors office is obvious. Only non-white children are subjected to having their cases tried as adults. This conclusion is inescapable considering that in the last twenty years no white child has had a waiver hearing and in the same time period many non-white children have been subjected to those proceedings. The impact alone is circumstantial evidence of discriminatory intent.

B. Historical Background Of Horry County Solicitors Office

Historical background of Richland/Horry County offices establishes a prima facie case that non-white citizens are treated differently from white citizens. This is not only seen in the aforementioned facts that only non-whites are subjected to waiver hearings and that Horry County in the last 18 years has only served death notice on non-white

defendants, but is also seen in the manner in which the Horry County Solicitor office uses Preemptory strikes in Jury trials.

An in deeth analysis of the solicitors office in Horry county use of Preemptory strikes in Jury trials of capital and non-capital cases since 1990 reveals a striking Pattern of official actions which reveal discriminatory intent. Looking at the available data for 27 homicides during this time frame Horry County solicitors excercised 103 total strikes. Of those 103 Strikes, this circuit solicitors office struck 75 African American Potential Jurors and 28 White Potential Jurors. The Percentage of African American defendants struck equals 72.8% of the strikes actually used.

The statistics regarding the excercise of Preemptory strikes in capital cases reveal an even more stark Pattern of discriminatory intent. In capital cases the Horry County Solicitor excercised 84.2% of its strikes actually used against African American Jurors. from a total of 19 strikes actually used during Petitioner trial, the solicitor used 16 strikes against African American Jurors and only 3 against white Jurors. This comes out to 82.4% of all strikes available being used to exclude African American Jurors from being seated on these capital trials.

Historical background viewed through Prism of these statistics yields the inescapable conclusion that the Government in Horry County has engaged in a Pattern of official actions taken for invidious Purposes. Not only has the solicitors office sought to waive Jurisdiction only for non-white children, but also has served death notice on non-white defendants and in the excercise of their Preemptory Jury strikes disproportionately strikes non-white Jurors.

C. Departure From The Normal Procedure.

As stated Above, Petitioner is not aware of any other Prosecutors office which regularly Pursues waiver of Juveniles, without allowing

family court to excercise its authority while Petitioner was already in the custody of Juvenile authorities via Probation. Under applicable law the authorities of DJJ should have been informed upon arrest, but based on statement of solicitor during sentencing it was not done.

The solicitor is not family court and under separation of Powers the solicitor violated and encroached on authority of court when they sua sponte waived family court authority. Shows that this office has exclusively used these most severe Penalties against non-white children only. This alone constitutes a severe departure from the Procedure established by legislature.

Conclusion

The very insidious nature of institutional racism has created a reality in Horry County that non-whites and whites are treated different. With the clear evidence that the law is applied differently to whites and non-whites an equal Protection clause analysis is warranted. The Equal Protection Clause is violated by the actions of the Horry County solicitors office, as no valid reason can be Given to the invidious actions.

Date: ____ day of ________________, 20____.

Respectfully Submitted:

s/

Keion Griffin / Pro Se