08-294 SPEAKER OF THE AZ HOUSE V. FLORES

DECISION BELOW:516 F.3d 1140

LOWER COURT CASE NUMBER: 07-15603, 07-15605

QUESTIONS PRESENTED:
In 2000, a federal district court held that Arizona violated the Equal Educational Opportunity Act ("EEOA") because it was not adequately funding programs for teaching English to students. Since then, Arizona has implemented enormous funding increases and complied with the comprehensive federal requirements for English-language instruction under the No Child Left Behind Act ("NLCB"). The district court has nonetheless refused to modify its eight-year-old injunction, imposing multi-million dollar penalties on the State until the Arizona Legislature further (and substantially) increases funding. Applying a standard that conflicts with decisions of this Court and the other courts of appeals, the Ninth Circuit affirmed, holding that Petitioners were not entitled to relief because (i) the named defendants support the injunction, and (ii) the injunction's "basic premises" have not been "swept away."

The questions presented are:

1. Whether a federal-court injunction seeking to compel institutional reform should be modified in the public interest when the original judgment could not have been issued on the state of facts and law that now exist, even if the named defendants support the injunction.

2. Whether compliance with NCLB's extensive requirements for English-language instruction is sufficient to satisfy the EEOA's mandate that States take "appropriate action" to overcome language barriers impeding students' access to equal educational opportunities.

CERT. GRANTED 1/9/2009

CONSOLIDATED WITH 08-298 FOR ONE HOUR ORAL ARGUMENT.
EXPEDITED BRIEFING SCHEDULE.