

87-2084 AND 86-214 timely/cross petitions. RJR Join 3

Jett v. Dallas Independent School District and vice versa
Cert to CA 5 (Gee, Randall, Garwood).

Jett, who is white, was a coach and Todd, the principal is black. They didn't get along, had policy differences over the football team (they take their football seriously in Dallas!!), and eventually Jett was transferred to a non-coach job. Because he didn't get a new coaching job he quit. The decision to transfer was made by Wright, who is white. Jett told Wright that he thought Todd's motives were racial, that Todd wanted a black coach. Wright, however had a policy of always "going with the principal" in principal-teacher disputes. Jett won before the jury on both §1983 and §1981 claims. CA 5 (in an initial opinion and an opinion on rehearing reversed). Both parties petition this Court and raise multiple issues.

(1) The first issue is strong case for a grant. The 5th Circuit imported the Monell official policy or custom requirement from §1983 onto §1981, thereby making all §1981 claims against municipalities very difficult to prove. The holding will seriously impact on any racial discrimination claims made against municipalities in the fifth circuit. The remaining questions are whether the Court should grant on only this issue or also take the other issues raised by petr and cross-petr. I will state my own opinion up front---I think the Court is likely to to a better job if the issues in this case are limited.

(2) The second issue is one which was left open in Monell. Wright, who had been delegated non-reviewable authority has a policy of always supporting the principal. Whether a policy of conscious indifference meets the demands of Monell was left open in City of Springfield. This issue is also certworthy.

(3) Jett also raises two other issues which he says he "reserves the right" to argue before this Court. I have no idea what he means by a "right" to argue issues before this Court should the Court grant cert on other issues. In any event, these other issues are fact-bound and narrow. The Court, if it grants cert, should limit the issues to the two discussed above.

LIMITED GRANT

mt

September 16, 1988

S.L.23, p.93

Response for 88-214
adds nothing. Still
Limited Grant
on 87-2084