



## Will the NC Supreme Court Deliver a Knockout Punch to NC's Children?

By Dr. Jonathan Sher

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In the immortal words of heavyweight champion, Mike Tyson: Everyone has a plan 'til they get punched in the mouth!

Is the State of North Carolina's long-awaited 'Leandro Comprehensive Remedial Plan' – a landmark educational promise made to all children -- about to get punched in the mouth?

[On February 22], the NC Supreme Court reheard a challenge to this historic state-wide Plan, which was hammered out by all the parties involved in 2020 after 26 years of litigation. That 'final' Leandro Plan is now – well after the fact – being challenged by the Republican leaders of the NC General Assembly.

The leaders previously tried in 2021-22 to KO Leandro in the NC Supreme Court, using the same arguments they rehashed last week. They decisively lost in November of 2022. The plaintiff children, young people and their parents momentarily celebrated, for good reason. They believed this lawsuit had finally been settled after three decades of long trials, massive evidence gathering, detailed planning and good faith negotiations.

The facts, figures and fundamentals all remain the same. So, what changed? Normally, there are no 'do overs' by the NC Supreme Court – just as a game between the Tarheels and Wolfpack is never replayed because the losing team refuses to accept their defeat.

But a rightward shift in who's sitting on the high bench after the 2022 elections apparently was too tempting to allow something as old-fashioned as precedent to get in the way of them getting their way. Allowing last week's 'do-over' may be the first signal that the new majority of Republican Justices seem poised to reverse the earlier victory won by young North Carolinians. If so, it would deliver a hard right hook to their learning and life chances.

The second bad sign came when the Court's majority ruled that Justice Phil Berger Jr. did not have to recuse himself from this case . . . even though it had been brought by his daddy, Senate Majority Leader Phil Berger Sr. It smells bad and tarnishes the public credibility of the NC Supreme Court. Such hubris was not even politically necessary. Without Junior, this Court still has a 4 to 2 'conservative' Republican majority.

The third indicator of the Republican Justice's predilections was evident at the hearing itself. Two of the Justices remained completely silent, asking no questions, and exploring none of the implications for NC's children or for its schools, economy or society. Yet, there are inevitable negative consequences if the Leandro plan is further delayed or 'disappeared'.

The hearing was as low-key and low energy as if the case was about a boundary dispute in one county, rather than the future of the state's education, economic and judicial systems. You can see it all for yourself here: [Supreme Court of North Carolina - 425A21-3 Hoke County Board of Education, et al. v State of NC](https://www.youtube.com/watch?v=425A21-3) (youtube.com)

Did their silence signal that a decision to deliver a knockout punch to Leandro – and thus, to NC's 1.5 million public schoolchildren - is a foregone conclusion? Was listening to the far right legislators' appeal nothing more than going through the motions?

Two newer and more vocal Republican Justices – perhaps fearing being publicly shamed as mean and uncaring, if/when they vote against Leandro – repeatedly asserted that the best interest of children was their paramount concern. One Justice wondered whether other, as yet unnamed parents and students in other NC districts might somehow want to be heard first -- ignoring the reality that from 1994 until today, the Leandro litigation was widely reported in news media across the State. Any parents who truly wanted to join the lawsuit have had decades worth of prior chances to do so.

Another Republican Justice expressed surprise and mock alarm that none of the original students who filed the case were still enrolled in the school systems that brought this lawsuit. Sounds relevant - until recalling that the case has been under siege for 30 years! The children who were original plaintiffs in 1994 are now nearly middle-aged, never having received even one day of a constitutionally 'guaranteed'

education. ***Would his logic extend to declaring the NC Constitution null and void because its authors are long deceased?***

The facts are clear: throughout Leandro's decades-long history, it has been proven over and over again that hundreds of thousands of other children throughout the state (including within Republican constituencies) – have been seriously harmed by the appalling underinvestment in their schooling, including widespread lack of properly certified teachers and other key resources.

For example, at last Thursday's hearing, the plaintiffs' lawyer revealed that in 2024 in Hoke County, one of the school districts most heavily examined since 2000, 114 of the full-time classroom teachers are still not certified. More surprising is that in the county of one of the Republican leaders, there are 115 uncertified teachers. Because of the on-going failure to seriously implement Leandro, right now 69% of North Carolina's 3rd through 8th graders cannot even pass a state standardized reading test. As this lawyer pointed out: "That is 480,049 children". They are essentially still illiterate for their age and stage of schooling.

The cost of this negotiated Plan - approved by the previous NC Supreme Court Justices – is roughly \$6 billion. Sounds like a heck of a lot of money. But it isn't. Funding will be spread out over 8 years in 115 school districts and more than 1,500 schools, special education centers, and community-based preschool programs. Do the math!

Would that agreed Leandro Plan investment make North Carolina America's highest spending state in terms of public education? Not even close. NC currently ranks 49th in financial support for public schools. 'All that new money' – which the State already has on hand – would raise North Carolina to the dizzying height of 42nd in the nation.

What North Carolinians are witnessing is not a conspiracy in the usual way that term is recklessly bandied about these days. However, the far-right legislators and the Republican Justices appear to be engaged in the original definition of 'conspire' – that is 'To breathe together as one.

No secret midnight meetings are required when both groups know they share the same politics, same perspectives, and same willingness to 'snatch defeat from the jaws of victory' in the already-settled Leandro case. Unless a knockout punch ends any boxing match, who wins the fight is in the hands of the ringside judges. Whether the Leandro Plan survives and thrives – or is punched in the mouth and goes down for the count – is now in the hands of the Republican majority of NC Supreme Court Justices.

Will they rise above short-term politics to achieve an enduring championship crown for all NC children and young people? Or will this go down in history as an infamous case of *justice interruptus*?

Find out by watching what happens next, so you can be the judge of these Justices!

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