

Time running out for McCleary family to benefit from their own case

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Stephanie McCleary, right, a Chimacum School District employee, and 15-year-old son Carter, who will be a sophomore at Chimacum High School this fall, are plaintiffs in an ongoing lawsuit against the state. The Washington State Supreme Court in 2012 ruled in *McCleary v. State of Washington* that the state was not adequately funding basic education and is considering whether to hold the state in contempt of court. Photo taken Tuesday June 24, 2014.

DEAN J. KOEPFLER — The News Tribune

CHIMACUM — When his parents sued the state, Carter McCleary was a 7-year-old second grader.

Today, he's driving.

His sister Kelsey was 13 and in seventh grade. Now, she's halfway through college.

One is running out of time to see much effect from the landmark case that bears his family's name. The other missed out entirely.

"I feel like I did the best I could with the education I got," said Kelsey McCleary, 20, who recently declared a kinesiology major at Western Washington University and is thinking about training as a dental hygienist. "I feel like it could be increased and be way better. We should be more prepared for college."

The Washington State Supreme Court ruled in 2012 in *McCleary v. State of Washington* that the state has unconstitutionally underfunded schools.

The McClearys didn't initiate the case, but when the Chimacum School District joined other districts and unions in suing the state, Stephanie McCleary said she decided she wanted to help. McCleary is the personnel director for the school district and does other clerical work there.

"She came home one day and said, 'Now, don't be upset with me, but we're suing the state,'" husband Matthew McCleary recalls.

He won top billing in the case, although a typo dropped a T and he was immortalized in Washington case law as Mathew McCleary.

Another couple with two children, Robert and Patty Venema, joined in the lawsuit. The families and a coalition known as the Network for Excellence in Washington Schools filed the lawsuit on Jan. 11, 2007.

At issue was how to fulfill the state constitution's promise: "It is the paramount duty of the state to make ample provision for the education of all children." The plaintiffs alleged that the state provision was far from ample and school districts were either falling short or being forced to lean on local taxpayers.

An uncomfortable role

The plaintiffs' lawyer, Tom Ahearne, said the district told Stephanie McCleary at first she would have a minimal public role. But it was vital to put faces on the numbers, Ahearne said. McCleary agreed to get past her fear of public speaking.

"I'm really kind of a shy person," she said. Waiting to testify the first day of the 2009 trial before King County Superior Court Judge John Erlick, she said, "My heart's just racing the whole time."

She had to wait for the second day to take the stand. It lasted a couple hours but seemed like 24. The state's lawyers peppered her with questions. "It was the hardest thing I've ever done, I think," she said.

She had a panic attack, she said. Even once it was over, coping was proving difficult. So she and the kids went to look at puppies.

The legacy of that hearing is Brewster, a Yorkshire terrier and poodle mix and one of two family dogs.

Ahearne said hearing directly from someone who was affected was important in the argument to Erlick, whose ruling became the foundation of the state Supreme Court's decision.

State funding takes a hit

Soon after the McClearys filed the lawsuit, a recession battered the state budget. The state share of school funding actually shrank between that school year and 2012-2013, according to the most recent data in a legislative report issued this year, which puts the state's portion at two-thirds of total school spending.

Lawmakers made up some ground more recently, responding to the court's 2012 decision by adding about \$1 billion in last summer's two-year budget. The full tab could run to \$4.5 billion or as high as \$6.8 billion. Some have suggested higher amounts.

If they follow their own studies and their own promises, lawmakers will add money for textbooks, supplies and other operations costs, smaller classes, all-day kindergarten, and likely also school employees' pay.

They have tackled pieces of that list, and added money for school buses, but they will have to speed up the pace to meet a deadline of the 2017-2018 school year. Both parties point to next year as a critical moment.

The big debate in the Legislature is over whether to find the money eliminating tax exemptions or adding new taxes, or simply by moving a larger, perhaps dedicated share of existing revenue to schools.

Stephanie McCleary says it's a matter of making education the first thing the budget pays for.

Running out of time

Next year's state budget will be the last two-year budget with a chance of affecting the school experience of Carter McCleary, 15. He is the last of the two families' four kids still in the public schools and is due to graduate from Chimacum High School in 2017.

In her 2009 testimony before Erlick, Stephanie McCleary talked about the funding problems she saw when the family briefly took Kelsey out of the Chimacum district and enrolled her at Port Townsend High School. Books were falling apart, so fragile they couldn't be taken home.

A handmade, spiral-bound sheath of paper stands out in Kelsey's mind. "Science is one of the most important subjects," she said, "and I was using a textbook that my teacher made for us."

Carter, his mom told the court, was enlisted along with classmates to make crafts to be sold. He made bracelets, ornaments, calendars.

“Stephanie talked about how a lot of the class time,” Ahearne said, “instead of learning things in class, they were doing fundraising.”

Carter says now: “Our school does a good job, but I feel like with more funding they could do even better, with more resources and materials for the art and band programs.”

An impatient court

On a recent Monday morning, the dogs sprawled out and the family cats batted at each other atop a scratching post. Carter dribbled a soccer ball in the McCleary living room. Friends sleeping over stayed upstairs while he came to talk to a reporter. Stephanie, 49, and Matt, 57, talked about who would take their son to soccer practice and his last driver’s training session.

On the fridge, a picture of the sailboat they built. Out the window, a beautiful view of the Puget Sound. Signs of a comfortable life, but the couple says they could never afford to live on the water if they were buying today. They got a deal on the house years ago and now they have college costs. Wine salesman Matt says his income is down due to the state’s liquor-privatization law, and it’s been a while since a cost-of-living increase for Stephanie at the district office.

A left outside midfielder for WestSound FC, Carter hopes to become a professional soccer player. Failing that, sports medicine or athletic training may be in his future.

His memories of the case include skipping school — an educational field trip, his parents clarify — to see their lawyer.

Earlier this year, an impatient state Supreme Court ordered the state to submit a plan for how the money would be phased in. When lawmakers couldn’t agree on a plan, the Supreme Court justices told lawyers to be in court Sept. 3 to explain why the state shouldn’t be held in contempt of court. The McClearys expect to attend.

“I think it’s exciting because it shows that they’re serious about this,” Stephanie McCleary said of the court’s latest pressure. “The state continues to violate my child’s constitutional right, and so I’m encouraged that they mean it and they’re actually going to follow through with it — I hope.”

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