

Brown v. Board of Education

Brown v. Board of Education

A FIGHT FOR SIMPLE JUSTICE

SUSAN GOLDMAN RUBIN

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For Linda Brown Smith Thompson, Cheryl Brown Henderson,
John Watson, Jr., Joan Johns Cobb, Barbara Johns Powell, Carrie Stokes,
John Arthur Stokes, Harry Briggs, Jr., Spottswood Thomas Bolling, Jr.,
Shirley Barbara Beulah Stamps, Ethel Louise Belton Brown,
and the hundreds of other people who were part of
Brown v. Board of Education.

TABLE OF CONTENTS

Introduction: What Is Segregation?	1
1. Challenging the Law	9
2. Linda Carol Brown	13
3. Children Are Craving Light	18
4. Stand Together	24
5. Lasting Injury	28
6. Student Strike!	34
7. Playing for Keeps	41
8. Mad at Everyone	47
9. “We Are All American”	54
10. In the Minds of Children	59
11. Helping Make History	64
12. We Knew We Were Right	70
13. We, Too, Are Equal	75
14. The Greatest Victory	79
15. How Things Worked in America	85
Epilogue: The Fight Goes On	91
Timeline	99
Brief Summaries of the Cases	105
Text of the Fourteenth Amendment	110
Text of Brown v. Board of Education of Topeka	112
Bibliography	118
Source Notes	121
Picture Credits	129
Acknowledgments	130
Index	131

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INTRODUCTION: WHAT IS SEGREGATION?

WHEN John Stokes and his twin sister, Carrie, started school in Farmville, Virginia, in 1940, they were nine years old. They had to wait till they were big enough to walk the four and a half miles along a busy highway to reach the school for black children. There were no buses for black children. The twins' protective older brothers, Howard and Leslie, who went to the black high school, next to the elementary school, walked with John and Carrie.

"The trip wasn't so bad on nice days," recalled John, "but when it was hot or rainy, we were miserable. The worst part was when a bus carrying white kids to school passed us. Sometimes they would spit at us and call us names."

Walking home at night was much worse. White drivers sometimes stopped and attacked blacks. One day when John was twelve he attended a Boy Scout meeting led by the principal of his school. John's parents had told him to come straight home to the farm after the meeting so he could walk while it was still daylight. But John disobeyed and "slipped into downtown Farmville to go to the movies with some other kids." In those days in the South, movie theaters were

Opposite: A picture titled "How about a decent school for me?" from the NAACP collection of photographs of schools and activities to end segregation. 1940–1960

1. CHALLENGING THE LAW

ON April 4, 1950, hundreds of people lined up outside the United States Supreme Court. Everyone wanted to hear Thurgood Marshall argue a case. Marshall was head lawyer of the Legal Defense and Educational Fund (LDF), a branch of the NAACP. Inside the majestic courthouse, he stood before the nine justices. In an emotional speech, he maintained that his client, Herman Marion Sweatt, a postman and World War II veteran, had a right to attend the University of Texas Law School. Texas officials had refused to admit Sweatt because of his race. They claimed that a separate Jim Crow law school for black students would be equally good. Hurriedly, they had built a school just for Sweatt in the basement of a building in Austin. It did not even have a library.

Marshall argued that segregation was wrong even if the state could build separate and equal schools for blacks. “We are convinced that it is impossible to have equality in a segregated system,” he said.

Daniel Black, the Attorney General of Texas, responded by telling the justices that his state wanted to take care of the matter by itself. If Sweatt was admitted

TIMELINE

- 1839:** A songbook published in Ithaca, New York, ridicules a minstrel show character named Jim Crow. The term came to be used as a racial slur.
- 1849:** Benjamin F. Roberts, a black man in Boston, tries to enroll his daughter Sarah in a school for whites. The Massachusetts school board turns him down. He takes his case to court and the judge rules that segregation is legal.
- 1863:** President Abraham Lincoln issues the Emancipation Proclamation during the Civil War declaring that all persons held as slaves within the rebellious states shall be free.
- 1866:** The Civil Rights Act of 1866 guarantees blacks basic economic rights.
- 1868:** The Fourteenth Amendment to the Constitution is ratified. It guarantees that all persons born or naturalized in the United States are citizens of the United States, and that no state shall deprive any person of life, liberty or property without due process of law, or deny to any person the equal protection of the law.
- 1869:** Louisiana passes a law forbidding segregation in public transportation.
- 1875:** The Civil Rights Act of 1875 is passed by Congress. It prohibits discrimination in inns, theaters and other public places. Public schools, a relatively new institution, are not included.
- 1877:** The Louisiana law of 1869 is overturned by the Supreme Court in *Hall v. DeCuir*.
- 1883:** The Supreme Court overturns the Civil Rights Act of 1875 and declares that the Fourteenth Amendment does not prohibit discrimination by private individuals or businesses.

- 1887:** The practices of racial segregation known as Jim Crow begin. Florida passes the first railway segregation act, followed by Mississippi, then Texas.
- 1890:** The Louisiana legislature passes a law requiring railroads to provide separate but equal passenger coaches for white and colored races.
- 1892:** Homer A. Plessy, a black man, challenges the law by sitting in a Louisiana railroad car reserved for whites. Plessy is arrested and goes to court in New Orleans. He argues that the segregation law violates the Fourteenth Amendment, but the judge rules against him.
- 1896:** The United States Supreme Court hands down its decision in *Plessy v. Ferguson*. Separate but equal facilities for white and black railroad passengers do not violate the Equal Protection Clause of the Fourteenth Amendment.
- 1908:** Thoroughgood Marshall is born in Baltimore, Maryland, on July 2. At age six he shortens his first name to Thurgood.
- 1909:** The National Association for the Advancement of Colored People (NAACP) is founded. Headquarters are based in New York City.
- 1912:** A branch of the NAACP opens in Baltimore. In Washington, D.C., President Woodrow Wilson segregates government offices and fires or demotes many blacks in government jobs.
- 1925:** Thurgood Marshall enters Lincoln University with the goal of becoming a lawyer.
- 1927:** In the case *Gong Lum v. Rice*, the Supreme Court rules that a Mississippi school district may require a Chinese American girl to attend a segregated black school instead of a school for whites.
- 1929:** Charles Hamilton Houston becomes dean of Howard University Law School in Washington, D.C., a law school for blacks.
- 1930:** Marshall enrolls at Howard University Law School, and Dean Charles Houston becomes his role model and mentor.
- 1933:** Marshall opens a law practice in Baltimore. He takes fact-finding trips with Charles Houston for the NAACP.
- 1935:** Marshall helps Houston win *Murray v. Pearson*, his first civil rights case, desegregating the University of Maryland Law School.

- 1936:** Marshall signs a six-month contract with the NAACP and moves to New York City.
- 1938:** On November 9, Houston and Marshall defend Lloyd Gaines in *State of Missouri ex rel. Gaines v. Canada*. The United States Supreme Court decides in favor of Lloyd Gaines, a black student who had been refused admission to the University of Missouri Law School.
- 1939:** Thurgood Marshall is named special counsel of the NAACP.
- 1940:** Marshall serves as legal director of the NAACP from 1940 till 1961.
- 1944:** In Westminster, California, Sylvia Mendez and her younger brothers try to enroll in public school but are refused admittance because of their dark skin and Mexican last name. Their father, Gonzalo Mendez, sues the school district and the case goes to trial. On March 18, 1946, Judge Paul J. McCormick rules in favor of the Mendez family, and in 1947, the Ninth Circuit Court of Appeals in San Francisco unanimously upholds the ruling.
- 1948:** January. *Sipuel v. Board of Regents of University of Oklahoma*. Ada Lois Sipuel is denied entrance to the all-white University of Oklahoma Law School because of her race. Marshall argues Sipuel's case before the United States Supreme Court, which rules in favor of Sipuel. The Oklahoma state board of regents then creates a new law school for blacks in the state capitol building. Marshall goes back to court to prove that the Jim Crow law school is inferior, but the University of Oklahoma admits Sipuel and makes her sit in back of the classroom.
- 1948:** The NAACP board of directors formally endorses Marshall's view on segregation strategy: an all-out attack on segregation in education.
- 1949:** *Briggs et al. v. Elliott et al.* Marshall and NAACP officials meet with black residents of Clarendon County, South Carolina. They decide to launch a test case against segregation in public schools if at least twenty plaintiffs can be found. Harry Briggs and nineteen other parents sign the petition, and the NAACP files a class action lawsuit against the Clarendon County School Board.
- 1950:** On April 4, in *Sweatt v. Painter* Marshall defends Herman Marion Sweatt, a black mailman who applied for admission to the University of Texas

BRIEF SUMMARIES OF THE CASES

Plessy v. Ferguson

In 1869, Louisiana passed a law *forbidding* segregation in public transportation, but the law was overturned by the United States Supreme Court in 1877. By 1892, eight states, including Louisiana, had laws segregating railroad cars, streetcars and riverboats.

The blacks of Louisiana tested the law. On June 7, 1892, a light-skinned black man named Homer Adolph Plessy boarded a train in New Orleans and sat in a car reserved for whites. A conductor asked him to move into the car for “colored passengers,” but Plessy refused and was arrested. At trial in New Orleans, Plessy argued that the segregation law in Louisiana violated the Fourteenth Amendment, which guarantees equal rights to all citizens of the United States. The court ruled against him. He appealed to the Louisiana Supreme Court and lost. He then appealed to the Supreme Court of the United States. In 1896, the Court handed down its opinion: The practice of segregation in Louisiana did not violate the Fourteenth Amendment. Racially separate facilities were legal as long as they were equal. “Separate but equal” became the law of the land.

Gonzalo Mendez et al. v. Westminster School District of Orange County et al.

In 1944, Sylvia Mendez, a nine-year-old girl of Mexican descent, and her younger brothers Gonzalo Jr. and Jerome, tried to enroll in public school in Westminster, California. School officials refused to admit them because of their dark skin and Mexican last name, and sent the children to a school for Mexican Americans in another district. Their father, Gonzalo Mendez, a naturalized citizen, sued the Westminster school district. His lawyer enlarged the case to include five Latino families, and they sued four school districts. On March 18, 1946, Judge Paul J.

McCormick ruled in favor of the Mendez family. Segregation in California public schools created “antagonisms in the children” and “violated the equal protection clause.” The school district appealed the decision, but on April 15, 1947, the Ninth Circuit Court of Appeals in San Francisco unanimously upheld the ruling.

Sweatt v. Painter

Herman Marion Sweatt, a black postman and veteran of World War II, applied to Texas State University Law School in 1946, but was rejected because of his race. Sweatt filed a lawsuit with help from the NAACP. At that time there was no law school for blacks in Texas. The court gave Texas six months to establish one at a vocational school. When the case was heard by the state Court of Civil Appeals, the legislature approved money for building a better law school for blacks in an office building in Austin. The school consisted of three rooms in the basement. Classes began in March 1947, but Sweatt refused to enroll. He went back to court, defended by Thurgood Marshall and members of the NAACP Legal Defense Fund. The court ruled against Sweatt. In 1948, Marshall appealed the ruling and lost again. Finally, he took the case to the Supreme Court of the United States. Marshall argued that Sweatt had a constitutional right to attend the state law school. In June 1950, the Court held unanimously that the new law school for blacks did not offer an equal education. Sweatt was ordered to be admitted to the Texas University Law School.

Brown v. Board of Education of Topeka

In fall 1950, Oliver Brown attempted to enroll his daughter Linda Carol, a third grader, in the neighborhood elementary school. The principal refused to accept Linda at the all-white school. Elementary schools in Topeka, Kansas, were legally segregated. So her father and twelve other black parents filed suit against the Topeka Board of Education on behalf of their children. Under the leadership of the NAACP, they wanted to end segregation in public schools. The case went to trial in Topeka’s federal court in June 1951. Thurgood Marshall’s assistants Robert Carter and Jack Greenberg represented Brown. In August, the court ruled unanimously against Brown and the other plaintiffs. Marshall still saw this school case as an excellent opportunity to challenge segregation laws. On