

■ ***Brown v. Board of Education of Topeka (1954) plus Enforcement Decree for Same (1955)***

Date: May 17, 1954; May 31, 1955

Author: Chief Justice Earl Warren

Genre: court opinion

Summary Overview

The Supreme Court's ruling in *Brown v. Board of Education of Topeka* along with the several follow-up cases transformed public education throughout the United States and, as a result, American society. Chief Justice Earl Warren wrote the majority opinion, which overturned the use of the "separate but equal" doctrine that had allowed segregated schools within a district. The unanimous decision sent shock waves across the nation. Although the southern states had a higher number of schools set up on a segregation basis, only sixteen of the forty-eight states had laws against school districts separating students by race. The cases that reached the Supreme Court were filed by African American individuals adversely affected by segregation and supported by legal teams from the National Association for the Advancement of Colored People (NAACP). The NAACP and its affiliates had been working through the judicial system for twenty years, seeking to end segregation in public education.

Defining Moment

Although slavery legally ended in 1865 with the adoption of the Thirteenth Amendment to the Constitution and equal protection was guaranteed by the Fourteenth Amendment, African Americans and other non-white citizens were not immediately granted equality in many areas of the United States. A major Supreme Court ruling on this matter occurred in 1896, in the case of *Plessy v. Ferguson*, which established the doctrine of "separate but equal." Although that case was about seats on a train, the doctrine was broadly used to justify segregation in all parts of life. Often, the claims of equal treatment were dubious at best. Beginning in the 1930s, the NAACP decided to focus its desegregation efforts, through the courts, at educational institutions. The first cases involved law schools and graduate pro-

grams, where the plaintiffs, with aid from the NAACP lawyers, were able to successfully argue for the admission of African American students on the grounds that what was being offered to the aspiring African American students was not equal. Although the cases were won, the decisions were still based on the "separate but equal" doctrine.

Having won several cases involving higher education, the NAACP gave legal support to five separate appeals regarding K-12 schools, from four states and the District of Columbia. When the Supreme Court heard these cases in 1952, they combined them under the name of the Kansas appeal, *Brown v. Board of Education*. When the case was heard, the Court was deadlocked. The justices had instructed the lawyers to answer certain questions, the case being put on the following year's calendar. During the delay, the chief justice died, and Earl Warren was appointed to fill the vacancy. When the case was reheard, Warren wrote the majority opinion, making minor changes in it until all the justices were in agreement. In 1954, this ruling was announced, the unanimous verdict stunning people on both sides of the issue. Warren's diligence in working with all the justices, rather than seeking to obtain only a simple majority, continues to be regarded as a remarkable achievement in the history of the Supreme Court.

Although it would be almost twenty years before all segregated public schools were integrated, the initial ruling, and the subsequent enforcement decree, generated dramatic changes within society. While the ruling applied only to public education, the principle that separate was inherently *not* equal began to be used by the courts in cases regarding other aspects of life. Further, the hope and energy that this ruling gave the African American community became important in the development of the modern civil rights movement.

Author Biography

Earl Warren (1891–1974), the son of immigrant parents, aspired at an early age to be a lawyer. He earned his law degree in 1914 from the University of California, Berkeley. After a few years in private practice, Warren enlisted in the army during World War I and, afterward, began work in the government. In 1925, he became district attorney in Alameda County (California), serving until 1939 when he was elected as the state’s attorney general. During that time he participated in the relocation of Japanese Americans, for which he later apologized. In 1942, he was elected governor, winning again in 1946

and 1952. In 1953, he was appointed chief justice of the United States. During what was called “the Warren Court” years, many landmark liberal decisions were handed down. In addition to the *Brown* case, these included such matters as a defendant’s right to an attorney, the mandating of the Miranda warning, the affirmation of “one man, one vote,” the elimination of mandatory school prayer, and not allowing illegally obtained evidence to be used against a defendant. Warren also chaired the commission that investigated the Kennedy assassination. He retired in 1969.

HISTORICAL DOCUMENT

***Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).**

(Opinion delivered by Chief Justice Earl Warren.)

The cases come to us from the States of Kansas, South Carolina, Virginia, and Delaware. They are premised on different facts and different local conditions, but a common legal question justifies their consideration together in this consolidated opinion.

In each of the cases, minors of the Negro race, through their legal representatives, seek the aid of the courts in obtaining admission to the public schools of their community on a nonsegregated basis. In each instance, they have been denied admission to schools attended by white children under laws requiring or permitting segregation according to race. This segregation was alleged to deprive the plaintiffs of the equal protection of the laws under the Fourteenth Amendment. In each of the cases other than the Delaware case, a three-judge federal district court denied relief to the plaintiff on the so-called “separate but equal” doctrine announced by this court in *Plessy v. Ferguson*.... Under the doctrine, equality of treatment is accorded when the races are provided substantially equal facilities, even though these facilities be separate. In the *Delaware* case, the Supreme Court of Delaware adhered to that doctrine, but ordered that the plaintiffs be admitted to the white schools because of their superiority to the Negro schools.

The plaintiffs contend that segregated public schools are not “equal” and cannot be made “equal” and hence

they are deprived of the equal protection of the laws. Because of the obvious importance of the question presented, the Court took jurisdiction. Argument was heard in the 1952 term, and reargument was heard this term on certain questions propounded by the Court.

Reargument was largely devoted to the circumstances surrounding the adoption of the Fourteenth Amendment in 1868.... This discussion and our own investigation convince us that... it is not enough to resolve the problem which we are faced. At best, they are inconclusive....

An additional reason for the inconclusive nature of the Amendment’s history, with respect to segregated schools, is the status of public education at the time. In the South, the movement toward free common schools, supported by general taxation, had not yet taken hold....

In the first cases in this Court construing the Fourteenth Amendment, decided shortly after its adoption, the Court interpreted it as proscribing all state-imposed discriminations against the Negro race. The doctrine of “separate but equal” did not make its appearance in this Court until 1896 in the case of *Plessy v. Ferguson*, supra, involving not education but transportation. American courts have since labored with the doctrine for over half a century. In this Court, there have been six cases involving the “separate but equal” doctrine in the field of public education.... In more recent cases, all on the graduate school level, inequality was found in that specific benefits enjoyed by white students were denied to Negro students of the same educational qualifications.... In

none of these cases was it necessary to re-examine the doctrine to grant relief to the Negro plaintiff....

In the instant cases, the question is directly presented. Here... there are findings below that the Negro and white schools involved have been equalized, or are being equalized, with respect to buildings, curricula, qualifications and salaries of teachers.... Our decision, therefore, cannot turn on merely the comparison of these tangible factors in the Negro and white schools involved in each of the cases. We must look instead to the effect of segregation itself on public education.

In approaching this problem, we cannot turn the clock back to 1868 when the Amendment was adopted, or even to 1896 when *Plessy v. Ferguson* was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

We come to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal education opportunities? We believe that it does.

In *Sweatt v. Painter*, supra, in finding that a segregated law school for Negroes, could not provide them equal educational opportunities, this Court relied in large part on "those qualities which are incapable of objec-

tive measurement but which make for greatness in a law school." In *McLaurin v. Oklahoma State Regents*, supra, the Court, in requiring that a Negro admitted to a white graduate school be treated like all other students, again resorted to intangible considerations: "... his ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession." Such considerations apply with added force to children in grade and high schools. To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely to ever be undone.... Whatever may have been the extent of psychological knowledge at the time of *Plessy v. Ferguson*, this finding is amply supported by modern authority. Any language in *Plessy v. Ferguson* contrary to this finding is rejected.

We conclude that in the field of public education the doctrine of "separate but equal" has no place. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of equal protection of the laws guaranteed by the Fourteenth Amendment. This disposition makes unnecessary any discussion whether such segregation also violates the Due Process Clause of the Fourteenth Amendment.

Because these are class actions, because of the wide applicability of this decision, and because of the great variety of local conditions, the formulation of decrees in these cases presents problems of considerable complexity. On reargument, the consideration of appropriate relief was necessarily subordinated to the primary question—the constitutionality of segregation in public education. We have now announced that such segregation is a denial of the equal protection of the laws. In order that we may have the full assistance of the parties in formulating decrees, the cases will be restored to the docket, and the parties are requested to present further argument.... The Attorney General of the United States is again invited to participate. The Attorneys General of the states requiring or permitting segregation in public education will also be permitted to appear as amici curiae upon request to do so by September 15, 1954, and submission of briefs by October 1, 1954.

It is so ordered.

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Enforcement Decree, *Brown v. Board of Education of Topeka*, 349 U.S. 294 (1955).

(Opinion delivered by Chief Justice Earl Warren.)

The cases were decided on May 17, 1954. The opinions of the date declaring the fundamental principle that racial discrimination in public education is unconstitutional, are incorporated herein by reference. All provisions of federal, state, or local law requiring or permitting such discrimination must yield to this principle. There remains for consideration the manner in which relief is to be accorded.

Because these cases arose under different local conditions and their disposition will involve a variety of local problems, we requested further argument on the question of relief. . . . The parties, the United States, and the States of Florida, North Carolina, Arkansas, Oklahoma, Maryland, and Texas filed briefs and participated in the oral arguments.

The presentations were informative and helpful to the Court in its consideration of the complexities arising from the transition to a system of public education freed of racial discrimination. The presentations also demonstrated that substantial steps to eliminate racial discrimination in public schools have already been taken, not only in some of the communities in which the cases arose, but in some of the states appearing as amici curiae, and in other states as well. Substantial progress has been made in the District of Columbia and in the communities in Kansas and Delaware involved in this litigation. The defendants in the cases coming to us from South Carolina and Virginia are awaiting the decision of the Court concerning relief.

Full implementation of these constitutional principles may require solution of varied local school problems. School authorities have the primary responsibility for elucidating, assessing, and solving these problems; courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles. Because of their proximity to local conditions and the possible need for further hearings, the courts which originally heard these

cases can best perform this judicial appraisal. Accordingly, we believe it appropriate to remand the cases to those courts.

In fashioning and effectuating the decrees, the courts will be guided by equitable principles. Traditionally, equity has been characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs. These cases call for the exercise of these traditional attributes of equity power. At stake is personal interest of the plaintiffs in admission to public schools as soon as practicable on a nondiscriminatory basis. To effectuate this interest may call for elimination of a variety of obstacles in making the transition to school systems operated in accordance with the constitutional principles set forth in our May 17, 1954, decision. Courts of equity may properly take into account the public interest in the elimination of such obstacles in a systematic and effective manner. But it should go without saying that the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them.

While giving weight to these public and private considerations, the courts will require that the defendants make a prompt and reasonable start toward compliance with our May 17, 1954 ruling. Once such a start has been made, the courts may find that additional time is necessary to carry out the ruling in an effective manner. The burden rests upon the defendants to establish that such time is necessary in the public interest and is consistent with good faith compliance at the earliest practicable date. To that end, the courts may consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a non-racial basis, and revision of local laws and regulations which may be necessary in solving the foregoing problems. They will also consider the adequacy of any plans the defendants may propose to meet these problems and to effectuate a transition to a racially nondiscriminatory school system. During this period of transition, the courts will retain jurisdiction of these cases.

The judgments below, except that in the Delaware case, are accordingly reversed, and the cases are

remanded to the District Courts to take such proceedings and enter such orders and decrees consistent with this opinion as are necessary and proper to admit to pub-

lic schools on a racially nondiscriminatory basis with all deliberate speed the parties to these cases....

It is so ordered.

GLOSSARY

negro: former legal term for an African American

plaintiff: individual who initiates a civil lawsuit

remand: to send back

segregation: the separation of groups based on race, class, or ethnicity, usually involving preferential treatment for one group

Document Analysis

Warren's majority opinion in *Brown v. Board of Education* is as vital today as it was when it was first written. Although the issue of school integration is clearly settled, the issue of the equal treatment of all Americans continues to arise in many contexts today. By 1917, all states required children to attend school, although the schools that they attended could (and still do) differ widely. At the time of this lawsuit, some of the differences were due to mandated racial segregation. From 1950 to 1952, the NAACP assisted in filing the five lawsuits that were heard together. Although four of the five were defeated in the lower courts, the Supreme Court ruled in favor of the African American students in *Brown*. The ruling states that "in the field of public education the doctrine of 'separate but equal' has no place." Chief Justice Warren, and the other members of the Supreme Court, recognized that they were breaking new ground by directly overturning the legal doctrine of "separate but equal." In the ruling, it can be seen that the primary concern is the harm inflicted on many of the African American students because of segregation. Whether or not the schools are equal on paper, the ruling states that segregation causes a sense of "inferiority" among the black students that is unacceptable.

The justices briefly ask what has become a familiar question in constitutional law: what is the original intent of the Fourteenth Amendment as it applies to education. More generally, it was understood that that amendment was established in order to deter discrimination against African Americans. Because the concept of "separate but equal" was not part of the original amendment, but

rather arose twenty-eight years after the amendment's ratification, the *Brown* ruling discounts that concept. The important issue for the members of the Court is whether African American students are being harmed. The ruling provides an answer in the affirmative, and, as such, demands that schools be integrated. The 1954 ruling establishes integration as constitutionally mandated, and the 1955 ruling hands over detailed oversight of the process to the district courts. Segregation is against the constitutional doctrine of equal protection and must, therefore, be ended "with all deliberate speed." Turning over the implementation of this ruling to the district courts allowed the Supreme Court to deal with its normal caseload. Indeed, that pattern continues to be used in civil rights cases; major rulings by the Supreme Court are followed by implementation plans by the lower courts and the executive branch. The *Brown* ruling reaffirms the government's power of enforcement by reminding local officials that just because the official does not like, or disagrees with, the Court's rulings, these rulings cannot be ignored. Such statements are an important part of how the Court approaches current civil rights issues.

Essential Themes

Brown v. Board of Education is a landmark case. Although ostensibly specific to education, its impact goes well beyond that to reach many other aspects of American society. For the first time in education history, the Supreme Court ruled that artificially segregated schools are illegal. Schools that were attended by students of only one race because the population in that district was made up of people of only that race were not directly affected by

this ruling; however, within a few years, school districts covering essentially the same geographical area but distinguishable by race were ruled to be in violation of the decision. Schools that clearly had been constructed to serve students of different races or ethnic groups were also ruled to be in violation. As such, not just the five districts involved in these appeals, but rather all school districts are mandated to comply with the decision. The opinion reflected the Court's understanding that racial separation is inherently harmful, because it contains the suggestion that one race (the one dictating the terms) is superior to the other.

What makes the *Brown* ruling a landmark case is that the Court ruled that "separate but equal" is a flawed doctrine. Just as that doctrine was used in 1896 to justify more than just separate seats in railroad cars, so too was the reversal of the doctrine, in *Brown*, which tended to reach beyond the field of education. The system of reasoning that allowed the liberal Warren Court to broadly interpret the equal protection clause remains the system used by later courts to extend the reach of civil rights. Because of the precedent that *Brown* represents, any time there is a difference or separation between what is offered to two different groups of people, the burden of proof is on the creator of those distinctions to prove that

there is a valid reason for them. In addition, *Brown* affirms that a public official cannot fail to undertake a task mandated by a legitimate court order or uphold a law because the official disagrees with the law.

—Donald A. Watt, PhD

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