

# NYSBA/LYC Brown v. Board of Education

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## H.S. Handout 1a

### Roberts v. The City of Boston

December 4

On this date in 1849 the case of Roberts v. The City of Boston began. This suit was heard by the Massachusetts Supreme Court and was a prerequisite legal ruling in the civil rights cases of the NAACP's assault on America's segregated educational system.

The judge presiding was Chief Justice Lemuel Shaw. In 1848, five-year-old Sarah Roberts was barred from the local primary school because she was Black; her father (Benjamin) sued the City. The lawsuit was part of an organized effort by the African-American community to end racially segregated schools. A city ordinance passed in 1845 said any child "unlawfully excluded from the public schools" could recover damages (which meant they could sue the city). Little Sarah had been forced to walk past five other schools to reach the "colored" school in Smith Court. Now all Sarah's lawyers had to do was prove that she had been barred from those other schools unlawfully! Benjamin Roberts violated no law when he took his daughter to be enrolled.

School authorities argued that special provisions had been made for "colored" students. Since Boston maintained racially segregated schools, that Sarah passed five White schools on her way to the Black schools, the school board contended was of no consequence. Roberts retained the talented attorney, abolitionist, and later United States Senator Charles Sumner. Sumner worked with Robert Morris, a young Black abolitionist, and activist lawyer from Boston. This formidable legal team broke new ground in their argument before the court. Invoking "the great principle" embodied in the Constitution of Massachusetts; they asserted that all persons, regardless of race or color, stand as equals before the law.

In April of 1850, the Supreme Judicial Court issued its ruling in Roberts v. Boston. Chief Justice Shaw, unmoved by impassioned oratory about freedom and equality, decided the case on narrow legal grounds, ruling in favor of the right of the school committee to set education policy as it saw fit. Shaw could find no constitutional reason for abolishing Black schools. Boston's schools would remain segregated. The community was stunned.

#### Reference

*Historic U.S. Cases 1690-1993: An Encyclopedia*, Copyright 1992, Garland Publishing, New York (ISBN 0-8240-4430-4).

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Source: [http://www.aaregistry.com/african\\_american\\_history/1462/](http://www.aaregistry.com/african_american_history/1462/)

[Roberts\\_vs\\_City\\_of\\_Boston\\_begins](#)

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## H.S. Handout 1b

### Plessy v. Ferguson

In the years following the Civil War, Reconstruction-era legislation granted African Americans citizenship, equal protection under the law, and, for black males, the right to vote. For nearly a decade, former slaves enjoyed unprecedented freedom until the controversial presidential election of Rutherford B. Hayes and the Compromise of 1877 effectively ended the era of Reconstruction.

During the 1880s and 1890s, southern states, where 90 percent of African Americans lived, enacted laws designed to dismantle Reconstruction and restore white supremacy and control. These included segregation ordinances, which mandated separate public accommodations for the races, and changes to their constitutions to restrict, and then systematically disenfranchise, black male voters.

On June 7, 1892, a biracial man named Homer Plessy was forcibly removed from the "For Whites" car of the East Louisiana Railroad and jailed. His arrest was part of a planned action by the Citizens' Committee to Test the Constitutionality of the Separate Car Act. According to the 1890 Louisiana Separate Car Act, Plessy was required to sit in a car designated for "colored" persons, although, as he asserted, he was seven-eighths Caucasian and one-eighth Negro.

Plessy took his case to court, arguing that the Louisiana Separate Car Act violated the Thirteenth and Fourteenth Amendments and was thus unconstitutional -- that separating the races implied involuntary servitude and inferiority rather than equality. New Orleans trial judge John H. Ferguson ruled against Plessy, affirming that Louisiana could choose to impose the Separate Car Act on trains that operated within the state.

Plessy appealed his case to the Louisiana Supreme Court, which upheld Ferguson's decision. He then appealed to the United States Supreme Court. On May 18, 1896, the Court ruled in *Plessy v. Ferguson* that the Separate Car Act was not in conflict with the Thirteenth Amendment, and that separate train cars did not imply involuntary servitude. The Court also ruled that the Separate Car Act did not violate equal protection provided by the Fourteenth Amendment, as long as separate accommodations were equal. The lone dissenter in the case, Justice John Harlan, argued that separate accommodations did imply a separate class status for blacks and that "our U.S. Constitution is color-blind and neither knows nor tolerates classes among citizens."

The decision provided the foundation for state and local governments in

the South and in other states to legally segregate the races in most spheres of public life, including transportation, public accommodations, and public schools. The Fourteenth Amendment now had limited impact, and with the rise of white supremacist groups such as the Ku Klux Klan, segregation and discrimination were often enforced with violence and intimidation.

#### Questions for Discussion

- On what grounds did Homer Plessy argue that his rights under the Fourteenth Amendment had been violated?
- Explain in your own words the Court's "separate but equal" decision.
- What does Justice Harlan mean when he says "the Constitution is color blind?"
- To what extent do you think this decision reflects public attitudes rather than adherence to the Constitution? Explain.

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Source: *Documenting Brown 2: Plessy v. Ferguson*,  
<http://www.teachersdomain.org/>

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## H.S. Handout 1c

### Gong Lum v. Rice

In the mid-nineteenth century, economic and political instability in southern China, coupled with the California Gold Rush and the construction of the Trans-Pacific Railroad, drew thousands of Chinese immigrants to America. The railroad was completed in 1869, largely by Chinese workers, but during the economic slump that followed, discrimination against the Chinese grew, making it difficult for them to find jobs.

In the late 1870s, California amended its constitution, making Chinese immigrants ineligible for citizenship and therefore prohibiting anyone from hiring them. This legalized discrimination was part of a broader national sentiment; the Chinese Exclusion Act of 1882 limited the number of Chinese immigrants to 105 each year.

Discrimination and restrictive housing laws forced California's Chinese population to live in segregated neighborhoods, while many moved east. A small number of Chinese men who had worked on the Trans-Pacific Railroad moved to Louisiana and then Mississippi. Many of these men established families, during an era when southern states were enforcing stark racial boundaries between blacks and whites, including segregating schools by race.

In September 1924, nine-year-old Martha Lum enrolled in her local school in Rosedale, Mississippi, but that afternoon the superintendent told her she was prohibited from returning to school because she wasn't white. Her father, Gong Lum, filed a lawsuit against the school board, arguing that his family was not "colored" (which generally meant African American) and therefore Martha should be allowed to attend a white school.

The case, *Gong Lum v. Rice*, advanced to the United States Supreme Court. Presiding over the Court was former president William Howard Taft. In his decision, Chief Justice Taft reviewed the history of prior court decisions pertaining to education, as well as *Plessy v. Ferguson*. Taft affirmed the decision of the Supreme Court of Mississippi, which had ruled that Martha Lum could not be racially classified as white. As a result, Martha Lum could only attend a "colored" public school or a private school.

#### Questions for Discussion

- On what grounds did Gong Lum make the case that his daughter, Martha, should be allowed to attend a white school?
- How did the Supreme Court use race to decide the Lum case?
- How did the *Plessy v. Ferguson* decision factor into the Court's decision in *Gong Lum v. Rice*?

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Source: *Documenting Brown 3: Gong Lum v. Rice*,  
<http://www.teachersdomain.org/>

# NYSBA/LYC Brown v. Board of Education

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## H.S. Handout 1d

### **Mendez v. Westminster: Desegregating California's Schools**

Ever since the Mexican-American War ended in 1848, Mexican Americans who lived in the territory gained by the United States struggled for equality. As early as 1855, laws in California made state funding for education available only to white students. Educational codes specifically denied African American, Asian American, and Native American students the right to equal education. Although these laws didn't address Mexican Americans per se, by custom they were made to attend segregated classes in predominately white schools, or, more commonly, separate schools altogether.

In the early 1900s, California's booming citrus industry attracted many Mexican immigrants. By 1920 the Mexican American population in Southern and Central California had tripled. Communities responded by discriminating against Mexican Americans in employment and in access to educational opportunities. Conditions in Mexican American schools were vastly inferior to those in white schools. For example, Mexican American teachers and principals were uniformly paid less than their white counterparts for doing the same job, less money went toward building Mexican American schools than toward building white schools, and classes in Mexican American schools were overcrowded and the curriculum disproportionately focused on vocational skills.

During World War II, the horrors of discrimination abroad fueled a growing resistance to discrimination and segregation at home, particularly among minorities who contributed to the war effort. For Mexican Americans, the resistance peaked in the mid-1940s, when a tenant farmer named Gonzalo Mendez moved his family to the predominantly white Westminster district in Orange County and his children were denied admission to the public schools there. The Mendezes' move was prompted by the opportunity to lease a 60-acre farm in Westminster from the Munemitsu, a Japanese family who had been "relocated" to a Japanese internment camp during World War II. The income the Mendezes earned from the farm enabled them to hire an attorney and pursue litigation.

In 1945, with the help of the League of United Latin American Citizens, Mendez and four other parents filed a class action lawsuit on behalf of 5,000 Mexican American families to integrate the schools in four Orange County school districts. (LULAC is a civil rights organization for Mexican Americans similar to the NAACP.) However, unlike *Plessy v. Ferguson* (1896), which focused on racial discrimination, the plaintiffs in *Mendez v. Westminster* argued that the students were segregated into separate schools based solely on their national origin. The defendants argued that the schools were segregated

due to the handicap of language barriers and that non-English-speaking pupils should attend separate schools until they had acquired some proficiency in the English language.

In 1946, the judge ruled that the equal protection provision of the Fourteenth Amendment pertained to equal access to education, and that under that provision, segregation based solely on national origin was unconstitutional. California governor Earl Warren lobbied the California state legislature to enact legislation repealing the state's educational codes that allowed for segregation in public schools.

The Mendez case represented the first successful challenge to the decades-old "separate but equal" doctrine in public school education and established an important legal precedent. In 1948, a federal court in Texas ruled that segregated schools for Mexican Americans were unconstitutional; in 1950, a federal court in Arizona followed suit. Meanwhile, Governor Warren would go on to become the Chief Justice of the United States Supreme Court and write the opinion in *Brown v. Board of Education*.

#### Questions for Discussion

- What story from the video segment do you remember? Why did that story stay with you?
- Why were the Vidaurri children, but not their cousins, the Mendez children, allowed to attend the Westminster school? When did this occur? Why do you think it happened at that time?
- On what basis did the court decide that the Mendez children had been treated unfairly?
- Why do you think that this case is not as well known as *Brown v. Board of Education*?

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Source: *Documenting Brown 4: Mendez v. Westminster*,  
<http://www.teachersdomain.org/>