

Session 7:
Brown v. Board of Education of Topeka (1954)



Historical context (1861 – 1950)

- 1861 – 1865: American Civil War
- 1865 – 1870: “Reconstruction Amendments” to the US Constitution adopted
 - 13th: abolished slavery and involuntary servitude, except as punishment for a crime
 - 14th: included the “Citizenship Clause”, the “Due Process Clause”, and the “Equal Protection Clause”
 - 15th: prohibits the federal government and each state from denying the right to vote “on account of race, color, or previous condition of servitude”

Historical context (1861 – 1950)

- Section 1 of the 14th Amendment states:
 - All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; *nor deny to any person within its jurisdiction the equal protection of the laws.*
[emphasis added, for the Equal Protection Clause]

Historical context (1861 – 1950)

- 1873: The “Slaughter-House Cases”
 - SCOTUS held that the “Privileges and Immunities Clause” of the 14th Amendment only protects certain rights at the federal level, and not at the state level
- 1877: The Compromise of 1877
 - US federal government pulled the last troops out of the South, ending the Reconstruction era (1865-1877)
- 1879: Kansas state legislature allows cities with populations greater than 15,000 to segregate elementary schools
- 1896: *Plessy v Ferguson* establishes the legal principle of “separate but equal”

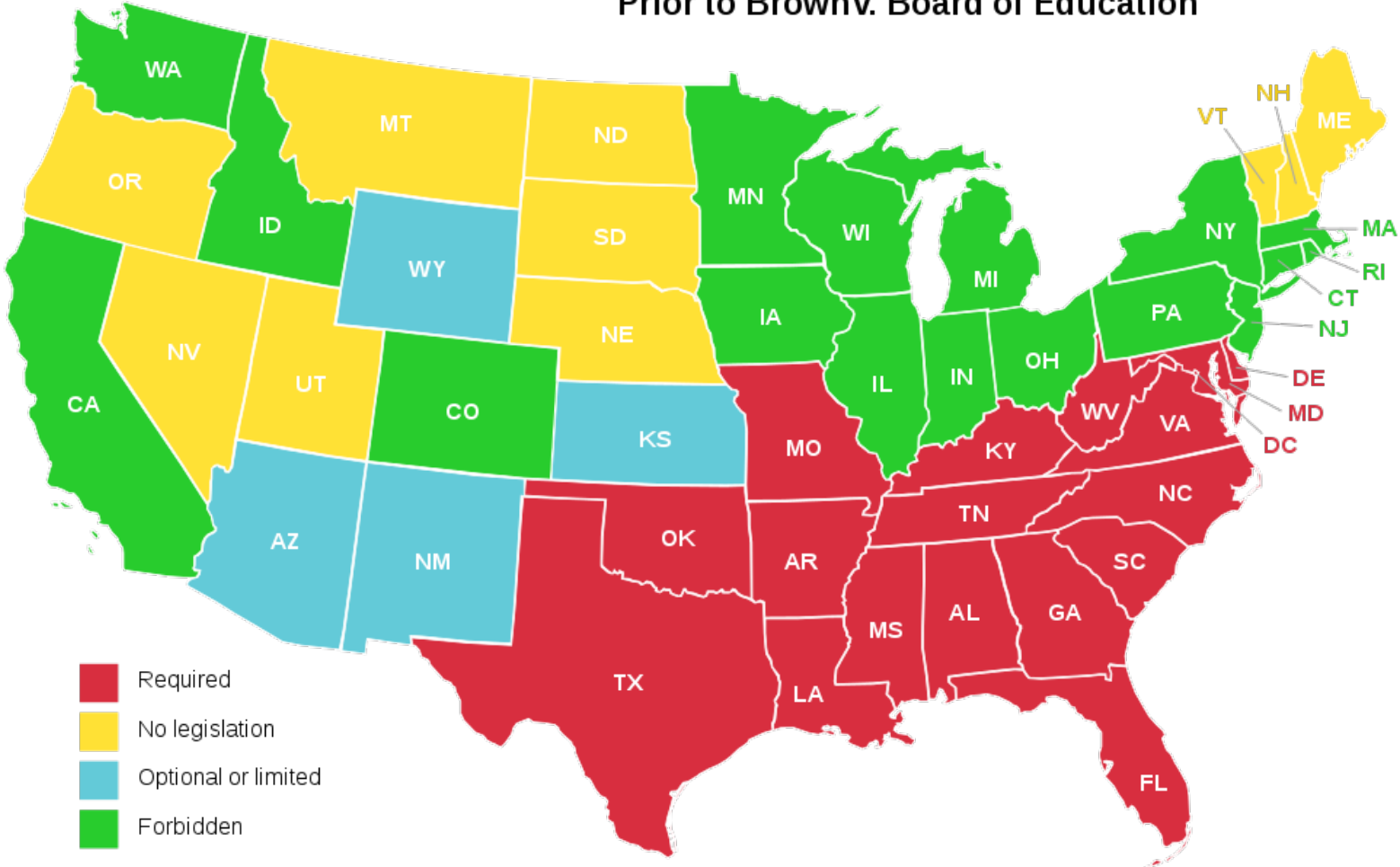
Historical context (1861 – 1950)

- 1903: an attempt to enroll a black student into a Topeka white-only school was denied by the Kansas Supreme Court, citing the *Plessy* decision
- 1930s: scholars from Howard University and activists from the NAACP began organized, strategic legal challenges to school segregation
- 1948: Esther Brown asks the Kansas NAACP to mount a legal challenge to segregated schools
 - Petition to the Topeka Board of Education meets stiff opposition and goes nowhere

Historical context (1861 – 1950)

- June 5, 1950: SCOTUS decides *Sweatt v. Painter* and *McLaurin v. Oklahoma State Regents*
 - Both cases successfully challenged segregation (“separate but equal”) in graduate school admissions
- July 1950: UNESCO issues *The Race Question*
 - Morally condemns racism and denounces previous attempts at scientifically justifying racism
- August 1950: Kansas NAACP informs national NAACP that they are prepared to challenge Topeka in federal district court
- Cold War (1947 – 1991)

Educational Segregation in the United States Prior to Brown v. Board of Education



- Questions or comments on the historical context?

The *Brown* case, summarized

- Fall 1950: Oliver Brown tried to enroll his 9-year old daughter Linda in an all-white elementary school, 7 blocks from their home.
 - He was denied, and instead Linda had to walk 6 blocks (including a stretch on the grassy strips of an active railroad line, as well as near high car traffic areas) to catch the district-provided bus to an all-black school, about 1.5 miles away.
 - He complained to the local NAACP, who saw a viable case.
- Other black families were recruited to challenge the law: each one attempted to enroll their children in the closest neighborhood school; all were denied and redirected to segregated schools

The *Brown* case, summarized



Brown v. Board timeline

- February 28, 1951: *Brown v. Board of Education of Topeka* is filed in the federal district court for Kansas, as a class action lawsuit
 - Plaintiffs: 13 Topeka parents on behalf of their 20 children
 - Named plaintiff was Oliver Brown, a welder and part-time pastor, on behalf of his daughter Linda Carol Brown
 - Topeka NAACP worked in conjunction with the national NAACP as part of their strategy to fight segregation in public schools nationwide

Brown v. Board timeline

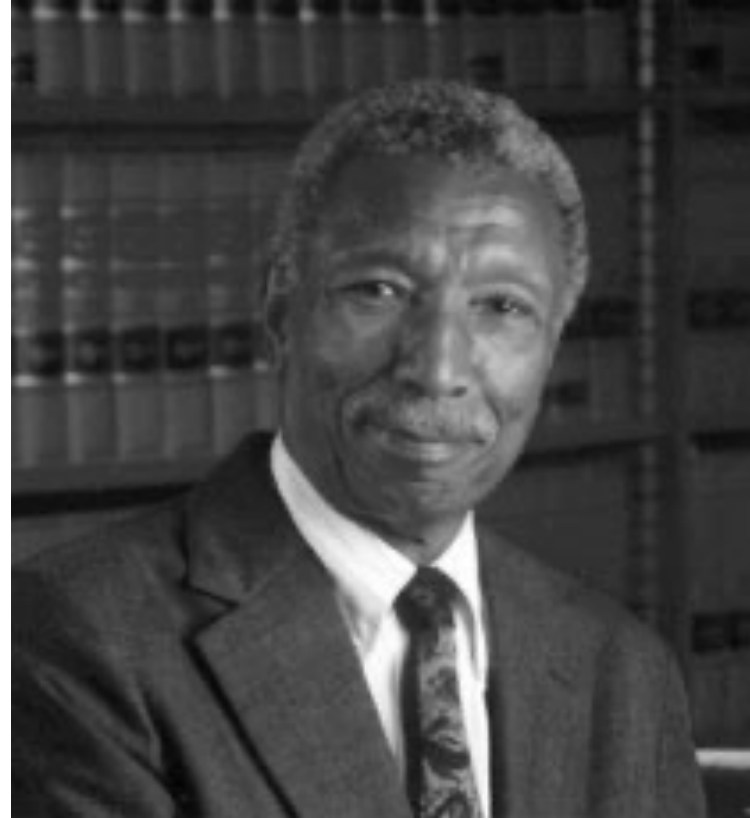
- June 25, 1951: Trial day
 - Scholarly witnesses testify as to the harm caused to black children by the policy of segregation
- August 3, 1951: Judge Walter Huxman, writing for the 3-judge panel, issues the decision
 - Upholds the Board's policy based on *Plessy*, but he also issued an appendix with “nine findings of fact” that acknowledged that segregation has a detrimental effect on black children
 - NAACP announces it will appeal to SCOTUS

Thurgood Marshall (1908-1993)



Marshall circa 1953 (left) and in 1976

Robert L. Carter (1917–2012)



Carter circa 1953 (left) and c. 2008 (right)

Brown v. Board timeline

- November 1951: NAACP Legal Defense Fund files an appeal with SCOTUS
 - In the weeks that followed, appeals were filed from 4 other states, all challenging segregation in public schools:
 - South Carolina, Virginia, Delaware, Washington, D.C.
- June 9, 1952: SCOTUS schedules oral arguments for *Brown* (only) in October

Brown v. Board timeline

- October 8, 1952: Court postpones oral arguments until December and combines the other cases with *Brown*
- December 9-11, 1952: oral arguments for *Brown* and the other consolidated cases
 - Thurgood Marshall was lead attorney for the plaintiffs
- December 13, 1952: SCOTUS meets in conference to discuss
 - 4 votes to end segregation, 4 votes to uphold, and 1 (Frankfurter) willing to strike down in DC, but uphold it in the others

Brown v. Board timeline

- December 1952: US Justice Department files a “friend of the court” brief
 - Heavy emphasis on foreign policy considerations, including how the US was being hurt in the Cold War by international views of racial discrimination
 - “Racial discrimination furnishes grist for the Communist propaganda mills.”
- June 8, 1953: SCOTUS orders all 5 cases to be re-argued in the 1953 term (beginning October)

Brown v. Board timeline

- September 8, 1953: Chief Justice Fred Vinson died suddenly
 - Eisenhower appoints Earl Warren as Chief Justice
 - Recess appointment in October 1953
 - Senate confirmation by acclamation in March 1954
- December 8, 1953: consolidated *Brown* cases are re-argued
- December 12, 1953: in conference, there are 5 clear votes to strike down segregation
 - Several justices disagree, but Warren persuaded them not to write dissenting opinions

Brown v. Board timeline

- May 17, 1954: SCOTUS issues a unanimous decision in *Brown*
 - Opinion written by Earl Warren
 - Segregation in public schools is “inherently unequal” and violates the 14th Amendment’s Equal Protection Clause
 - The Court did not order the remedy of integrating the schools of the 5 jurisdictions, but instead ordered more hearings in the next term to determine how to implement desegregation

- Questions or comments on *Brown I*?

Brown v. Board II timeline

- April 11-14, 1955: oral arguments for *Brown II*
 - Thurgood Marshall and the NAACP Legal Defense Fund presented arguments for the plaintiffs
 - School districts requested relief (i.e., more time) concerning the task of desegregation
- May 31, 1955: SCOTUS issues decision
 - Ordered that desegregation occur “with all deliberate speed”
 - Delegated the task of carrying out school desegregation to federal district courts

Brown v. Board III timeline

- In 1953 the Topeka Board began to take steps toward desegregation of elementary schools
 - By the time of *Brown II* (1955), SCOTUS noted that Topeka had made “substantial progress”
- 1974: the federal Office of Civil Rights of HEW notified Topeka they were not in compliance with section 601 of Title VI of the Civil Rights Act of 1964

Brown v. Board III timeline

- 1978: Topeka attorneys and the ACLU persuaded Linda Brown Smith to be a plaintiff in reopening *Brown*
 - Topeka’s policy of “open enrollment” had led to further segregation
- In 1979, a group of black parents filed suit to re-open *Brown*
- October 1986: Trial in *Brown III* in federal district court

Brown v. Board III timeline

- April 1987: district court ruled against the plaintiffs
- December 1989: Appealed to the Tenth Circuit Court of Appeals
 - 1990: Three-judge panel ruled against the Topeka school district
- 1993: School district appealed to the US Supreme Court, who declined to hear the case
- ... <more stuff happened> ...
- July 1999: “Unified” status granted to Topeka schools

- Questions or comments on *Brown II and III*?

Aftermath: a summary

- Topeka:
 - By the time of the *Brown I* decision, Linda had moved on to an integrated junior high school
 - By January 1956, all elementary schools were technically desegregated
 - Topeka did not experience the violence and demonstrations that other cities did as a result of *Brown*

Aftermath: a summary

- South Carolina:
 - *Briggs v. Elliott* (1952)
 - All of the plaintiffs in *Briggs* lost their jobs; many were harassed sufficiently that they moved out of the state
 - Rev. Joseph DeLaine's church was burned and he survived a drive-by shooting; moved to Buffalo, NY in 1955
 - District Judge Waring shunned by white community and received death threats; retired in 1952 and moved to New York City

Aftermath: a summary

- Virginia:
 - *Davis v. County School Board of Prince Edward County, Virginia* (1952)
 - Initiated by a student protest over unequal conditions
 - 1956: “Massive Resistance” by white politicians
 - 1959: VA governor dismantled statewide system of segregation, but Prince Edward County closed public schools rather than integrate (1959-1964)

Aftermath: a summary

- Delaware:
 - *Gebhart v. Belton* (1952)
 - Delaware state courts had ruled that desegregation was required; appealed to SCOTUS by State Board of Education
 - Few protests and no violence as a result of *Brown*

Aftermath: a summary

- Washington, D.C.:
 - *Bolling v. Sharpe* (1954)
 - Decided under the Fifth Amendment's Due Process Clause
 - "... the concepts of equal protection and due process, both stemming from our American ideal of fairness, are not mutually exclusive."
 - Few protests and no violence as a result of *Brown/Bolling*

- Questions or comments on the aftermath in the 5 consolidated *Brown* locations?

Aftermath: a summary

- Across the south, thousands of African-American teachers and administrators were fired or laid off from previously all-black schools
 - Southerners wanted white leadership for the newly integrated schools
 - YouTube video, “The Unintended Consequences of Brown v. Board of Education” (Kansas University, 2019; 7:42)

Aftermath: a summary

- September 1957: the Arkansas “Little Rock Nine”
 - Gov. Faubus called out the Arkansas Army National Guard to block entrance of nine black students to Little Rock Central High School
 - Eisenhower asserted federal control over the Guard, and brought in troops from the Army’s 101st Airborne Division to escort students



Aftermath: a summary

- September 1962: riots in Oxford, Mississippi to prevent the enrollment of James Meredith at Ole Miss
 - Federal and state law enforcement dispatched to accompany Meredith
 - Mob violence beginning the night of September 30, 1962
 - Two civilians murdered and over 300 people injured, including one third of the law enforcement officers
 - Riot ended October 1, 1962 when 13,000 soldiers arrived in the early morning
 - Over 30,000 troops were deployed, or on alert

Aftermath: a summary

- June 1963: civil rights activist Medgar Evers murdered in Jackson, Mississippi
 - Evers had filed suit to desegregate the Jackson schools (among other activities)
 - White Citizen's Council member Byron De La Beckwith murdered him
 - Two 1964 trials resulted in (all-white) hung juries
 - Finally convicted of murder in 1994 (mixed jury)

Aftermath: a summary

- June 11, 1963: Alabama governor George Wallace blocked the door to the University of Alabama to prevent the enrollment of two black students
 - JFK ordered the Alabama National Guard to intervene (Executive order 11111)
 - The students were admitted and Wallace got national attention
 - Wallace ran for president in 1964, 1968, 1972 and 1976

- Questions or comments on the aftermath in the South in general?

Aftermath: New Orleans



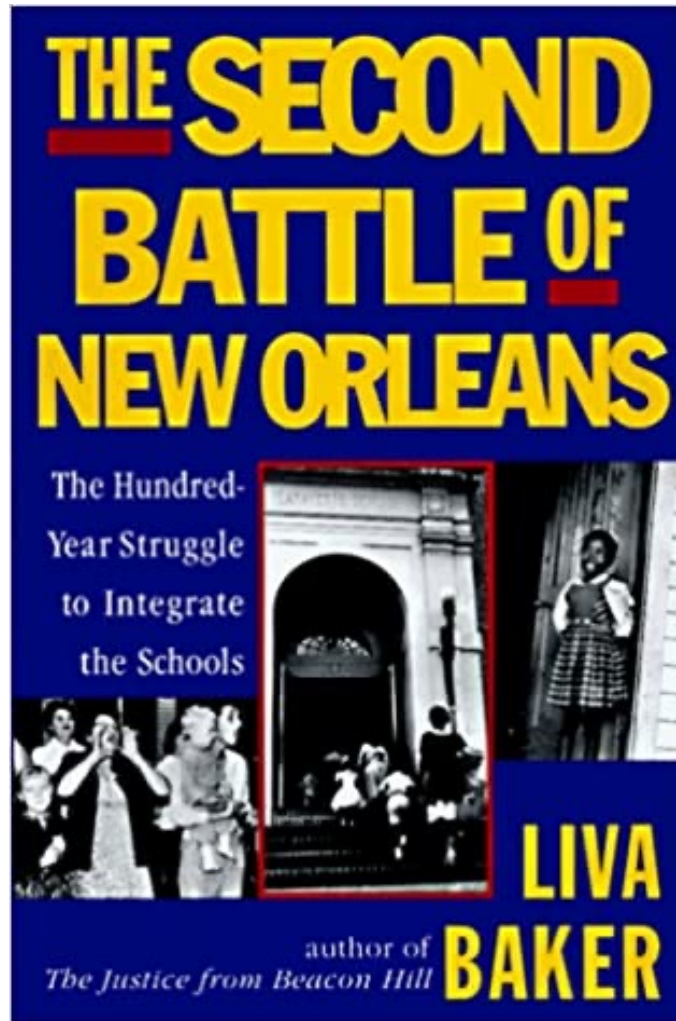
Ruby Bridges and her federal marshal escorts
from Frantz Elementary School, November 1960

Aftermath: New Orleans

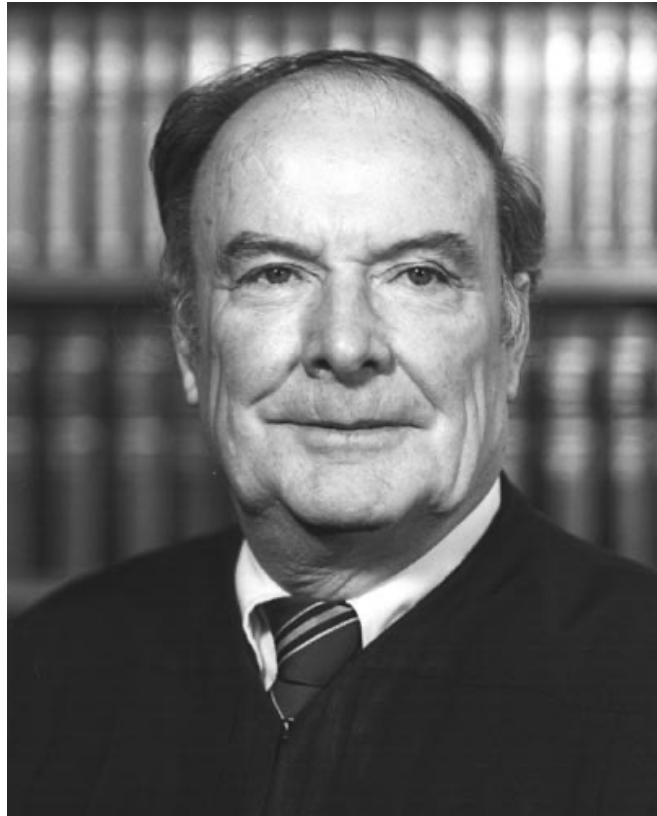


Members of the Orleans Parish School Board,
1954

Aftermath: New Orleans



Aftermath: New Orleans



Federal District Court judge J. Skelly Wright
(date of photo unknown)

Aftermath: New Orleans



Some of “the cheerleaders” who protested outside of William Frantz School for the entire 1960-61 school year.

- Questions or comments on the aftermath in New Orleans?
- Other questions or comments?

- Discussion question: was public school desegregation in the US a “success” in the long-term?
 - [2019 video](#) (2:15), if time permits