6-3-1950

Supreme Court Decision in U.T. Case, to Dr. C. E. Brehm, June 13, 1950

J. P. Hess

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Dr. C. E. Brehm
President
The University of Tennessee

Dear President Brehm:

Enclosed are copies of the decisions of the Supreme Court of the United States in the cases of Sweatt v. Painter and McLaurin v. Oklahoma State Regents for Higher Education, Board of Regents of University of Oklahoma, et al. These are the decisions handed down by the Court on June 5, 1950, in regard to applications of Negroes for admission to the University of Texas and the University of Oklahoma, respectively.

I discussed these opinions with Mr. John Baugh on last Friday, June 9; and, while in his office, we called Attorney General Beeler and informed him that a Negro had made inquiry about admission to The University of Tennessee. General Beeler advised that any such applicant, or applicants, be informed that the University was operating under the constitution and statutes of the State of Tennessee and that it would be necessary to refer them to the office of the State Attorney General.

Very truly yours,

JPH

JPH:bf
Enclosures (2)

cc to Vice President Smith
Mr. Cox
General Fowler
Judge Taylor
Mr. Chief Justice Vinson delivered the opinion of the Court.

This case and McLaurin v. Oklahoma State Regents, post, p. , present different aspects of this general question: To what extent does the Equal Protection Clause of the Fourteenth Amendment limit the power of a state to distinguish between students of different races in professional and graduate education in a state university? Broader issues have been urged for our consideration, but we adhere to the principle of deciding constitutional questions only in the context of the particular case before the Court. We have frequently reiterated that this Court will decide constitutional questions only when necessary to the disposition of the case at hand, and that such decisions will be drawn as narrowly as possible. See, e.g., Harper v. Virginia State Board of Elections, 383 U.S. 663 (1966); and cases cited therein. Because of this traditional reluctance to extend constitutional interpretations to situations or facts which are not before the Court, much of the excellent research and detailed argument presented in the cases is unnecessary to their disposition.

In the instant case, petitioner filed an application for admission to the University of Texas School for the February, 1946 term. His application was rejected solely because he is a Negro. Petitioner thereupon brought this suit for mandamus against the appropriate school officials, respondents here, to compel his admission. At that time, there was no law school in Texas which admitted Negroes.

The State trial court recognized that the action of the State in denying petitioner the opportunity to gain a legal education while granting it to others deprived him of the equal protection of the laws guaranteed by the Fourteenth Amendment. The court did not grant the relief requested, however, but continued the case for six months to allow the State to supply substantially equal facilities. At the expiration of the six months, in December, 1946, the court denied the writ on the showing that the authorized university officials had adopted an order calling for the opening of a law school for Negroes the following February. While petitioner's appeal was pending, such a school was made available, but petitioner refused to register therein. The Texas Court of Civil Appeals set aside the trial court's judgment and ordered the cause "remanded generally to the trial court for further proceedings without prejudice to the right of any party to this suit."
On remand, a hearing was held on the issue of the equality of the educational facilities at the newly established school as compared with the University of Texas Law School. Finding that the new school offered petitioner "privileges, advantages, and opportunities for the study of law substantially equivalent to those offered by the State to white students at the University of Texas," the trial court denied mandamus. The Court of Civil Appeals affirmed. 210 S.W. 2d 442 (1948). Petitioner's application for a writ of error was denied by the Texas Supreme Court. We granted certiorari, 330 U.S. 865 (1949), because of the manifest importance of the constitutional issues involved.

The University of Texas Law School, from which petitioner was excluded, was staffed by a faculty of sixteen full-time and three part-time professors, some of whom are nationally recognized authorities in their field. Its student body numbered 850. The library contained over 65,000 volumes. Among the other facilities available to the students were a law review, moot court facilities, scholarship funds, and Order of the Coif affiliation. The school's alumni occupy the most distinguished positions in the private practice of the law and in the public life of the State. It may properly be considered one of the nation's ranking law schools.

The law school for Negroes which was to have opened in February, 1947, would have had no independent faculty or library. The teaching was to be carried on by four members of the University of Texas Law School faculty, who were to maintain their offices at the University of Texas while teaching at both institutions. Few of the 10,000 volumes ordered for the library had arrived; nor was there any full-time librarian. The school lacked accreditation.

Since the trial of this case, respondents report the opening of a law school at the Texas State University for Negroes. It is apparently on the road to full accreditation. It has a faculty of five full-time professors; a student body of 23; a library of some 16,500 volumes serviced by a full-time staff; a practice court and legal aid association; and one alumnus who has become a member of the Texas Bar.

Whether the University of Texas Law School is compared with the original or the new law school for Negroes, we cannot find substantial equality in the educational opportunities offered white and Negro law students by the State. In terms of number of the faculty, variety of courses and opportunity for specialization, size of the student body, scope of the library, availability of law review and similar activities, the University of Texas Law School is superior. What is more important, the University of Texas Law School possesses to a far greater degree those qualities which are incapable of objective measurement but which make for greatness in a law school. Such qualities, to name but a few, include reputation of the faculty, experience of the administration, position and influence of the alumni, standing in the community, traditions and prestige. It is difficult to believe that one who had a free choice between these law schools would consider the question close.

Moreover, although the law is a highly learned profession, we are well aware that it is an intensely practical one. The law school, the proving ground for legal learning and practice, cannot be effective in isolation from the individuals and institutions with which the law interacts. Few students and no one who has practiced law would choose to study in an academic vacuum, removed from the interplay of ideas and the exchange of views with which the law is concerned.
The law school to which Texas is willing to admit petitioner excludes from its student body members of the racial groups which number 85% of the population of the state and include most of the lawyers, witnesses, jurors, judges and other officials with whom petitioner will inevitably be dealing when he becomes a member of the Texas Bar. With such a substantial and significant segment of society excluded, we cannot conclude that the education offered petitioner is substantially equal to that which he would receive if admitted to the University of Texas Law School.

It may be argued that excluding petitioner from that school is no different from excluding white students from the new law school. This contention overlooks realities. It is unlikely that a member of a group so decisively in the majority, attending a school with rich traditions and prestige which only a history of consistently maintained excellence could command, would claim that the opportunities afforded him for legal education were unequal to those held open to petitioner. That such a claim, if made, would be dishonored by the State, is no answer. "Equal protection of the laws is not achieved through indiscriminate imposition of inequalities." Shelly v. Kraemer, 334 U.S. 1, 22 (1948).

It is fundamental that these cases concern rights which are personal and present. This Court has stated unanimously that "The State must provide (legal education) for (petitioner) in conformity with the equal protection clause of the Fourteenth Amendment and provide it as soon as it does for applicants of any other group." Sipuel v. Board of Regents, 332 U.S. 631, 633 (1948). That case "did not present the issue whether a state might not satisfy the equal protection clause of the Fourteenth Amendment by establishing a separate law school for Negroes." Fisher v. Hurst, 333 U.S. 147, 150 (1948). In Missouri ex rel. Gaines v. Canada, 305 U.S. 337, 351 (1938), the Court, speaking through Chief Justice Hughes, declared that "... petitioner's right was a personal one. It was as an individual that he was entitled to the equal protection of the laws, and the State was bound to furnish him within its borders facilities for legal education substantially equal to those the State afforded for persons of the white race, whether or not other Negroes sought the same opportunity." These are the only cases in this Court which present the issue of the constitutional validity of race distinctions in state-supported graduate and professional education.

In accordance with these cases, petitioner may claim his full constitutional right to legal education equivalent to that offered by the State to students of other races. Such education is not available to him in a separate law school as offered by the State. We cannot, therefore, agree with respondents that the doctrine of Plessy v. Ferguson, 163 U.S. 537 (1896), requires affirmance of the judgment below. Nor need we reach petitioner's contention that Plessy v. Ferguson should be reexamined in the light of contemporary knowledge respecting the purposes of the Fourteenth Amendment and the effects of racial segregation. See supra, p. 

We hold that the Equal Protection Clause of the Fourteenth Amendment requires that petitioner be admitted to the University of Texas Law School. The judgment is reversed and the cause is remanded for proceedings not inconsistent with this opinion.

Reversed.
Mr. CHIEF JUSTICE VINSON delivered the opinion of the Court.

In this case, we are faced with the question whether a state may, after admitting a student to graduate instruction in its state university, afford him different treatment from other students solely because of his race. We decide only this issue; see Sweatt v. Painter, ante, p. ___.

Appellant is a Negro citizen of Oklahoma. Possessing a Master's Degree, he applied for admission to the University of Oklahoma in order to pursue studies and courses leading to a Doctorate in Education. At that time, his application was denied, solely because of his race. The school authorities were required to exclude him by the Oklahoma statute, 70 Okla. Stat. § § 455, 456, 457 (1941), which made it a misdemeanor to maintain or operate, teach or attend a school at which both whites and Negroes are enrolled or taught. Appellant filed a complaint requesting injunctive relief, alleging that the action of the school authorities and the statute upon which their action was based were unconstitutional and deprived him of the equal protection of the laws. Citing our decisions in Missouri ex rel Gaines v. Canada, 305 U.S. 337 (1938), and Spieul v. Board of Regents, 332 U.S. 631 (1948), a statutory three-judge District Court held that the State had a constitutional duty to provide him with the education he sought as soon as it provided that education for applicants of any other group. It further held that to the extent the Oklahoma statutes denied him admission they were unconstitutional and void. On the assumption, however, that the State would follow the constitutional mandate, the court refused to grant the injunction,
retaining jurisdiction of the cause with full power to issue any necessary and proper orders to secure McLaurin the equal protection of the laws.

Following this decision, the Oklahoma legislature amended these statutes to permit the admission of Negroes to institutions of higher learning attended by white students, in cases where such institutions offered courses not available in the Negro schools. The amendment provided, however, that in such cases the program of instruction "shall be given at such colleges or institutions of higher education upon a segregated basis". 1

Appellant was thereupon admitted to the University of Oklahoma Graduate School. In apparent conformity with the amendment, his admission was made subject to "such rules and regulations as to segregation as the President of the University shall consider to afford Mr. G. W. McLaurin substantially equal educational opportunities as are afforded

1. The amendment adds the following proviso to each of the sections relating to mixed schools: "Provided, that the provisions of this Section shall not apply to programs of instruction leading to a particular degree given at State owned or operated colleges or institutions of higher education of this State established for and/or used by the white race, where such programs of instruction leading to a particular degree are not given at colleges or institutions of higher education of this State established for and/or used by the colored race; provided further, that said programs of instruction leading to a particular degree shall be given at such colleges or institutions of higher education upon a segregated basis". Okla. Stat. Adm. tit. 70, § § 455, 456, 457 (1950). Segregated basis is defined as "classroom instruction given in separate classrooms, or at separate times." Id. § 455.
to other persons seeking the same education at the Graduate College", a condition
which does not appear to have been withdrawn. Thus he was required to sit apart at a
designated desk in an anteroom adjoining the classroom; to sit at a designated desk
on the mezzanine floor of the library, but not to use the desks in the regular
reading room; and to sit at a designated table and to eat at a different time from
the other students in the school cafeteria.

To remove these conditions, appellant filed a motion to modify the order and
judgment of the District Court. That court held that such treatment did not violate
the provisions of the Fourteenth Amendment and denied the motion. This appeal followed.

In the interval between the decision of the court below and the hearing in this
Court, the treatment afforded appellant was altered. For some time, the section of
the classroom in which appellant sat was surrounded by a rail on which there was a
sign stating, "Reserved for Colored", but these have been removed. He is now
assigned to a seat in the classroom in a row specified for colored students; he is
assigned to a table in the library on the main floor; he is permitted to eat at the
same time in the cafeteria as other students, although here again he is assigned to a
special table.

It is said that the separations imposed by the State in this case are in form
merely nominal. McLaurin uses the same classroom, library and cafeteria as students of
other races; there is no indication that the seats to which he is assigned in these rooms
have any disadvantage of location. He may wait in line in the cafeteria and there
stand and talk with his fellow students, but while he eats he must remain apart.

These restrictions were obviously imposed in order to comply, as nearly as could
be, with the statutory requirements of Oklahoma. But they signify that the State,
in administering the facilities it affords for professional and graduate study, sets
McLaurin apart from the other students. The result is that appellant is handicapped
in his pursuit of effective graduate instruction. Such restrictions impair and inhibit
his ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his professions.

Our society grows increasingly complex, and our need for trained leaders increases correspondingly. Appellant's case represents, perhaps, the epitome of that need, for he is attempting to obtain an advanced degree in education, to become, by definition, a leader and trainer of others. Those who will come under his guidance and influence must be directly affected by the education he receives. Their own education and development will necessarily suffer to the extent that his training is unequal to that of his classmates. State-imposed restrictions which produce such inequalities cannot be sustained.

It may be argued that appellant will be in no better position when these restrictions are removed, for he may still be set apart by his fellow students. This we think irrelevant. There is a vast difference — a Constitutional difference — between restrictions imposed by the state which prohibit the intellectual commingling of students, and the refusal of individuals to commingle where the state presents no such bar. Shelley v. Kraemer, 334 U.S. 1, 13-14 (1948). The removal of the state restrictions will not necessarily abate individual and group predilections, prejudices and choices. But at the very least, the state will not be depriving appellant of the opportunity to secure acceptance by his fellow students on his own merits.

We conclude that the conditions under which this appellant is required to receive his education deprive him of his personal and present right to the equal protection of the laws. See Sweatt v. Painter, ante, p. ___. We hold that under these circumstances the Fourteenth Amendment precludes differences in treatment by the state based upon race. Appellant, having been admitted to a state-supported graduate school, must receive the same treatment at the hands of the state as students of other races. The Judgment is Reversed.