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EQUAL JUSTICE

Through awareness, education and action

An official publication of the Washington State Minority and Justice Commission

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THE NATIONAL CONSORTIUM COMES OF AGE

The sixteenth annual meeting of the National Consortium on Racial and Ethnic Fairness in the Courts in Washington, D. C. April 14-17, 2004 brought fond memories of its organizational meeting in New York in 1987.

The organization (then adopting the cumbersome name of National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts) was inspired by former United Nations Ambassador Franklin H. Williams, who chaired the New York Commission on Minorities, and who brought together Judge Harold Hood (Michigan), Judge Harold Z. Davis (New Jersey) and Justice Charles Z. Smith (Washington), each of whom chaired task forces or commissions in their states. Dr. Yolande P. Marlow of New Jersey was staff coordinator and today serves in an emeritus role with the Consortium.

The dynamic leadership of Ambassador Williams (then President of the Phelps-Stokes Fund) as moderator of the Consortium continued until his death in 1990. Justice Charles Z. Smith, Washington Supreme Court, at that time assumed responsibility as moderator and continued until the annual meeting in Honolulu, Hawai'i in 1999 when Judge Veronica Simmons McBeth, Los Angeles Superior Court, was installed as moderator. She was succeeded two years later (in San Francisco) by then Chief Justice Patricio N. Serna, New Mexico Supreme Court. He was succeeded in 2004 (in Washington, D.C.) by Judge Max N. Tobias, Jr., Louisiana Court of Appeal. Judge Tobias has already established himself in the line of dynamic and effective moderators. He presides over the newly created Board of Directors.

The Consortium continued to grow without funds and without staff (except for the dedicated volunteer work of Dr. Marlow). It was formally incorporated in

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EQUAL JUSTICE

Equal Justice is the official publication of the Washington State Minority and Justice Commission whose goal is elimination of racial and ethnic bias, where it exists, from our state courts. The newsletter is a communications and networking tool providing information about Commission programs, projects and issues of concern.

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INTRODUCTION

It was wonderful to see how many educational and consciousness raising activities were held to commemorate the 50th Anniversary of the landmark case *Brown v. Board of Education*. Numerous events were conducted locally and nationally by many organizations and educational institutions throughout the year. It would have been wonderful to document all of the events, for the 100th Anniversary commemoration but, the space limitations of the newsletter forced us to limit the number of articles to one local, one national, one on education and one related event..

It is hard to believe that only 50 years have passed since the United State Supreme Court unanimously decided on May 17, 1954, that the “separate but equal” doctrine established in 1896, in *Plesy v. Ferguson*, is unconstitutional. As the 50th Anniversary is coming to a close, we need to not only celebrate the accomplishments of the last 50 years but we also need to address issues and problems that still linger, and work in a collaborative fashion to advance mutual interests.

I remember in junior and high schools, inner city students, predominantly African American and Latino students, were bused to suburban schools, predominantly Caucasian. Despite this attempt at integration, I do not recall inner city students being encouraged to participate in rigorously challenging curricula at the suburban schools. I should know. When I entered junior high school, I was placed in remedial classes which contained predominantly African American and Latino students. And not knowing any better, I did what I was told and went where I was directed. Only after my father in his limited English insisted that I be placed in advanced courses with the school counselor did I understand that remedial meant minimum standards and that mostly students of color attended these classes. My personal experiences have made me realize that busing minority students is not enough. In addition to busing students, all students must be supported and encouraged to pursue higher academic standards regardless of race or ethnicity. Our children are our future. A first class education should not be limited to the affluent or to certain segments of society. We are one nation and all of our children should ensure that all students receive an equal and first class education.

Erica S. Chung



¹163 U.S. 537

²Warren Opinion may be viewed in full at <http://www.nationalcenter.org/brown.html>

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Louisiana January 5, 2000. At least since 1990 it has had the cooperative assistance as “secretariat” of the National Center for State Courts in Williamsburg, Virginia. Notable among the staff assigned to work with the Consortium were H. Clifton Grandy (now with the District of Columbia Courts); Ms. Brenda A. Williams, Director of Association Services; Ms. Deanna L. Parker, Information Analyst; and Dr. Thomas A. Henderson, Executive Director, Office of Government Relations. Judge Roger K. Warren, President of the National Center, was an enthusiastic supporter of the Consortium until his resignation. He has been succeeded as president by Ms. Mary Campbell McQueen of Washington State, who was a member of the Washington State Minority and Justice Commission from its inception in 1987. She is succeeded on the Commission by Ms. Janet L. McLane.

In recent years, annual meetings of the Consortium have been hosted by state commissions or task forces in New York, California, Washington, Georgia, Louisiana, Nevada, Hawai’i, New Jersey, Florida, Michigan, and the District of Columbia. From its early beginning with the then only existing groups in New York, Michigan, New Jersey and New York, the Consortium now includes, among others, state commissions in Alaska, Arizona, California, District of Columbia, Florida, Georgia, Idaho, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, New Mexico, New York, Oregon, Pennsylvania, South Dakota and Washington.

The sixteenth annual meeting was hosted by the District of Columbia Court of Appeals, Judge Annice M. Wagner, Chief Judge. The program was precisely and efficiently developed and staffed by H. Clifton Grandy, Senior Court Manager, District of Columbia Courts. The theme was “50 Years After *Brown*: a National Dialogue on Racial and Ethnic Fairness in the Courts.”

The program brought together lawyers, judges, law professors, historians, public officials and grass roots participants who shared insights into the dilemma of public school segregation and the impact of the United States Supreme Court decision in *Brown v. Board of Education of Topeka*. The sessions were intense and greatly rewarding. In general the topics included Legal Representation: The Chief Justices’ Vision; Teaching *Brown v. Board of Education*; the Impact of Arrest, Prosecution, and Incarceration on

the Under-represented; Linguistic Minorities and the Legal System; Access to Alternative Dispute Resolution: The Need for Diversity; Judicial Law Clerkships; Conference of Chief Justices; “All Deliberate Speed”; Achieving Diversity in Law Schools; Managing Diversity in the Judicial Workforce; The Influence of Latino School Desegregation Case on *Brown v. Board of Education*; and Ensuring Fairness for Immigrants in the Court.

Justice Charles W. Johnson, Washington Supreme Court, was an outstanding participant on the panel “The Chief Justices’ Vision.” He was “drafted” at the last minute to substitute for Chief Justice Ronald T. Y. Moon, Hawai’i Supreme Court, who was momentarily disabled after a slip and fall accident.

One of the particularly outstanding seminars was “Teaching *Brown* to a New Generation: a How-to Approach” which was ably presented by Ms. Margaret E. Fisher, Attorney at Law, who is on the staff of the Washington State Administrative Office of the Courts and an adjunct professor at the Seattle University School of Law. Her presentation was evaluated as of exceptionally high quality.

In addition to representation by Justices Johnson and Smith, the Washington State Minority and Justice Commission was represented by Ms. Myrna I. Contreras, commission member, and Ms. Erica S. Chung, executive director.

The Board of Directors of the Consortium will meet in San Francisco on October 26 and 27, 2004. It will then entertain an invitation from the Georgia Commission on Access and Fairness in the Courts to hold its seventeenth annual meeting in Atlanta, Georgia tentatively scheduled for April 13-16, 2005.

As time marches on, we are proud of the continuing development of participating members of the National Consortium on Racial and Ethnic Fairness in the Courts. We are especially proud that the Washington State Minority and Justice Commission—with the full support of our Supreme Court—continues to evidence a leadership role for our participating groups.

Charles Z. Smith



Justice Charles Z. Smith is a retired Washington State Supreme Court Justice.

**BROWN V. BOARD OF EDUCATION:
AN AMERICAN TRIUMPH
CELEBRATING THE 50TH ANNIVERSARY OF
BROWN IN WASHINGTON STATE**

On the morning of May 17, 1954, there was no special press conference, though the veteran reporters usually gathered in the pressroom of the United States Supreme Court were waiting by the phones. Only just before noon could a few clues presaging the historical moment be ascertained. A very large wrapped package of opinions that were not yet marked, as was customary, was seen in the Court's basement print shop. Justice Jackson, who had suffered a heart attack just seven weeks before, returned to the Court to be present for the Monday morning reading of Court decisions. Justice Clark hinted to his clerks that they might want to be 'in court' that day for the reading of the day's opinions.

Only after the usual admission of attorneys to the United States Supreme Court was the Court's press officer informed that the reading of *Brown v. Board of Education* was about to begin. The pressroom was electrified, for the reading of the opinion, Chief Justice Warren's first major opinion. As Chief Justice Warren spoke from the bench, his words shrouded the ultimate decision of the Court. In anticipation, bells went off in every newsroom in America.

Justice Earl Warren: May 17, 1954

“WE CONCLUDE THAT IN THE FIELD OF PUBLIC EDUCATION THE DOCTRINE OF ‘SEPARATE BUT EQUAL’ HAS NO PLACE...”

With a stroke of the pen, the decision of the United States Supreme Court in 1954 struck down segregation in public schools and made a decision that would affect every other form of segregation in our country. The Court, by this ruling, laid the foundation for change in the social fabric of America. How our country would deal with race relations and how African Americans would view themselves would be changed forever.

Fifty years after the triumph of *Brown v. Board of Education*, which has been celebrated nationally and locally, the Loren Miller Bar Association (LMBA) chose to educate the public about *Brown's* legal and social significance. Planning for this celebration began as early as November of 2003. A team of lawyers of all ages and tenures with the bar joined together to

give voice and approbation to the team of Black lawyers who successfully argued this landmark case before the United States Supreme Court. LMBA attorneys proposed and delivered a month-long tribute to the *Brown* decision, taking the message to communities found in high schools, churches, libraries, colleges and universities. LMBA enlisted the full compliment of the nine Washington State Supreme Court Justices and United States District Court Chief Judge John C. Coughenour, along with one of LMBA's founding members and prominent attorney, Lembhard Howell. These outstanding figures in our legal community gave breath to a dramatic re-enactment of the *Brown* oral arguments before the United States Supreme Court. Revealing history however was not enough. The team examined the history of the *Brown* case and its progeny in public forums and thereby engaged the public in another relevant dialogue focused upon creating solutions to the current “American Dilemma” of re-segregated schools.

Young lawyers and law students made up the army of volunteers who carried the message of *Brown* throughout our community. Led by LMBA, now Immediate Past President James Andrus and Past Presidents James Williams and Bonnie Glenn, this multifaceted team convened forums in five different locations with attendance that varied from high school student classrooms of 30 to audiences exceeding 750 on the University of Washington campus. All who volunteered were sustained with a passion for public education and civil rights.

The LMBA planning committee of the *Brown* events worked hard to clearly state the symbolic and legal precedent set by *Brown* and organized events that would be fitting to celebrate such a historic decision. The organization, sponsors, and public are proud of this unique celebration of the legacy and spirit of *Brown* in Washington State. By working together, we were able to commemorate the past, educate a new generation in the present, and look to the future. As beneficiaries of this decision, our country owes a debt to the many men and women across this country who fought for equality. We must continue to stand up and actively ensure that all people are equal before the law.

Reverend Dr. Martin Luther King, Jr.

“OUR LIVES BEGIN TO END THE DAY WE BECOME SILENT ABOUT THINGS THAT MATTER.”

Judge Monica J. Benton
Bonnie J. Glenn



Judge Monica J. Benton is a United States Magistrate Judge and Ms. Bonnie J. Glenn is a Senior King County Deputy Prosecuting Attorney.

TEACHING BROWN TO A NEW GENERATION

In April 2004 in a hotel conference room in Washington DC, “Chief Justice Earl Warren” introduced himself to “Barbara Johns,” the 16-year-old student who led a strike at her segregated Virginia high school in 1951. At the same time, eight year-old “Linda Brown,” the *Brown* case’s namesake, introduced herself to “Harry Briggs,” one of the plaintiffs in the South Carolina case that was heard along with the *Brown* case. These introductions are all part of a new teaching lesson on *Brown v. the Board of Education*, developed by Margaret E. Fisher of the Washington State Administrative Office of the Courts (AOC) as part of the 50th anniversary of the *Brown* decision.

The idea for the development of this new lesson for judges to teach to high school students originated with Chuck Ericksen of the National Center for State Courts. He invited AOC to develop a new lesson for AOC’s “Judges in the Classroom” program and then to demonstrate the lesson at the annual conference of the National Consortium for Racial and Ethnic Fairness in the Courts.

“Judges in the Classroom” is a best practices program pairing judges with elementary and secondary schools throughout Washington and providing detailed interactive lesson plans for the judges to use in the classroom. Margaret Fisher is the author of most of the lessons for this program. She also makes regular appearances on behalf of AOC for judicial and teacher audiences to demonstrate and promote the program.

In reflecting on the many possible emphases the lesson could take, Ms Fisher selected these: to bring awareness of the historical case to a new generation, to highlight the role of the courts in ending legal segregation and to help today’s students think about the issues of race and education that they face.

As part of the lesson, each student is assigned a descriptive role of a person or organization from the historical era of *Brown*. During the first few minutes of class, students read their assigned role and then introduce that role to others in the class. Throughout the lesson, students use the knowledge from these roles to help articulate aspects of segregation, the efforts made to overturn legal segregation, and the five court cases decided as part of the *Brown* case.

The next step in the lesson has the students examine a case study of *Brown* in small groups, followed by the discussions of what happened once the United States Supreme Court issued its ruling in 1954. The students then spend time looking at facts of school integration in 2004. This leads into the concluding activity, an opinion poll of controversial issues, including the choice of neighborhood schools versus integration, the offering of minority-focused public schools, and busing. Students are directed to stand under signs posted around the room—Agree, Disagree, Undecided—as each controversial statement is read aloud. Discussion follows and any students who change their opinion due to the discussion move under a different sign.

To ensure the lesson works with students, Ms. Fisher piloted the lesson in a Seattle public high school history class. After students introduced their assigned roles to each other, Ms. Fisher wrote “separate but equal” on the board and asked about the origin of the phrase. One student volunteered, “Abraham Lincoln;” a second student volunteered “Martin Luther King, Jr.” Ms. Fisher solicited the student who had been assigned the role of Homer Plessy to explain where that term came from. Throughout the demonstration of the lesson, she discovered that students very much liked having insider information from their roles. Concluding with the opinion poll, the majority of students agreed that attending a neighborhood school was more important than integrating the school. Also, most students agreed with having public minority-focused schools, such as African-American Academies or Hispanic Academies. Less than half the students thought the courts should order busing, although the number opposed to busing was equal to the number of students who were undecided.

This lesson was then unveiled at the conference of the National Consortium for Racial and Ethnic Fairness in the Courts on April 16, 2004. The Honorable Charles Z. Smith, Justice (retired),

Washington State Supreme Court, introduced Ms. Fisher and the “Judges in the Classroom” program to a very receptive audience of judges and minority commission members from diverse parts of the country.

The audience very willingly adopted their assigned role and introduced themselves to other participants. Some of the members of the audience had lived in the south during the era of legalized segregation and added their own personal experiences to the discussion, thus enriching the discussion. Interestingly, the participants were also as divided in their opinions on the issues of good neighborhood schools versus integrated schools, busing and minority-focused public schools as the high school students. The audience members articulated compelling reasons for their opinions and this engendered the liveliest part of the presentation.

The participants were quite enthusiastic about taking the lesson back to their own states and using it in high school classes. The lesson is available on the website of the Administrative Office of the Courts, <http://www.courts.wa.gov/education/lessons/BrownvBoard.doc>, and has been circulated throughout the public legal education networks in Washington and the United States.

Margaret E. Fisher



Ms. Margaret E. Fisher is an attorney and a staff person with the Washington State Administrative Office of the Courts.

BROWN V. BOARD RULING STOOD ON SYLVIA MENDEZ'S SHOULDERS

Sylvia Mendez flipped through a photo album and quickly found the "white school," but where was the picture of the "Mexican school" she was forced to attend? It had to be somewhere, slipped into a box or drawer or another album.

She was searching in the small, second-floor room of her house on a cul-de-sac in Fullerton, California. Family photos and certificates of appreciation hung on the walls. Chicano history books

sat on the shelves. The lecture cards she uses when she visits schools sat here and there.

"That picture is in here, somewhere," Mendez said. If somebody else had written United States history books over the past half-century, Sylvia Mendez would be as familiar to us today as Reverend Oliver Brown, the lead plaintiff in *Brown v. Board of Education*. Well, not that familiar—but close.

May 17 marks the 50th anniversary of the *Brown* decision, the United States Supreme Court's landmark decision that ruled that separate public schools for blacks were inherently unequal and set our nation on a fitful quest for integration on almost every front—from education to employment and even country club memberships.

But 10 years earlier, on an early autumn day in 1944, the Mendez family would begin a legal fight that would help set the stage for the *Brown* decision.

Mendez remembered arriving at the Westminster School with her cousins, who had lighter skin and a Basque surname. She pointed to old family photos on the wall.

"Look at my skin, my brothers' skin. It's darker," she said. "They told our cousins they could attend the white school, but we had to go to the Hoover School, which was the Mexican school."

Infuriated, her father, Gonzalo Mendez, looked up a firebrand lawyer, David Marcus. Marcus earlier had successfully sued to end segregation in public swimming pools in nearby San Bernardino County. Marcus recruited four other Mexican-American families and filed a class-action suit against four Orange County school districts. He was among the first lawyers to introduce a new argument that would find its way into the *Brown* decision. Marcus said that segregated schools were not just educationally second-class, they also made Latino students feel inferior and hindered their social assimilation and participation in all aspects of American life.

Federal Court Judge Paul J. McCormick agreed and wrote an early decision framing the argument. When the school districts appealed, civil rights groups jumped in with briefs supporting the Mexican families. One was from the NAACP and its lead attorney, Thurgood Marshall, who would go on to win the

Brown case and later become a Supreme Court justice. It gets better. Earl Warren was governor of California at the time. Not long after the *Mendez* decision was upheld, he persuaded the Legislature to abolish separate schooling for Latinos, Native Americans and Asians throughout the state. Warren would later become chief justice of the Supreme Court, and write the *Brown* decision.

There was a key legal difference between the two cases. While *Mendez* attacked segregation based on national origin, *Brown* addressed race. But the premises of the arguments were essentially the same. Other reasons explain why the *Mendez* case faded into history and *Brown* rose to the top.

The Orange County schools simply gave up the appeals when they ran out of money for legal fees. Unlike the NAACP's aggressive role in the *Brown* case, no Latino civil rights group took an active role in *Mendez*. The *Mendez* decision would soon be eclipsed by *Brown* and, in the hands of history writers who see American race relations through a black-versus-white lens, it would fade into history.

But Sylvia Mendez doesn't want her case forgotten. After a career as a nurse, she's crusading—with some success—to bring the story of *Mendez v. Westminster* into public schools. What angers her most is the re-segregation of urban, Latino schools.

"I know it's for economic and geographic reasons," she said, "but I guess I'm a radical. I still believe deep down inside that segregation is evil, that it makes young Latinos feel inferior, stops them from getting ahead. There's got to be a way to integrate and improve those schools. I'm not sure how, so I'm looking for answers."

So are the rest of us who believe in equality. Remembering the battles such as *Brown v. Board of Education*, and celebrating those with the courage to fight for change, is a good place to start.

Joe Rodriguez



Mr. Rodriguez is a reporter for the San Jose Mercury News. This article was first published on April 30, 2004 and is reprinted here with his permission.

SPOTLIGHT ON COMMISSION MEMBERS

JUSTICE CHARLES Z. SMITH

Justice Smith, retired from the Washington Supreme Court, was honored with the "2004 Distinguished Service Award" by the National Center for State Courts (NCSC) on April 15, 2004 at the annual meeting of the National Consortium on Racial and Ethnic Fairness in the Courts in Washington, D.C. The Distinguished Service Award is presented annually to a state appellate court judge who has made longstanding contributions to the improvement of the justice system and who has supported the mission of the NCSC.

JUDGE RICARDO S. MARTINEZ

Judge Martinez, Magistrate Judge, was nominated by President George W. Bush and confirmed by the United States Senate on June 17, 2004 as a United States District Court Judge for the Western District of Washington. He is the first Latino in Washington to serve as a United States District Court Judge.

JUDGE RICHARD A. JONES

Judge Jones, King County Superior Court, was awarded the "2004 Outstanding Judge Award" by the Washington State Bar Association on September 20, 2004 at the Fall 2004 Judicial Conference in Spokane, Washington. The Outstanding Judge Award is presented for outstanding service to the bench and for special contribution to the legal profession at any level of the court.

LONNIE DAVIS

Mr. Davis, an attorney with the Disabilities Law Project of the Washington Coalition of Citizens with Disabilities, was elected and sworn in as a Board of Governor of the Washington State Bar Association on September 16, 2004 at the Annual Meeting of the WSBA representing the 7th Central District.

LARRY M. FEHR

Larry M. Fehr, Senior Vice President of Pioneer Human Services, received the Norman F. Chamberlain Leadership Award from Pioneer Human Services at its annual meeting of Pioneer Human Services in Seattle on March 24, 2004.

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