

## **Plessy v Ferguson 163 U.S. 537 (1896)**

### **1) Reference Details**

Jurisdiction: United States of America, Supreme Court

Date of Decision: 18 May 1896

Case Status: Concluded

Link to full text:

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=163&invol=537>

### **2) Facts**

The applicant (Homer A. Plessy) was an American citizen who was considered to be 7/8 white and 1/8 African American (his great-grandmother being black). The applicant was 29 years old on 7 June 1892. The respondent, the Honourable John H. Ferguson, was judge of the criminal District Court for the parish of Orleans.

In order to challenge State laws on the constitutionality of segregation the applicant agreed to violate a Louisiana State law ordering racial segregation in train carriages on behalf of the Citizen's Committee of African Americans and Creoles. On 7 June 1892, the applicant, who resembled a white male in terms of both skin colour and physical appearance bought a first class ticket and boarded a train on the East Louisiana Railroad, which ran between New Orleans and Covington and sat in a "whites-only" car.

The applicant was immediately ordered by a conductor to vacate his seat and occupy a seat in a carriage assigned for "non-whites". He was warned that if he did not adhere to the order he would face ejection from the train and imprisonment. The applicant refused and was ejected by force from the train by police. He was then arrested and taken to a parish jail. He was later charged with criminally violating an act of the general assembly of the State, approved 10 July 1890.

The applicant was tried and convicted despite arguments advanced on his behalf that the act of the general assembly ordering racial segregation on trains was unconstitutional as it violated civil rights granted under the Thirteenth and Fourteenth Amendments.

The judge at first instance refused to accept the argument that the applicants' civil rights had been violated. The ruling against the applicant was affirmed in the Louisiana State Supreme Court. The Court also refused to grant the applicant a re-hearing, although the Court allowed a petition to be entered for the writ of error.

The petition reached the Supreme Court in April 1896.

### **3) Law**

#### *State legislation*

- Acts 1890, No. 111 page 52 (Louisiana)

#### *National legislation*

- Thirteenth Amendment, Fourteenth Amendment and Fifteenth Amendment of the Constitution of the United States of America

#### **4) Legal Arguments**

##### *The Applicant*

The applicant argued:

“[T]hat such railroad company was incorporated by the laws of Louisiana as a common carrier, and was not authorised to distinguish between citizen’s according to their race”

They also contended that the act of the Louisiana General Assembly ordering segregation on trains (Acts 1890 No. 111) was unconstitutional under the Thirteenth and Fourteenth Amendments. Specifically the applicant argued that the State of Louisiana had violated the Fourteenth Amendment, which states:

*“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, and property, without due process of law.”*

##### *The State of Louisiana*

The State of Louisiana asserted:

That the Act under scrutiny is not discriminatory against any race as it is equally applicable to both “whites” and “non-whites”.

#### **5) Decision**

The Court decided 7:1 in favour of the respondent (Brewer J. did not hear the arguments or participate in the decision in this case).

##### *The Majority Opinion*

Brown J. delivered the Majority opinion. He set out that the segregation of races on trains in Louisiana did not violate the Thirteenth Amendment. The Thirteenth Amendment was enacted to end “*involuntary servitude*” it does not offer any protection against discrimination.

The Fourteenth Amendment was passed to prevent discrimination and protect “*non-whites*” from onerous laws that put them at a disadvantage to others. The construction of the Amendment was considered in the Slaughter-House cases, which stated that the Amendment offered protection from “*hostile legislation*” and enforced “*absolute equality of the two races before the law*”.

However, Brown J. drew a distinction between laws that interfere with political equality and segregation, concluding that the Fourteenth Amendment:

*"[C]ould not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political, equality, or a commingling of the two races".*

He continued:

*"[L]aws permitting, and even requiring, their [racial] separation in places where they are liable to be brought into contact, do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competency of the state legislatures in the exercise of their police power".*

The majority drew a parallel between segregation in schools and on trains. As segregation in schools was accepted – the court saw no *'unreasonable[ness]'* or illegality in the enforced segregation of races on trains.

In conclusion, Brown J. stated:

*"[W]e consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the Act, but solely because the colored race chooses to put that construction upon it."*

Thus the Court held that separate facilities must be equal to comply with constitutional rights. In this case the carriages were equal. Thus the *'separate but equal'* doctrine was explicitly accepted by the court. Justice Brown saw no issue with the competence of the Louisiana General Assembly to segregate carriages on race grounds on the line the applicant traveled on, as the line was purely interstate.

### *Dissenting Opinion*

An important and strong dissent on both the opinion and reasoning of the majority came from Harlan J. concluding:

The Thirteenth and Fourteenth Amendments when read together and *"if enforced according to their true intent and meaning, will protect all the civil rights that pertain to freedom and citizenship"*. He further concluded that the purpose of Act no. 111 is to exclude "non-white" people from "whites only" carriages and not vice versa. Consequently, the statute *"interferes with the personal freedoms of citizens"*.

Harlan J. continued:

*"If a white man and a black man choose to occupy the same public conveyance on a public highway, it is their right to do so; and no government, proceeding alone on the grounds of race, can prevent it without infringing the personal liberty of each."*

It was irrelevant that accommodation was equal for both races. On the issue of the constitutionality of the Louisiana State Act he commented, *"[o]ur constitution is colorblind, and neither knows nor tolerates classes among citizens"*.

Finally, Harlan J. "regretted" the majority opinion of the Supreme Court as it had *"reached the conclusion that it is competent for a state to regulate the enjoyment of citizens of their*

*civil rights solely upon the basis of race” something he believed was “hostile to the spirit and letter of the constitution”.*