

Supreme Court of the United States

BROWN v. BOARD OF EDUCATION, 344 U.S. 1 (1952)

344 U.S. 1

BROWN ET AL. v. BOARD OF EDUCATION OF TOPEKA ET AL. APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS. * No. 8. October 8, 1952.

In two cases set for argument in October, laws of Kansas and South Carolina providing for racial segregation in public schools were challenged as violative of the Fourteenth Amendment. In another case raising the same question with respect to laws of Virginia, appellants had filed a statement of jurisdiction and a motion requesting that all three cases be argued together. There was pending in the United States Court of Appeals for the District of Columbia Circuit a case in which segregation in public schools of the District of Columbia was challenged as violative of the Fifth Amendment, Held:

1. The Kansas and South Carolina cases are continued on the docket; probable jurisdiction is noted in the Virginia case; and arguments in all three will be heard in December. Pp. 2-3
2. Judicial notice is taken of the pendency of the District of Columbia case. The Court will entertain a petition for certiorari in that case, which, if presented and granted, will afford opportunity for argument of that case immediately following arguments in the other three cases. P. 3.

[Footnote *] Together with No. 101, Briggs et al. v. Elliott et al., Members of Board of Trustees of School District #22, on appeal from the United States District Court for the Eastern District of South Carolina; and No. 191, Davis et al. v. County School Board of Prince Edward County et al., on appeal from the United States District Court for the Eastern District of Virginia. [344 U.S. 1, 2]

The following are citations to the reports of the decisions below: No. 8, the Kansas case, 98 F. Supp. 797; No. 101, the South Carolina case, 103 F. Supp. 920; No. 191, the Virginia case, 103 F. Supp. 337.

Robert L. Carter, Thurgood Marshall, Spottswood W. Robinson, III, George E. C. Hayes, George M. Johnson, William R. Ming, Jr., James M. Nabrit, Jr. and Frank D. Reeves for appellants. Oliver W. Hill was also with them on the brief in No. 191.

T. C. Callison, Attorney General of South Carolina, John W. Davis, Robert McC. Figg, Jr. and William R. Meagher for appellees in No. 101.

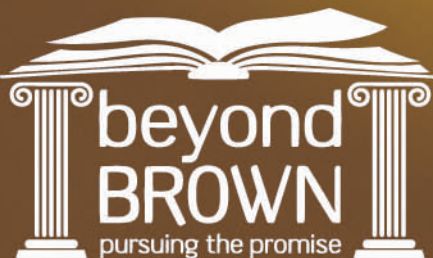
J. Lindsay Almond, Jr., Attorney General, and Henry T. Wickham, Assistant Attorney General, for the State of Virginia, and T. Justin Moore, Archibald G. Robertson and John W. Riely for the Prince Edward County School Board et al., appellees in No. 191.

PER CURIAM.

In two appeals now pending, No. 8, Brown et al. v. Board of Education of Topeka et al., and No. 101, Briggs et al. v. Elliott et al., the appellants challenge, respectively, the constitutionality of a statute of Kansas, and a statute and the Constitution of South Carolina, which provide for segregation in

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the schools of these states. Appellants allege that segregation is, per se, a violation of the Fourteenth Amendment. Argument in these cases has heretofore been set for the week of October 13, 1952.

In No. 191, *Davis et al. v. County School Board of Prince Edward County et al.*, the appellants have filed a statement of jurisdiction raising the same issue in respect to a statute and the Constitution of Virginia. Appellees in the *Davis* case have called attention to the similarity between it and the *Briggs* and *Brown* cases; by motion [344 U.S. 1, 3] they have asked the Court to take necessary action to have all three cases argued together.

This Court takes judicial notice of a fourth case, which is pending in the United States Court of Appeals for the District of Columbia Circuit, *Bolling et al. v. Sharpe et al.*, No. 11,018 on that court's docket. In that case, the appellants challenge the appellees' refusal to admit certain Negro appellants to a segregated white school in the District of Columbia; they allege that appellees have taken such action pursuant to certain Acts of Congress; they allege that such action is a violation of the Fifth Amendment of the Constitution.

The Court is of the opinion that the nature of the issue posed in those appeals now before the Court involving the Fourteenth Amendment, and also the effect of any decision which it may render in those cases, are such that it would be well to consider, simultaneously, the constitutional issue posed in the case of *Bolling et al. v. Sharpe et al.*

To the end that arguments may be heard together in all four of these cases, the Court will continue the *Brown* and *Briggs* cases on its docket. Probable jurisdiction is noted in *Davis et al. v. County School Board of Prince Edward County et al.* Arguments will be heard in these three cases at the first argument session in December.

The Court will entertain a petition for certiorari in the case of *Bolling et al. v. Sharpe et al.*, 28 U.S.C. 1254 (1), 2101 (e), which if presented and granted will afford opportunity for argument of the case immediately following the arguments in the three appeals now pending.

It is so ordered.

MR. JUSTICE DOUGLAS dissents from postponing argument and decision in the three cases presently here for *Bolling et al. v. Sharpe et al.*, in the United States Court of Appeals for the District of Columbia Circuit. [344 U.S. 1, 4]

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