

## U5 Literacy; Legal Briefs *Plessy v Ferguson* and *Brown v Board of Ed*

Direction; Read and Mark the following.

Introduction; Supreme Court decisions are usually long written documents, Legal Briefs, are usually law students or legal clerks and condense the information to a 3x5 card. They are created for studying. The 14<sup>th</sup> Amendment states that “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.”

**Legal Brief; *Plessy v. Ferguson*, (1896) Facts;** Plessy (P) attempted to sit in an all-white railroad car. After refusing to sit in the black railway carriage car, Plessy was arrested for violating an 1890 Louisiana statute that provided for segregated “separate but equal” railroad accommodations. Those using facilities not designated for their race were criminally liable under the statute. At trial with Justice John H. Ferguson (D) presiding, Plessy was found guilty on the grounds that the law was a reasonable exercise of the state’s police powers based upon custom, usage, and tradition in the state. Plessy filed a petition for writs of prohibition and certiorari in the Supreme Court of Louisiana against Ferguson, asserting that segregation stigmatized blacks and stamped them with a badge of inferiority in violation of the Thirteenth and Fourteenth amendments. Court found for Ferguson and the Supreme Court granted cert.

**Issue;** Can states constitutionally pass legislation requiring persons of different races to use “separate but equal” segregated facilities?

**Holding and Rule;** Yes. States can constitutionally pass legislation requiring persons of different races to use “separate but equal” segregated facilities.

**Thirteenth Amendment issue;** The statute does not conflict with the Thirteenth Amendment. The Thirteenth Amendment abolished slavery and involuntary servitude, except as a punishment for crime. Slavery implies involuntary servitude and a state of bondage. The Thirteenth Amendment however was regarded as insufficient to protect former slaves from certain laws which had been enacted in the south which imposed upon them onerous disabilities and burdens and curtailed their rights in the pursuit of life, liberty and property to such an extent that their freedom was of little value; and that the Fourteenth Amendment was devised to meet this exigency.

**Fourteenth Amendment Issue;** All persons born or naturalized in the United States and subject to the jurisdiction thereof are made citizens of the United States and of the State wherein they reside, and the States are forbidden from making or enforcing any law which shall abridge the privileges or immunities of citizens of the United States, or shall deprive any person of life, liberty, or property without due process of law, or deny to any person within their jurisdiction the equal protection of the laws. The proper construction of this amendment involves a question of exclusive privileges rather than race. Its main purpose was to establish the citizenship of former slaves, to give definitions of citizenship of the United States and of the States, and to protect the privileges and immunities of citizens of the United States from hostile legislation of the states. It was intended to enforce the absolute equality of the two races before the law, but it was intended to abolish distinctions based upon color, or to enforce social equality, or a commingling of the two races upon terms unsatisfactory to either. Laws permitting and even requiring their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race. Such laws have generally been recognized as within the scope of the states’ police powers. The most common instance involves the establishment of separate schools, (1892 in Washington D.C. by Congress) which has been held to be a valid exercise of the legislative power even by courts of States where the political rights of blacks have been longest and most earnestly enforced.

**Disposition** Judgment for Ferguson (Plessy loses). **Note;** This case is often cited incorrectly as *Plessey v. Ferguson*.

**Legal Brief; *Brown v. Board of Education of Topeka*, (1954) Facts;** This case is a consolidation of several different cases from Kansas, South Carolina, Virginia, and Delaware. Several black children (through their legal representatives, Ps) sought admission to public schools that required or permitted segregation based on race. The plaintiffs alleged that segregation was unconstitutional under the Equal Protection Clause of the Fourteenth Amendment.

In all but one case, a three judge federal district court cited *Plessy v. Ferguson* in denying relief under the “separate but equal” doctrine. On appeal to the Supreme Court, the plaintiffs contended that segregated schools were not and could not be made equal and that they were therefore deprived of equal protection of the laws.

**Issue;** Is race-based segregation of children into “separate but equal” public schools constitutional?

**Holding and Rule (Warren);** No. The race-based segregation of children into “separate but equal” public schools violates the Equal Protection Clause of the Fourteenth Amendment and is unconstitutional.

**Equal Protection Issue;** Segregation of children in the public schools solely on the basis of race denies to black children the equal protection of the laws guaranteed by the Fourteenth Amendment, even though the physical facilities and other may be equal. Education in public schools is a right which must be made available to all on equal terms.

**Comparison to the Plessy Issue;** The question presented in these cases must be determined not on the basis of conditions existing when the Fourteenth Amendment was adopted, but in the light of the role of public education in American life today. The separate but equal doctrine adopted in *Plessy v. Ferguson*, which applied to transportation, has no place in the field of public education.

**Harm to Segregated Students Issue;** Separating black children from others solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone. The impact of segregation is greater when it has the sanction of law. A sense of inferiority affects the motivation of a child to learn. Segregation of white children also does harm to them. It gives them a feeling of superiority over black children, whether true or not. Segregation with the sanction of law tends to impede the educational and mental development of black children and deprives them of some of the benefits they would receive in an integrated school system. Whatever may have been the extent of psychological knowledge at the time of *Plessy v. Ferguson*, this finding is amply supported by modern authority and any language to the contrary in *Plessy v. Ferguson* is rejected. **Disposition;** Judgment for the plaintiffs. (Brown wins)

# U5 Literacy Activity; Legal Briefs-SOAPs Analysis

Direction; Write Name, Date, and Class Period across the top. Complete SOAPS Analysis using complete sentence responses. Attach any additional sheets of paper to the back of this for turn-in. (SSCG6b, CCSS.ELA Literacy RH 11-12.1,2,3)

## **S**ubject

*What is the general topic?*

*What are three things the author said that you think are important?*

## **O**ccasion

*Who do you think wrote this document and why?*

*What type of document is it?*

## **A**udience

*Who was the intended audience? When was the document created or circulated?*

## **P**urpose

*Why do you think this document was created? What specific evidence in the document helps you know why it was created?*

*What does the document convey about life at the time it was created?*

*What questions does the document raise?*

## **S**peaker

*Think about the occupation, gender, religion, nationality, and class of the creator of the document.*

*Who may have created the document? How do you know?*

*What position or title did he or she hold? Is this person an insider or an outsider? How do you know?*