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Per se Inequality: A Review of Judge Richard Gergel's "Unexampled Courage"

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Per se Inequality: A Review of Judge Richard Gergel's "Unexampled Courage"

Daniel Coble[*]

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> *"Segregation is per se inequality. . . . And if the courts of this land are to render justice under the laws without fear or favor, justice for all men and all kinds of men, the time to do it is now and the place is in the elementary schools where our future citizens learn their first lesson to respect the dignity of the individual in a democracy."*[1]

* Daniel Coble is a circuit court judge for the Fifth Judicial Circuit in South Carolina. I would like to thank Seattle University Law Review and the SUpra editors for their assistance in the publication process.

1. Briggs v. Elliott, 98 F. Supp. 529, 548 (E.D.S.C. 1951) (Waring, J., dissenting), *vacated*, 342 U.S. 350 (1952). Judge Julius Waties Waring was a United States district judge of the United States District Court for the Eastern District of South Carolina. *See id.*

INTRODUCTION

On a cool winter night in 1946, Isaac Woodard, Jr. was on his way home after serving in the United States Army in World War II. Woodard would not make it home—at least not as the same man he had been. He would first be beaten, blinded, and jailed. What would ultimately follow from this incident, and many more like it, was a collective national awakening to the cruel and unjust treatment of African Americans. However, this awakening and action would not come overnight. It would be fought on many fronts: from Judge J. Waties Waring's courtroom, to the Oval Office, to the United States Supreme Court.[2]

Judge Richard Gergel's *Unexampled Courage* provides not only a glimpse into the historical aspect of these events but also into the people that played crucial roles in moving justice forward. It is not until the end of the book though that it becomes abundantly clear who the title of the book is referring to—the people that are providing generations of Americans with their unexampled courage. It is the African American plaintiffs of these lawsuits who gave up everything they had and risked their lives to exemplify courage and boldness in the face of deadly odds.

Judge Gergel begins his book with the attack on Woodard: the focal point that created a wave of change in the Civil Rights movement. The attack had a deep influence on President Truman, who risked his presidency and agenda by speaking in favor of Civil Rights.[3] It had an effect across the nation, which heard about the beating on a popular radio show. And it had a profound impact on Judge Waring, who was already being moved on the issue of Civil Rights,[4] but was finally awakened[5] after the subsequent federal prosecution of the white officer who beat Woodard.[6] Judge Gergel then lays out the history of segregation, racism, and violence that led up to the beating of Woodard in three sections: In 1896, the Supreme Court handed down its shameful opinion of *Plessy v.*

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2. The author of this book review and editors of the Seattle University Law Review, SUpra, recognize texts of judicial opinions referenced in this piece use inappropriate language to refer to African Americans. These references have been preserved to maintain the original text but do not reflect the author's nor the editors' perspectives.

3. After hearing of the beating of Woodard, President Truman is quoted as saying "Enough is enough. Dammit, I'm going to do something immediately." RICHARD GERGEL, UNEXAMPLED COURAGE: THE BLINDING OF SGT. ISAAC WOODARD AND THE AWAKENING OF PRESIDENT HARRY S. TRUMAN AND JUDGE J. WATIES WARNING 137 (1st ed. 2019).

4. "[Judge Waring's] per se analysis would appear once again and be the defining holding of the most important case in American history, *Brown v. Board of Education*." *Id.* at 239.

5. "Judge Waring would later describe the *Shull* trial as his wife's 'baptism in racial prejudice' and his own 'baptism of fire.'" GERGEL, *supra* note 3, at 132.

6. "But whatever impression Waties Waring might have had about the merits of the *Shull* case before trial commenced, the moving testimony of Isaac Woodard . . . made him realize there was much more to this case than he had appreciated." *Id.* at 113.

Ferguson which upheld the legal standard of separate but equal;[7] the Court followed that opinion with *Williams v. Mississippi*, in which the Court gave their stamp of approval to Mississippi's constitution which engrained an unfair and unequal legal system;[8] Gergel then describes several violent acts and murders of African Americans to illustrate the lack of equality and ill treatment.[9]

But Judge Gergel's book mostly revolves around the federal judge, Judge Waring, who had a lasting legacy on the Civil Rights movement.[10] After the white officer is acquitted of federal charges for the attack on Woodard, Judge Waring, who presided over the trial, is moved to begin his journey to overturn *Plessy* and end the practice of state sanctioned segregation. His paramount act as a federal judge in this quest is his dissent in *Briggs v. Elliott*, where his writing foreshadows the same logic and reasoning that the Supreme Court will use several years later when they finally overturn *Plessy* in *Brown v. Board of Education*.[11]

I. THE ATTACK ON SERGEANT ISAAC WOODARD

Travelling on a Greyhound bus, Sergeant Isaac Woodard was on his way home from serving overseas for the United States Army.[12] During a brief stop in Batesburg, South Carolina, Woodard and the white bus driver got into an altercation which resulted in the driver contacting a local police officer to remove Woodard from the bus.[13] Woodard was immediately struck by the officer, Lynnwood Shull, and escorted to the local jail.[14] After Shull struck Woodard again unprovoked, Woodard took the blackjack from the officer.[15] Shull drew his firearm and ordered the blackjack back, and then immediately began his onslaught of violent

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7. Plessy v. Ferguson, 163 U.S. 537, 548, *overruled by* Brown v. Bd. of Educ., 347 U.S. 483 (1954) ("[W]e think the enforced separation of the races, as applied to the internal commerce of the state, neither abridges the privileges or immunities of the colored man, deprives him of his property without due process of law, nor denies him the equal protection of the laws, within the meaning of the fourteenth amendment . . . .").

8. *See* Williams v. Mississippi, 170 U.S. 213, 225 (1898) ("[Mississippi and its statutes] do not on their face discriminate between the races, and it has not been shown that their actual administration was evil; only that evil was possible under them.").

9. *See infra* Sections I and III.

10. After Judge Waring's retirement from the bench, Dr. Martin Luther King, Jr. praised Judge Waring for his legacy on civil rights and his tribute to the cause. GERGEL, *supra* note 3, at 267–68.

11. Briggs v. Elliott, 98 F. Supp. 529 (E.D.S.C. 1951), *vacated*, 342 U.S. 350 (1952); Brown v. Bd. of Educ., 347 U.S. 483, 494–95 (1954).

12. GERGEL, *supra* note 3, at 12.

13. *Id.* at 14–16.

14. *Id.* at 16–17.

15. *Id.* at 18.

strikes to Woodard's head and eyes.[16] Shull struck Woodard so hard and forcefully that the globes of his eyes were ruptured.[17]

Judge Gergel goes on to explain that the blinding of Sergeant Woodard resulted in two court cases. Woodard was charged criminally for drunk and disorderly conduct the night of his attack.[18] The second court case involved Officer Lynnwood Shull. Shull was charged for the beating and violation of Woodard's civil rights.[19]

II. SEPARATE BUT EQUAL

To understand the struggles that Judge Waring had with segregation, readers must be aware of the history of *Plessy* and the precedent that it set throughout the nation.

A. Plessy v. Ferguson

Considered one of the worst Supreme Court decisions in the history of the Court[20], *Plessy* did not create the two-class system in our nation, but it did bless it.[21] The issue to be resolved by the Court in *Plessy* was a straightforward one: "[T]he constitutionality of an act of the general assembly of the state of Louisiana, passed in 1890, providing for separate railway carriages for the white and colored races."[22] The constitutionality of the Louisiana statute that separated passenger cars based on race was attacked under both the Thirteenth Amendment and the Fourteenth Amendment.[23] The Court quickly dismissed the argument under the Thirteenth Amendment.[24] The Court then held that the state statute did not violate the Fourteenth Amendment because even though the purpose of the amendment was to enforce equality under the law, it was "not intended

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16. *Id.*

17. Judge Gergel had a forensic pathologist review Woodard's medical files to give her expert opinion as to the cause of the ruptured eye globes. She concluded that "Woodard's claim that Shull drove the end of a blackjack into each of his eyes is consistent with the available medical evidence and is the most probable cause of the rupture of the globes of both eyes and his resulting blindness." *Id.* at 274.

18. Though he was blind and badly beaten, Woodard would plead guilty the morning after his attack in the local municipal court. *See id.* at 20.

19. *See id.* at 75.

20. "What was necessary for them to do and what Marshall was urging them to do was to get it right when they had gotten it wrong in *Plessy*." *Confirmation Hearing on the Nomination of John G. Roberts, Jr. to Be Chief Justice of the United States: Hearing Before the S. Comm. on the Judiciary*, 109th Cong. 204 (2005).

21. *See* Plessy v. Ferguson, 163 U.S. 537, 550–51, *overruled by* Brown v. Bd. of Educ., 347 U.S. 483 (1954).

22. *Id.* at 540.

23. *Id.* at 542.

24. *Id.* ("That it does not conflict with the thirteenth amendment, which abolished slavery and involuntary servitude, except as a punishment for crime, is too clear for argument.").

to abolish distinctions based upon color . . . ."[25] Not only did the Court uphold the separate but equal doctrine, but this case created a true fallacy for which they were blind to see themselves—that the separation of races did not create any inferiority among the races, but that the only inferiority it created was imagined by African Americans upon who the system separated.[26] The dark and treacherous history of this case did not merely impact the separation of races in passenger cars, but as the court noted, it blessed the separation of races in schools:

> The most common instance of this is connected with the establishment of separate schools for white and colored children, which have been held to be a valid exercise of the legislative power even by courts of states where the political rights of the colored race have been longest and most earnestly enforced.[27]

This opinion cast a long and dark shadow over Supreme Court precedent for decades to come. It would not be until over fifty years later that the Court would overturn itself in *Brown* echoing a lone dissent by Judge Waring.[28]

B. Williams v. Mississippi

Shortly after the Supreme Court handed down its decision in *Plessy*, the Court decided another case that continued the abhorrent practice of separate but equal. In *Williams v. Mississippi*, the Court was asked to determine the constitutionality of Mississippi's constitution.[29] Henry Williams was charged with murder, indicted by an all-white grand jury, and tried by an all-white jury.[30] Williams argued that because the state's constitution created poll taxes, literacy tests, and other voter registration components that disenfranchised African Americans, he was not afforded a fair trial made up of his peers (jurors were selected based on voter registration).[31] The Court disagreed and held that while there might be bad actors within the state who are preventing a fair representation in the polls and juries, the actual state law was written in a manner that did not create unequal rights.[32] The Court stated that:

> It will be observed that there is nothing direct and definite in this allegation either as to means or time as affecting the proceedings

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25. *Id.* at 544.
26. *Id.* at 551.
27. *Id.* at 544.
28. *See* GERGEL, *supra* note 4.
29. Williams v. Mississippi, 170 U.S. 213, 219 (1898).
30. *Id.* at 213, 217.
31. *See id.* at 214–15.
32. *Id.* at 223.

> against the accused. There is no charge against the officers to whom is submitted the selection of grand or petit jurors, or those who procure the lists of the jurors. There is an allegation of the purpose of the convention to disfranchise citizens of the colored race; but with this we have no concern, unless the purpose is executed by the constitution or laws or by those who administer them.[33]

This ruling implied that the Court did not concern itself with, and had only a hollow understanding of, equal protection under the law. These two seminal cases[34] provide the framework for which Judge Gergel details the context of Sargent Woodard's return from his military service.[35]

III. VIOLENCE

To also explain and illustrate the background of the *Woodard* case, Judge Gergel highlights several violent acts committed against African Americans in the South.

A. Maceo Snipes

During the Georgia Democratic primary of 1946, an African American veteran named Maceo Snipes voted in a rural county south of Atlanta, Georgia.[36] This primary pitted a moderate candidate against a racist former governor who called for an all-white primary and warned African Americans not to participate in the voting process.[37] After being the sole African American voter in his precinct, Snipes was shot in the front step of his home and died several days later.[38] No one was ever prosecuted for the crime, and Snipes was hurriedly buried in an unmarked grave by family members who feared for their lives.[39]

B. Moore's Ford Massacre

An even more disturbing and horrific violent act occurred just days after the Snipes murder.[40] After a white man made advances on Roger Malcom's pregnant wife, Malcolm, who, like his wife, was African American, stabbed the white man with a knife. Malcolm was arrested and

33. *Id.*

34. Plessy v. Ferguson, 163 U.S. 537, *overruled by* Brown v. Bd. of Educ., 347 U.S. 483 (1954); *Williams*, 170 U.S. 213.

35. GERGEL, *supra* note 3, at 13–14.

36. *Id.* at 34.

37. *Id.*

38. *Id.*

39. "Terrorized by the incident, his relatives buried his body in an unmarked grave, and many family members then fled the county in fear of further retribution." *Id.*

40. *See id.* The events in this section took place near a bridge known as Moore's Ford in rural Georgia. *See id.* at 35.

taken to jail but was let out.[41] Malcolm attempted to drive to a farm to hide out with his wife and his sister-in-law and her husband.[42] Before they could make it to the farm, they were intercepted by a white mob, and the two men were ordered out of the vehicle.[43] While the two men were led away to their execution, the two women still in the car began to cry out.[44] The mob then took the two women as well to be executed. Tragically, all four victims were shot sixty-six times total.[45] The Moore's Ford massacre was widely reported and denounced across the United States and shined a bright spotlight on the horrific murder and evil perpetuated on African Americans.[46]

These are just but a few atrocities that Judge Gergel discusses in his book. Media portrayals of the violent and racist atrocities greatly affected the nation. They also affected the President. These attacks not only reverberated throughout the nation, but they had a ringing impact on Judge Waring and the trials that would follow in his courtroom.

IV. THE WOODARD TRIAL

The United States brought charges against Officer Shull for beating and blinding Woodard.[47] The case was never going to be an easy one, and this was known to the Department of Justice.[48] However, it was not the DOJ that was surprised and frustrated by the acquittal—it was Judge Waring.[49] While Judge Waring did not expect a conviction, he did expect a better undertaking and effort by the government in their prosecution of Officer Shull.[50] Instead, to his frustration Judge Waring witnessed an abdication of the prosecution's duty to seek justice and present a competent case to the jury:

> The harshest critic of the government's prosecution, Judge Waring, held his tongue at the time but after his retirement shared with a historian a devastating critique. Waring described the government prosecutors as ill-prepared and the investigation far from thorough. He stated, "I was shocked at the hypocrisy of my government . . . in submitting that disgraceful case before a jury [and was] hurt I was made a party to it." Waring was convinced there was a stronger case

41. *Id.* at 35.
42. *Id.*
43. *Id.*
44. *Id.*
45. *Id.*
46. *Id.*
47. *See id.* at 84.
48. *Id.* at 114.
49. *Id.* at 131.
50. *See id.*

> that could have been presented. He acknowledged, however, that he was not sure there would have been a conviction before an all-white federal jury in South Carolina in 1946 even if the government had presented twenty eyewitnesses.[51]

The prosecution was criticized from the beginning of the trial for failing to ask the judge to question the jurors on their affiliation within any segregationist affiliations.[52] The prosecution also failed to call two witnesses who witnessed Woodard being beaten.[53] And even the final act before the jury was an inexcusable mistake: failure to ask the jury to return a verdict of guilty.

While this was not the first straw[54] for Judge Waring and his awakening to the plight of African Americans, it was the final one. Judge Waring and his new wife were emotionally moved by the verdict and the actions, or lack thereof, of the prosecution.[55] Judge Waring later described this trial as his "baptism of fire."[56]

After the trial, Judge Waring and his new wife began a deep study and immersion in understanding race in America.[57] They discussed racial topics which were usually off-limits, including racial segregation, violence, the judicial system, and more.[58] The Warings hosted civil rights activists at their house for discussions on race and the civil rights movement.[59] From then on, Judge Waring began looking for federal cases to take where he could make an impact.[60] While these efforts were meaningful, it was Judge Waring's dissent in one of his final cases that would ultimately cement his legacy.

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51. *Id.* at 131.
52. *Id.* at 129.
53. *Id.* at 129–30.
54. Judge Gergel describes several cases that Judge Waring was part of that changed his perspective on Civil Rights ("But Waring would later observe that the *Thompson* and *Duvall* trials affected him 'internally,' because 'every time you looked into one of these things, the less reason you can see for resistance to what we commonly call the American creed of equality of all citizens of this country.'") *Id.* at 109-10. Even more profound to Judge Waring was his divorce from his wife of thirty-two years, which also divorced him from the upper echelon of Charleston society. This action likely shaped Judge Waring the most—he was now free to engage in Civil Rights-minded work without the threat of immediate social backlash. *Id.* at 185.
55. *Id.* at 131–32.
56. "[T]he Warings began a period of serious study and reflection on the issue of race in America and a federal judge's personal responsibility to uphold the rule of law." *Id.* at 132.
57. *Id.* at 172.
58. *Id.*
59. *Id.* at 150. (photograph of the Warings hosting African Americans in their Charleston home).
60. *Id.* at 178. (These cases included *Wrighten v. Bd. of Trs*, 72 F. Supp. 948 (E.D.S.C. 1947) and *Elmore v. Rice*, 72 F. Supp. 516 (E.D.S.C. 1947)).

V. *BRIGGS V. ELLIOTT*

Briggs v. Elliott was a declaratory judgment and injunctive relief case brought by the plaintiffs representing schools and educational facilities in Clarendon County.[61] The run-down and dilapidated facilities were nowhere near on par with their white counterparts.[62] It was evident that the "separate but equal" standard was not being followed, and the defendants in the case admitted as much at the beginning of the trial.[63] However, even with that admission, the case proceeded to a three-judge panel to determine whether or not this unequal treatment violated the equal protection of laws that is guaranteed under the Fourteenth Amendment.

Despite its magnitude, *Briggs* was not supposed to be a monumental case. As Judge Gergel explains, originally Thurgood Marshall and the NAACP intended for the case to move the ball slowly forward on segregation and simply enforce the separate but equal constitutional standard for the treatment of South Carolina schools. However, Judge Waring had a different idea and a plan to bring the *Plessy* decision to its deserving demise. Gergel chronicles how Judge Waring met with Thurgood Marshall before the case and convinced him to bring the case as a constitutional violation of the Fourteenth Amendment. By bringing the claim of a constitutional violation, as opposed to an enforcement of separate but equal, the trial would proceed as a three-judge panel. Judge Waring believed that the likely result would be a 2–1 loss in favor of the defendants, however, Judge Waring wrote a scathing dissent that could lay the framework for the United States Supreme Court to overturn *Plessy* and end segregation.

A. Majority

In a 2–1 decision, the district court, relying on *Plessy*, upheld the separate but equal policy, but found that the State had violated this policy by not providing equal treatment.[64] Finding that the State had not provided equal school facilities, the court granted a declaratory judgment to the plaintiffs and required the State to begin promptly funding the African

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61. Briggs v. Elliott, 98 F. Supp. 529 (E.D.S.C. 1951), *vacated*, 342 U.S. 350 (1952).

62. *Id.* at 531.

63. "Consequently, Figg told the stunned courtroom, the defendants were admitting liability." GERGEL, *supra* note 3, at 230. This was a pretrial strategy in order to end the case from even going forward as a trial. *See id.* at 22930.

64. *Briggs*, 98 F. Supp at 531.("[T]he facilities afforded white children in the district and to a mandatory injunction requiring that equal facilities be afforded them. How this shall be done is a matter for the school authorities and not for the court, so long as it is done in good faith and equality of facilities is afforded; but it must be done promptly and the court in addition to issuing an injunction to that effect will retain the cause upon its docket for further orders and will require that defendants file within six months a report showing the action that has been taken by them to carry out the order.").

American schools.[65] As to the second request by the plaintiffs, however, the court refused to hold that segregation of the races was a constitution violation of equal protection.[66] Citing *Plessy*, the court explained that they believed "there is no denial of the equal protection of the laws . . . if the children of the different races are given equal facilities and opportunities."[67] The majority not only relied on *Plessy* as precedent which they had to follow, but they appeared to agree with its reasoning—that segregation was simply a state power that should be used in a reasonable manner.[68] The state may choose how to handle their "local problems" and, if they so choose, they may create their own "solutions."[69] The majority continued their reasoning that segregation was reasonable because the vast territory of the United States meant that there were different customs and ideas, and because of this, local governments were free to choose how to keep the peace and happiness.[70] The majority opinion states further that:

> The questions thus presented are not questions of constitutional right but of legislative policy, which must be formulated, not in vacuo or with doctrinaire disregard of existing conditions, but in realistic approach to the situations to which it is to be applied. In some states, the legislatures may well decide that segregation in public schools should be abolished, in others that it should be maintained[—]all depending upon the relationships existing between the races and the tensions likely to be produced by an attempt to educate the children of the two races together in the same schools.[71]

Ultimately the majority held that the issue before the court was not a constitutional one, but rather a legislative policy decision.[72]

B. Dissent

Judge Waring's lone dissent draws a stark contrast from the majority opinion. From the outset, Judge Waring scoffs at the notion that the defendants can merely offer to increase school funding and walk away from the lawsuit.[73] This would be merely judicial evasion that denies

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66. *Id.* at 532.
67. *Id.*
68. *Id.* at 535.
69. *Id.*at 532.
70. *Id.*
71. *Id.* at 536.
72. *See id.* at 538 ("Injunction to abolish segregation denied. Injunction to equalize educational facilities granted.").
73. *Id.* at 540 (Waring, J., dissenting) ("By this maneuver, the defendants have endeavored to induce this Court to avoid the primary purpose of the suit.").

American citizens their basic constitutional rights.[74] But Judge Waring's dissent does not focus on how the State could create more equal schools through increased funding, but rather how the State must tear down segregation and end the practice once and for all. Judge Waring does not waste time in explaining the fundamental flaw with segregation and its conflict with the Fourteenth Amendment's equal protection:

> It seems to me that it is unnecessary to pore through voluminous arguments and opinions to ascertain what the foregoing means. And while it is true that we have had hundreds, perhaps thousands, of legal opinions outlining and defining the various effects and overtones on our laws and life brought about by the adoption of this Amendment, one of ordinary ability and understanding of the English language will have no trouble in knowing that when this Amendment was adopted, it was intended to do away with discrimination between our citizens. The Amendment refers to all persons. There is nothing in there that attempts to separate, segregate or discriminate against any person because of their being of European, Asian or African ancestry.[75]

Judge Waring then blasts through the racist arguments that delineate citizens based not only on their race, but also the "talk of blood and taint of blood."[76] He easily and quickly dispels the notion that citizens should be treated differently based on their race, when not only has science shown that there are not differences, but the formulas that the government has created make no sense and are unscientific and preposterous.[77]

The dissent then lists several legal areas where courts have struck down discriminatory laws based on a violation of the Fourteenth Amendment.[78] These cases include jury and grand jury service, imprisonment for contract violations, discriminatory housing covenants, and suffrage.[79] It is clear from Judge Waring's dissent that he thought the next landmark case ending segregation should be in the field of education, and the *Briggs* case presents more than enough evidence to lead the way.[80] From the many witnesses that the plaintiffs presented, the evidence presented a grim picture for segregated African American children: "[T]he mere fact of segregation, itself, had a deleterious and warping effect upon

74. *Id.* (Waring, J., dissenting)

75. *Id.* at 541–42 (Waring, J., dissenting).

76. *Id* at 542–43 (Waring, J., dissenting).

77. *Id.* at 542 (Waring, J., dissenting) ("The whole discussion of race and ancestry has been intermingled with sophistry and prejudice. What possible definition can be found for the so-called white race, Negro race or other races? Who is to decide and what is the test?").

78. *Id.* at 543 (Waring, J., dissenting).

79. *Id.* (Waring, J., dissenting)

80. *Id.* at 544 (Waring, J., dissenting).

the minds of children."[81] Judge Waring ends his dissent with a powerful call to America's democratic ideals and that this country should serve as an example and a beacon of equality and freedom of its citizens, and, most importantly, contrary to the majority's opinion, "[s]egregation is per se inequality."[82]

As Judge Gergel noted, Judge Waring's dissent stood out among the many judicial opinions regarding school segregation that were appealed to the Supreme Court.[83] Waring's dissent was the only opinion that held that segregation was per se unconstitutional.[84] And this is ultimately how the Supreme Court would rule in *Brown*:

> We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.[85]

In *Brown*, the Court finally overruled the holding of *Plessy* that separate but equal was constitutional and finally brought down one of the worst legal cases in Supreme Court precedent.

Throughout *Unexampled Courage*, it is evident that Judge Gergel is not merely reciting a story or discussing case law, but rather, he is illustrating the history of a racial injustice and the slow path to attempting to fix the problem. While the violent beating of Woodard was sadly just a drop in an ocean of racial violence, this incident added a spark to the movement that would help upend the old way—segregation in public schools.

CONCLUSION

Judge Gergel's ability to capture the stories, conversations, and emotions behind this spark allows readers to learn and understand the dark history of school segregation and how many people played a role in working to bring its demise. From President Truman and his call for more federal enforcement of civil rights; to Judge Waring and his push to once and for all end segregation in public schools; to Thurgood Marshall and his extraordinary ability to bring a case and to win a case. But most of all, Judge Gergel captures the true voices of those who suffered from these policies of segregation: the sixty-six plaintiffs that came before Judge

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81. *Id* at 547 (Waring, J., dissenting).
82. *Id.* at 548 (Waring, J., dissenting).
83. GERGEL, *supra* note 3, at 244.
84. *See id.*
85. Brown v. Bd. of Educ., 347 U.S. 483, 495 (1954).

Waring's court and risked everything they had to fight back against an injustice. It is these Americans who truly showed unexampled courage.[86]

86. Many of the plaintiffs of *Briggs* were driven out of their community and had their lives upended. GERGEL, *supra* note 3, at 262–63.