

University of North Carolina at Asheville

Mendez v. Westminster:
Documenting School Segregation

A Senior Thesis Submitted to
The Faculty of the Department of History
In Candidacy for the Degree of
Bachelor of Arts in History

by
Carrie Alexandra Jordan

Asheville, North Carolina
20 November 2007

Introduction

The complex subject of educational disenfranchisement is well documented by historians of the southern United States. However, historians' accounts of the struggle for equal educational opportunity have, for the most part, failed to incorporate the stories of the struggle outside the black and white racial context. Other races, such as Asians and Latinos, were also struggling for rights during this time, though those particular struggles go largely unseen. In the western and southwestern United States, Mexican-Americans in particular sought to make strides in equality.

Kristi Bowman, in *The New Face of School Desegregation*, clearly explains why the struggles of Mexican-Americans and other Latino groups had trouble in creating national attention for their educational rights challenges:

As a group, Latinos are nearly invisible within this paradigm because Non-White often is presumed to be roughly equivalent to African American. This invisibility is readily apparent in contemporary school desegregation law: it is not only law students and lawyers who know that *Brown v. Board of Education* was about African American schoolchildren in Topeka, Kansas. The perception of *Brown* as occurring in a society where there are two races, Black and White, is widely shared.¹

A number of plaintiffs, such as those involved in the case of *Mendez v. Westminster* in 1947, were successful in challenging Latino segregation in public schools before the landmark case of *Brown v. Board of Education* in 1954. However, the court made no mention of these cases, or indeed any references to America's Latino community, in its 1954 decision, thus "[cementing] the idea that 'separate educational

¹ Bowman, Kristi. "The New Face of School Desegregation." *Duke Law Journal*, no. 50 (2001): 1.

facilities are inherently unequal,' ... [and ushering] in an era of viewing school desegregation in a Black-White binary.”²

Bowman’s article directly cites the prevailing racial atmosphere of the 1940s and 1950s that led to the closed-minded idea that segregation was confined to white and black Americans. Court cases involving Mexican-Americans in the United States were largely ignored as part of the civil rights arena, and consequently the challenges of this group of people were largely under-recognized throughout the history of American educational disenfranchisement. The desegregation of schools after the landmark *Brown v. Board of Education* would be covered with images of brave African-Americans walking into largely white schools, as in the case of the Clinton High School in Tennessee in 1956. The story of Mexican-Americans would be largely lost during this phase of history and certainly not recounted as the cornerstone of a desegregated society. This is the flaw of Bowman’s “black and white binary.”

Cases like *Mendez*, however, prove that the logic behind Bowman’s “black and white binary” is inherently flawed and an incomplete picture of, the “colorful” struggles of all minority races in America. It is not as if the political struggle for Mexican-Americans didn’t happen. It is that history has failed to include it in any major accounts. Their movements however have not received the credit that they should. It is a historical and legal travesty that even though twenty-eight cases related to Mexican-American struggles for public school desegregation have been identified between 1925 and 1985,

² Bowman, Kristi. “The New Face of School Desegregation.” *Duke Law Journal*, no. 50 (2001): 1.

“even major books on constitutional case law” have left these stories at most “entirely excluded.”³

Historiography

In initial research of secondary sources, an article from the *Duke Law Journal* entitled *The New Face of School Desegregation*, by Kristi Bowman, served as a testament to the perceived notions of school segregation issues. Bowman argues that cases such as *Mendez v. Westminster* prove that American society is operating “in the black and white binary.”⁴ This binary describes history in a way that only relates the struggles of civil rights in the context of relations between black and white Americans. This idea is detrimental to studying school segregation issues, and has covered up the pre-*Brown* minority cases that pushed to formally end school segregation which were not headed by the African-American community. Both the *Brown* and *Mendez* court cases argue violations of the Fourteenth Amendment. For instance, it was stated in the *Mendez* court transcripts that:

By enforcing the segregation of school children of Mexican descent against their will and contrary to the laws of California, respondents have violated the federal law as provided in the Fourteenth Amendment to the federal, United States Constitution by depriving them of liberty and property without due process of law and by denying to them the equal protection of the laws.⁵

The wording of the *Mendez* case is much like the later *Brown* case in that it also cites a violation of the Fourteenth Amendment to the United States Constitution in the

³ Valencia, Richard. *The Mexican American Struggle for Equal Educational Opportunity in Mendez v. Westminster: Helping to Pave the Way for Brown v. Board of Education* (Austin: University of Texas Press, 2005)5.

⁴ Bowman, Kristi. “The New Face of School Desegregation.” *Duke Law Journal*, no. 50 (2001): 3.

⁵ United States Circuit Court of Appeals for the Ninth Circuit, Transcript of Record of *Mendez v. Westminster*, No. 11310, Southern District of California, Central Division.

same manner: “by depriving them of liberty and property without due process of law and by denying to them the equal protection of the laws.”⁶ This connection between Latinos and African-Americans forwards Bowman’s argument that segregation was not just a black and white issue and that the citing of the Fourteenth Amendment to the Constitution was used numerous times long before the Supreme Court case of *Brown v. Board of Education*.

The book *Immigrant America*, written by experts in the field of political science, is also valuable to the study of this topic. The purpose of the book is to “take into account the profound changes in immigrant twentieth century America, and to make reasoned sense of complex and controversial issues.”⁷ The study of works such as these have placed the case of *Mendez v. Westminster* in the context of the wider Chicano civil rights movement, as well as within a larger minority rights movement. Earl Warren’s personal memoir entitled, *The Memoirs of Earl Warren*, offers a glimpse into the mindset of the then California governor who would later become crucial to civil and individual rights history during his tenure as the Supreme Court’s presiding chief justice during the *Brown v. Board of Education* case.

Chicano School Failure and Success: Past, Present, and Future is a text that focuses on the consequences of schooling conditions and outcomes, as well as on the educational implications of a rapidly growing Chicano population in regards to segregation within the United States. It was written by Richard Valencia, professor of Educational Psychology at the University of Texas at Austin, who has published widely,

⁶ United States Circuit Court of Appeals for the Ninth Circuit, Transcript of Record of *Mendez v. Westminster*, No. 11310, Southern District of California, Central Division, 4.

⁷ Portes, Alejandro. *Immigrant America* (Berkeley: University of California Press, 1996), 2.

particularly on the issues of test validity and bias, and Chicano education.”⁸ This book is valuable to this topic because it explores the vast amount of problems caused by school segregation.

The book entitled *Recovering History, Constructing Race: The Indian, Black, and White Roots of Mexican Americans* outlines the many different cultural perspectives and racial backgrounds from which the mass group of Mexican Americans comes. “The analysis begins with the Mexican Americans’ prehistoric foundations and continues into the late twentieth century. The focus is on exploring the legacy of racial discrimination that was established in the aftermath of the Spanish conquest and later intensified by the United States’ conquering of previously Mexican territories.”⁹ In order to understand the environment that these civil rights struggles occurred in, it is integral to first understand the history of Latino immigration.

Documenting *Mendez v. Westminster*

The story of one Orange County, California family would enact a storm of controversy in little known school districts throughout their state. According to accounts in September 1943, Sylvia Mendez, then nine years old, and her two brothers, Gonzalo Jr. and Geronimo, went with their aunt and her three children to enroll at the 17th Street School in Westminster, California. The Mendez children were rejected from enrollment at the school and were sent to enroll at the Mexican school ten blocks away. Their

⁸ Valencia, Richard, *Chicano School Failure and Success: Past, Present, and Future* (New York: Routledge Falmer, 2001), 3.

⁹ Menchaca, Martha, *Recovering History Constructing Race: The Indian Black and White Roots of Mexican Americans* (Austin: University of Texas Press, 2002).

cousins, who all had light skin were allowed enrollment at the districts white elementary school.¹⁰

Prior to calling in an attorney and creating the case of *Mendez v. Westminster* the Mendez family, along with other Latino parents petitioned the school to allow their children admission. Author Phillip Zonkel explains this, “Before Gonzalo and Felicitas Mendez sought legal redress for their three children,... they organized other parents in an attempt to persuade the school board to propose a bond issue for construction of a new, integrated school.”¹¹ The parent’s letter, written on September 8, 1944, and headed by Gonzalo and Felicitas Mendez, stated that about one-half of the parents of the children being discriminated against were American-born. It called attention to the fact that segregation existed towards children of Mexican descent. It specifically referenced what would become the complaint to the court: “children of Mexican descents are made to attend Westminster Grammar School on W. 17th Street and the American children of Mexican extraction are made to attend Hoover School on Olive and Maple Street.” The parents argued that this forced segregation was not in line with the school’s Americanization efforts or the development of their children. The letter clearly referenced this segregation to be enacted solely on a racial basis.

The parent’s proposed a form of action for the school board, asking them to investigate the issue and “bring about adjustment, doing away with the segregation.” All children were referred to in the letter as being American-born. The parents claimed the

¹⁰ Zonkel, Phillip. “Righting a Wrong.” <http://www.mendez-v-westminster.com/aboutus.html>

¹¹ Zonkel, Phillip. “Righting a Wrong.” <http://www.mendez-v-westminster.com/aboutus.html>

unjust nature of it and the school board was clearly given an ultimatum and opportunity for action.¹² No action was taken.

Not willing to let these discriminative practices continue to slip by unnoticed, the Mendez children's parents sued the school district in what would be the ground-breaking civil rights case of *Mendez v. Westminster, 1947*. The superior district court case, after attempts by the school board to appeal the first district court ruling, would ultimately outlaw segregation in California's public schools, and more importantly, set the stage for ending de jure segregation in the United States.

The California school board laws seemed to allow for such segregation and this is probably why the school board did not respond to the parent's pre-court petition. Several sections of their statutes not only allow for segregation but specifically call for it. For instance,

Sec.53. Every school, unless otherwise provided by special law, shall be open for the admission of all white children between five and twenty-one years of age, residing in that district...

Sec. 56. The education of children of African descent, and Indian children, shall be provided for in separate schools...¹³

The Mendez family hired David Marcus to help them argue their case. A Los Angeles civil rights attorney, Marcus reviewed the case and set up a class action lawsuit, headed by the Mendez family, which included suit against Westminster, Santa Ana, Garden Grove and El Modena (now part of Orange County) school districts. Marcus used hard statistics assembled by the school boards themselves to help make the case against the problems of segregation. Even after combining all the school districts' board

¹² Gonzalez, Gilbert. *Chicano Education in the Era of Segregation*. Philadelphia: The Balch Institute Press, 1990.

¹³ School Law of California, *Orange County School Board Minutes*, April 4, 1870, Sec. 53-56.

statistics from the period between 1923-1960, the information shows that the percentage of Mexican-American students in the Orange school district who actually made it through high school never amounted to more than ten percent.¹⁴ The pressures of a sub-par and segregated education probably gave way to the lapse of graduates and the further cause of ending segregation in California's public schools.

Marcus sought an injunction from the court that would force the school districts to integrate immediately. As an attorney, Marcus was also fighting against the US Supreme Court ruling of 1896, in *Plessy v. Ferguson* that allowed for "separate but equal" facilities. But arguably more important than the *Plessy* case, *Mendez* called for the complete integration of currently claimed separate but equal integrated facilities, meaning that even though the students would still have equal facilities they would no longer be discriminated against by location based on the color of their skin.

Background of California Race Relations

The political upheaval that pushed for equal educational opportunity beyond the standards of *Plessy's*¹⁵ separate but equal doctrine, began quite earlier than most would have suspected in the western United States, and in particularly in California. The struggle to find a unique American identity was equally as hard for Mexican-Americans in the western United States as it was for African-Americans in the southern United States under the constraints of Jim Crow ideology. In the 19th century, Jim Crow laws began in the South in order to make attempts to "re-enslave" African-Americans during the Reconstruction years. The ideology of separate facilities would be upheld well into the twentieth century because of the passage of the Supreme Court case of *Plessy v.*

¹⁴ United States Circuit Court of Appeals for the Ninth Circuit, Transcript of Record of *Mendez v. Westminster*, No. 11310, Southern District of California, Central Division.

¹⁵ *Plessy v. Ferguson*, 1896, U.S. Supreme Court.

Ferguson that allowed for these separate but equal facilities. In California, however, Mexican-Americans struggled with issues that, because of the color of their skin, would keep them arbitrarily separated by skin tones even within their identities as Mexican-Americans. They were also socially and politically isolated from American society as a whole.

The school and government officials in California were desperate to create separate but equal facilities and shaped the Mexican-American identity in their own manner in order to do so.

Segregating Mexican-Americans became such a large issue in the 1920s and 1930s that officials tried to classify Mexican-American students as Indians in attempts to fit them into a stipulated identity as ‘colored.’ In fact, in 1927, California’s Attorney General Webb issued an opinion saying that Mexican-American school-children should not be treated as white because, “it [was] well known that the greater portion of the population are Indians.” Using this logic he concluded that since these ‘Indians’ had migrated to the United States, they were therefore under the jurisdiction of laws that applied to American-Indians. This statement was used by school-boards in California to segregate Mexican-Americans on the basis that they were not white.¹⁶

The creation of ways in which the school board attempted to back up the segregation of Mexican-Americans in California was forwarded by the implementation of school board legislation in 1935 that stated the following:

The governing board of the School district shall have power to establish separate schools for Indian children, excepting children of Indians who are the ward of the U.S.

¹⁶ Valencia, Richard, *Chicano School Failure and Success: Past, Present, and Future* (New York: Routledge Falmer, 2001), 3.

government and children of all other Indians who are the descendents of the original American Indians of the U.S., and for children of Chinese, Japanese, or Mongolian parentage.¹⁷

This school board legislation did not last very long thanks to cases such as *Mendez v. Westminster*. In just a decade California would make a progressive move out of this practice of separate but equal facilities. In June 1947, then-California Governor Earl Warren, repealed a section of this particular school board code with the enactment of California Assembly Bill No. 1375. Warren received many letters and inter-office memorandums pushing him to make this change, showing the precedent and political pressures enacted by the *Mendez v. Westminster* case. Warren was later residing as Chief Justice of the United States Supreme Court when the infamous *Brown v. Board of Education* decision was made. Warren's decision in *Brown* would echo the decisions of both the State of California in the Ninth Federal District Court *Mendez* case and the Ninth Federal Appeals Court case that upheld the original ruling. In Warren's written decision in *Brown v. Board of Education* he stated the following, expressing his disdain that public education was not open to all:

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.¹⁸

¹⁷ Valencia, Richard, *Chicano School Failure and Success: Past, Present, and Future* (New York: Routledge Falmer, 2001), 2.

¹⁸ Warren, Chief Justice. *Opinion of the Court of the United States*, 349 *United States* 294, *Brown v. Board of Education of Topeka, Appeal From the United States District Court for the District of Kansas* (Washington, DC: Supreme Court Transcript of Record, 1955).

Warren's statements in the *Brown* case were very similar to his actions in repealing the California school board legislation that had allowed for separate but equal schools in California years earlier. Individuals and organizations that sent similar letters to this effect in the *Mendez* case included The California Congress of Parents and Teachers Inc, the Council of the Civic Unity of San Francisco, The West Valley Chapter of the Council on Race Relations, The American Jewish Congress Commission on Law and Social Action, the Los Angeles County Democratic Central Committee, and The California Teacher's Association of the Southern Section. This strong organizational involvement also included the San Francisco Branch of the National Association for the Advancement of Colored People (NAACP).

Numerous accounts of the specifics of national organizational involvement in the efforts to abolish statutes allowing the separate but equal doctrine to be upheld in the California public school system were cited in Governor Earl Warren's personal inter-office papers.¹⁹ The state-wide and national involvement of so many organizations was a direct account of the political push that the *Mendez* case had. It was also an accurate example of the potential that the *Mendez* case had to show, the progressive ideology of the people involved in California's Mexican-American Civil Rights Movement.

The strong activism of these groups was a good example of the times to come in United States history. According to one scholar, "although *Mendez* did not bring about the reversal of *Plessy*, it did lay some of the important groundwork for the landmark case that would...*Mendez* served as a harbinger for *Brown*."²⁰ In this light, *Mendez* can be

¹⁹ *The Official Papers of Governor Earl Warren*, California State Archives, Sacramento, CA.

²⁰ Valencia, Richard. *The Mexican American Struggle for Equal Educational Opportunity in Mendez v. Westminster: Helping to Pave the Way for Brown v. Board of Education* (Austin: University of Texas Press, 2005), 3.

viewed as a case that was of equal magnitude to *Brown*, but one that simply did not make it before the Supreme Court of the United States.

Documenting Racism

Not only were Mexican-Americans separated by school from Anglo-Americans, but they were also commonly subject to a socio-political ideology that portrayed them as burdens to taxpayers. School yearbooks present an example of this racism. The Orange Unified High School, part of a school district that would be involved in the *Mendez* case, cited the school's goals in creating 'Americanization' in their 1938 yearbook.²¹ In the section cited, Mexican-Americans are presumed to be inferior to Whites and in need of special accommodations. Not only are separate educational facilities needed but, according to the yearbook, additional vocational training is needed so that they do not become "burdens to the taxpayer."²²

The Americanization work among the 1000 Mexicans in El Modena and the 500 Mexicans of Orange is carried on under the direction of Miss Phyllis Wanamaker. Progress in speaking English, in acquiring whatever information will protect from disease, or from becoming a burden to the taxpayer, is the ultimate end of the classes and service offered by this department of the O.U. H. S.... Perhaps contact with the worst illiterates is made by Miss Mabel Wing in her handwork classes held in the Mexican homes.²³

Whether or not the above example can be cited as racism is arbitrary considering the nature of the definition of racism as it pertains to Americanization. However, we can clearly see that the Mexican-Americans of the Orange Unified High School experienced

²¹ Orange Unified High School Yearbook 1938, 66.

²² Orange Unified High School Yearbook 1938, 67.

²³ Orange Unified High School Yearbook 1938, 66.

direct actions of ostracization that the Mexican-American plaintiffs in the *Mendez* case would express just about a decade later.

Mexican-Americans had already started the struggle for desegregated educational facilities well before the landmark *Brown v. Board of Education*. As Bowman cited, the United States Supreme Court, “made no mention of those cases, or any reference to Latinos, in its 1954 decision.”²⁴ This is telling of the societal views of segregation in the United States as well as the actions of those involved in the Brown case such as the NAACP (National Association for the Advancement of Colored People).

The sheer amount of political and legal upheavals of activist Mexican-Americans in California in the 1940s and 1950s are a testament to the size of this often overlooked area of history. School systems in the western United States focused on the segregation of minority populations in many of the same ways that school systems in the southern states did.

The El Modena School district in Orange County, California is particularly interesting when analyzing these activist movements. Mexican-Americans in California took their complaints to the courts well before the infamous *Brown vs. Board of Education* proceedings. The complications that Mexican-American school children faced were not far removed from the complications of the African-American minority of the southern states who were still largely under the rule of white supremacy and the Jim Crow ideology that accompanied it. According to author Leonard Valvedre,

Most Latino children like their African American counterparts were denied access to formal schooling. The few who received instruction attended segregated schools, commonly referred to in the Southwest as “Mexican

²⁴ Bowman, Kristi. “The New Face of School Desegregation.” *Duke Law Journal*, no. 50 (2001): 3.

schools,” that were clearly not equal to schools for Whites.²⁵

The struggles of Mexican-Americans in California were often complicated by presumed language barriers and unfair placement testing. This unfair testing was a means for the white majority to ostracize Mexican-Americans by placing them into unequal educational environments, as well as just another means of trying to justify racism.

People of Mexican descent were not strangers to the lands of what is modern day California. Immigration from Mexico continues. Yet, white-supremacist attitudes that forwarded issues such as segregation within public schools that made immigrants from even a few miles south of the border feel as if they were strangers in a completely foreign land. The creation of the Chicano movement in the 1930s and 1940s would make great strides in challenging the educational, legal, and political issues that Mexican-Americans in California faced.

The *Mendez v. Westminster* case set social precedent for the activism that would lead to the 1954 Supreme Court ruling in *Brown v. Board of Education*. The previous “separate but equal” doctrine that the case fought against was common in California in much the same way as it was central to the Jim Crow ideology that segregated the American South. Separate but equal ideology was used to justify not only separate schools but also separate swimming pools and other public parks and recreation facilities, not to mention theatres and other places of entertainment. The families involved in this court case represented over 5,000 children in similar educational situations. They also

²⁵ Valvedre, Leonard A. and Contreras, Reynaldo A. “The Impact of Brown on the Education of Latinos.” *Journal of Negro Education*, no. 63 (1994), 4.

represented opposition to a social institution that had previously gone on largely unquestioned.

Orange County Oral Histories

Orange County, California oral histories from the period, conducted years later, documented public reactions to the circumstances in their community, as well as the political climate of the schools themselves. California public schools, like institutions throughout the rest of the nation, were operating with practices of outright segregation. The *Orange Daily News* documented the appeals case of *Mendez v. Westminster* in February 1946. In the article, the anger of the school system at the ruling of Judge McCormick of the Los Angeles District court was evident. The newspaper failed to cite any public reactions to the case, and overall coverage of the circumstances were limited, probably due largely to the nature of the black and white scope America was viewing segregation in.

Dan Gomez, a resident and student of the El Modena district of California at the time of the Mendez case, reflects on this de jure segregation in an interview conducted by Christopher Arriola of Stanford University. When considering the differences between a known “Mexican” grammar school by the name of Lincoln and a White school known as Roosevelt, Gomez states:

I went to Roosevelt for about two years, I went to the third grade in Lincoln, and fourth, fifth, sixth grade in Roosevelt. After the case (*Mendez v. Westminster*), they had changed everything, the playground used to be physically between both schools, and there was division there. This way they wouldn't allow both recesses from both schools to come out at the same time. They'd let the kids from the Lincoln School out first, then the Roosevelt kids...²⁶

²⁶ Arriola, Christopher, *Oral Histories of El Modena County: Dan Gomez*, Stanford University Archives.

Gomez also cites that most of the screening to determine which school a child was to attend was done completely arbitrarily. Arriola asks him in an interview about the case of two sisters with different physical features. Gomez responded, “I think most of the segregation [within the schools] was done by appearance, if you were dark skinned, [then you appeared] the more Hispanic, we didn’t really have a lot of races at the time.”²⁷ The interview with Gomez is testament to the inaccuracy and absurdity of the very system that would classify so many California public school students, as well as the complex racial identity of Mexican-Americans in California, in 1943.

Racial tensions in Orange County, California streamed over into life outside of the classroom, as well, and this just forwarded the political activism that surrounded the case. The racial tension in Orange County was reflected by the oral history account of Marge and JD Gobel, conducted by Christopher Arriola of Stanford University. They recount to Arriola the segregation Mexican-Americans encountered in public park facilities:

Gobel: “The Plunge was segregated. The white kids swam everyday, but Monday. Monday it was Mexican day at the Plunge. Every Monday night they drained the Plunge. This is down at Hart Park. It was Orange City Park then. They would drain that pool. After the Mexican kids swam...that’s how bad it was. It’s just hard to believe. They’d drain it and it was closed on Tuesday, because they had to refill it. Then the rest of the week it would be open to white kids.”

Arriola: “So the Mexican kids couldn’t go?”

Gobel: “No, only on Monday.”²⁸

²⁷ Arriola, Christopher, *Oral Histories of El Modena County: Marge and JD Gobel*, Stanford University Archives

²⁸ Arriola, Christopher, *Oral Histories of El Modena County: Marge and JD Gobel*, Stanford University Archives.

The Gobbels' oral histories can be backed-up by accounts from another Mexican-American court case prior to the *Mendez* case, the case of *Lopez v. Seccombe*. The case of *Lopez v. Seccombe* is used as another example of the particular systematic exclusion present in the *Mendez* case, and highlights the ranges of society that the segregation covered. In the case, San Bernardino, California established a public park and recreational ground with an area containing a swimming pool and bathhouse that particular officials systematically decided to exclude peoples from.

The mayor, city councilmen, chief of police and park superintendent, all through their agents, barred from their entry into the areas all persons of Latin descent. The exclusion was not merely of Mexicans but of all Latinos, that is of people from the score of more Latin American Republics and from Italy, Spain and Portugal, as the outstanding character of persons actually makes clear.²⁹

As mentioned, the *Mendez* case was argued seven years prior to *Brown v. Board of Education*. When reviewing the implications of *Brown*, one would wonder why the *Mendez* case did not itself make it to the Supreme Court. It is arguable that its absence in front of the Supreme Court is due to the 'paradigm' that Kristi Bowman cited. By which society viewed race relations of the time. Race was a "black and white" issue in every sense of the term, so the context of the *Mendez* case was beyond what was getting attention at the time.

This argument is supported by Thomas Saenz, a civil rights lawyer. Saenz writes in *Mendez and the Legacy of Brown: A Latino Civil Rights Lawyer's Assessment*, "There were two basic reasons that *Mendez* did not become *Brown*. *Mendez* was not part of a concerted litigation campaign to achieve the reversal of the broad and pernicious *Plessy*

²⁹ United States Circuit Court of Appeals for the Ninth Circuit, Transcript of Record of *Mendez v. Westminster*, No. 11310, Southern District of California, Central Division

precedent.” Saenz goes on to praise the NAACP for creating the Mexican-American Legal Defense Fund a decade and a half after the *Brown* ruling. Saenz also argues that the lawyers working on the *Mendez* case were disorganized because “although there were earlier challenges to the segregation of Mexican-Americans, the *Mendez* case was not connected to these earlier cases as part of any coordinate strategy.”³⁰

This argument is dangerous because the mere existence of court cases is precedent for political action and therefore is precedent for great concern regardless of whether or not they were directly cited in the *Mendez* case. Not to mention, this conclusion is inaccurate because other Mexican-American segregation cases such as *Lopez v. Seccombe* were cited in the court rulings and transcripts.³¹

Saenz argues that *Brown* was well documented as a culmination of the NAACP’s efforts to centralize their cases into a political movement. Simply stated, this forwards the concern that the black and white paradigm in which society seems to have written history was the very reason that more attention was not paid to the *Mendez* case on a national level. Attention was not given to the Mexican-American cases prior to *Mendez* because of the failure of the NAACP and other influential organizations to see the Mexican-American cause as an important facet in the creation of complete, overall equal educational opportunity that did not involve competition between the activism of different minority groups.

Saenz forwards the argument that the NAACP did not recognize the efforts of their Mexican-American neighbors to the extent that they could have. He supports this

³⁰ Saenz, Thomas. “Mendez and the Legacy of Brown: A Latino Civil Right’s Lawyer’s Assessment.” *California Law Review*, (2004), 4.

³¹ United States Circuit Court of Appeals for the Ninth Circuit, Transcript of Record of *Mendez v. Westminster*, No. 11310, Southern District of California, Central Division, 3.

conclusion by stating, “The example of the Brown litigation campaign has undeniably yielded great benefits. Indeed, the founding of the Mexican American Legal Defense and Educational Fund (MALDEF) in 1968, a decade and a half after *Brown*, stems in no small part from this legacy.”³² This is true, but the fact remains that the creation of the MALDEF stemmed from the NAACP a decade and a half *after* the *Brown* decision. The creation of MALDEF was slow coming when considering that the political activism of Mexican-Americans was already at a breaking point in the *Mendez* case twenty years before its creation. What took the rest of America so long to join the enacting of the equal protection of the law secured by the Fourteenth Amendment?

The case of *Mendez v. Westminster* is a strategic example of the creation of a separated modern civil rights agenda in the United States. That is, a civil rights agenda where one wing was held by the efforts of African-American organizations like the NAACP and the other forwarded by the separate efforts of Mexican-Americans that were disenfranchised in much of the same ways as their African-American neighbors in the south. When we see the racist ideology that accompanied Jim Crow law philosophy in the southern United States echoed in the stories of Mexican-Americans in California, one can only wonder how the black and white paradigm stood up as strongly as it did.

The Concept of an Anglo-Saxon Mexican-American Identity?

The complexities of defining where the Mexican-American identity stood was the basis of the unequal distribution of Mexican-Americans even within separate White and Mexican schools. As the Mendez family argued, the premises for segregation were even more complicated because the basis for the separations of families (even cousins in this

³² Saenz, Thomas. “Mendez and the Legacy of Brown: A Latino Civil Right’s Lawyer’s Assessment.” *California Law Review*, (2004), 5.

case), was based on skin tone and false conclusions of identity based on surnames. Saenz argues that the plaintiffs in the *Mendez* case used the grounds that they were inherently “part of the white race,” in order to win the case, and therefore Mendez should not have been given precedent as a civil rights case.

Saenz argues that their desired inclusion as members of the white race is why *Mendez* was not a case that would be considered equal in importance to *Brown*. But it can be argued that the plaintiffs of the *Mendez* case were claiming an equal-to-white stand within the school system. The plaintiffs were claiming their Mexican-American identity and showing their qualifications for equal treatment under the concepts of the Fourteenth Amendment to the Constitution, as stated:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United State; 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.³³

Orange County Mexican-Americans were discriminated against based on false conclusions that they could not speak English, were therefore inferior to the practices of the school system, and must then be separated. However, when they filed suit it was documented in the court transcripts that the “petitioners and all others of Mexican and Latin descent”³⁴ are “barred, precluded and denied,” from “attending and using and receiving the benefits and education furnished to the other children,”³⁵ and are segregated

³³ Constitution of the United States

³⁴ United States Circuit Court of Appeals for the Ninth Circuit, Transcript of Record of *Mendez v. Westminster*, No. 11310, Southern District of California, Central Division, 3.

³⁵ United States Circuit Court of Appeals for the Ninth Circuit, Transcript of Record of *Mendez v. Westminster*, No. 11310, Southern District of California, Central Division, 4.

in schools “attended solely by children of Mexican and Latin descent.”³⁶ The use of the terminology of “taxpaying citizens,” was used by the plaintiffs to clarify that not only was the case evidence of discrimination, but that the case was also evidence that these citizens were contributing financially to the schools that they were systematically segregated from.

The pleadings, findings and judgment in this case refer to children of “Mexican and Latin descent and extraction,” but it does not appear that any segregation of schoolchildren other than those of Mexican descent was practiced.³⁷

Clearly, the plaintiffs claimed their Mexican-American identity and simply wanted equal protection of the law.

The court transcripts show that the plaintiffs were claiming a Mexican-American identity and that Mexican-Americans were the people group that were being discriminated upon in the California public school system that was challenged by the class-action lawsuit of *Mendez v. Westminster*. The theory that Saenz offers is not well-founded and is, in fact, inaccurate when we see *Mendez* in the correct, court-documented, way that it was intended to be interpreted as a legal proceeding.

Regardless of the political pressures surrounding the *Mendez* case, it is interesting to note the views of the children in the school systems. Children seemed to see past the problems that adults had caused for other children. Accounts of interactions between school-children from both Mexican-American and white schools seems to show basic

³⁶ United States Circuit Court of Appeals for the Ninth Circuit, Transcript of Record of *Mendez v. Westminster*, No. 11310, Southern District of California, Central Division, 4.

³⁷ United States Circuit Court of Appeals for the Ninth Circuit, Transcript of Record of *Mendez v. Westminster*, No. 11310, Southern District of California, Central Division.

respect and normal interaction for school children of their ages. Having reflected on the segregation, Marge Gobbel and JD Gobbel stated:

Marge: “You accepted it. You didn’t know there was any other way. But, you know, after you get out of school you’d played with Mexican kids out on the street at home. If there were Mexican kids in the neighborhood, you played with ‘em.”

JD Gobbel: “You know, there were Mexican kids and it didn’t bother me in the least.”

Marge: “We didn’t know the difference.”

JD Gobbel: “You know, they were good people.”³⁸

Looking back at the oral historical accounts compiled by Christopher Arriola, it can be concluded that the children in the neighborhoods and school systems surrounding the case did not realize the implications of the aforementioned struggles. They saw their Mexican-American neighbors in a relatively unbiased way. They did not understand the separation that had been made during school days and in public facilities, but it also seems that it was not until much later that they would question it to any great degree. Racism seemed to be defined by the power structures and the ideology of the state, and by those who were endowed with responsibilities to the state. The *Mendez* case not only led to the restructuring of the school board provisions, as cited by references to California Governor Earl Warren, but it would also lead to a new consciousness in California legislation. This new consciousness led to statements by the State of California that forwarded the new-found concept that the separate but equal doctrine was inherently still not equal.

³⁸ Arriola, Christopher, *Oral Histories of El Modena County: Marge and JD Gobbel*, Stanford University Archives.

Conclusions of the Court in the *Mendez* Case

Regardless of attempts by the defendants to cite a separate but equal doctrine in the *Mendez* case, the court based their findings on the violation of the United States Constitution's Fourteenth Amendment as cited below:

Respondents objected to the Findings of Fact on the ground that the evidence showed without conflict school children of Mexican descent had been and are being furnished with facilities fully equal to other school children, and that no finding had been made thereon. The court overruled the objection, and declined to make the requested finding upon the ground that it is immaterial to the issue of the case... Thereafter, a judgment was entered to the effect that all segregation found to have been practiced was and is arbitrary and discriminating and in violation of rights guaranteed to plaintiffs by the Constitution of the United States. All respondents were enjoined against continuance of the segregation, and costs were entered against the several school districts.³⁹

This ruling was evidence of a pre-*Brown* case that showed that segregation in any form was in direct violation of the Fourteenth Amendment to the Constitution. However, the great court of the land would later have to enact this ruling through the formal federal ruling in the 1954 ruling of *Brown*. Regardless, the political climate surrounding Orange County, California and the circumstances surrounding the case were evidence that the black and white binary in which United States history was written is too 'black and white.'

Conclusion

Simply stated, the case of *Mendez v. Westminster*, was a crucial case in the series of multiple struggles for school desegregation. In particular, it can now be seen as a clear forecast of the Warren court's decision in *Brown v. Board of Education*. More than this,

³⁹ United States Circuit Court of Appeals for the Ninth Circuit, Transcript of Record of *Mendez v. Westminster*, No. 11310, Southern District of California, Central Division

Mendez outlines the separation between minority groups across the United States that could have been working together towards a common goal. As stated by film producer Sandra Robbie, “So many of us believe that the fight for Civil Rights is a black and white battle that was fought and won solely in the American South.”⁴⁰ This view of history, however, is not inclusive of the many other minority groups involved in the movement. It is further an illustration that minority groups of color, other than African Americans, are often excluded from the focus of not only other minority groups, but of history itself.

The *Mendez* case, by being representative of communities in Orange County, California, shows the civil rights activism of the times from a different perspective. *Mendez* was fundamentally the groundbreaking precursor to *Brown*, even though it is not widely recognized as such. The case of *Mendez v. Westminster* is a richer grayscale representation than the “black and white”⁴¹ binary by which America defined the civil rights area, and it is an example of the forwarding of the Jim Crow law ideology outside of the geographically southern United States. In 1998, the Los Angeles, California Board of Education recognized the case of *Mendez v. Westminster* and the plaintiffs involved as being a part of the critical efforts in “the breakdown of the [legal] and racial discrimination existing within the State of California, resulting in schools opening to all races, creeds, and colors.”⁴² It is important that historians also recognize this fact.

⁴⁰ Wemmer, Adam. *Civil Rights and School Desegregation: An Orange County Perspective*, Pacifica High School, Lessons and Strategies for Teaching Civil Rights in a Local Context (2003), 3.

⁴¹ Bowman, Kristi. “The New Face of School Desegregation.” *Duke Law Journal*, no. 50 (2001).

⁴² Los Angeles Board of Education, *Record of Minutes* (1998).