

Rodgers
4/26/54.

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

CARL HEARD, et al.,
Plaintiffs,
vs.
HAROLD DAVIS, et al.,
Defendants.

No. 77497

PLAINTIFFS' REPLY MEMORANDUM

Plaintiffs respectfully submit to this Court this brief reply in order that certain misconceptions that have been raised by defendants' responsive brief may be clarified.

I

Defendants make much of the statement contained in plaintiffs' opening memorandum on page 14 that plaintiffs do not rely on the Fourteenth Amendment. Obviously plaintiffs were attempting to state, if somewhat obscurely, that they were not presenting to this Court the issue whether or not segregation per se was unconstitutional. Most of the cases cited in the opening memorandum rely on the Fourteenth Amendment in the sense that Gonzales v. Sheeley, 96 Fed. Supp. 1004, and McLaurin v. Oklahoma State Board of Regents, 339 U. S. 367, did.

II

Defendants cite Burnside v. Douglas School District No. 27, 33 Ariz. 1, 261 P. 629. Plaintiffs in their opening memorandum make the point that this and subsequent cases in Arizona have been overruled and could not be decided the same way today in view of McLaurin v. Oklahoma State Board of Regents, supra, and Sweatt v. Painter, 339 U. S. 629.

III

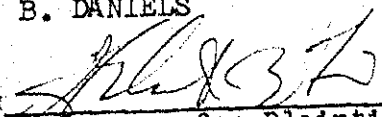
Defendants rely on Plessy v. Ferguson, 163 U. S. 537, which deals with railroad facilities which has never been meant

1 to apply to school facilities. It is a doctrine which is now in
2 bad repute and in any event is not applicable to the theories
3 advanced by plaintiffs.

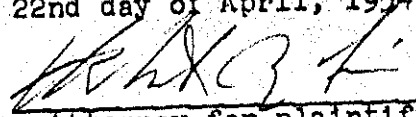
4 WHEREFORE, plaintiffs respectfully request judgment as
5 prayed for in their complaint.

6 Respectfully submitted,

7 PARKER & MUECKE
8 HERBERT B. FINN
9 H. B. DANIELS

10 By 
11 Attorneys for Plaintiffs

12
13 Mailed copy of the foregoing
14 Plaintiffs' Reply Memorandum
15 to William P. Mahoney, Jr.,
16 County Attorney, att: Jos. F.
17 Walton, Deputy County Attorney,
18 424 Title & Trust Bldg., this
19 22nd day of April, 1954.

20 
21 Attorney for plaintiffs