Desegregation of Public Transportation
The Montgomery Improvement Association
And
The Montgomery Bus Boycott Case

Browder v. Gayle

142 F. Supp. 707
June 5, 1956

CASE HISTORY: Plaintiffs brought this action, seeking a declaratory judgment that Alabama state statutes and ordinances of the City of Montgomery providing for and enforcing racial segregation on "privately" operated buses abridged the privileges and immunities of plaintiffs and denied them equal protection of the laws under the Fourteenth Amendment and the rights guaranteed them by Sections 1981 and 1983 of the Civil Rights Act. The case came before a three judge court under the authority of 28 U.S.C., § 2281, and 28 U.S.C., §§ 1331 and 1343 (Federal question; jurisdiction of three judge district courts: A three judge district court is required under § 2281 for the granting of an interlocutory, or permanent injunction restraining the enforcement of a state statute by restraining the action of a state officer, such as an official of the Alabama Public Service Commission. The court held that given the admission of city officials that they were enforcing state statutes, a three judge court had jurisdiction over the case. *See* 142 F. Supp. At 713).

FACTS: On December 1, 1955, Rosa Parks boarded a city bus operated by the City of Montgomery, Alabama, and took a seat in the second row of seats. The bus filled, and when white passengers subsequently boarded, the driver asked her to give up her seat. She remained seated, and the driver summoned police, who arrested Ms. Parks. Her arrest captured the interest of black community leaders, who called on a twenty-six year old pastor – Dr. Martin Luther King, Jr. – to suggest appropriate action. The decision was made to boycott the buses, and shortly thereafter, the group formed the Montgomery Improvement Association. During January of 1956, this group attempted, without success, to negotiate with the city commission and bus company officials a plan for the desegregation of city buses; despite the efforts of black leaders, and sympathetic white citizens, white resistance increased, and in late January, a stick of dynamite was thrown into Dr. King's home, causing an explosion and serious damage. On February 1, Fred Gray, a young, black Montgomery attorney, filed this civil action. (*See* J. Bass, "Unlikely Heroes," Chapter 3).

The **Browder** case was brought by a group of plaintiffs who had been required at one time or another, to comply with state and city laws requiring separate accommodations for white and "colored" passengers on any commercial vehicle operated by any motor transportation company within the state of Alabama and the City of Montgomery. Plaintiffs had either complied with such laws and directives, or had been arrested and fined for noncompliance. They indicated their intent to resume use of buses operated by the Montgomery City Lines, Inc., if they could do so "on a non-segregated basis without

fear of arrest." The bus company alleged that the segregation of the races on "privately" owned buses operating within the City of Montgomery, was valid pursuant to state law and City ordinance.

ISSUE: Whether the statutes and ordinances requiring the segregation of "the white and colored races" on allegedly private motor buses operated by the Montgomery City Lines, Inc., violate the Fourteenth Amendment to the United States Constitution.

HELD: The statutes and ordinances in question, which require the racial segregation of passengers on the buses of a common carrier in the City of Montgomery, violate the due process and equal protection clauses of the Fourteenth Amendment.

THE COURT'S REASONING: The Court recognized that people may associate in their private affairs without implicating the Fourteenth Amendment, but stated that "there is… a "constitutional difference between voluntary adherence to custom and the perpetuation of that custom by law."

On the issue separate accommodations, the Supreme Court had already ruled, in 1948, in Morgan v. Virginia, 328 U.S. 373, that a state statute requiring segregated seating for "Negro" passengers on interstate buses unconstitutionally burdened interstate commerce; and in 1950, in Henderson v. United States, similarly held that the assignment of a separate railroad dining car for "Negro" passengers violated the Interstate Commerce Act, citing cases construing the Fourteenth Amendment. And, in **Brown v. Board of Education**, the Court had formally repudiated the "separate but equal" doctrine of Plessy v. Ferguson. On the same day, in Muir v. Louisville Park Theatrical Association, the Court announced that its decision in Brown was not limited to the field of public education.

The three judge court held that the Supreme Court's implicit overruling of Plessy, and its repudiation of the "separate but equal" principle could only mean that no rational basis exists for the application of the separate but equal principle to common carrier transportation within the City of Montgomery. By footnote, the court observed that "when a lower court perceives a new doctrinal trend in Supreme Court decisions, it is its duty, cautiously to be sure, to follow and not to resist it."(*See* 142 F. Supp. at 716, n.14).

LYNNE, J., DISSENTING: Judge Lynne dissented, arguing that the court had overstepped its bounds in assuming that Plessy had been over-ruled by Brown, and reasoned that Plessy was still good law in the area of intrastate transportation. He suggests that the Court's decisions on interstate commerce questions do not control Fourteenth Amendment questions; and he argues, while Congress has the power to enforce the Fourteenth Amendment by legislation prohibiting racial segregation in intrastate transportation under the authority of state statute, Congress has not chosen to explicitly do so. In the end, Judge Lynne writes that he would dismiss the plaintiff's complaint on the authority of Plessy v. Ferguson.