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FILED

MAR 2 - 1945

EDMUND L. SMITH, Clerk

By *E. Minstons Jr.*
Deputy Clerk

7
8 IN THE DISTRICT COURT OF THE UNITED STATES
9 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
10 CENTRAL DIVISION

11 GONZALO MENDEZ and SYLVIA, GONZALO and
12 GERONIMO MENDEZ, by their father and next
13 of friend GONZALO MENDEZ,
14 WILLIAM GUZMAN and BILLY GUZMAN, by his
15 father and next of friend WILLIAM GUZMAN,
16 FRANK PALOMINO, and ARTHUR and SALLY
17 PALOMINO, by their father and next of friend
18 FRANK PALOMINO,
19 THOMAS ESTRADA and CLARA, ROBERTO, FRANCISCO,
20 SYRIA, DANIEL and EVELINA ESTRADA, by their
21 father and next of friend, THOMAS ESTRADA,
22 LORENZO RAMIREZ and IGNACIO, SILVERIO and
23 JOSE RAMIREZ, by their father and next of
24 friend LORENZO RAMIREZ,

25 Petitioners.

26 -vs-

PETITION

No. 4292-M

27 ✓ WESTMINISTER SCHOOL DISTRICT OF ORANGE COUNTY,
28 and J. A. HOULIHAN, LEWIS CONRADY, RAY SCHMITT,
29 as Trustees and J. HARRIS, Superintendent of
30 said School District,
31 ✓ GARDEN GROVE ELEMENTARY SCHOOL DISTRICT OF
32 ORANGE COUNTY and WILLIAM C. NOBLE, ROBERT B.
SMITH and PAUL APPLEBURY as Trustees and
JAMES L. KENT, Superintendent of said School
District,
✓ SANTA ANA CITY SCHOOLS and GEORGE R. WELLS,
HIRAM M. CURREY, JAMES K. GIVENS, DANIEL W.
STOVER and GEORGE J. BUSDIEKER its Board of
Education and FRANK A. HENDERSON and HAROLD
YOST, its Superintendent and Secretary,
✓ EL MODENO SCHOOL DISTRICT and HENRY CAMPBELL,
THEODORE HOWER, CLARENCE JOHNSON as Trustees,
and HAROLD HAMMARSTEN, Superintendent of
said School District,

Respondents.

PETITIONERS allege:

I.

The Garden Grove Elementary School District, is a legally constituted School District in the County of Orange, State of California and William C. Noble, Robert B. Smith and Paul C. Applebury, are the duly elected, qualified and acting Board of Trustees and James L. Kent, is the District Superintendent of said School District.

II.

The Westminster School District is a legally constituted School District in the County of Orange, State of California and J. A. Houlihan, Lewis Conrady and Ray Schmitt, are the duly qualified and acting Trustees and J. Harris is the District Superintendent of said School District.

III.

The Santa Ana City Schools is a legally constituted School System within the City of Santa Ana County of Orange and State of California and George R. Wells, Hiram M. Currey, James K. Givens, Daniel W. Stover and George J. Busdieker are its duly elected qualified and acting Board of Education and Frank A. Henderson and Harold Yost its Superintendent and Secretary respectively.

IV.

The El Modeno School District is a legally constituted School District within the County of Orange, State of California and Henry Campbell, Theodore Hower and Clarence Johnson are its duly qualified and acting Trustees and Harold Hammarsten, its Superintendent of said School District.

V.

That for many years past the foregoing School Districts and Systems were and now are the owners of and beneficially interested in and have and do now maintain, operate, manage and control the Public Schools within their respective Districts and Systems,

1 for the benefit, health, recreation and education of the public and
2 particularly the children residing in their respective Districts and
3 Systems and for their use and benefit.

4 VI.

5 The said School Districts and Systems and facilities are
6 being maintained, operated, managed and controlled by and through
7 their said Boards of Education; Boards of Trustees; Superintendents
8 and Secretarys as before named.

9 VII.

10 That respondents and each of them acting with a common
11 plan, design and purpose by aiding, abetting, advising and assist-
12 ting each other in their respective Districts and Systems, have
13 adopted and do practice by regulation, custom and usage; rules,
14 regulations and orders in the operation, management and control of
15 their said Districts, Systems and facilities as hereinafter stated.

16 VIII.

17 That for several years last past respondents have and do
18 now in furtherance and in execution of their common plan, design
19 and purpose within their respective Systems and Districts, have by
20 their regulation, custom and usage and in execution thereof adopted
21 and declared: That all children or persons of Mexican or Latin
22 descent or extraction, though Citizens of the United States of
23 America, shall be, have been and are now excluded from attending,
24 using, enjoying and receiving the benefits of the education, health
25 and recreation facilities of certain Schools within their respecti-
26 ve Districts and Systems but that said children are now and have
27 been segregated and required to and must attend and use certain
28 Schools in said Districts and Systems, reserved for and attended
29 solely and exclusively by children and persons of Mexican and Latin
30 descent, while such other Schools are maintained, attended and used
31 exclusively by and for persons and children purportedly known as
32 White or Anglo Saxon children.)

IX.

Petitioners and each of them are citizens of the United States, residents and tax payers of said City, County and each and all petitioners are of Mexican or Latin descent or extraction.

X.

That petitioner Gonzalo Mendez, is the father and next of friend of Sylvia, Gonzalo and Geronimo Mendez, live and reside in the Westminster School District, as aforesaid and that said children all minors are subject to said rules and regulations of said District and segregated and required to attend separate Schools within said District, all as specifically alleged herein.

XI.

That William Guzman, is the father and next of friend of Billy Guzman, who live and reside within the Santa Ana School System, as aforesaid and that said child is subject to said rules and regulations of said School System and segregated and required to attend separate Schools within said System all as specifically alleged herein.

XII.

That Frank Palomino, is the father and next of friend of Arthur and Sally Palomino who live and reside in the Garden Grove Elementary School District, as aforesaid and that said children both minors, are subject to said rules and regulations of said District and segregated and required to attend separate Schools within said District all as specifically alleged herein.

XIII.

That Lorenzo Ramirez, is the father and next of friend of Ignacio, Silverio and Jose Ramirez, who live and reside in the El Modeno School District, as aforesaid and that said children all minors are subject to said rules and regulations of said District and segregated and required to attend separate Schools within said District all as specifically alleged herein.

1 XIV.

2 That Thomas Estrada, is the father and next of friend of
3 Clara, Roberto, Francisco, Syria, Daniel and Evelina Estrada, who
4 live and reside in the Westminster School District as aforesaid
5 and that said children all minors are subject to said rules and
6 regulations of said District and segregated and required to attend
7 separate Schools within said District all as apecifically alleged
8 herein.

9 XV.

10 That in execution of said rules and regulations, each,
11 every and all the foregoing children are compelled and required
12 to and must attend and use the Schools in said respective Districts
13 reserved for and attended solely and exclusively by children of
14 Mexcian and Latin descent and are forbidden, barred and excluded
15 from attending any other School in said District or System solely
16 for the reason that said children or child are of Mexican or Latin
17 descent.

18 XVI.

19 That each of Petitioners are beneficially interested in the
20 privileges, management, control and operation of his respective
21 School District and System and its facilities and as members of the
22 public and citizens of the United States are entitled to the use
23 and enjoyment of the Schools within their respective Districts
24 and Systems and are privilidged and entitled to the use of the
25 respective Schools in their District without segregation and/or
26 discrimination because petitioners are of Mexitan or Latin extrac-
27 tion.

28 XVII.

29 Petitioners are of good moral habits, not suffering from
30 disability, infectious decease and are qualified to be admitted
31 to the use of the Schools and facilities within their respective
32 Districts and Systems.

1 XVIII.

2 Respondents and each of them through their agents and em-
3 ployees acting with common plan, design and purpose by aiding,
4 abetting, advising and assissting each other within their respective
5 Districts and Systems have by such regulation, custom and usage
6 and in execution thereof, at all times mentioned have barred, pre-
7 cluded and denied petitioners and all others of Mexican or Latin
8 descent from attending and using and receiving the benefits and
9 education furnished to other children residing in said School Dis-
10 trict and System and have segregated said children in Schools
11 attended solely by children of Mexican and Latin descent and have
12 denied them the use and right of attendance in other Schools solely
13 for the reason that petitioners are of Mexican or Latin descent.

14 XVIIIII. A

15 Petitioners and others of Mexican and Latin extraction
16 citizens of the United States at various times have sought admi-
17 ssion and the right to the use and attendance of other Schools
18 within their respective Districts which they otherwise would attend
19 and use, but respondents have by their said regulation, custom and
20 usage denied them such right and privilege based solely upon the
21 fact that petitioners were of Mexican and/or Latin descent. That
22 by reason thereof the injury to petitioners is continuos, great
23 and irreparable is calculated to affect and does affect their
24 health, rights and privileges as citizens of the United States.

25 XX.

26 That by this suit and proceedings, petitioners seek to
27 redress the deprivation by respondents herein, under color of
28 regulation, custom and usage, of petitioners civil rights,
29 privileges and/or immunities secured to them by the Laws of the
30 United States, and as guaranteed to each of them by the Laws and
31 Constitution of the United States of America.
32

XXI.

That respondents conduct as aforesaid, is illegal and is in violation of petitioners rights and privileges as guaranteed by the Constitution of the United States, and is pursuance of their unlawful conduct, to injure and oppress petitioners herein in the free exercise and enjoyment of their rights and privileges as secured and guaranteed to them as citizens of the United States, by the Constitution of the United States of America, as particularly provided under the Fifth and Fourteenth Amendments. That petitioners are entitled to such equal accomodations, advantages, and privileges and to equal rights and accomodations, advantages and privileges and to equal rights and treatment with other persons as citizens of the United States, in the use and enjoyment of the facilities of said Schools and to equal treatment with other persons and to the equal protection of the laws in their use and enjoyment of said privileges as provided, and afforded, to other persons at all times when the same is open and used by them.

XXII.

Petitioners allege that said regulation, custom and usage is unconstitutional, illegal and void and is being enforced against petitioners and each of them, by such discriminatory conduct and practice by respondents, and each of them, through their unlawful acts and conduct; and by their execution of such common plan, design and purpose in barring petitioners from the uses and privileges of said Schools solely for the cause and reasons as stated violative to petitioners rights and privileges as citizens of the United States and such acts are discriminatory, illegal and void.

XXIII.

This action is brought on behalf of petitioners and some 5,000 other persons of Mexican and Latin descent and extraction all citizens of the United States of America, residing within

1 said Districts. That the questions involved by these proceedings
2 are one of a common and general interest and the parties are nume-
3 rous and it is impractical to bring all of them before the Court.
4 Therefore, these petitioners sue for the benefit of all.

5 **XXIV.**

6 This action is brought under the provisions of Sec. 24 of
7 the Judicial Code of the United States (28 U. S. C. A. sub 14)
8 to prevent the respondents from unlawfully interfering with peti-
9 tioners equal protection of the laws and due process of law.

10 **XXV.**

11 Petitioners allege that they have no plain, speedy or
12 adequate or any remedy at Law, and that petitioners are suffering
13 great and irreparable damage.

14
15 WHEREFORE, petitioners pray:

16 (1) That said rules, regulation, custom or usage be adjudged
17 void and unconstitutional.

18 (2) That respondents, their servants, agents and employees
19 be permanently compelled to admit petitioners and all persons of
20 Mexican or Latin descent to the use, and enjoyment and privileges of
21 Schools in their respective Districts.

22 (3) That respondents, their servants, agents and employees
23 be permanently enjoined and restrained from in any way or manner
24 whatsoever barring, excluding or prohibiting petitioners from the
25 use, and enjoyment and privileges of the Schools within their res-
26 pective Districts.

27 (4) That an order to show cause be issued out of this Court
28 directed to said respondents, their servants, agents and employees
29 directing them to appear and show cause why a preliminary injunction
30 pendente lite or alternative writ of mandate should not issue until
31 the hearing of this matter.

32 (5) That pending further order of this Court that said

1 respondents and each of them, their servants, agents and employees
2 should be restrained and enjoined temporarily from enforcing or
3 attempting to enforce the provision of said custom, regulation and
4 usage and

5 (6) For such other and further relief as this Court may
6 deem just, and for costs of suit.

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10 David M. Mace
11 Attorney for Petitioners.
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STATE OF CALIFORNIA,

County of Los Angeles

} ss.

GONZALO MENDEZ, THOMAS ESTRADA, WILLIAM GUZMAN,
FRANK PALOMINO.

being by me first duly sworn, deposes and says: That they are the Petitioners.

in the foregoing and above entitled action; that they have read the foregoing Petition.

and knows the contents thereof; and that the same is true of their knowledge, except as to the matters which are therein
stated upon their information or belief, and as to those matters that they believe it to be true.

SUBSCRIBED AND SWORN to before me this

1st. day of March, 19 45

Robert Friday
Notary Public in and for said County and State.

NOTARIAL
SEAL

AFFIDAVIT OF SERVICE BY MAIL — 1013A, C. C. P.)

STATE OF CALIFORNIA,

County of Los Angeles

} ss.

_____ being first duly

sworn, says: That affiant is a citizen of the United States and a resident of the County of _____;

that affiant is over the age of eighteen years and is not a party to the within and above entitled action; that affiant's residence

address is _____

That on the _____ day of _____, A.D., 19____, affiant served the

within _____

on the _____ in said action, by placing a true copy thereof

in an envelope addressed to _____ at the residence

address of said _____, as follows: _____

and by then sealing said envelope and depositing the same, with postage thereon fully prepaid, in the United States Post Office

at _____. That there is delivery service by United States mail at the place so

addressed _____ there is a regular communication by mail between the place of mailing and the place so addressed.

SUBSCRIBED AND SWORN to before me this

_____ day of _____, 19____

Notary Public in and for said County and State.

Here quote from envelope name and address of addressee.

INDEXED

Copy received

David Summery ✓