

Interview with **Paul Wilson**
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Lawrence, Kansas
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Note: These transcripts contain material that did not appear in the final program. Only text appearing in *bold italics* was used in the final version of *Eyes on the Prize*.

00:00:02:00

[camera roll 106]

[sound roll 1104]

CAMERA CREW MEMBER: OH YES IT DOES HAVE THAT.

[sync tone]

CAMERA CREW MEMBER: GOOD. I LIKE THAT SLATE. GIVE ME ONE SECOND.

INTERVIEWER: OK, MR. WILSON; COMING UP TO THIS FIRST QUESTION—

CAMERA CREW MEMBER: OK, IT'S ALL YOURS.

INTERVIEWER: —AND I'D LIKE YOU TO GIVE US, TO DESCRIBE THE LOWER COURT'S FINDINGS FOR US. I MEAN I KNOW YOU DIDN'T ARGUE IT, BUT WHAT WAS THE BASIS OF THE ARGUMENT IN THAT CASE AND THE FINDING OF THE COURT?

Wilson: Well there were two approaches on the part of the defendants, because there were two defendants. The State nominally was a defendant, and its position was simply to deny the unconstitutionality of the law which permitted boards of education and cities of the first class in Kansas to maintain separate schools in the elementary schools only. And, the argument

was made by the state that precedent sanctioned the law that the legislature of Kansas had passed. The position of the Topeka Board of Education was first, that the law was not unconstitutional, and, secondly, that the schools in Topeka provided for black and for white children, were of equal quality, insofar as the equipment, teachers, libraries, and the like were concerned. And, of course, the attack was made on the law and on the practice of the Topeka Board of Education that, even though the schools might be of equal quality, the fact of separation deprived the segregated group of equal protection of the laws. The three judge District Court, sitting in Topeka, made the finding that segregation did have an adverse effect upon the opportunity of the segregated group to learn, that it gave them the sense of inferiority, but still, in view of the precedents that both in Kansas and in the federal courts, the District Court decided there had been no denial of equal protection of the laws.

00:02:30:00

INTERVIEWER: VERY CLEAR. NOW COULD YOU JUST, JUST DESCRIBE ONCE AGAIN FOR US THE BLACK SCHOOLS AND THE WHITE SCHOOLS IN TOPEKA, IN TERMS OF THE DISTRICT COURT'S FINDINGS, AND HOW THAT REALLY MEANT THAT THE SUPREME COURT WAS FACED WITH A VERY CLEAR ISSUE.

Wilson: The condition of the black courts, or the black schools—

INTERVIEWER: YOU CAN JUST START THAT SENTENCE AGAIN.

Wilson: All right. The question that was raised, concerned the validity, the constitutional validity of the separate but equal doctrine. There were in Topeka, as I recall at that time, four black schools, twenty or eighteen white schools. The black schools were spaced more widely in the district and the black students were provided with bus transportation, because to walk would have been in many cases, an intolerable distance for a child. The schools were found to be, by the United States District Court, of equal quality. Now there was some argument, that there might have been some inequality, and it's true that I think some of the black schools were located in somewhat poorer neighborhoods than were many of the white schools. But nevertheless, the schools were found to be of equal quality, and the question, then, raised by the Kansas case faced squarely the validity of the separate but equal doctrine. In the other states, as I understand it, there was separation, but inequality, so the Kansas case presented squarely the constitutional validity of the separate but equal doctrine, which had been approved by the Court in Plessy against Ferguson before the beginning of this century and had been followed by a good many of the federal courts after that time.

INTERVIEWER: CAN WE STOP FOR A MOMENT? JUST HAVE FIVE SECONDS.

[cut]

00:04:50:00

CAMERA CREW MEMBER: SPEED.

[sync tone]

00:04:56:00

INTERVIEWER: NOW, IN THE APPEAL, WHEN YOU WERE ARGUING THE BROWN CASE IN FRONT OF THE SUPREME COURT, WHAT WAS THE LEGAL BASIS OF THE ARGUMENT IN THE APPEAL OF THIS CASE?

Wilson: The argument made by the state of Kansas, and I spoke only for the state of Kansas, in—before the Supreme Court in this case, was that the separate but equal doctrine was not offensive to the constitutional requirement of equal protection of the laws. We relied upon precedent, commencing with Plessy against Ferguson and going through a number of federal cases. We relied upon decisions of the Supreme Court of Kansas. We relied upon history which had sanctioned separate but equal. We relied upon the values in our culture which, up to that time, had sanctioned programs of this sort. Our argument was mainly historical. And then we went beyond that and argued that public education was a matter for the states and if the policy were to be changed, it was a matter for the state legislature and not the Supreme Court of the United States.

00:06:24:00

INTERVIEWER: YOU SAID TO ME ON THE TELEPHONE THAT YOU DIDN'T FEEL THAT THE CHANCES OF WINNING THESE FIVE CASES WAS VERY GOOD, BUT THAT, IN FACT, THE OTHER LAWYERS WERE MORE OPTIMISTIC, BECAUSE OF THEIR READING OF THE VARIOUS JUSTICES. YOU GAVE ME A LIST OF THE JUSTICES. I WONDER IF YOU COULD GO THROUGH THAT AGAIN FOR US AFTER THIS FIRST ARGUMENT.

Wilson: [coughs] I have been a student of history most of my life. And I was able to observe the trends in the history of this country and I felt that the time had come when this doctrine, which is the vestige of slavery, had to be abandoned. Nevertheless, I felt that, before the Court could make a decision, and it was a very important decision, it must be fully informed. And I looked upon my job, as informing the Court, insofar as I could, as to the validity of, of the separation of blacks and whites in public education. Other attorneys, and these were the attorneys representing the southern states, did not read history the way that I did. They read history as supporting segregation and they read several of the justices as being committed to that history. As being unwilling to make an abrupt—

[cut]

00:07:59:00

[wild audio]

Wilson: —departure from what had been the policy of this country since the beginning. They looked upon, well, the first arguments were heard by Chief Justice Fred Vinson of Ken— of—

CAMERA CREW MEMBER: WE'RE ABOUT TO RUN OUT.

INTERVIEWER: OH DEAR. THAT, THAT WAS GOING VERY GOOD.

CAMERA CREW MEMBER: NEVER FAILS.

INTERVIEWER: NEVER FAILS. WE'RE IN THE MIDDLE OF A GOOD ONE AND IT GOES OUT.

Wilson: You're running out of tape?

[cut]

00:08:27:00

[slate]

[change to camera roll 107]

CAMERA CREW MEMBER: MARK AND SOUND ROLLING.

[sync tone]

INTERVIEWER: SO WE ARE GOING TO GO, GO BACK TO THIS, THIS QUESTION OF YOUR FEELINGS AFTER.

Wilson: I was not particularly optimistic about winning the case. It seemed to me that the law had failed to keep up with the social conscience of this country and that the time had come when this policy of segregation, which was a vestige of human slavery, ought to be abandoned. However, in the process of abandonment, the Court had to be fully informed about the, the merits. And there was some merit on the side of the—in the Kansas case, of the appellee. The case was not frivolous, but, as I indicated, I thought the time had come for a change in policy. Other attorneys, representing the southern states, particularly, were optimistic that the Court might decide in their favor. And they looked at history, or what they thought was history, to reach that conclusion. They were at first concerned about the, the long standing policy of segregation in public education that had been—existed from the beginning of public education in their states, and secondly, they looked at the Court, and they were almost able to count the votes that would be in their favor. The first arguments were before Chief Justice Vinson who was, I think, from Kentucky. They thought his vote was with them. Justice Clark was from Texas. They looked upon him as being a vote in their favor. Justice Minton was from southern Indiana and they thought that he might be sympathetic. Justice Frankfurter was much influenced, in most cases, by history and the

trends of history, and they felt that he would not be willing to depart so abruptly from what history had taught. And others, they looked at Justice Jackson from New York, as a possible vote on their side. In any case, they were much more optimistic about winning, than I was.

00:11:13:00

INTERVIEWER: WHAT A WONDERFUL ANSWER. AN ABSOLUTELY WONDERFUL ANSWER. NOW, BY THE TIME OF REARGUMENT, YOU TELL A KIND OF FUNNY STORY, BECAUSE BY THE TIME OF REARGUMENT, THE JUSTICES WERE CONCERNED THAT YOUR CASE, IN PARTICULAR, HAD BECOME MOOT AND YOU KIND OF WERE LEFT IN A—STRANDED. IF YOU COULD TELL US ABOUT THAT.

Wilson: The, the policy that the Topeka Board of Education had been following was controversial. And on the Board of Education there were those who opposed the continuance of segregated schools. In the spring of 1953, there was an election of several members of the Board of Education in which segregation was an issue. And the anti-segregation candidates won, so that they had a majority in favor of the, the abandonment of segregation. They made an announcement, that is, the Board of Education made an announcement, that Topeka would abandon its policy of segregation as soon as possible. And they did, I think, that fall, begin to implement that policy by eliminating segregation on one or two schools, which affected very few black children. By the time the case was ready for argument, Justice Frankfurter had been informed of the statement of the Board of Education that they would abolish segregation and when we began to argue or when Mr. Carter, who was my adversary, stood up to argue, Mr. Justice Frankfurter said, Mr. Carter, isn't your case moot? And Mr. Carter very graciously said, I would like for General Wilson to speak to that point. And, of course, I had a speech, a prepared speech, but it said nothing about mootness. So I stood and my argument was, that while Topeka had announced its intention to abandon segregation as a policy, it was still maintaining separate schools, and furthermore, that the decision of the Topeka Board of Education in no way reflected the invalidity of the statute. And I went on rather lamely for a few minutes, and finally the Chief Justice, who was by that time, Earl Warren, said, I don't think the case is moot and we've asked Kansas to come and be heard and I want to hear them.

00:14:13:00

INTERVIEWER: FIGHTING'S SO DUMB. NOW, DID YOU FEEL THAT THE NAACP WAS UNFAIRLY TARGETING TOPEKA RATHER THAN LOOKING FOR A PARTICULARLY BAD SYSTEM, THEY WERE JUST PICKING ONE, OR AS A LAWYER, DID YOU HAVE SOME SYMPATHY FOR THEIR CHOICE HERE?

Wilson: I'm not sure that I had any feeling about whether Topeka was being unfairly targeted. It was a case that had arisen in the context of the Topeka school district. I think it may have been a good selection for the NAACP for reasons that I've already said. This was one of the few places in the country where separate schools were being maintained, where and, where the schools were of equal quality. And in Topeka they had a willing group of

plaintiffs, they had an issue that could be raised and they had some local lawyers who were interested, so I think it was quite appropriately brought there.

INTERVIEWER: YOU, YOU, YOU MENTIONED TO ME SOMETHING ABOUT THE, THE PLAINTIFFS IN THIS—ACTUALLY I HAVEN'T THOUGHT THIS OUT, BUT YOU WERE SAYING BEFORE, ABOUT HOW IT WASN'T REALLY THAT THE SITUATION WAS SO BAD FOR LINDA BROWN, SHE SIMPLY HAD A DIFFERENT CHOICE THAT SHE WANTED TO MAKE, THAT SHE, HER SCHOOL WASN'T BAD, IT WASN'T THAT FAR, I WONDER IF YOU COULD TALK ABOUT THAT.

Wilson: Well, as I understand it, Linda Brown and her father and the other plaintiffs were complaining because they were not able to attend their neighborhood schools. The neighborhoods in which they lived were not segregated. They played with white children before and after school and Linda saw no reason, and her father saw no reason, why she should not attend school with those children, be part of the neighborhood educational pro—program.

00:16:20:00

INTERVIEWER: IN TERMS OF TOPEKA ITSELF, WHAT WAS THE IMPACT OF THIS DECISION? WAS THERE MUCH?

Wilson: I don't think the impact of the decision on Topeka was very great. The Topeka Board of Education had already expressed its willingness and desire, to abandon the policy of segregation. They went about the execution of that abandonment in a, in my view, in a good faith manner and, I think, the impact was very minor. Now, it did result in the closing of some schools. I'm not sure the circumstances, whether they were related to the change in policy with respect to segregation or whether it was simply a matter of administrative convenience.

INTERVIEWER: AND IN TERMS OF THE NATION, I WONDER IF YOU WOULD TALK TO US A LITTLE BIT ABOUT THE IMPACT OF THAT AND YOUR, YOUR FEELINGS ABOUT HAVING BEEN PART OF SUCH A, SUCH A LANDMARK.

Wilson: Well, my information about the impact in other parts of the country are, of course, based upon reading that I have done and I have the impression that the impact was substantial in the states of the South. My own feeling about having a part in this decision—well, it was a lawsuit, and I was a lawyer—and it was a case that came to me, not because I solicited it, because it was my job. And I felt about it as I felt about other lawsuits in which I participated, that it was a case in which there was something to be said for the side that I represented, and I said it as well as I could. And because it was decided adversely to me did not, did not trouble me.

00:18:34:00

INTERVIEWER: VERY NICELY PUT. WHY DID KANSAS HAVE SEGREGATED SCHOOLS ANYWAY? IN THE HISTORICAL SENSE, BRIEFLY?

Wilson: The question as to why Kansas, has often been asked. Indeed, there was an editorial in the St. Louis Post-Dispatch that was captioned "Why Kansas?" Well, to me the reason Kansas had segregation is not very obscure. Kansas, of course, was a—the site of a struggle between Free State and pro-slavery groups even before statehood. The Free State people won and controlled the government. But the fact that the controlling group in Kansas did not—

00:10:26:00

[cut]

[wild audio]

Wilson: —want slavery within the state—

CAMERA CREW MEMBER 1: I'M SORRY WE JUST RAN OUT.

INTERVIEWER: OH, SORRY.

CAMERA CREW MEMBER 2: THAT WAS A ROLLOUT.

Wilson: Am I too long-win—

00:19:36:00

[slate]

[change to camera roll 108]

CAMERA CREW MEMBER: SPEED.

[sync tone]

INTERVIEWER: AS SOON AS WE GET SETTLED AGAIN THIS QUESTION OF, WHY KANSAS?

CAMERA CREW MEMBER: AND WE ARE SETTLED ON YOU. OK.

INTERVIEWER: OK.

Wilson: The question is often asked, as to why Kansas, adopted a policy of segregation in its elementary schools in certain cities. To me the answer is not very complex. Kansas has a tradition of freedom, but Kansas did not have any tradition of tolerance for minority groups. There were few black people in the state at the beginning of statehood. Along about 1880,

there was a migration of several thousand black people to Kansas, from the states of the South. Many of the whites that were living here then resented the presence of these minority groups in their communities. The result was that the legislature, in 1879, passed the law that was struck down in 1954. That law permitted boards of education in cities of the first class to maintain separate schools in the elementary grades only. Now that seemed—there were twelve or thirteen cities of the first class at that time—and it appears that the impact of that law would be fairly limited, but still the black people were living mainly in the cities and the black children were not going to school beyond the, the elementary grades, usually. So really, the impact of the law on the blacks was pretty pervasive.

00:21:35:00

INTERVIEWER: LET'S JUMP BACK TO THE SUPREME COURT AGAIN. I WASN'T GONNA ASK THIS, BUT YOU STARTED TO TALK ABOUT IT JUST BEFORE. I'M WONDERING IF YOU COULD GIVE US WHAT YOUR SENSE WAS OF THE CHANGE IN THE COURT WITH THE NEW, WITH THE NEW CHIEF JUSTICE. DID YOU HAVE A SENSE OF THAT?

Wilson: Whether I sensed a change in the Court, generally, because of the change in the Chief Justiceship between the two arguments is something I really can't comment about. I guess the answer is I did not have any sense that the Court's disposition generally had changed.

INTERVIEWER: FAIR ENOUGH. CAN WE STOP FOR A MOMENT, PLEASE? I'M TRYING TO THINK—

00:22:23:00

[cut]

[wild audio]

INTERVIEWER: —IF THERE'S ANYTHING ELSE THAT WE SHOULD ASK.

CAMERA CREW MEMBER: THAT'S A CUT?

INTERVIEWER: YES PLEASE.

[cut]

[end interview]

00:22:28:00

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