

■ *Cooper v. Aaron*

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Author: U.S. Supreme Court

Genre: court opinion

Summary Overview

Cooper v. Aaron was a Supreme Court case that affirmed the authority of the Supreme Court's decision in *Brown v. Board of Education*, declaring that state and local governments are bound by the Court's rulings on constitutional issues. The case specifically addressed Arkansas Governor Orval Faubus's resistance to desegregation.

Prior to the U.S. Supreme Court's 1954 decision in *Brown v. Board of Education*, many public schools across the United States segregated students by race. In *Brown*, the Supreme Court held that segregation violated the Fourteenth Amendment and that schools were required to desegregate. However, racism persisted and the integration process was fraught with difficulty. In 1957, the Little Rock, Arkansas, school district attempted to desegregate its high school in accordance with a court-approved integration plan. However, actions by the governor and legislature of Arkansas prevented execution of the plan, so Little Rock officials petitioned the court to postpone integration until legal issues could be settled. In *Cooper v. Aaron*, the Supreme Court held that the plan could not be postponed because intentional actions by a state to prevent compliance with a Supreme Court ruling was not a sufficient reason to deny rights guaranteed by the Constitution.

This ruling reinforced the principle that federal courts' decisions are supreme and must be followed, strengthening the enforcement of civil rights and racial equality. It was a significant victory for American liberal values of federal authority, justice, and equal rights.

Defining Moment

Ratified in 1868 as part of the Reconstruction efforts following the Civil War, the Fourteenth Amendment to the U.S. Constitution sought to provide "equal protection" to all Americans regardless of race. Despite this promise, however, laws permitting racial discrimination persisted in the United States well into the 1950s.

In the 1896 case *Plessy v. Ferguson*, the Supreme Court held that states could legally segregate public transportation as long as they provided "separate but equal" services. As a result, states passed laws racially segregating many public services and facilities, including public schools.

But in its 1954 decision in *Brown v. Board of Education*, the court held that segregated schools are by their very nature not equal and that the "separate but equal" doctrine had no place in public education. This decision forced public schools across the

country to desegregate, but the process proved extremely difficult, especially in the South and Midwest.

In 1958, the city of Little Rock, Arkansas, petitioned the Supreme Court to allow it to suspend its court-approved integration plan for two and a half years. To comply with *Brown*, the Little Rock School Board established a plan to desegregate its school system beginning at the high school level, followed by the junior high school and elementary school levels. The plan was set to begin in 1957 and be complete by 1968. While opposition existed, Little Rock officials felt the local police force could handle any difficulties that might arise.

However, at the state level, Arkansas had other plans. The legislature attempted to thwart the entire desegregation requirement by amending the state constitution "relieving school children from compulsory attendance at racially mixed schools." Governor Orval Faubus ordered the Arkansas National Guard

to physically block the nine Black students scheduled to begin attending a previously all-white school on September 2, 1957.

The city of Little Rock did not instigate these actions and argued to the court that the military presence increased opposition to the previously accepted integration plans, thus creating a dangerous and disruptive situation for all students. For about three weeks, the city appointed police escorts to assist the Black students in attending class, but the state militia presence encouraged the community's resistance to integration. By September 25, President Dwight D. Eisenhower federalized the Arkansas National Guard and dispatched U.S. Army troops to the high school. National Guard soldiers continued to watch over the school until the end of the academic year.

In *Cooper v. Aaron*, the city of Little Rock appeared before the Supreme Court with its petition to postpone the integration plan, arguing that the state's actions created "extreme public hostility" toward the integration, and the "maintenance of a sound education program at Central High School, with the Negro students in attendance, would be impossible."

Author Biography

The 1958 U.S. Supreme Court was headed by Chief Justice Earl Warren, a longtime politician and public servant appointed to the court by President Eisenhower several years prior. The Warren Court is often remembered for its unanimous decisions in *Brown v. Board of Education*, which invoked the Fourteenth Amendment to desegregate public schools across the United States, and *Cooper v. Aaron*, which held that state interference with court-approved desegregation plans was an insufficient reason to delay integration.

The Warren Court was known for interpreting the U.S. Constitution in ways that expanded civil liberties, including establishing a general "right to privacy" (*Griswold v. Connecticut*) and requiring police to read criminal suspects their rights prior to arrest (*Miranda v. Arizona*). More broadly, the court's ruling in *Cooper v. Aaron* held that states could not refuse to comply with the Supreme Court's interpretation of the federal Constitution. Because of these and other decisions, the Warren Court was rather controversial, but it is often credited with paving the way for the civil rights movement in the 1950s and 1960s.



Historical Document

Cooper v. Aaron

SYNOPSIS: The Court, in reviewing the series of events leading to *Cooper*, shows that certain officials of the state of Arkansas were to blame for the disruption of education in Central High. The Court holds that the civil rights of African Americans are not to be denied because the governor and legislature of Arkansas have resisted rulings they are sworn to uphold and affirms the legal principles behind *Brown*—and behind the Supreme Court's powers.

Opinion of the Court by The Chief Justice, Mr. Justice Black, Mr. Justice Frankfurter, Mr. Justice Douglas, Mr. Justice Burton, Mr. Justice Clark, Mr. Justice Harlan, Mr. Justice Brennan, and Mr. Justice Whittaker.

As this case reaches us it raises questions of the highest importance to the maintenance of our federal system of government. It necessarily involves a claim by the Governor and Legislature of a State that there is no duty on state officials to obey federal court orders resting on this Court's considered interpretation of the United States Constitution. Specifically it involves actions by the Governor and Legislature of Arkansas upon the premise that they are not bound by our holding in *Brown v. Board of Education*.... That holding was that the Fourteenth Amendment forbids States to use their governmental powers to bar children on racial grounds from attending schools where there is state participation through any arrangement, management, funds or property. We are urged to uphold a suspension of the Little Rock School Board's plan to do away with segregated public schools in Little Rock until state laws and efforts to upset and nullify our holding in *Brown v. Board of Education* have been further challenged and tested in the courts. We reject these contentions....

The following are the facts and circumstances so far as necessary to show how the legal questions are presented....

Nine Negro children were scheduled for admission in September 1957 to Central High School, which has more than two thousand students. Various administrative measures, designed to assure the smooth transition of this first stage of desegregation, were undertaken.

On September 2, 1957, the day before these Negro students were to enter Central High, the school authorities were met with drastic opposing action on the part of the Governor of Arkansas who dispatched units of the Arkansas National Guard to the Central High School grounds and placed the school "off limits" to colored students. As found by the District Court in subsequent

proceedings, the Governor's action had not been requested by the school authorities, and was entirely unheralded....

On the morning of ... September 4, 1957, the Negro children attempted to enter the high school but, as the District Court later found, units of the Arkansas National Guard "acting pursuant to the Governor's order, stood shoulder to shoulder at the school grounds and thereby forcibly prevented the 9 Negro students ... from entering," as they continued to do every school day during the following three weeks....

That same day, September 4, 1957, the United States Attorney for the Eastern District of Arkansas was requested by the District Court to begin an immediate investigation in order to fix responsibility for the interference with the orderly implementation of the District Court's direction to carry out the desegregation program. Three days later, September 7, the District Court denied a petition of the School Board and the Superintendent of Schools for an order temporarily suspending continuance of the program.

Upon completion of the United States Attorney's investigation, he and the Attorney General of the United States, at the District Court's request, entered the proceedings and filed a petition on behalf of the United States, as *amicus curiae*, to enjoin the Governor of Arkansas and officers of the Arkansas National Guard from further attempts to prevent obedience to the court's order. After hearings on the petition, the District Court found that the School Board's plan had been obstructed by the Governor through the use of National Guard troops, and granted a preliminary injunction on September 20, 1957, enjoining the Governor and the officers of the Guard from preventing the attendance of Negro children at Central High School, and from otherwise obstructing or interfering with the orders of the court in connection with the plan.... The National Guard was then withdrawn from the school.

The next school day was Monday, September 23, 1957. The Negro children entered the high school that morning under the protection of the Little Rock Police Department and members of the Arkansas State Police. But the officers caused the children to be removed from the school during the morning because they had difficulty controlling a large and demonstrating crowd which had gathered at the high school.... On September 25, however, the President of the United States dispatched federal troops to Central High School and admission of the Negro students to the school was thereby effected. Regular army troops continued at the high school until November 27, 1957. They were then replaced by federalized National Guardsmen who remained throughout the balance of the school year. Eight of the Negro students remained in attendance at the school throughout the school year.

We come now to the aspect of the proceedings presently before us. On February 20, 1958, the School Board and the Superintendent of Schools filed a

petition in the District Court seeking a postponement of their program for desegregation. Their position in essence was that because of extreme public hostility, which they stated had been engendered largely by the official attitudes and actions of the Governor and the Legislature, the maintenance of a sound educational program at Central High School, with the Negro students in attendance, would be impossible. The Board therefore proposed that the Negro students already admitted to the school be withdrawn and sent to segregated schools, and that all further steps to carry out the Board's desegregation program be postponed for a period later suggested by the Board to be two and one-half years.

After a hearing the District Court granted the relief requested by the Board. Among other things the court found that the past year at Central High School had been attended by conditions of "chaos, bedlam and turmoil." ...

The District Court's judgment was dated June 20, 1958. The Negro respondents appealed to the Court of Appeals for the Eighth Circuit and also sought there a stay of the District Court's judgment.... The Court of Appeals did not act on the petition for a stay, but, on August 18, 1958, after convening in special session on August 4 and hearing the appeal, reversed the District Court, 257 F.2d 33. On August 21, 1958, the Court of Appeals stayed its mandate to permit the School Board to petition this Court for certiorari.... Recognizing the vital importance of a decision of the issues in time to permit arrangements to be made for the 1958-1959 school year ... we convened in Special Term on August 28, 1958, and heard oral argument on the respondents' motions, and also argument of the Solicitor General who, by invitation, appeared for the United States as *amicus curiae*, and asserted that the Court of Appeals' judgment was clearly correct on the merits, and urged that we vacate its stay forthwith.... On September 12, 1958, as already mentioned, we unanimously affirmed the judgment of the Court of Appeals....

In affirming the judgment of the Court of Appeals which reversed the District Court we have accepted without reservation the position of the School Board, the Superintendent of Schools, and their counsel that they displayed entire good faith in the conduct of these proceedings and in dealing with the unfortunate and distressing sequence of events which has been outlined. We likewise have accepted the findings of the District Court as to the conditions at Central High School during the 1957-1958 school year, and also the findings that the educational progress of all the students, white and colored, of that school has suffered and will continue to suffer if the conditions which prevailed last year are permitted to continue.

The significance of these findings, however, is to be considered in light of the fact, indisputably revealed by the record before us, that the conditions they depict are directly traceable to the actions of legislators and executive officials of the State of Arkansas, taken in their official capacities, which reflect their

own determination to resist this Court's decision in the *Brown* case and which have brought about violent resistance to that decision in Arkansas. In its petition for certiorari filed in this Court, the School Board itself describes the situation in this language: "The legislative, executive, and judicial departments of the state government opposed the desegregation of Little Rock schools by enacting laws, calling out troops, making statements vilifying federal law and federal courts, and failing to utilize state law enforcement agencies and judicial processes to maintain public peace."

One may well sympathize with the position of the Board in the face of the frustrating conditions which have confronted it, but, regardless of the Board's good faith, the actions of the other state agencies responsible for those conditions compel us to reject the Board's legal position....

The constitutional rights of respondents are not to be sacrificed or yielded to the violence and disorder which have followed upon the actions of the Governor and Legislature.... Thus law and order are not here to be preserved by depriving the Negro children of their constitutional rights. The record before us clearly establishes that the growth of the Board's difficulties to a magnitude beyond its unaided power to control is the product of state action. Those difficulties, as counsel for the Board forthrightly conceded on the oral argument in this Court, can also be brought under control by state action.

The controlling legal principles are plain. The command of the Fourteenth Amendment is that no "State" shall deny to any person within its jurisdiction the equal protection of the laws.... Thus the prohibitions of the Fourteenth Amendment extend to all action of the State denying equal protection of the laws; whatever the agency of the State taking the action.... In short, the constitutional rights of children not to be discriminated against in school admission on grounds of race or color declared by this Court in the *Brown* case can neither be nullified openly and directly by state legislators or state executive or judicial officers, nor nullified indirectly by them through evasive schemes for segregation whether attempted "ingeniously or ingenuously." ...

What has been said, in the light of the facts developed, is enough to dispose of the case. However, we should answer the premise of the actions of the Governor and Legislature that they are not bound by our holding in the *Brown* case. It is necessary only to recall some basic constitutional propositions which are settled doctrine.

Article VI of the Constitution makes the Constitution the "supreme Law of the Land." In 1803, Chief Justice Marshall, speaking for a unanimous Court, referring to the Constitution as "the fundamental and paramount law of the nation," declared in the notable case of *Marbury v. Madison*,¹ 1 Cranch 137, 177, that "It is emphatically the province and duty of the judicial department to say what the law is." This decision declared the basic principle that the

federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this Court and the Country as a permanent and indispensable feature of our constitutional system. It follows that the interpretation of the Fourteenth Amendment enunciated by this Court in the *Brown* case is the supreme law of the land, and Art. VI of the Constitution makes it of binding effect on the States “any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” Every state legislator and executive and judicial officer is solemnly committed by oath taken pursuant to Art. VI, cl. 3, “to support this Constitution.” Chief Justice Taney, speaking for a unanimous Court in 1859, said that this requirement reflected the framers’ “anxiety to preserve it [the Constitution] in full force, in all its powers, and to guard against resistance to or evasion of its authority, on the part of a State.” ...

No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it....

It is, of course, quite true that the responsibility for public education is primarily the concern of the States, but it is equally true that such responsibilities, like all other state activity, must be exercised consistently with federal constitutional requirements as they apply to state action. The Constitution created a government dedicated to equal justice under law. The Fourteenth Amendment embodied and emphasized that ideal. State support of segregated schools through any arrangement, management, funds, or property cannot be squared with the Amendment’s command that no State shall deny to any person within its jurisdiction the equal protection of the laws. The right of a student not to be segregated on racial grounds in schools so maintained is indeed so fundamental and pervasive that it is embraced in the concept of due process of law....

The basic decision in *Brown* was unanimously reached by this Court only after the case had been briefed and twice argued and the issues had been given the most serious consideration. Since the first *Brown* opinion three new Justices have come to the Court. They are at one with the Justices still on the Court who participated in that basic decision as to its correctness, and that decision is now unanimously reaffirmed. The principles announced in that decision and the obedience of the States to them, according to the command of the Constitution, are indispensable for the protection of the freedoms guaranteed by our fundamental charter for all of us. Our constitutional ideal of equal justice under law is thus made a living truth.



Document Analysis

In the full opinion (not all of which is shown here), after describing the facts of the case the Supreme Court quotes its 1955 decree in *Brown v. Board of Education II*, stating that districts must “make a prompt and reasonable start toward full compliance” with the desegregation ruling. Additional time might be needed to carry out the ruling, but “the burden rests on the defendants to establish that additional time is necessary in the public interest and is consistent with good faith compliance at the earliest practicable date.” The court acknowledges that “hostility to racial desegregation” might be a sufficient reason to delay desegregation, as long as the district “developed arrangements pointed toward the earliest practicable completion of desegregation, and have taken appropriate steps to put their program into effective operation.”

The court explains that Little Rock seeks to withdraw the nine Black students from the high school and delay further integration because the actions of the legislature and governor of Arkansas created extreme disruption to the educational process that did not exist previously. The lower court granted this petition, but the students appealed. The Supreme Court called a special term to hear the case before the next school year began.

The court both accepts the Little Rock School Board’s position that they displayed “good faith” in attempting to integrate their school in a timely way and acknowledges that conditions at the high school during the 1957–58 school year disrupted the educational process for students of all races. It further acknowledges that the 1958–59 school year could prove equally disruptive if the same conditions are allowed to persist.

While the court sympathizes with the Little Rock School Board and acknowledges that the state’s actions severely complicated integration efforts, it nonetheless rejects the board’s legal position. Even though they are not the same entity, the school board, the governor, and the state legislature are all “state actors” from a federal-law perspective. The state cannot intentionally create a situation hostile to desegregation and then use the results of these actions to justify refusal or failure to comply with the federal order. By

blocking the students’ school attendance, the state violated the Fourteenth Amendment, and “the constitutional rights of respondents are not to be sacrificed or yielded to the violence and disorder which have followed upon the actions of the Governor and Legislature.” Therefore, the Supreme Court refuses to grant Little Rock’s petition to delay its integration plan.

The opinion also reaffirms previous decisions on the balance of power between state and federal governments with regard to federal constitutional questions: the Supreme Court is the final interpreter of the U.S. Constitution, and states cannot refuse to comply if they disagree with the ruling. Therefore, Little Rock is bound by the ruling of the Supreme Court, regardless of any actions by the state of Arkansas to the contrary.

Essential Themes

After deciding *Brown v. Board of Education* in 1954, the Supreme Court issued a second decree (sometimes referred to as *Brown II*) establishing the responsibility of the federal district courts located in each state to approve desegregation plans. The decree recognized that obstacles to desegregation should be removed “in a systematic and effective manner,” but emphasized that “the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them.” The court anticipated that states would resist the desegregation order, but the situation in Little Rock presented a special case.

From the outset of the opinion, the Supreme Court expressed its displeasure with the state of Arkansas’s refusal to accept the decision in *Brown* and recognized that the independent actions of the state governor and legislature severely damaged Little Rock’s “good faith” efforts to comply with the federal ruling. However, despite sympathizing with Little Rock’s plight, the court firmly established that “the constitutional rights of children not to be discriminated against in school admission on grounds of race or color declared by this Court in the *Brown* case can neither be nullified openly and directly by state legislators or state executive or judicial officers, nor nullified indirectly by them through evasive schemes for segregation.”

Although the court acknowledged that the state directly and independently interfered with Little Rock's efforts to comply with the desegregation orders in a safe and effective way, it knew it could not grant the city's petition to delay the integration, no matter how difficult the situation became. The delay would not only violate the students' constitutional right to equal protection but also send a message that state governments could effectively prevent desegregation by encouraging violent public reaction to local integration efforts. As states looked for new and creative ways to continue their discriminatory practices, allowing Little Rock to postpone desegregation would have been a victory for integration opponents and opened the door for further refusal to comply with Supreme Court decisions.

Additionally, the court's reiteration of its power as the final interpreter of the U.S. Constitution was both controversial and significant. Advocates for states' rights argued that Arkansas could ignore the court's desegregation orders if the state believed the ruling violated the Constitution, but the Supreme Court emphatically denied this. Some critics believed the

Supreme Court overstepped its bounds as a final authority of constitutional interpretation, while others recognized the importance of not allowing states to use their own interpretations of the Fourteenth Amendment as a "back door" to continue their segregation policies.

—Tracey M. DiLascio, JD, MS

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