***Background***

The U.S. Supreme Court decision in *Brown v. Board of Education* (1954) is one of the most pivotal opinions ever rendered by that body. This landmark decision highlights the U.S. Supreme Court's role in affecting changes in national and social policy. Often when people think of the case, they remember a little girl whose parents sued so that she could attend an all-white school in her neighborhood. In reality, the story of *Brown v. Board of Education* is far more complex.

In December, 1952, the U.S. Supreme Court had on its docket cases from Kansas, Delaware, the District of Columbia, South Carolina, and Virginia, all of which challenged the constitutionality of racial segregation in public schools. The U.S. Supreme Court had consolidated these five cases under one name, *Oliver Brown et al. v. the Board of Education of Topeka*. One of the justices later explained that the U.S. Supreme Court felt it was better to have representative cases from different parts of the country. They decided to put *Brown* first "so that the whole question would not smack of being a purely Southern one."

This collection of cases was the culmination of years of legal groundwork laid by the National Association for the Advancement of Colored People (NAACP) in its work to end segregation. None of the cases would have been possible without individuals who were courageous enough to take a stand against the segregated system.
Source: http://www.nps.gov/brvb/historyculture/

There is a 15 page history found online in the site's official handbook:
http://www.nps.gov/history/history/online_books/brvb/brown.pdf

**Transcript of Testimony From**
**Cheryl Brown Henderson, Supt. of *Brown Vs. Board* Historic Site,**
**To The Capitol Preservation Committee**
**October 28, 2010**

CHERYL BROWN HENDERSON: The myth of *Brown v. Board of Education* is that my father Oliver Brown filed this case on behalf of my sister Linda. The reality is much different. The myth was fueled in part by the legal name of the case, *Oliver L. Brown et. al. v. the Board of Education of Topeka (KS) et. al.*, however, is commonly known as *Brown v. Board of Education of Topeka.* This case was an extension of legal challenges to racially segregated schools that began in the 1800s. The first documented school desegregation case was filed in 1859, in the state of Massachusetts. The State of Kansas became the site of twelve legal challenges to racially segregated schools beginning in 1881. Three of the early Kansas cases were brought against the Topeka Board of Education prior to *Brown*. So by the 1950s, *Brown* was nothing new for the state of Kansas or the city of Topeka, in terms of legal challenges to racially segregated schools. That is an important fact to remember. With that in mind, it is clear that the concepts for the proposed mural need to embrace the entire history of the State of Kansas and not just starting with *Brown* in 1950 to 1954.

In 1948 was the eve of the last case prior to *Brown*. It was the beginning of a case on behalf of African American students in Merriam, Kansas, Commonly known as the *Webb* case. All of the early cases from Galena, Parsons, Coffeyville, Ottawa, Topeka, Wichita, and Johnson County were argued in State Supreme Court Chambers located in the Capitol. Kansas had been a hotbed of legal activity. Based on this history the wall outside the Old Supreme Court Chambers in the Capitol would be an ideal place for the mural.

The final challenge to racially segregated schools in Kansas began in 1950, when the NAACP decided to organize one last case only this time they would file in federal court, not State Supreme Court.

McKinley Burnett, for whom the Administrative Center for School District 501 is named, was the strategist behind *Brown v. Board of Education*. Mr. Burnett decided that as President of the Topeka NAACP, he would try again to convince the Topeka Board of Education to integrate their elementary schools. In Kansas the law governing racially segregated schools had been passed by the Kansas Legislature in 1879. This legislation specified that Kansas could operate segregated schools only in first class cities defined as those with populations of 15,000 or more and only at the elementary level. So some cases from cities with populations under that threshold were illegally segregating elementary schools. The cities that qualified to have segregated elementary schools were Wichita, Kansas City, and Topeka. The *Brown v. Board of Education* case was really only concerned with these three communities and only elementary schools in these communities. Junior and senior high schools were already integrated. The only exception was Sumner High School in Kansas City, Kansas, which came about because of special legislative action at the request of the African American parents.

Mr. Burnett in his efforts to convince the Topeka Board of Education to desegregate elementary schools, attended every school board meeting for two years, however, he was unsuccessful with presenting petitions and had not been permitted to verbalize his concerns. As a result in 1950 he approached Lucinda Todd who was the [NAACP] chapter secretary, who was now retired after teaching in one of the segregated schools in Topeka. Mrs. Todd along with Charles Scott, John Scott, and Charles Bledsoe, the attorneys for the chapter, decided they needed to recruit families to be plaintiffs for the class action suit they were going to file. Lucinda Todd was a strategist and the first person to sign on as a plaintiff for the Topeka case. By 1950 they had thirteen families on the roster. Again the myth is disproven in that my father Oliver Brown did not initiate this case. He was the tenth parent agree to join their efforts. Charles Scott was a friend of my father and had asked him personally if he would be willing to join the case being organized. My father said yes. In the fall of 1950, they roster now included thirteen families representing a total of twenty children. They were instructed by the NAACP to attempt to enroll their children in a segregated school for white children closest to their home. It was recommended that they be accompanied by another adult to serve as a witness and the report back to the NAACP. That is exactly what they did. Their actions in the fall of 1950 concluded the direct involvement of the families in Topeka. Once the case was filed only three or four of the plaintiffs testified in court. The only child to testify was Katherine Carper, who most likely was selected because she was the oldest of the children represented by the parents. In this legal challenge, the parents were plaintiffs on behalf of their minor children.

On February 28 of 1951, the case was filed in federal district court which at that time was located on the upper floors of the post office at Fourth and Kansas Avenue. At the time of filing it became known as *Oliver L. Brown, et. al., v. Board of Education of Topeka (KS).* The legal shorthand et. al. means "and others". When the case was filed on February 28, for whatever arbitrary reason, my father Oliver Brown was assigned to head the roster. Alphabetically first was plaintiff Darlene Brown; so Oliver Brown was not the first plaintiff listed. The arbitrary assignment may have been based on gender as Oliver Brown was the only make name on the roster of parents. Clearly happenstance and gender at a time when men were considered the head of household may indicate why Mr. Brown was chosen to head the roster. When *Brown v. Board* was argued in federal court, the three judge panel was led by Walter Huxman who although a federal judge at the time of *Brown* and had been a former Governor of Kansas. It is believed that Walter Huxman crafted the opinion of the court in a manner that would force the Supreme Court to determine the meaning of the Fourteenth Amendment with respect to all citizens of this country. Luisa Holt, a psychologist at the Menninger Foundation who also taught at KU, testified as an expert witness, and it was her words that Judge Huxman used in his opinion and it was her words that the Supreme Court used from in issuing a decision about the detrimental effects of segregation when it has a weight of law behind it. So Kansas played a key role in this decision. At the U.S. Supreme Court level the Brown case was combined with similar cases brought by the NAACP form Delaware, South Carolina, Virginia and Washington, D. C. It is this combination of cases that are collectively known as *Brown v. the Board of*

*Education.* Dwight D. Eisenhower was President when the ruling went into effect and was involved in the first public test of the political will to enforce the court decision, when he was called upon to respond to the attempted integration of Central High School in Little Rock, Arkansas.

This is the story of the people, places and events that contributed to this historic milestone, *Brown v. Board of Education*. My family has come to understand that the myth we live with was a creation of the media, emanating from a photograph of my sister published in *Life* magazine in 1953. Even though the facts were know about the case, we believe the photographer had designs on promoting what he hoped would be an award winning photo depicting Brown v. Board of Education. The photo was of my sister Linda standing in front of one of the segregated African American schools. He seemed to have developed a narrative to go along with his photo, that Oliver Brown initiated the case on behalf of his daughter who had a traumatic experience trying to get to school, and when she got to school, the quality of education was lacking. None of that happens to be true. African American children rode school buses to school, some even took city busses and the schools they arrived at were sturdy brick buildings filled with excellent teachers.

We spend every day at the Brown [National Historic Site] and the Brown Foundation, trying to educate people about the compelling story of the collective action on the part of the NAACP and the parents that stood with them. Attorney Charles Huston was the one who began this process of ending segregation in public education. Thurgood Marshall was Mr. Huston's protégé but was not involved at the beginning of this process. Huston hired him later on to assist with his campaign to end educational disparities in teacher salaries, underfunded segregated schools and school districts that did not provide buses for African American children. Huston died in 1950 leaving Thurgood Marshall to complete the work they had begun together. What the legal team was able to do was take constitutional abstract and make it into reality. What does the Fourteenth Amendment really mean? On May 17, 1954, at 12.52 p.m., when Justice Earl Warren announced the Supreme Court decision, the Brown decision began to dismantle any legal framework for racial segregation. My father Oliver Brown, the other plaintiffs, and even some of the legal counsel never appeared before the Supreme Court. But their courage in standing up to bigotry was on full display in the arguments of the NAACP attorneys.

Another significant reason people say that *Brown* is one of the most significant judicial turning points in history, is that by declaring racial segregation violated the Fourteenth Amendment of the Constitution, *Brown v. Board of Education* laid the groundwork for shaping future national and international policies. This case had global impact; so much so that President Truman, while *Brown* was going through the courts and before he left the White House, directed the State Department to submit a "friends of the court brief" to the Supreme Court saying this decision needed to be successful and being unanimous wouldn't hurt. He said so because the Soviet Union and other Communist-leaning countries had started a propaganda campaign against the United States during the period of the Cold War saying that the United States didn't have any moral standing in the world because the United States was engaged in human rights abuses

against African Americans. The United States needed *Brown* to counteract that propaganda. After *Brown* succeeded, one of the first things President Eisenhower did was to go on Voice of America radio broadcast to announce to the world that the United States of America was living up to its constitutional promise regarding African Americans. So *Brown v. Board* has foreign policy implications.

In many ways Brown really wasn't about children and education at all. Schools were the battlefront, but society--in fact--was the target. The laws and policies that *Brown* sought to address are at the core of human tendencies to prejudge and stereotype others based on ethnicity, religion, based on physical traits. You can in fact legislate behavior. You cannot legislate what is to be in our hearts and minds. The process of getting people to talk about race relations really began with the *Brown* decision. It began dialogue and galvanized people around the issues of segregation, discrimination, and lack of opportunity. Ultimately what *Brown* did for all of us—whether white, brown, black, white, or Hispanic, disabled or fully able - what *Brown* did for citizens of this country was to finally define our rights are guaranteed by the Declaration of Independence and the United States Constitution and cannot be arbitrarily be restricted by state and local government. The federal government and the Supreme Court safeguard our constitutional rights.

In 2004 when many of us were crisscrossing the nation and other parts of the world talking about *Brown*, people said to me that *Brown* didn't make any difference, didn't matter. My response to those people was that *Brown v. Board* did exactly what it set out to do, it created access to opportunity. What people do with that opportunity is up to them. *Brown* door opened the door of opportunity.

I think it is important work that the committee is doing because Kansans don't know enough about their history and don't know enough to be as proud of it as they should be. We are not only the geographical center of the mainland of the United States, as some people think, but have been the glue historically. John Brown stopped the westward expansion of slavery. The pioneers from the 1800s that litigated cases recognized that they had certain rights and were willing to stand up for them. Our state has been immensely important to this country and I want our citizens to be proud of that. And that is what this mural, in my view, will certainly represent.

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**Resources**

The Brown Foundation for Educational Equity, Excellence and Research
http://brownvboard.org/

*Brown v. Board of Education* National Historic Site
http://www.nps.gov/brvb/
The *Brown v. Board of Education* NHS research library serves the park staff, volunteers and members of the general public. The collection consists of books, magazines, videos, microfilm, oral histories, photos and a young reader section. Topics relate to civil and human rights, African American history, local and U.S. history, and the National Park Service.

Kansas Collection, Kenneth Spencer Research Library, University of Kansas Libraries, Lawrence, Kansas.
Brown Family Collection
http://etext.ku.edu/view?docId=ksrlead/ksrl.kc.brownfoundation.xml
Scott, Charles Sheldon. Papers
http://etext.ku.edu/view?docId=ksrlead/ksrl.kc.scottcharless.xml

Kansas State Historical Society
*Brown v. Topeka Board of Education* Oral History Collection
http://www.kshs.org/p/brown-v-topeka-board-of-education-oral-history-collection-at-the-kansas-state-historical-society-fin/13996
Downloadable Finding Aid
http://www.kshs.org/research/collections/documents/personalpapers/findingaids/brownvboard/BrownFindingAid.pdf

National Archives. Federal records pertaining to *Brown v. Board of Education of Topeka*, Kansas (1954)
http://www.archives.gov/publications/ref-info-papers/112/

National Park Service
Primary sources
http://www.nps.gov/archive/brvb/pages/primary.htm
Bibliography
http://www.nps.gov/archive/brvb/pages/biblio.htm

State Library of Kansas
Collection contains vertical file of special section of the *Topeka Capital Journal* issued on the 50th Anniversary and opening of the Historic Site.

Washburn University Law Library
The Law Library maintains a 12-panel exhibit of *Brown v. Board of Education of Topeka*. The exhibit was funded by the Brown Foundation for Educational Equity, Excellence and Research. Library archives contains framed photographs, historical accounts, 30th anniversary event, communications between organizers, *Brown Quarterly* (quarterly newsletter for classroom teachers).

Washburn University, Mabee Llibrary, Mabee Room
http://www.washburn.edu/mabee/special_collections/sp_coll.shtml
Contains yearbook pictures for many of the case attorneys, including the only known picture of Elisha Scott. Newspaper clippings about the 30th and 50th Anniversary, Brown Foundation, Common Justice (commemorative sculpture at WU), *Brown* Distinguished Visiting Scholar on Diversity Issues.