



For Immediate Release
Thursday, December 2, 2021

LDF Media
212-965-2200 / media@naacpldf.org

LDF Issues Statement on Misleading References to *Brown v. Board of Education* by Supreme Court Justices

Yesterday, during oral argument at the Supreme Court for the *Dobbs v. Jackson Women's Health Organization* case, Mississippi's Solicitor General and several Justices invoked *Brown v. Board of Education*, which overruled *Plessy v. Ferguson* and brought an end to state-sanctioned racial segregation, as a potential justification for overruling *Roe v. Wade* and *Planned Parenthood v. Casey*, the two foundational decisions recognizing the constitutional right to abortion care.

In response, Sherrilyn Ifill, President and Director-Counsel of the [NAACP Legal Defense and Educational Fund, Inc.](#) (LDF), issued the following statement:

"Like many, I listened closely to yesterday's oral argument in *Dobbs v. Jackson Women's Health Organization*, an important case that may well determine whether American women will continue to enjoy the constitutional right to bodily autonomy, privacy, liberty and self-determination inherent in the right to access to abortion that was first upheld by the Supreme Court in 1973 in *Roe v. Wade* and in subsequent decisions by the Court.

"Throughout the colloquy between the advocates and the justices, we heard reference to the question of whether the *Roe* should be overturned. In their questioning several justices referred specifically to the Supreme Court's 1954 decision in *Brown v. Board of Education*, which overturned the odious 1896 decision in *Plessy v. Ferguson*. The Court in *Plessy* sanctioned and made possible the brutality of Jim Crow segregation and provided the legal foundation for a system that ensured the second-class citizenship of Black people. *Brown* overturned that repugnant decision and began the end of legal apartheid in our country.

"An accurate command of American history makes clear that there is and should be no comparison between *Roe* and *Plessy*. While *Roe* recognized that the liberty protected by the federal Constitution includes the right of women to access abortion care, *Plessy* endorsed and upheld a racial apartheid system that denied the equality, dignity, and humanity of Black people in the United States. *Roe* recognized a fundamental right; *Plessy* was an affront to the very idea of universal individual rights and equality in the United States.

“Nothing in the *Brown* ruling suggested that future Justices should overturn precedents protecting fundamental individual rights; nothing justified ignoring the careful steps that the Court has laid out to determine whether *stare decisis* should be overcome. And there is certainly nothing in *Brown* to suggest that such a radical move could be justified simply because of changes in the Court’s membership.

“*Brown* was successfully litigated by Thurgood Marshall, the founder of LDF, and a team of LDF lawyers whose work made possible a credible claim that this country is a true democracy. The decision was rendered by a unanimous Supreme Court. Ironically, the promise of *Brown* has been eroded over decades by decisions of the Supreme Court that have failed to recognize the expansive equality command of the Fourteenth Amendment to the Constitution.

“The violence and clear error of the *Plessy* decision should not be compared to *Roe v. Wade*. *Brown* and *Plessy* stand for much more. *Brown* represents the power of the Supreme Court—to demonstrate courage and leadership in articulating and upholding the rights guaranteed to every American. And *Plessy* represents the catastrophic result for our country, and for millions of Americans, when those rights are denied.”

###

Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation’s first civil and human rights law organization. LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF’s Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF. Follow LDF on [Twitter](#), [Instagram](#) and [Facebook](#).