

Girl's long road paves way for others who follow in footsteps

By: R. Marc Kantrowitz
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On a cold, blustery morning in Boston in 1847, 5-year-old Sarah Roberts trudged past a well-regarded elementary school, and then four other schools before finally arriving at her destination: the doorstep of the Abiel Smith, an inferior school with few books and a staff overseeing an overcrowded class. She joined her fellow students who, like her, were black.

Located on present-day Joy Street in downtown Boston, the school served the city's black community, concentrated on the north slope of Beacon Hill where Pinckney Street divided the rich from the poor. What separated Sarah from her fellow students was a father not only fed up with a system that compelled children to walk great distances to an inferior school, but one who decided to act.

Benjamin Roberts, a printer by trade and member of the city's African-American middle class, took his daughter in hand and marched over to the school nearest their home, a mere 900 feet away. Refusing to hear his plea, the authorities summonsed the police, who came and forcibly removed the child under the guise that she lacked the required "ticket of admission" — which she could never obtain due to her race.

Cowed but not beaten, Benjamin Roberts turned to 25-year-old Robert Morris, one of the nation's first African-American attorneys, to remedy the seemingly untenable situation. Suit was brought, hoisted by a law passed in 1845 that read: "Any child, unlawfully excluded from public schools in this commonwealth, shall recover damages"

Not surprisingly, the first skirmish in the Suffolk County Court of Common Pleas was unsuccessful; the court ruled that the School Committee did not violate the educational rights of the young child. Seeking assistance in the fight, Morris sought out renowned abolitionist Charles Sumner (who would go on to serve as a U.S. senator, a role in which he would champion the rights of the downtrodden and be severely beaten for his beliefs and advocacy) to appeal the case to the commonwealth's highest court.

Sumner readily agreed not only to assist with the case but to do so without charge. Fittingly, by so acting, Sumner and Morris became the first interracial legal team to co-sign a brief and argue a case in a U.S. courtroom.

Despite conventional assumptions, segregated schooling was not a product of the conservative South, but rather first took root in the supposedly progressive abolitionist outpost of Boston, in the hope of improving the woeful education of the local minority population.

The tree that grew, though, was warped and quickly recognized for what it was: an inferior situation doing a disservice to those it was intended to help. As Morris and Sumner argued the nation's first school desegregation case, they introduced concepts such as "equality before the law," asserting that "a school, exclusively devoted to one class, must differ essentially in its spirit and character, from the public school known to the law It is a mockery to call it an equivalent."

The pair emphasized the traumatic psychological effects one suffered attending an underfunded, dilapidated school far from home, knowing that superior schools with better funding and staffing were located nearby. Segregated schools, they concluded, were fundamentally unfair and unequal and violated both federal and state law and constitutional principles.

The argument fell on deaf ears, despite their clear admiration of “the learned and eloquent advocate of the plaintiff.” Chief Justice Lemuel Shaw, one of the preeminent jurists of his era, wrote for a unanimous court and upheld the Boston School Committee’s decision to bar young Sarah from the public schools closest to her home.

The committee’s discretionary judgment to maintain racial separation for the “benefit” of both races did not deny African-American students equality before the law, the court found. Rather, all-black “common schools” were permissible because they were not substantially inferior (despite the disproportionate appropriations and faculty appointments), and Sarah’s long walk was insufficient to render the committee’s race-based regulations “unreasonable, still less illegal.”

Racial prejudice, according to Shaw, “if it exists, is not created by law, and probably cannot be changed by law.”

In the end, “separate but equal” schools were constitutionally permissible. And, thus, the birth of an odious doctrine, adopted 50 years later with full approbation and credit by the U.S. Supreme Court in *Plessy v. Ferguson*.

Epilogue

Despite their defeat at the state’s highest court, Boston’s black community pressed on, turning to both the Legislature and the streets, protesting and boycotting the common schools.

Within five years, legislation was passed and Boston became the first major American city to outlaw segregated schools.

One hundred years later, the Supreme Court in *Brown v. Board of Education* adopted the very arguments Morris and Sumner had made so many years before.

And it all came about because the family of a young child who struggled to get to school took a stand.

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