

***Brown v. Board of Education* and Segregated Universities:
From Kluger to Klarman — Toward Creating a Literature on
King Color, Federal Courts, and Undergraduate Admissions**

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The years 2004 and 2005 mark the 50th anniversary of the U.S. Supreme Court's 1954 and 1955 rulings in *Brown v. Board of Education*. Most assessments of the Court's decisions in the school desegregation cases, focusing as they do on the elementary and secondary levels, fail to address *Brown's* significance for higher education. Here, by contrast, we survey a dimension of the history of southern public education that was raised in the literature early on (Blaustein and Ferguson, 1962:181), but a question that has often been invisible since: How would the *Brown* decisions "affect school segregation in public colleges and universities?" Rephrased, the question I ask here is: What is the place of higher education in a narrative of the impact of *Brown v. Board of Education*?

This review deals not with private institutions but only with public colleges and universities, which were more obviously subject to federal (and state) authority. Much of the

evidence here comes from court decisions or university archives. The focus here is on the first decade after the decisions in *Brown*, for in subsequent years other tools were available to spur desegregation, including the Civil Rights Act of 1964 and the Higher Education Act of 1965. Moreover, to examine fully the trajectory of policy and law as they related to education and race in the generation after World War II, it is necessary to distinguish not only between K–12 schooling and higher education but also between, on the one hand, graduate and professional programs and, on the other, most undergraduate curricula. This essay emphasizes the undergraduate level.

Segregation and Education from *Plessy* to *Brown*

Brown v. Board of Education expressly overturned the ruling in *Plessy v. Ferguson* that segregation was not inconsistent with the Fourteenth Amendment of the U.S. Constitution. But *Plessy* had applied primarily to railroad travel, and in any case racial segregation in public education originated long before 1896. Southern elementary schools were segregated from the beginning of post–Civil War public education (Rabinowitz, 1978). In Virginia, for example, the same 1870 law that provided for a system of public schools specified that they would be racially segregated (Wallenstein, 2004:83). In higher education, a similar rule emerged, as one state or another — among them Mississippi, Virginia, and North Carolina — made some provision for black access to separate colleges.

Plessy v. Ferguson did not inaugurate segregation in any public institution of higher education in the South, any more than it had done so in any elementary or high school. Examples of integrated schools in the South — at the University of South Carolina in the 1870s (White, 1975; Burke, 2000); in elementary schools of New Orleans at about the same time (Franklin, 1962; Baker, 1996); or in Maryland’s law school in the 1880s (Bogen, 1985) — had ended years

before the 1896 decision. In higher education, the practice of “separate but equal” (or at least “separate”) had its origins well before *Plessy* but, as a rule, later than in elementary schooling — not because higher education was more likely to be integrated, but because states were slower to provide black residents any access at all to public institutions of higher education.

In establishing the nation’s system of land-grant institutions of higher education, the Morrill Land-Grant Act of 1862, passed early in the Civil War, made no reference to black access. In 1890, by contrast, in offering enhanced federal funding for land-grant institutions under the Second Morrill Act, Congress gave express approval to racial segregation, so long as states made “a just and equitable division of the fund to be received under this act between one college for white students and one institution for colored students” (Wallenstein, 1997a:285). Soon, more states established schools “for colored students” so as to qualify for the additional funding for white schools and at the same time insulate the white schools against black access.

Long before the mid-twentieth century, seventeen states maintained a dual system of public higher education to go with their dual system of public elementary and secondary education. More particularly, each of those states supported a pair of land-grant institutions, often referred to as the “colleges of 1862” and the “colleges of 1890” (though the white schools sometimes had later origins, and the black schools sometimes had earlier roots). Thus there emerged Delaware State College to match up with the University of Delaware, South Carolina State College to counter Clemson, and Virginia State College as an offset to Virginia Polytechnic Institute (Preer, 1982; Schor, 1982).

Plessy v. Ferguson (1896) occasioned no sudden shift in policy regarding black access to public institutions of higher education. Nonetheless the ruling supplied a benchmark as well as a slogan, “separate but equal” — a defense against desegregation but also the basis for claims by black southerners to some semblance of equal treatment within segregation, in schools at every

level (Wallenstein, 2004). Over the next half-century, policy makers across the South, virtually all of them everywhere white, paid far more mind to maintaining the separation than to achieving an equality of benefits in separate institutions. Between 1890 and 1948, nowhere in the former Confederacy — and not much in the Border South — was public education unsegregated in any institution at any level.

Exceptions were the University of Maryland's law school beginning in 1935, followed by graduate programs at West Virginia University a few years later (Wallenstein, 1999a:126, 130). The change in Maryland, which resulted from a successful suit in state court, applied only to the law school in Baltimore. Subsequent desegregation took additional litigation, at mid-century, whether for access to a nursing program in Baltimore or a graduate program at College Park (Kluger, 1976:186–95, 278, 289). The change in West Virginia appears to have emerged as a consequence of a decision by the U.S. Supreme Court in *Gaines v. Missouri* (1938), a ruling that, if a state offered a program of legal study for white residents, it had to do the same for black students. According to *Gaines*, that is, the state could offer a program of legal education to everyone, or to nobody; or it could offer a segregated program for people of each race; but it could not provide in-state benefits of higher education for whites only, even if it offered to pay the way for black citizens to go out-of-state to enroll in such a program (Preer, 1982; Tushnet, 1987; Klarman, 2004).

By no means did the Supreme Court order the University of Missouri to admit Gaines (as is often said), but states were served notice that they faced new constitutional limits on their discretion in addressing the demands of black citizens for access to programs in higher education. Despite the ruling, many states continued to operate as though the *Gaines* case had never been decided, supplying black citizens with financial support to attend out-of-state

programs that would admit them, rather than either desegregating in-state programs or supplying a parallel set of programs.

Concepts and Language, Courts and Context

Appropriate language is central to any surefooted treatment of these matters. First, segregation and desegregation. “Desegregation” might happen in one program, such as a university’s law school, while leaving other programs emphatically still closed to black enrollment. A federal court order led the University of Tennessee, for example, to admit its first black law students or graduate students in early 1952; not until the threat of a court order nine years later did the first black undergraduates enroll at Tennessee. Thus “desegregation” is best understood as a process, a series of steps, not something that happened all at once. It makes little sense to characterize a university as “desegregated” if only one program, or a restricted collection of programs, would admit black students.

Directly related to this redefinition of “segregation” and “desegregation,” it is essential to distinguish between general undergraduate curricula, on the one hand, and graduate and professional programs, on the other. We have to be careful here, since programs in engineering — or architecture, veterinary medicine, or pharmacy — could be undergraduate and yet treated as professional. Black applicants were admitted into undergraduate engineering programs at Virginia Polytechnic Institute beginning in 1953, and at the University of Virginia in 1955 — because the all-black Virginia State College offered no engineering program (Wallenstein, 1999a:127, 133–37; Wallenstein, 1999b).

Mississippi offers an alternative narrative illuminating the problem of declaring a school “desegregated” once it had admitted its first black student. James Meredith, who enrolled at Ole Miss under court order on October 1, 1962, graduated in August 1963; two months before

Meredith's graduation, in June 1963, it had taken a federal court order to get Cleve McDowell enrolled in the University of Mississippi Law School. When McDowell was expelled that September, the "desegregated" university had no black students; and getting black transfer undergraduate Cleveland Donald Jr. enrolled in June 1964 required yet another court order. Shortly thereafter, for the first time, a black applicant, freshman Irvin Walker, gained admission to Ole Miss without a court order (Sansing, 1990; Cahodas, 1997).

Also, black students and "all-white institutions." However we might concern ourselves about what we mean by "white" people and "black" people (Wallenstein, 2002), and thus which institutions were open or closed to which individuals, we are not, I think, free to approach the 1950s and 1960s armed with rhetoric and imagery that have "nonwhite" applicants seeking to gain access to "all-white institutions." That was not the situation, not the matter in controversy; ethnic Chinese students had been taking classes and degrees at Virginia Polytechnic Institute, for example, since the 1920s (Wallenstein, 1997b). Nor was Ole Miss an all-white school just prior to James Meredith's enrollment in 1962. In Mississippi, state law expressly defined people of Chinese descent as nonwhite for purposes of marriage; and a 1927 U.S. Supreme Court case (*Gong Lum v. Rice*) had left public authorities fully empowered to classify them as colored for purposes of assigning them to the segregated public schools. Yet, shortly after World War II, Chinese Mississippians began enrolling — in considerable numbers, but the point is that they were enrolling at all — as undergraduates at both Mississippi State College and the University of Mississippi. White Mississippians were exercised at the prospect of black Mississippians, not a broader category of nonwhite residents, making their way into classrooms and dormitories at the university. What was happening at the university in 1962 was not a nonwhite student making his way past the obstacles to enrolling at an all-white school, but a black student gaining access to what previously had been an absolutely nonblack institution. No such furor as erupted over

James Meredith had accompanied the enrollment, shortly before then, of a young man by the name of Jefferson Davis Hong at the school in Hattiesburg that is now known as the University of Southern Mississippi.

With this language in mind, we can reconsider the phenomenon of desegregation of southern institutions of higher education in the 1950s, before and after *Brown*. First I will recount some stories so as to begin to untangle the phenomenon. Then I will examine some of the literature on *Brown* to assess where we are at this point in pulling undergraduate desegregation into the broader narrative of what *Brown* meant for state policy, institutional practice, and black opportunity — in a world that was emerging from a time when King Color had absolute power, on the basis of racial identity, to sort out which students might attend which schools at any level, including programs in every discipline and at every level of higher education.

Not in all southern states did the beginnings of undergraduate desegregation at nonblack institutions of higher education await the decisions in *Brown*. Rulings by federal courts at mid-century regarding graduate or professional programs in Kentucky, Oklahoma, and Virginia, for example, soon translated into one or more black undergraduates studying engineering at the University of Kentucky, Oklahoma State, and Virginia Polytechnic Institute (Wallenstein, 1999a). A change in state policy in Delaware in 1948 — shortly after the Supreme Court's decision in the *Sipuel v. Board of Regents of the University of Oklahoma* — had similar results (*New York Times*, 1948). Moreover, following the Supreme Court decision in *Sweatt v. Painter* two years later, a state court order in 1950 — based on the grossly unequal physical facilities and curricular offerings at Delaware State College — opened all undergraduate programs at the University of Delaware to black students (Kluger, 1976; Wallenstein, 1999a:126–27).

In another legal action preceding the decisions in *Brown*, a suit in federal district court in

Louisiana — decided weeks before the May 1954 ruling in *Brown* — led to black enrollment at a regional four-year institution, Southwest Louisiana Institute, in Lafayette, where a remarkable eighty black students proceeded to take classes in fall 1954 (Wade, 1995). The basis for that decision lay in the considerable distance that black students in the area otherwise had to travel to go to college. Every such instance of a change in legal interpretation and institutional practice is best understood as working within, not repudiating, the *Plessy* formula of “separate but equal.” Yet each instance — just as the better-known instances related to public law schools in Texas and Oklahoma — eroded the former policy of absolute exclusion of African Americans from enrolling in any program at nonblack institutions. Nonetheless, across the South, the policy of “separate but equal” in public education, including higher education, remained in force until after *Brown v. Board*.

In a case that came from Florida about black access to law school, and in a case from North Carolina about access to undergraduate programs, federal courts considered whether and how *Brown* should affect higher education.

Virgil Hawkins and the University of Florida Law School

In 1949, a handful of black Floridians went to court in an effort to gain entrance to the University of Florida, a school that, having never knowingly enrolled an African American, displayed little inclination to change its policy and practice in that regard. The school responded by authorizing new graduate and professional programs at Florida A&M College, Florida’s black land-grant school. Nevertheless one black applicant — Virgil Hawkins — continued his litigation, in state court and in federal court (Dubin, 1999; Wallenstein, 2000a).

The Florida Supreme Court routinely held against Hawkins, and the U.S. Supreme Court did not prove much more helpful. One week after handing down the 1954 school desegregation

decision in *Brown*, the nation's high court sent the *Hawkins* case back to Florida with instructions that it be reconsidered in light of *Brown*. But the state attorney general observed that *Hawkins* could readily be distinguished from *Brown*, in that the emphasis in *Brown* on the psychological damage that segregation could inflict on young children hardly applied to Hawkins, a middle-aged man.

Two years later, in 1956, Hawkins having persisted in his efforts against an entirely obstructionist Florida establishment, the case was back in the nation's capital. This time the U.S. Supreme Court insisted that, whatever language it may have used about "reasonable" speed in its 1955 implementing decision in *Brown*, higher education did not require a period of adjustment that might support a claimed need for further delay. There was, the Court insisted in *Hawkins v. Board of Control of Florida*, "no reason for delay" in admitting Hawkins to "a graduate professional school." *Brown II* had no relevance; it supplied no justification for further delay. *Brown I* sufficed; segregation should end.

The Florida Supreme Court nonetheless found a reason to bar Hawkins's admission. The state court could not believe, it said in 1957, that the U.S. Supreme Court "intended to deprive the highest court of an independent sovereign state of one of its traditional powers, . . . the right to exercise a sound judicial discretion as to the date of the issuance of its process in order to prevent a serious public mischief."

Hawkins returned to the U.S. Supreme Court, which directed him to the lower federal courts. District Judge Dozier DeVane was not helpful, but Hawkins took his case to the Circuit Court of Appeals, which agreed with Hawkins and, in April 1958, sent the case back to Dozier for action. This time, in June 1958, Judge Dozier issued an order directing the University of Florida to cease using race as a basis on which to deny admission into its graduate programs. The breakthrough was clear; so were the limits. Adopting the Supreme Court's rhetoric from back in

1956, the district judge stated that the University of Florida could no longer maintain a policy “limiting admission to the *graduate* schools and the graduate *professional* schools . . . to white persons only.”

At the same time, Judge Dozier noted that Hawkins himself could not benefit from the ruling. The University of Florida had raised its entrance requirements — the minimum score on an entrance exam — sufficiently to bar Hawkins from enrolling. Yet, as a direct consequence of the *Hawkins* litigation, the law school did admit a black applicant that year, George H. Starke Jr., and small numbers of other black graduate and professional students followed. By that time, the matter was no longer in the courts, and the story moved from legal conflict to social history, as the second black law student, W. George Allen, before he graduated, did what he could to recruit black undergraduates to the university, the first small batch of whom enrolled in 1962, including transfer student Stephan Mickle, who graduated in 1965 (Wallenstein, 2000a).

Although the results came grudgingly and late, public higher education — at first at the law school, eventually at the undergraduate level — began to go through the process of desegregation in the state of Florida. The U.S. Supreme Court expressly linked the *Hawkins* case to the rulings in *Brown*. The Court also used language that limited its ruling in *Hawkins* to graduate programs. But a case from North Carolina, decided by the Supreme Court in March 1956 — the same month as the key ruling in *Hawkins* — clearly linked *Brown* with desegregation at the undergraduate level.

Leroy Frasier and Undergraduate Programs at UNC

In April 1955 — shortly before *Brown II*; nearly a year after *Brown I* — three students at the city of Durham’s all-black Hillside High School applied to the University of North Carolina, in the neighboring town of Chapel Hill. Leroy Frasier Jr., his brother Ralph, and their classmate

John Brandon were planning to go to college, and if accepted at UNC they would be the first African Americans ever to take undergraduate classes at the state university.

Each supplied the school the required personal references and a record of his academic achievements. Eight days later, each received a letter from the UNC director of admissions that laid out the material way in which the applicant had failed to satisfy another entrance requirement. UNC was a white school. That was not entirely true — like many southern so-called “white” schools, UNC did admit Chinese students, for example, and after a federal court ruling in 1951 it had begun admitting black students into certain graduate and professional programs (Burns, 1980) — but it did not accept African Americans for undergraduate study. During the 1954–55 school year, officials in the UNC system were still advising African American prospective undergraduates that their racial identity barred their admission (Wallenstein, 2003).

Turned down on grounds of the school’s racial policy, the three asked the school to change its policy, but the Board of Trustees emphatically reasserted the old policy. The trio's next move was to bring suit in federal court to overturn the UNC policy of categorically excluding black undergraduates. Their lawyers included Conrad Pearson — who had been involved in an unsuccessful court case against racial exclusion at UNC back in the 1930s, as well as the successful later suit to open the law school to black enrollment — and Floyd McKissick, one of the law students at North Carolina College for Negroes who had brought the mid-century case, which led to his own admission to the UNC law school in June 1951. For Pearson and McKissick, the suit they filed in 1955 for three prospective college freshmen was the necessary next step toward breaking down segregation throughout public higher education in North Carolina and, indeed, across the South.

The trio's main argument held that the Supreme Court's ruling in *Brown* knocked the

constitutional props out from under “separate but equal” in undergraduate programs at public universities. But according to the state’s attorneys, *Brown v. Board* applied only to “the lower public schools,” and the nation’s high court “did not decide that the separation of the races in schools on the college and university level is unlawful” (Wallenstein, 2003:288).

The three students and their lawyers — and indeed all black North Carolinians who might wish, then or at sometime in the future, to attend the state university — gained a victory in September 1955, when the district court interpreted *Brown* as applying to public higher education as well as elementary and secondary schooling: “That the decision of the Supreme Court was limited to the facts before it is true [wrote Judge Morris Soper], but the reasoning on which the decision was based is as applicable to schools for higher education as to schools on the lower level” (Wallenstein, 2003:288).

UNC enrolled the trio in September 1955. But the school and the state did not give up their fight to stay all-white — or at least nonblack, at the undergraduate level — and appealed the district court ruling to the U.S. Supreme Court. In the meantime, the state attorney general advised the university to admit no additional black undergraduates — none who had not been party to the suit.

At the Supreme Court, the trio’s lawyers included Thurgood Marshall as well as Conrad Pearson and Floyd McKissick. In March 1956, in *Board of Trustees v. Frasier*, the Supreme Court upheld the lower court’s decision (Chait, 1972:139–41; Cheek, 1973:182–201; Link, 1995:82–84). The judgment in *Brown*, banning racial segregation in public education, should indeed be understood as applying to higher education as well as to elementary and secondary schools, said the Court. The three black freshmen at UNC could retain their places, and more black undergraduates could apply for admission and expect that their applications might be accepted. And in fact more were accepted there.

What's more, within months — in summer 1956, as a direct consequence of the Supreme Court's upholding the lower court decision — black undergraduates began taking classes at North Carolina State; that fall two black undergraduates enrolled at Woman's College, UNC's school in Greensboro for nonblack women; and at both institutions, black undergraduates had earned degrees by 1960 (Wallenstein, 2003). The entire state system was beginning to change as a consequence of a lower federal court ruling, affirmed by the Supreme Court, that *Brown* applied to public education at the undergraduate level, not just K–12.

In short, the story regarding the University of North Carolina that unfolded soon after *Brown* revolved around whether the high court's rulings applied to public *higher* education — and specifically at the undergraduate level — as well as elementary and secondary schools. North Carolina provides an illuminating case study of how a southern state university might respond to *Brown* — and how federal courts could view the implications of *Brown* for applicants to undergraduate programs.

***Brown v. Board* and Higher Education in the 1950s**

Neither Florida nor North Carolina acted as though *Brown* had any bearing on higher education, but a number of states acted as though it did. By fall 1955, every state university in the six states of the Border South — from Delaware to Oklahoma — had begun to admit black undergraduates, without restriction as to what they wished to major in. Delaware had done so after a ruling in state court in 1950. The others had all acted in response to either *Brown I* or *Brown II*. In 1954, *Brown I* led directly to policy changes in Maryland, West Virginia, Kentucky, and Missouri (far more published work is needed on each of these). In 1955, *Brown II* did the same in Oklahoma (Cross, 1975:132) — the last among the Border South states — as well as in Texas and Arkansas among the states of the former Confederacy. In each instance, without

litigation to obtain a ruling that segregation in undergraduate programs must go, modest black enrollment quickly took place (Wallenstein, 1999a:130–31).

In the remaining eight states of the former Confederacy, *Brown* led to no immediate change in policy, no immediate movement toward desegregation. In Virginia, for example, neither *Brown I* nor *Brown II* led to a change in policy or practice, unless the University of Virginia's admission of its first three black undergraduate engineering students in 1955 can be attributed to *Brown*. After enrolling one black engineering undergraduate in 1953, Virginia Polytechnic Institute enrolled three more such students in 1954. Total black enrollment there never exceeded four at one time in the 1950s, and none of those black students was allowed to live on campus (Wallenstein, 1999a). Neither the University of Virginia nor VPI enrolled a black undergraduate in any program other than engineering before the early 1960s; nor could a black engineering undergraduate switch to a major available at Virginia State College (Wallenstein, 1999b). The University of Virginia continued to admit a few black law and medical students, as it had since a federal court order in 1950, though the state also continued to pay for black Virginians to attend graduate programs at out-of-state schools.

In short, the post–*Sweatt* world (actually, the post–*Gaines* world; or even the pre–*Gaines* world) — certainly also the pre–*Brown* and pre–*Frasier* world — persisted in Virginia through the 1950s. Virginia continued through the 1950s to fund scholarships to out-of-state schools for black citizens seeking programs available within the state only at nonblack institutions; black applicants continued to be turned away from historically white institutions if Virginia State could supply the program they sought. The first evidence of change in Virginia, at any level, as a consequence of *Brown* came at the high school level, when a few black students began attending previously nonblack high schools, such as in the city of Norfolk, in 1959 (Lassiter and Lewis, 1998).

In eight states, undergraduate programs at public nonblack universities continued to resist all desegregation, and the mantra “separate but equal” continued alive and well, in K–12 and in higher education alike. In most of those eight states — Virginia was an exception, and Florida might be considered one — protracted litigation proved necessary before undergraduate programs were opened to black enrollment. And yet at least one black undergraduate earned a degree at Florida, Mississippi, Georgia, South Carolina, and Alabama in 1965 — the flagship campuses in the states that had put up the greatest resistance to any desegregation. By 1968, few historically nonblack public institutions could be found that had yet to enroll a black undergraduate, although as late as that year black enrollment at many such schools remained small — in triple, double, or even single digits. Everywhere, change had come, in some instances with states and institutions responding to the original 1954 decision in *Brown*, in others responding to the 1955 implementation decree, and in still others after protracted legal struggles in the courts.

Without *Brown*, there would have been no *Frasier*, and in declaring an end to the constitutionality of segregated public *undergraduate* education, *Frasier* went farther than *Brown* or *Hawkins* did. Yet *Frasier* had little impact outside North Carolina, even though, once the state had appealed to the Supreme Court, and the nation’s high court had upheld the district court, the holding in North Carolina would apply everywhere. Elsewhere, even when federal courts ruled — as they usually did — in favor of black plaintiffs in litigation designed to desegregate undergraduate programs, only in an opinion from South Carolina in the case brought by Harvey Gantt against his exclusion from Clemson did *Frasier* get mentioned, and that was in regard to affirming that such litigation could be brought as a class action.

Regarding *Frasier* and its interpretation of *Brown*, the North Carolina story reveals what could happen in court, not necessarily what usually did happen. But as a result of the *Frasier*

litigation, the Supreme Court's 1954 decision in *Brown* moved the timing up when one state system began to admit black undergraduates into programs from which they had always before been categorically excluded. *Frasier v. Board of Trustees* demonstrated that *Brown v. Board of Education* could be called upon to obtain decisions in federal court designed to break down barriers to black admission into undergraduate programs. And if we count the seven states that responded directly to *Brown* as well as Florida and North Carolina, *Brown* led directly to change in nine of the seventeen southern states, eight of them by fall 1955.

In sum, *Hawkins* and *Frasier* each resulted in the partial desegregation of one state university or another. The mid-century cases on higher education created an environment in which successful litigation could be brought in *Brown*. In state after state — but not everywhere, and not right away, any more than in K–12 schools — *Brown* in turn fostered the desegregation of higher education.

Brown v. Board and Higher Education, 1954–2004

In a longer view, what significance can we attribute to *Brown* in the realm of southern public higher education? Fifty years after the Supreme Court first ruled that states cannot constitutionally enforce a policy of racial segregation in public education, southern institutions of higher education remain largely either black or nonblack. In many historically black institutions, the proportion of African American students exceeded 90 percent. In traditionally nonblack institutions, the proportion of African American students often remained less than 10 percent. In very rough terms across the southern states, half of all black college students attended black institutions, and half attended nonblack institutions. The dual facts that the major white schools are far larger than the major black schools, and that nonblack residents greatly outnumber black residents in every state, combine to permit the relatively small percentages of

black students on nonblack campuses to match the absolute numbers on historically black campuses (Wallenstein, 1999a:141; Wallenstein, 2000d).

Is that a great deal of change, or not very much? Going back to the categorical exclusion of black students on most nonblack campuses in the South until some years after World War II, any black enrollment at all on such campuses is a change. Some desegregation has taken place at every school, whatever its historical racial identity. Students everywhere have far more freedom than they once had to select a school. In largely white southern states — in Oklahoma at Langston University, in West Virginia at West Virginia State College — substantial white enrollment took place quickly at the historically black public institutions of higher education (Wallenstein, 2000c). White students benefited from a change akin to black students in southwestern Louisiana who gained admittance in 1954 to the local white college in Lafayette.

Most of the emphasis in the literature of higher education in the post-*Brown* South has been directed to the historically white schools and how they responded to change in the legal environment, how they participated in the process of racial change. A focus on the historically black schools would result in other images (Preer, 1982; Samuels, 2004). A number of hypotheses merit consideration. According to one, state governments would have been expected to curtail investment in black schools, since the rationale for maintaining and then upgrading them — to prevent any desegregation at all — no longer held. Evidence supporting this hypothesis includes closure of the law school that had been set up at Florida A&M to forestall desegregation at the University of Florida, as well as closure of the law school at South Carolina State once it had served its purpose for a time in keeping black law students out of the University of South Carolina.

Against that hypothesis is one that, precisely to encourage black students to select black schools rather than enroll in previously nonblack institutions, states might upgrade the

investment in faculty salaries, physical facilities, and curricular offerings. Yet another is that, to attract white students to historically black institutions, greater investment had to be made in those schools. So the question remains as to the responses by policymakers and administrators to the new legal environment — and increasingly, as black voters played larger roles in state politics, the new political environment. Decades after the decisions in *Brown*, approximately half of all black southern undergraduates opted to attend historically black institutions; half did not.

However one gauges the changes, however one explains them, and however one assesses their significance, one thing is clear. Far more than before *Brown*, citizens fifty years later had the freedom, regardless of their racial identities, to attend the school of their choice. State governments had lost the ability to determine — absolutely, categorically — otherwise, and citizens of any racial identity have lost the ability to demand that their state do so. *Plessy* did not inaugurate school segregation, and *Brown* did not result in wholesale desegregation. But each of the two decisions is, with good reason, a symbol of a regime, if not a marker of sudden historical transformation.

The Literature on *Brown* and Higher Education

Having set out a cluster of concepts and terms, as well as some stories, about desegregating undergraduate education in the 1950s, we can relate those stories to the wider literature on *Brown*. The literature relating *Brown* to subsequent changes in higher education remains scant.

Having raised the question as to the impact of *Brown* on universities, Blaustein and Ferguson (1962:193–97) discussed the *Hawkins* litigation regarding the Florida law school, but they ignored that case's fraternal twin, *Frasier*, on undergraduate studies. And they declared in error that, in *Hawkins* in 1956, the Supreme Court had expressly extended the ruling in *Brown* to

“the field of higher education” (that much was true) and thus to “*all* public schools” (clearly an overstatement). Decades later, a study relating the law of desegregation to historically black colleges (Samuels, 2004) included a chapter on “Applying *Brown* to Higher Education” but, given the focus on black institutions, made no mention of either *Hawkins* or *Frasier*.

In 1976, Richard Kluger published his magisterial *Simple Justice*. In 2004, Michael Klarman published what bids to be his generation’s equivalent, *From Jim Crow to Civil Rights*, a similarly big book, but one that stretches over more time and more topics than Kluger did. Kluger detailed the salient events that led up to *Brown v. Board*, and he offered an epilogue that surveyed developments on the racial front during the two decades that by 1976 had elapsed since the decisions in *Brown*. Kluger’s book is older now than the litigation in *Brown v. Board* was at the time that he recounted it. Nearly thirty years after Kluger, and a half-century after *Brown*, Klarman explores the full range of topics dealing directly with race that the Supreme Court ruled on between the 1890s and the 1950s, from *Plessy* to *Brown*. Education is only a portion of that story, higher education only a subset of that portion, and undergraduate education only a fragment of that subset, before let alone after *Brown*. But we might, and I will, work from the premise that what Klarman offers about post-*Brown* higher education summarizes the current scholarly knowledge, or at least those dimensions of it that have made it into broad understanding and synthetic studies.

The state of the literature on individual schools available for many years for scholars to draw on regarding desegregation is signaled by three institutional studies published between the 1960s and the 1990s. A history of the University of Maryland (Callcott, 1966:353) misleads both as to the timing of the school’s admission of its first black undergraduate and as to situating Maryland in the context of the region’s history: Whether we have in mind the first black individual, an engineering student who enrolled in 1951 (Wallenstein, 1999a:126), or the more

general policy, which came in 1954, directly after *Brown*, Maryland was not the first southern university to desegregate its undergraduate programs. A history of the University of Arkansas (Leflar, 1972:276–82) recounts the beginnings of black enrollment in the law school in 1948 — and then skips directly to the presence of black players on the varsity football team two decades later, as if undergraduate education did not have to be desegregated in the meantime, a change that was in fact directly linked to *Brown v. Board of Education*. A history of the University of North Carolina (Snider, 1992:246–48) recounts the federal court ruling in 1951 that brought the beginnings of black enrollment in the UNC law school (and led to similar change in some other programs, starting with the medical school); but that book nowhere mentions the litigation that took place a few years later — on the basis of *Brown* — so that black undergraduates could take classes at the university.

That the literature is maturing is seen in a very fine book on Alabama (Clark, 1993) and two more recent books on other states. One of these, by Robert Pratt (2002), tells the story of black access to the University of Georgia. In September 1950, shortly after the Supreme Court's decisions in June that year in graduate education cases from Oklahoma and Texas, Horace Ward initiated an effort to enroll at the University of Georgia Law School. In February 1957, after years of stonewalling by the university and the state, a crushing loss in federal district court convinced him to abandon his quest. After completing law school at Northwestern University, though, he returned to Georgia and was one of the attorneys who proved victorious in federal court in gaining the admission of two black applicants, undergraduate transfer students Charlayne Hunter and Hamilton Holmes, in January 1961, just over ten years after Ward had begun his quest for his own admission as a law student there.

Amilcar Shabazz (2004) has recently published an impressive analysis of racial identity and higher education in Texas since the Civil War. (The book has been available for only a short

while, but in 1996 he completed the dissertation on which it is based.) Just as the books by Clark and Pratt each provide a model reconstruction of the story of segregation and desegregation at one major southern state university, Shabazz supplies a model history of developments in higher education on the racial front in one state across the entire century after emancipation — in black schools as well as nonblack institutions; in the legislature as well as the courts; and in community colleges, four-year institutions, and graduate and professional programs. Each of these three books makes available work of high quality for scholars who seek to synthesize such state and institutional studies into region-wide analyses. Shabazz's has the added value of focusing scholarly attention on a state that — unlike Alabama, Mississippi, and Georgia — displayed no notable violence at the time and thus escaped much attention in the press then or by historians since.

In 1976 Richard Kluger told, in considerable detail, the stories of Lloyd Gaines in Missouri; Ada Lois Sipuel Fisher and George W. McLaurin in Oklahoma; and Heman Marion Sweatt in Texas. Doing so, he set the stage for his treatment of the K–12 cases — how they arose, how the NAACP chose to address them, and how the federal courts ruled in them along the road that led to *Brown*. In his epilogue, Kluger referred briefly to a single person, a single incident regarding higher education, the court-ordered admission of graduate student Autherine Lucy at the University of Alabama in January 1956 and her expulsion the next month.

Twenty-five years after Kluger published his account, surveys of *Brown*'s first half century began to appear. These books each have considerable merit in synthesizing and interpreting the history of race and law in K–12 education. But, like Kluger, they offer little if anything on developments in higher education in the wake of *Brown*. Books by James T. Patterson (2001) and Peter Irons (2002) each mention the 1950 University of Delaware case (which led to black undergraduate enrollment there, without regard to curriculum), in the context

of the Delaware litigation that was included in the cluster of K–12 cases decided in *Brown* — and nothing further about higher education. Another able survey, by Robert J. Cottrol, Raymond T. Diamond, and Leland B. Ware (2003), pays considerably more attention to higher education, especially before but also after *Brown*, yet it neither mentions *Frasier* in North Carolina nor links *Brown* directly to real changes in the 1950s in any number of other states. A commentary by Charles J. Ogletree Jr. (2004) has much to say on many topics, but not about *Brown* and undergraduate schooling in the 1950s. In short, four leading surveys of the five decades after the *Brown* decisions offer little if any advance over Kluger in assimilating higher education into the story of *Brown* and public education in a post-*Brown* world.

What about Michael Klarman’s approach to *Brown* and higher education? In *From Jim Crow to Civil Rights*, we can find astute treatments of the Supreme Court’s pre-*Brown* decisions — regarding Lloyd Gaines, for example, or Ada Lois Sipuel Fisher. For the immediate post-*Brown* years, we find but one paragraph; its topic sentence declares in full: “*Brown* also retarded progress in university desegregation.”

Klarman’s “backlash thesis” regarding higher education and white southerners’ responses to the decisions in *Brown* may well have merit. But we find, in this single paragraph, statements that appear factually unreliable or conceptually uncertain, not to mention ruthlessly selective. “By 1955,” he writes, evidently intending to provide a pre-*Brown* baseline for calibrating a post-*Brown* pullback, “roughly 2,000 blacks attended desegregated universities in southern and border states” (393). Yet few (if any) southern universities qualified as “desegregated” as early as 1955; and however we might use the term to describe previously nonblack institutions that had begun to admit black students, that date came after at least one of the rulings in *Brown*. A statement about the University of Texas — that, in the wake of *Brown*, it “quickly reversed a decision to extend desegregation to undergraduates” (393) — hardly appears consistent with

Shabazz's accounts (1996:322–30; 2004:156–59), which do not appear in the notes or bibliography. Virgil Hawkins in Florida and Horace Ward in Georgia, both of them candidates for admission to law school, might have been startled at the implication that the decisions in *Brown* in 1954 or 1955 had anything of consequence to do with explaining their lengthy and futile travails in the courts from mid-century on. The Frasier brothers, for their part, might be surprised to find no mention of their court victory or their enrollment as undergraduates at the University of North Carolina.

By no means am I dismissing Klarman's "backlash thesis" in its entirety as it might relate to higher education. I am convinced that it needs careful consideration, certainly for Louisiana and perhaps for other Deep South states. But I am far more certain that we need to acknowledge — not deny; not skip over — the state actions to which *Brown I* or *Brown II* led more or less immediately in seven states: Maryland, Missouri, Kentucky, Oklahoma, West Virginia, Texas, and Arkansas. And we must include — not ignore — the immediate response, through the federal courts, in North Carolina. Delaware had already, in effect, made the change before *Brown*; and in eight among the remaining sixteen historically segregated states, as a direct result of *Brown*, black undergraduates could and did suddenly find themselves eligible for, rather than categorically excluded from, admission to programs in any undergraduate area of study at the state's flagship university.

As for the other eight states, change consistent with *Brown* began in 1958 at the graduate or professional level at the University of Florida — and no later than 1963 at the undergraduate level even on the main campuses at Georgia, Mississippi, Alabama, South Carolina, Florida, Virginia, and Tennessee. Black undergraduate enrollment began in 1964 at Louisiana State University at Baton Rouge. Auburn and Mississippi State each admitted a black undergraduate in 1965, the last of the historically nonblack land-grant institutions — the South's "colleges of

1862” — to do so. Also by 1965, at least one black undergraduate had earned a degree at the state university in Georgia (Charlayne Hunter and Hamilton Holmes), at Mississippi (James Meredith), at South Carolina (Henrie Monteith), at Alabama (Vivian Malone), and at Florida (Stephan Mickle).

Even if, in higher education, *Brown* “retarded progress” (as Klarman puts it) on the racial front in several states, the worst we come away with appears to be a split decision, according to which the rulings in *Brown* impelled change at universities in half the segregated states and stiffened white resistance in some others. Moreover, whether because of *Brown* or in spite of *Brown*, continued categorical black exclusion persisted for only a few more years at even the most resistant universities in even the most recalcitrant states. At every flagship campus across the South except Louisiana State University at Baton Rouge, at least one black undergraduate received a degree by about the tenth anniversary of *Brown II* — and in summer 1964, LSU began enrolling black undergraduates. One might readily conclude, in short, that *Brown* caused a tremendous break in historical continuity, even if not everywhere or all at once.

Stated differently, one might observe that, where *Brown* spurred the movement toward desegregation, the change was generally not a whole lot in the early years, and where *Brown* may have retarded such change, it was not for very long. Regardless, I suggest, the greatest single change on the racial front at any institution was getting past “separate but equal” — generally best revealed by the admission of even one black applicant into an arts and sciences undergraduate program that had previously been off-limits to all black students. At school after school, *Brown* accomplished that.

And once that much had been accomplished — in the aftermath of black undergraduate enrollment — then the many other aspects of “desegregation” had a chance to begin to develop, among them black athletes representing their school; black faculty teaching there; renovations in

the curriculum; and changes in the broader culture of the institution (Wallenstein, 2000b). Of course that aftermath also included the controversy over affirmative action, as well as the fate of black institutions after the end of black exclusion from historically nonblack schools. All these are integral parts of the larger story of the legacy of *Brown*, although, again, the changes that can be most directly linked to the decisions in *Brown* can be found in the first ten years after 1954.

Conclusion

So what are the prospects for a significant literature on the impact of *Brown v. Board* on higher education? With the appropriate concepts and language — black schools versus nonblack institutions, rather than white versus nonwhite; general undergraduate programs versus graduate or professional studies; desegregation at every institution as a process, a series of steps, not best understood as a single event or point in time — we'll be in position to make better sense of the trajectory of racial change in higher education in the aftermath of *Brown*. As the story in every state, and at every major school, becomes better revealed, we'll be in a position to make more accurate and useful generalizations about what changed and when and how. At that point, we'll be in a position to pull together the stories of, on the one hand, K–12 schooling and, on the other, higher education — to get both right and see how they relate in a single master narrative of the impact and legacy of *Brown* in public education. Fifty years after *Brown*, we are not there.

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