

# President's Column

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Greetings my esteemed colleagues and *Court Review* readers, 2021 was yet another challenging year. We all have learned lessons from it about how to adapt and how to embrace the people and things that are most important. After not traveling for over two years, we look forward to our in-person midyear conference in Napa Valley, California, April 26-27, 2022, and our in-person annual conference in the city of brotherly (and sisterly) love—Philadelphia, Pennsylvania August 28-31, 2022. We value you as an American Judges Association member, and believe that this organization has demonstrated its adaptability and value during the pandemic. I encourage you to renew your American Judges Association membership and to become active in this great organization. I assure you the value of this membership far outweighs the cost.

To our newly elected judges, I am excited to welcome you to this association. There is much work to be done. We need your enthusiasm and energy to carry on this great legacy of the American Judges Association. I strongly encourage each of you to join a committee, chair a committee, suggest a committee, or do whatever you deem necessary to enhance this awesome association. We welcome your knowledge, new ideas, and resources. We are expecting great things from you!

As we begin 2022, it is my singular honor and high privilege to serve as your 60th president. These ten months are flying by; however, along the way I have been privileged to represent this Association on many occasions and gather some life-long memories. The occasion that stands out for me the most this quarter is the one I attended in New Orleans on January 5, 2022.

Now, 125 years after the landmark civil rights Supreme Court decision of *Plessy v. Ferguson*, which codified the Jim Crow-era “separate but equal” doctrine, Homer Plessy, the principal in that famous case, has been pardoned posthumously. The New Orleans District Attorney, Jason Williams, helped initiate the pardon. The Louisiana Board of Pardons voted unanimously in favor of a full pardon for Plessy, who died in 1925. I had the privilege to witness the signing of the pardon on January 5, 2022 by John Bel Edwards, the Governor of the State of Louisiana. The ceremony was held at the exact location where Homer Plessy purchased his train ticket. We stood on the same tracks where he boarded the train. There was even a train there that left after the ceremony. It was my honor to meet the descendants of Homer Plessy, Judge John Howard Ferguson (the judge in the landmark case) and Justice John Marshall Harland (the lone dissenter in the case at the United States Supreme Court).

On June 7, 1892, at the age of 30, Homer Plessy purchased his first-class train ticket for the 4:15 p.m. train from New Orleans, Louisiana, to nearby Covington, Louisiana, only 46 miles away. He boarded the “whites only” first-class car. There are two versions as to which question was asked of Plessy that day. One version has the conductor asking him, “Are you a white man?” to which Plessy responded, “No”. The other version has the conduc-

tor asking, “Are you a colored man?” to which Plessy replied, “Yes”. Either version finds Plessy not sitting in the correct car according to the conductor. When asked to retire to the colored car by the conductor, Plessy replied, “I am an American citizen, I paid for this ticket, and I intend to enjoy the ride to Covington in the car I paid for.” The train was stopped and Plessy was arrested. Within hours, the New Orleans Citizen’s Committee bailed him out. The entire ordeal was orchestrated by the New Orleans Citizen’s Committee to challenge the separate car act. The New Orleans in which Plessy was raised was a much freer place than the city he encountered as an adult, according to Keith Weldon Medley in his book, “We as Freeman: *Plessy v. Ferguson*.”

Homer Plessy, an ordinary man, a shoemaker, was chosen by the Citizen’s Committee to take on this extraordinary challenge. As I sat and watched Governor Edwards sign Homer Plessy’s

posthumous pardon, I became filled with emotion. I remember discussing *Plessy v. Ferguson* in law school in 1978 with my Louisiana State University law professor quickly acknowledging that it had been overturned by *Brown v. Board of Education* in 1954. But had it been? I began to imagine the kind of courage and sacrifices it took for Justice John Marshall Harland to dissent in 1899. To boldly acclaim that the separate car law was not a constitutionally sound principle; that it violated the Constitution of the United States of America. The ridicule and pressures must have been overwhelming. But Justice Harlan stood steadfast and alone. He was absolutely right, everything branded legal is

not just. Today as judges, we must boldly stand steadfast to the principles of fairness, justice and equality, even if we must stand alone!

In 2022, 125 years after Homer Plessy paid his \$25 fine on January 11, 1897, and 25 years after Keith Plessy, Homer’s descendent, in 1997 started his journey to recognize his ancestor, I pose this question—“Has the “separate but equal” doctrine of *Plessy v. Ferguson* really been overturned?” One might suggest that it has been overturned *de jure* but not *de facto*. One hundred twenty-five years later, we are still righting the wrongs of yesterday. This lets us know that it is never too late to do the right thing and that there is still work to be done! The Judiciary was the gate holder then and continues to be the gate holder today.

The Plessy and Ferguson Foundation was formed in 2004 by Keith Plessy and Phoebe Ferguson, descendants of the principals Homer Plessy and Judge John Ferguson to honor the work of Homer Plessy and the Citizen’s Committee for their courage, commitment, and sacrifices in their decades-long pursuit of justice and equality. Together they have worked to have five historical markers honoring Homer Plessy added to the New Orleans landscape, including renaming the intersection where Plessy was removed from the train to Plessy Way. And now Homer Plessy has been pardoned. It feels like Dr. King’s dream coming to fruition—“when the sons of former slaves and the sons of former slave owners sit down together...Let freedom ring!”

