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The Glorious Thurgood Marshall, 1908-1993

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**The Glorious Thurgood Marshall
1908-1993**

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Justice Thurgood Marshall died on Sunday, January 24, 1993. He was eighty-four years old. His life was filled with adventure and a pioneering spirit that plotted almost every state of the nation, and which fell upon the minds of thousands of American citizens who benefitted from his singular efforts to make America live up to its declaration that each of its citizens are equal under the law.

Justice Marshall leaves us more whole as a nation than when he stepped upon this planet on July 2, 1908. It was a different nation then--one that divided citizens by race, by law. Marshall came to understand the disabilities of such separations that afflicted his people and curtailed the nation's ability to mature to its utmost. He attended Howard University School of Law where, under the tutelage of teachers such as Charles Hamilton Houston, William Henry Hastie he was inspired to go forth and to make a better world. After Marshall was graduated from Howard University's law in 1933, he did just that.

Thurgood Marshall, perhaps, is best known for the role that he played in *Brown v. Board of Education of Topeka, Kansas*, a case that he argued before the United States Supreme Court that reverse *Plessy v. Ferguson*. The *Brown* decisions declared that *de jure* segregation in public schools was a violation of the equal protection clause of the Constitution. This decision is the most

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important pronouncement by the Court in this century because the principle of equality expressed in **Brown** has been applied to other forms of discrimination, and Thurgood Marshall dogged determination helped to make it happen.

Prior to the **Brown** decision, Thurgood Marshall handed many cases that touched the area of education. In 1936, only three years out of law school, Marshall, William I. Gosnell, and his mentor Charles Hamilton Houston, won a case before the Maryland Court of Appeal restraining the University of Maryland Law School from excluding blacks from attending the law school. Six years later, Marshall, then counsel for the NAACP, sued the Board of Education of Anne Arundel County, Maryland, forcing them to equalize the pay of black teachers with that of white teachers.

As we look back upon the life of Justice Marshall, we see a consistent history, a righteous struggle, and a glorious victory to make the word equality mean something of value for all citizens. His aim was always to use the law as a instrument to bring blacks into the mainstream of American life. In 1978, Justice Marshall wrote in **University of California Regents v. Bakke**, a case that endorsed a broader remedial use of race-conscious programs: "In light of their sorry history of discrimination and its devastating impact on the lives of Negroes, bringing the Negro into the mainstream of American life should be a state interest of the highest order."

Justice Marshall believed that the right to education was a fundamental right, a belief that was not shared by the majority of

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the his colleagues on the Court. This fundamental right, Marshall thought, precluded the state from disparate funding of school districts. The equal protection clause required more. How could poor children ever enter the American mainstream when the state allowed disparate funding based on the wealth of a particular school district? Such action on the part of the state did not sit well with Marshall because he knew that many under funded school districts were made up of poor people, poor people of color. He believed that such conduct by the state was invidious discrimination.

Justice Marshall had stepped down from the Court by the time the **United States v. Fordice** was decided, a case involving the application of **Brown** decision to higher education. One can only wonder what Justice Marshall's view would be about the constitutionality of disparate funding of historically black colleges by a state. We can only guess that Marshall would conclude that the state is liable to students and to the citizens of states that have discriminated against blacks attending black colleges by under funding them because they are black. No doubt he would be concerned about present efforts to close black colleges that provides an opportunity for students to enter the mainstream of American life, particularly since these colleges are opened to all students on a nonracial basis.

The nation has lost a high priest. He gave the nation and black people the best he had to give. He shared his life with all of us, and asked for so little in return. We owe Thurgood

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Marshall. We can pay our debt to him only by continuing his fight to assure that black students are not shut out of the educational process.

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