

In the *Plyler v. Doe* case, argued on December 1st, 1981, the Supreme Court was to decide if Texas can deny to undocumented school-age children the free public education that it provides to children who are citizens of the United States or legally admitted aliens. “The more difficult question is whether the Equal Protection Clause has been violated by the refusal of the State of Texas to reimburse local school boards for the education of children who cannot demonstrate that their presence within the United States is lawful, or by the imposition by the school boards of the burden of tuition on those children. It is to this question that we now turn.” On June 15th, 1982 they held that this Texas law was unconstitutional, hence they affirmed the judgement of the Court of Appeals. I agree whole-heartedly with the majority on this decision.

Appellants argued that undocumented aliens, because of their immigration status, are not “persons within the jurisdiction” of the State of Texas, and that they therefore have no right to the equal protection of Texas law. The Supreme Court rejected this argument saying “Whatever his status under the immigration laws, an alien is surely a person in any ordinary sense of the term. Aliens, even aliens whose presence in this country is unlawful, have long been recognized as persons guaranteed due process of law by the 5th and 14th Amendments. Indeed, we have clearly held that the 5th Amendment protects aliens whose presence in this country is unlawful from invidious discrimination by the Federal Government.”

Appellants also suggested that undocumented children are singled out because their unlawful presence within the United States renders them less likely than other children to remain within the boundaries of the State, and to put their education to productive social or political use within the State. The State has no assurance that the education will be put to use within its borders. The record shows that these undocumented children disabled by this law will remain in

the country and eventually become legal. It is difficult to understand what the State hopes to achieve by creating this illiterate subclass adding to the problems and costs of unemployment, welfare, and crime. It is thus clear that whatever savings might be achieved by denying education are insubstantial in light of the costs involved to these children, the State, and the Nation.

Appellants appeared to suggest that the State may seek to protect itself from an influx of illegal immigrants. States may want to try and equalize the sudden changes in population, but this law hardly provides an effective solution. There is no evidence in the record that suggest illegal immigrants impose any significant burden on the State's economy. To the contrary the available evidence suggests that illegal aliens underutilize public services while contributing labor to the economy. The dominant incentive for illegal entry is the amount of available jobs in the State of Texas. Few come to avail themselves of a free education. This law is a ludicrously ineffective attempt when compared to the alternative of prohibiting the employment of illegal aliens.

Appellants then suggested that undocumented children are appropriately singled out for exclusion because of the special burdens they impose on the State's ability to provide high-quality education. The record does not support this claim. The State failed to offer any evidence that a proportionately small diminution of funds spent on each child will have a grave impact on the quality of education. Barring undocumented children from schools won't improve the quality of education provided in those schools. Even if it would improve the education the State would have to support its selection of the group to be targeted for exclusion. In terms of educational cost and need undocumented children are basically indistinguishable from legally resident alien children.

In conclusion the Supreme Court managed to come up with counter-arguments or reasonings for each of the main arguments the appellants brought forth in court. I tend to agree with all of the points the court made in regard to the reasoning for their holding. But as with most court cases not every voting justice agrees, and so you end up with a dissenting opinion as well as the majority one. In this regard the main dissenting point of Justice Burger was focusing on the idea that the Court was engaged in policy-making rather than constitutional interpretation. He was joined by Justices White, Rehnquist, and O'Connor. They objected that the majority had trespassed on "the assigned function of the political branches" by assuming a "policymaking role" simply because it disapproved of Congressional inaction.