

DIST/OFFICE	DOCKET		FILING DATE			J	N/S	O	R	R 23	\$	DEMAND OTHER	JUDGE NUMBER	JURY DEM.	DOCKET	
	YR.	NUMBER	MO.	DAY	YEAR										YR.	NUMBER
5406		770261	09	06	77	3	440	1		1		inj.	4005			TY-77-261-CA 77-0261

PLAINTIFFS

DEFENDANTS

J. and R. DOE as Guardian Ad Litem  
for I. Doe, J.D. Doe, E. Doe, D. Doe  
and O. Doe;  
J. and E. ROE as Guardian Ad Litem  
for O. Roe, F. Roe, and N. Roe;  
F. BOE as Guardian Ad Litem for  
Z. Boe, S. Boe, and X Boe;  
H. and J. Loe as Guardian Ad Litem  
for A. Loe, L. Loe, M. Loe, G. Loe,  
and R. Loe; on behalf of Themselves  
and Others Similarly Situated,

PLYLER, Jim, Superintendent of  
the Tyler Independent School  
District, in his official capacity  
LAMPKIN, Lewis, CHILDERS, Charles,  
ROSS, Carl, EDWARDS, Martin, GOSS,  
Vernon, BREEDLOVE, Michael, and  
RANDALL, Robert, in their official  
capacity as Members of the Board  
of Trustees of the Tyler Inde-  
pendent School District,

*Class action suit  
Order ent. 10-25-77*

CAUSE

42, USC, 1983, 2000(d); 14th Amendment to the U.S. Constitution, asks injunctive  
action enjoining TISD from requiring legal documentation of U.S. Citizenship  
as a prerequisite to admission of school age children to a tuition-free edu-  
cation. ds

ATTORNEYS

PETER ROOS  
Mexican-American Legal Defense  
and Education Fund 28 Geary St., 6th Fl  
145 Ninth St.  
San Francisco, CA ~~94103~~ 94108  
415/864-6000

Larry R. Daves  
P. O. Box 1115  
Tyler, TX 75710  
214/593-0184

✓ JOHN C. HARDY  
200 Peoples Bank South  
Tyler, TX 75702  
214/593-2561  
(for Defendants)

✓ RICK ARNETT  
Assistant Attorney General  
P. O. Box 12548  
Austin, Texas 78711  
(for State of Texas)

512/475- ~~4651~~  
3131

SEND NOTICES AND ORDERS TO: (possible Amicus Curiae)

Mr. Michael Wise  
U. S. Department of Justice  
Education Section, Civil Rights Division  
Washington, D. C. 20530

<input type="checkbox"/> CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID			STATISTICAL CARDS	
	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
	9-6-77	97050		JS-5	
	10-10-78	Rec.#58196 -- \$5.00 (Appeal--Defts.)		JS-6	

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ROSS, Carl, EDWARDS, Martin, GOSS,  
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(for Defendants)

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Assistant Attorney General  
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DATE	NR.	PROCEEDINGS
9-6-77	✓	ORIGINAL COMPLAINT, Attorney John C. Hardy accepted Service for the Tyler Independent School Board.
9-6-77		BRIEF in Support of Plaintiffs' Motion for Preliminary Injunction.
9-6-77		ORDER setting hearing on Plaintiffs' Motion for Preliminary Injunction for 9:00 a.m., September 9, 1977, at the Courtroom of the U.S. Dist. Court for the Eastern Dist. of Texas, Tyler Division, at the Federal Building, Tyler, Texas. WWJ v.54, p. 11
9-6-77		Certified copy of Order mailed to attorneys of record and Texas Attorney General, Lynn Taylor, Asst., with copy of complaint and brief.
9-6-77		CERTIFICATE that the constitutionality of the Texas Education Code is drawn in question in this case. WWJ
9-6-77		Certified copies mailed to Attorneys of record and Texas Attorney General Assistant Lynn Taylor.
9-7-77	✓	Plaintiffs' MOTION for Substitution of Defendant.
9-8-77	✓	MOTION for Preliminary Injunction and BRIEF in Support of its being issued.
9-8-77	✓	Defendants' Brief in Support of Defendants' Motion for Denial of Preliminary Injunction.
9-9-77		ORAL HEARING on Plaintiffs' Motion for Preliminary Injunction. Attorneys announced ready. State of Texas entered an objection to the incamera proceeding and stated it would have a motion for abstention and felt this motion should be heard first. Since this is not a closed hearing, as stated by the Court at this time, as no ruling has as yet been made on a Motion for Protection to be made during this hearing, the State of Texas withdrew its Motion. Court heard from Plaintiffs' counsel on the State of Texas Motion for Abstention. Motion for Abstention taken under advisement. Court stated for the record when the case was filed the Department of Justice was notified immediately and that an attorney from the U. S. Department of Justice is present as an observer. Plaintiffs argued a Motion for Protective Order. Court granted Plaintiffs' Motion for a Protective Order; however, directed the U. S. Department of Justice would be bound by the protective order only until such time as it may desire to prosecute, at which time names could be revealed to it. Persons in Courtroom were identified for the record. Plaintiffs were brought into the Courtroom through a private elevator and the U. S. Marshal's Office by Deputy U.S.M. Whiteman. Attorneys for Defendants were instructed to explain the protective order to their clients. Plaintiffs' Interpreter, Michael McAndrew, was placed under oath. Oral Motion of the State of Texas to be a party to the case was GRANTED. Interpreter John Idrogo was placed under oath and proceeded as interpreter since previous interpreter felt there may be a conflict of interest since he is employed by the Catholic Community Center, which has been certified by the I & N Service. Plaintiffs rested at 12:12 p.m. Recessed for lunch until 1:30 p.m. Defendants rested at 1:50 p.m. All evidence closed at 3:00 p.m. Michael Wise, U.S. Depart of Justice attorney, conveyed to the Court that the I & N Service would not ask for identity of plaintiffs, to which the Court stated it would not try to interfere with the Dept. of Justice in enforcing the laws. Arguments heard. Court stated it was not prepared to rule at this time and would try to make a decision this week end. Court expressed hope that the United States would appear as amicus curaie and requested being advised if there is a national policy and, if so, to be enlightened as to it in addition to the Western Hemisphere Treaty.
9-9-77		ORDER directing all persons present at hearing on 9-9-77 be prohibited from revealing identity of plaintiffs; affidavits be submitted of attorneys as to any clerical personnel having knowledge of identity of plaintiffs, the reasons and necessity therefor, which affidavit shall be filed with the papers in this



DATE	PROCEEDINGS	Date Order of Judgment No
	cause, fully binding all by the terms of this order; exhibits offered being substituted with copies deleting names of plaintiffs; parties having copies of such exhibits to return to plaintiffs' attorneys all copies upon completion of litigation, or when they have no further need thereof; all exhibits to be retained by defendants' attorneys during pendency of litigation, but not in possession of any defendant; no transfer of documents by attorneys appearing herein be made either directly or indirectly without prior permission of the Court and further directing if any communication, orally or in writing, is necessary, an affidavit be filed in the case, binding such person to whom communication is made by the protective order; and, further holding anyone in violation of the Court's protective order in contempt of Court. WWJ V. 54, P. 2 (certified copies of Order mailed to all counsel of record and to Michael Wise, U. S. Dept. of Justice, Education Section, Civil Rights Division, Washington, D. C. 20530)	
9-12-77	FINDINGS OF FACT AND CONCLUSIONS OF LAW. WWJ (s/9-11-77)	V.54 P.28
9-12-77	ORDER preliminarily enjoining Defendants from refusing to enroll minor Plaintiffs in the Tyler public schools or requiring them to pay any tuition fee; and enforcing the policy of the Tyler I.S.D. which implements Section 21.031 of the Texas Education Code; pending issuance of the preliminary injunction, the Plaintiffs are required to give security in the form of a bond, in the principal amount of \$500.00 payable to the Defendants, with two good and sufficient sureties, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. WWJ (s/9-11-77)	V.54 P. 29
9-12-77	ORDER setting hearing on Plaintiffs' Motion for Permanent Injunction in Tyler, Texas, on December 12, 1977, at 10:00 a.m. WWJ (s/9-11-77)	V.54 P.30
9-12-77	Mailed certified copies of Findings & Conclusions and Orders filed 9-12-77, to each attorney of record.	
9-15-77	Mailed Ck. #9847, dtd. 9-12-77, from Mexican-American Legal Defense and Educational Fund, 145 Ninth Street, San Francisco, California, in the amount of \$500.00, to U. S. District Clerk, Beaumont, Texas, to be deposited in Registry of the Court.(Bond for Preliminary Injunction)	
9-28-77	MOTION of Roberta Rodkin for withdrawal and substitution of counsel.	
10-5-77 ✓	MOTION that this Action be maintained as a Class Action	
10-5-77 ✓	MEMORANDUM of Points and Authorities that this action be maintained as a class action.	
10-25-77 ✓	ORDER that this action be maintained as a class action on behalf of all undocumented school-aged children of Mexican origin residing within the Tyler Independent School District; and that Plaintiffs J. Doe, et al, represent said class. WWJ	V.54 P.195
10-27-77	Mailed certified copy of Order to each attorney of record.	
11-7-77	ORDER granting Roberta Rodkin leave to withdraw as counsel for the Plaintiffs, and that Larry R. Daves is designated as the attorney for the Plaintiffs herein. WWJ	V.55 P.54
11-7-77	Mailed certified copy of Order to each attorney of record.	
12-5-77	Defendants' ORIGINAL ANSWER.	



DATE	PROCEEDINGS	Date Order or Judgment Noted
11-9-77	Clerk's Copy of Court Reporter's Transcript of Record of Proceedings, Oral Hearing on Plaintiffs' Motion for Preliminary Injunction, heard at Tyler, Texas, on September 9, 1977. (Under Protective Order of Court entered 9-8-77)	
2-9-77	MOTION for Presentation of Evidence on December 16, 1977.	
12-8-77	CASE ANNOUNCED READY and estimated 5 days for trial. Case set for 9:00 a.m., December 12, 1977.	
12-12-77	✓ FINAL PRETRIAL ORDER.	
12-12-77	✓ SUPPLEMENT TO PRE-TRIAL ORDER.	
12-12-77	✓ ANSWER of THE STATE OF TEXAS.	
12-12-77	TRIAL BRIEF of Plaintiffs.	
12-12-77	CASE TO TRIAL ON THE MERITS, at 9:10 a.m. Government moved to be Amicus Curiae with full rights of a party, which motion was granted. Government stated its position at the request of Defendant State of Texas. Opening remarks made by Plaintiffs. Defendants waived opening remarks until their case-in-chief. Plaintiffs' Motion that a copy of Testimony of Preliminary Hearing, with deletions as to named plaintiffs, be received in evidence as Plaintiffs' Exhibit No. 1 granted. Plaintiffs. rested at 1:58 p.m. Defendant TISD and Board of Trustees' Motion for Instructed Verdict for failure of Plaintiffs to have testimony regarding attorney's fees overruled. Court to entertain testimony on attorney's fees at some future time, if needed. Defendant School District rested at 2:28 p.m. Case recessed after Opening Remarks of Defendant State of Texas until Friday, December 16, 1977, at 9:00 a.m.	
12-12-77	ORDER that petitioner's Motion for Stay pending disposition of the Writ of Prohibition and/or appropriate extraordinary Writ is DENIED. by the Fifth Circuit Court of Appeals, New Orleans, LA.	
12-12-77	ORDER that petition for Writ of Prohibition and/or other appropriate extraordinary writ is DENIED.	
12-16-77	CASE IN TRIAL SECOND DAY, at 9:20 a.m. Defendant rested at 2:45 p.m. Government had no witnesses. Court to take judicial knowledge of Report of Domestic Council on Illegal Aliens. Government to state its full position to the Court and copies to counsel by January 7, 1978. Counsel for Plaintiffs and Defendants to let the Court know within 7 days after receipt of the Government's position if an additional hearing is needed. Plaintiff waived oral argument. Arguments heard from other counsel, in addition to Government. CASE TAKEN UNDER ADVISEMENT. Court to require proposed findings of fact and conclusions of law.	
12-30-77	Clerk's Copy of RECORD OF PROCEEDINGS at Tyler, Texas on December 12, and 16, 1977.	
-5-78	MOTION of Plaintiffs to Amend Complaint to conform to the evidence.	
-5-78	MEMORANDUM in support of Motion to Amend Complaint to conform to the evidence.	
-5-78	ORDER granting Plaintiffs' Motion to Amend Complaint to conform to the evidence. WWJ V.56 P.46	
-5-78	AMENDED COMPLAINT of Plaintiffs.	
-6-78	Mailed certified copy of Order to each attorney of record.	
-9-78	MOTION for additional time to file Brief filed by United States of America.	
1-12-78	ORDER granting the United States' Motion for additional time to file its Brief until January 23, 1978, to file its written statement of position. WWJ V. 56, P. 77	
1-16-78	A certified copy of above Order mailed to each attorney of Record.	



## CIVIL DOCKET CONTINUATION SHEET

FPI-MI-3-14-75-50M-3511

PLAINTIFF		DEFENDANT	DOCKET NO. _____
J. and R. Doe, et al		Jim Plyler, et al	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
1-26-78		MOTION of the United States FOR EXTENSION OF TIME in which to file its Post-Trial Brief.	
2-2-78		MOTION of the United States, amicus curiae, for further extension of time in which to file its Post-Trial Brief.	
2-2-78		ORDER granting the United States until February 7, 1978, in which to file a post-trial brief stating its position in this case. WWJ V.56 P.159	
2-2-78		Mailed certified copy of Order to each attorney of record.	
2-13-78	✓	POST TRIAL BRIEF of the United States.	
3-7-78		MOTION FOR RECONSIDERATION and MOTION TO PRESENT ADDITIONAL EVIDENCE	
3-7-78		MOTION FOR SUBSTITUTION filed by Suzan Cardwell and shows to the Court that she has resigned from the Office of Attorney General and Rick Arnett has assumed responsibility for Doe V. Plyer and she prays that he be substituted as counsel herein.	
3-8-78		ORDER granting Motion to substitute Rick Arnett as counsel for State of Texas. WWJ V.57 P.59	
3-10-78		Mailed certified copy of Order to each attorney of record.	
3-13-78		Plaintiff's OPPOSITION to Motion for reconsideration and Motion to present additional evidence.	
7-24-78	✓	POST TRIAL BRIEF of State.	
7-31-78	✓	RESPONSE of Plaintiffs to Post Trial Brief of State.	
9-13-78		ORDER entered <u>nunc pro tunc</u> , as of December 12, 1977, severing, for later consideration by the Court, the issue of Attorneys' fees in this cause. WWJ (s/9-11-78) V.61 P.114	
9-13-78		Mailed certified copy of Order to each attorney of record.	
9-14-78		ORDER denying Motions of the State of Texas to reconsider Plaintiffs' Motion to Amend Pleadings, or in the alternative, to permit Defendant to reopen the case to present additional evidence. WWJ V.61 P.117	
9-14-78		MEMORANDUM OPINION. WWJ V.61 P.118	
9-14-78		PERMANENT INJUNCTION, permanently restraining and enjoining Defendants from refusing to permit the named Plaintiffs, or any other member of the class of undocumented school-aged children of Mexican origin now or hereafter residing within the boundaries of the Tyler I.S.D., to enroll in the public schools of such district; from requiring them to pay tuition fees; and from applying section 21.031 of the Texas Education Code and the policy adopted by the Board of Trustees of the Tyler I.S.D. on July 21, 1977, so as in any way to deny free public education to any children in the Tyler I.S.D., solely on the basis of their status as undocumented Mexican aliens. WWJ V.61 P.119	
9-14-78		Certified copies of Order, Memorandum Opinion and Permanent Injunction mailed to each attorney of record.	
10-10-78		NOTICE OF APPEAL of Defendants. DUE IN NO 11-20-78	
10-10-78		Mailed Ck. #2938, dtd. 10-10-78, from John Hardy, Attorney for Defendants, in the amount of \$250.00, as Cash Bond on Appeal, to Clerk, U. S. District Court, Beaumont, Texas, to be deposited in Registry of the Court.	
10-11-78		Mailed certified copy of Notice of Appeal to each attorney of record; mailed certified copy of Notice and Docket Sheet to Clerk, Fifth Circuit Court of Appeals, New Orleans, La.	



## CIVIL DOCKET CONTINUATION SHEET

FPI-MI-3-14-75-50M-3511

PLAINTIFF		DEFENDANT	DOCKET NO. _____
			PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
10-17-78		NOTICE OF APPEAL of the State of Texas. DUE IN NO <u>11-27-78</u>	
10-18-78		Mailed certified copy of Notice of Appeal to each attorney of record and to Clerk, U. S. Court of Appeals, Fifth Circuit, New Orleans, Louisiana.	
11-27-78		Complete record on appeal forwarded to Clerk, Fifth Circuit Court of Appeals, New Orleans, Louisiana.	
12-18-78		MOTION OF THE UNITED STATES FOR PERMISSION TO TRANSFER RECORDS TO ADDITIONAL ATTORNEYS.	
12-21-78		LETTER REPLY of John C. Hardy stating that Defendant has no objection or no desire to oppose the Motions filed on December 18, 1978 by the United States.	
12-21-78		ORDER granting Motion of the United States to permit Mark L. Gross and Jessica D. Silver, Attorneys in the Appellate Section, Civil Rights Division, Department of Justice, to have full access to the record in this civil action. WWJ (s/12-20-78) V.63 P.34	
12-22-78		Mailed certified copy of Order to attorneys of record.	
12-22-78		Letter Reply of Richard Arnett, Assistant Attorney General stating that he does not desire to oppose the U.S.'s Motion for permission to transfer records to additional attorneys.	
12-2-80		Received 1 box of exhibits from 5th Circuit. Put in exhibit drawer.	
12-3-80		CERTIFIED COPY OF JUDGMENT ISSUED AS MANDATE 11-26-80. ORDERED that order of the District Court appeal from is AFFIRMED; it is further ordered that defts-appellants and intervenor-appellant pay to the pltfs-appellees the costs on appeal, to be taxed by the Clerk of this Court. s/10-20-80.	
12-3-80		Received copy of opinion and copy of Bill of Costs taxed in amount of \$809.84 on 11-26-80 by 5th Circuit. Received original record on appeal (two volumes).	
10-19-81		Request for Appeal Record from Fifth Circuit so they may certify to Supreme Court of U.S. Mailed record of 1 volume and transcript to Fifth Circuit this date.	
10-29-81		Receipt from Fifth Circuit for appeal record indicating they rec'd it on 10-22-81.	
9-17-82		Received notice from Fifth Circuit: "We have received a certified copy of an order of the Supreme Court denying certiorari in the above cause. This Court's judgment as mandate having already been issued to your office, no further order will be forthcoming."	
10-27-82		Plaintiffs' MOTION for Attorneys' Fees.	
11-3-82		ORDER that a hearing will be held November 10, 1982, 1:30 p.m., to determine amount of attorney fees. WWJ CC: attorneys.	
11-4-82		HEARING RESET TO 1:30 P.M., NOVEMBER 17, 1982, IN TYLER. (attys. notified by phone)	
11-19-82		MOTION of Deft., Tyler Independent School District, for refund of cost bond	
11-29-82		ORDER that the Clerk refund to the Tyler Independent School District its \$250.00 cash bond placed in the registry of this Court at the time the Appeal was perfected. s/WWJ 11/29/82.	
12-13-82		Two certified copies of Order handed to Finance Deputy. Copies mailed to counsel of record.	
3-11-83		ORDER REFUNDING BOND of \$500.00 to Mexican American Legal Defense and Educational Fund which was placed in registry on 9-15-77. WWJ (S/12-9-82) cc:attv and 2 certified copies to Finance Deputy.	
3-11-83		RELEASE AND SETTLEMENT AGREEMENT signed by MALDEF & ALLEN.	
3-11-83		RELEASE AND SETTLEMENT AGREEMENT signed by DAVES & ALLEN. (both releases w/order of dismissal to WWJ)	

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. <u>TY-77-261</u> -CA
J. and R. Doe, Et Al		Jim Plyler, Et Al	PAGE <u>6</u> OF <u>    </u> PAGES
DATE	NR.	PROCEEDINGS	
3-11-83		ORDER that this civil action is DISMISSED with prejudice to the refiling of same.            WWJ            V.98, P.3 cc:attys (3-15-83)	