Supreme Court of the United States
Washington 13, D. C.

CHAMBERS OF
ROBERT H. JACKSON

April 30, 1954

The Chief Justice

No. 406 - Hernandez v. Texas.

Dear Chief:

I agree.

R.H.J.

Supreme Court of the United States
Washington 13, D. C.

CHAMBERS OF
MR. JUSTICE REED

April 29, 1954

Dear Chief:

No. 406, Hernandez v. Texas.

I agree. Excellent!

Yours,

Stanley Reed

The Chief Justice.

FF

Supreme Court of the United States
Washington 13, D. C.

CHAMBERS OF
JUSTICE FELIX FRANKFURTER

April 29, '54

Dear Chief:

Of course I am for your result in Hernandez v. Texas, but I have two worries about the opinion.

The first seems to me particularly important. It concerns your first full paragraph on page 3. Your discussion there, in rejecting a "two-class" theory of the Fourteenth Amendment, is not restricted to equality of treatment in the administration of justice, and more particularly, in ensuring an undiscriminating jury system. Is it not highly undesirable to make generalized pronouncements of that nature prior to the disposition of the Segregation Cases? I would delete the entire paragraph.

The other question I want to raise is whether it is necessary as a matter of law to establish the existence of two definable groupings in the community based on differences of race, color or national origin reflected generally in the social institutions of a community before invalidating systematic discrimination on such inadmissible differentiation in the composition of juries. Specifically, if there were found to be what there was found here regarding Mexican exclusions from the jury, would not that be decisive even though the other discriminations summarized on pages 4 and 5 were not revealed in the record and indeed were not practiced? I should think that in these questions it is desirable to cover no

more ground than is needed to establish an unequivocally inadmissible discrimination

I suppose the fact that Mexicans are set apart in the community tends to show that they are in an inferior position in the eyes of non-Mexicans and therefore would carry that burden when judged exclusively by non-Mexican juries. But I should think that systematic exclusion of all members of a particular group, otherwise qualified, in the trial of a member of this excluded group, would constitute denial of equal protection of the law without proof that they are otherwise disfavored because set apart in the community.

Ever Yours,

F.F.

Supreme Court of the United States
Washington 13, D. C.

CHAMBERS OF
JUSTICE SHERMAN MINTON

April 30, 1954

Dear Mr. Chief Justice:

RE: No. 406 - HERNANDEZ V TEXAS

I agree.

Sincerely yours,

SHERMAN MINTON

The Chief Justice

Supreme Court of the United States
Washington 13, D. C.

CHAMBERS OF
JUSTICE HAROLD H. BURTON

April 29, 1954

No. 406 - Hernandez v. Texas

Dear Chief:

I agree. This is a clear and simple statement that seems to me entirely adequate and that should be helpful.

H.H.B.

The Chief Justice

Supreme Court of the United States
Washington 13, D. C.

4/30.

Dear Chief:— #406 Hernandez.

While Shay and I think that your facts - as related - set up a "straw man" we have decided not to dissent on a factual basis.

You have covered the

law in the field so well that we go along with you.

You may mark me as agreeing. I am sure that you will hear from Shay likewise.

Tom

Chambers of the Chief Justice:

NO. 406.

OCTOBER TERM 1953.

PETE HERNANDEZ — Petitioner

v.

THE STATE OF TEXAS — Respondent

Mr. Justice:

CIRCULATION

	1st. Draft 4/29		2d Draft		3r Draft		4th Draft		5th Draft	
	Date	Action	Date	Action	Date	Action	Date	Action	Date	Action
Black	4/30/54	Agreed								
Reed	4/29/54	Agreed								
Frankfurter	4/30/54	Agreed*								
Douglas	4/29/54	Agreed								
Jackson	4/30/54	Agreed								
Burton	4/29/54	Agreed								
Clark	4/30/54	Agreed								
Minton	4/30/54	Agreed								

REMARKS:

* Made some suggestions