

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

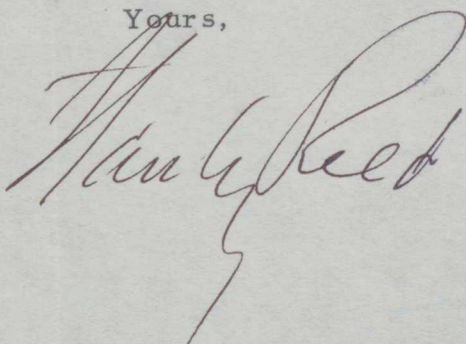
April 29, 1954

Dear Chief:

No. 406, Hernandez v. Texas.

I agree. Excellent!

Yours,

A handwritten signature in cursive script, reading "Stanley Reed". The signature is written in dark ink and is positioned to the right of the typed word "Yours,".

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,

VT.

