



THE UNIVERSITY OF TEXAS AT AUSTIN
DEPARTMENT OF CULTURAL FOUNDATIONS OF EDUCATION
COLLEGE OF EDUCATION
AUSTIN, TEXAS 78712
July 23, 1970

Dr. Hector García
1315 Bright at Morgan Ave.
Corpus Christi, Texas 78405

Dear Hector:

Thank you for the copies of the G. I. version of the Pete Hernández case. The court dictum and judgment are accurate enough, but the backgrounds of the Supreme Court appeal are left out. This leaves the reader to wonder why, for the first time in history, the Supreme Court concerned itself with the "class apart" theory---a theory first elaborated upon by myself in a course in which Carlos Cadena was a student.

I had long set forth, in my class, that the XIV Amendment protected against discrimination not only on the bases of "race, creed, color" but also on the basis of recognition and differential treatment against a recognized "class apart." This was then a very ticklish argument, hazardous to test (because the defendant's case could be seriously worsened on a retrial ordered by the U. S. Supreme Court). The highest Texas courts had ruled that "Mexican" were "white," so it was useless to argue in those courts that "Mexicans" were discriminated against because no "Mexicans" were on the jury panel, jury, etc.

So, Carlos and I (and nobody else) conceived of challenging the notion that, because "Mexicans" were legally "white," they couldn't complain that no "Mexicans" were on the jury, etc. The lawyers in the pre-Courts of Criminal Appeals case of Pete Hernández did not raise the "class apart" issue. They argued other technicalities, on which the Court over-ruled them. Carlos and I, then---still seeking a guinea pig case---decided that Pete's case (I never saw him, nor did other principal's in his appeal) was ideal. I won't go into details here.

So Carlos and I outlined the brief, Carlos put it in legal lingo, and the G. I. Forum and others made it possible to send

lawyers to Washington. All the lawyers except Gus were "window dressing." Gus argued Carlos' law and my factual findings brilliantly. One Justice asked him: "Counselor, why do you say your people are discriminated against in Texas?" Gus, in his best and inimitable way, strutted before the Bench and pontificated: "Your Honor, when my people are treated this way, when they are ... etc., I suspect a white man in the woodpile!"

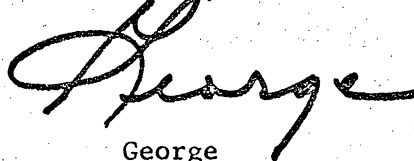
I have never asked for credit or publicity, but I do like to have the record straight. Your bulletin should be supplemented by a statement of antecedents.

The Pete Hernández case is an historic one. The G. I. Forum, and others, should take pride in it. However, even by indirection, no one except Carlos and I, with the eloquent assistance by Gus, can be credited with "master-minding" it.

This letter is not for publication. Please come by. If I go to Corpus, I'll notify you. Lately, eye-operations have messed me up. O. K. now.

I see some strange people around: Bentsen, Smith, etc. I may try Bush and Eggers. Smelly---but we can beat them next go-round.

Yours,

A handwritten signature in cursive script, appearing to read "George".

George

GIS:lm