

Attorney hopes to go beyond 'opening'

created by illegal alien decision



Photo by Sam Pierson, Chronicle staff

The utility companies turned off the juice in Isaias Torres' home while the temporarily penniless lawyer argued the case for educating illegal alien children in federal court.

BY BONNIE BRITT
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THE SON OF a rock quarry laborer, Isaias Torres was a dreamer in college. Unlike most dreamers though, it took him only 10 years to make his dream the law of the land.

Torres' dream was this: He wanted justice for people who we, as a society, ask to nurture our children, wash our underwear, mow our yards, pick our fruit and dig our ditches. Torres dreamed the laborers' children would be welcomed into the public school system rather than being banned for lack of paperwork. Torres took his dream to the high court, where the dream became reality.

He was the lead attorney on the Houston cases which became part of the landmark Supreme Court decision extending to undocumented immigrant workers the same legal protection blacks were granted in 1868 and Mexican-Americans were accorded in 1954.

A native of New Braunfels, Torres is 30 and four years out of Georgetown's law school. He and a team of lawyers from Houston, Tyler and Los Angeles won equal protection under the law for immigrants who come to work in the United States but who have no legal right to be here. The decision also gave their children the right to attend public schools here.

The high court victory, Torres says, is bittersweet. "There is never total victory in litigation. In this case children were damaged. Still, this is the first stage of the civil rights era for undocumented workers. This decision is easily comparable to the 1954 Brown vs. Board of Education decision abolishing the practice of 'separate but equal' schools for black youngsters."

Torres' concern for immigrants began with a young woman reared in an industrious family. He wed Consuelo Chavez 11 years ago when she was 16. He was 19. Consuelo's parents emigrated from Mexico when the girl was just 13. Like millions of immigrants from around the globe, the Chavez family came with high hopes of finding work and a better life.

"I was very impressed with her parents. Prior to meeting them I did not have that much exposure to the immigrant population. I noticed Consuelo's parents were hard-working, motivated and dedicated — the kind of people this country would want to have here," Torres says.

He also noticed the hardships immigrants endure at the hands of merchants and employers. "Immigrants sometimes get ripped off. When I realized what was happening, I was drawn to my own grandparents. I asked them about their experiences as immigrants. Both emigrated during the (Mexican) revolution of 1913. They told me how easy it was to come here

till the situation changed in 1954 with Operation Wetback." "That was an official crackdown by the immigration service in which the U.S. Army was used to pick up people. They called it repatriation. As it became more and more difficult to get into the United States, my grandparents decided to stop going back and forth. Though they were U.S. citizens, they enjoyed visiting the old country. They spent so much time in Mexico my father was educated there even though he was born here."

To support his new bride, Torres attended college part time and worked as a printer's helper in the pressrooms of Houston's two daily newspapers. He credits a falling-out with a pressroom foreman as the straw that ultimately convinced him to buckle down to full-time studies at the University of Houston. He was the first in his family to do so. Torres worked diligently, graduated with honors and was accepted at Georgetown.

There he co-founded an immigration law project that thrives today at the prestigious eastern school. He corresponded with Texas attorneys handling the alien children case at the state level and sent briefs he thought might be helpful. Meanwhile, Torres devoted his free time to scrutinizing the Supreme Court from the sidelines. Those observations prepared him to cross over to the attorneys' tables without shaky knees when the case for immigrant children was presented last December.

After leaving Georgetown, Torres joined the legal staff of the Houston Center for Immigrants in 1978. That center, located on Cochran Street in Houston's northside barrio, is known for championing the rights of the immigrant population, especially in matters where employers fail to pay undocumented workers for their work.

Torres filed the first alien education suits to reach federal court. By November 1979 the cases were consolidated and Torres was in private practice. He was to devote nearly a year to a case that netted him great satisfaction in pursuit of a dream — but no money.

He was motivated by little children like Hector Albavara, 10, and Veronica Palacios, 8, who watched as their playmates attended schools to which they were barred for varying periods of their childhood. Their parents had come to this country years ago, worked here in janitorial jobs and the like, and lived in overcrowded, ramshackle houses. For whatever reasons Hector and Veronica's families had not achieved either residency or citizenship status, the children became caught in the middle of a torrid, international controversy.

When the alien children education case came to trial before Federal District Judge Woodrow Seals in Houston,

Torres lived with his wife and two daughters in a garage apartment near Forest Park Cemetery in the East End. He recalls: "The trial was very intensive. We were in the courthouse every day. At night and on weekends I was preparing for the next day. My wife was in school at UH, and our bank account drained real fast. That's how our phone and utilities came to be shut off," muses Torres, who gathered his family and took them to Pasadena, where Consuelo's mother fed them dinner for the duration of the trial.

In the case that will go down in the law books as *In Re: Alien Children Education Litigation*, the Supreme Court — unanimously and for the first time — ruled that undocumented immigrants are covered by that section of the 14th Amendment that states "Nor shall any state . . . deny to any person within its jurisdiction the equal protection of the law."

"What they disagreed on is what sort of protection," Torres comments, "Five Supreme Court justices said education for children is part of 14th Amendment protection, and four said it is not."

What matters to Torres — and to the children's future — is that majority opinion prevails. He compares the high court decision to *Hernandez vs. the U.S.* in which 14th Amendment protection was extended to Mexican-Americans. Though a turning point in history, *Hernandez vs. the U.S.* paled in the spotlight focused on *Brown vs. the Board of Education*, perhaps because both historic decisions were handed down on the same day in 1954. *Brown vs. the Board of Education* impacted dramatically and immediately.

Torres admits to being inspired by seeing Justice Sandra Day O'Connor, who by his account was "the most prepared, the most articulate justice. She asked the most incisive questions and was most sympathetic. She drilled the state attorneys no end. Funny thing though, I went away thinking O'Connor would cast the deciding vote. I was surprised she voted against us. (Justice Lewis) Powell cast the swing vote. I think O'Connor is still a creature of political habit. With more years on the bench, that may change."

In Texas, thousands of immigrant

children waited for years — sometimes in, sometimes out of school — until litigation ended. In June, the Supreme Court ruled that their right to attend public school is no longer in dispute. Houston's was the largest school district at issue in the class action case that also named Tyler, Texas, as a co-defendant. Texas is the only state that banned children whom everyone agrees live here from the public schools.

The crux of the dispute centered on whether or not the floodgates of immigration would open if children of illegal immigrants were allowed to attend free public schools. The battle was fought by opposing demographers, statisticians, sociologists, psychologists, psychiatrists, educators and school financing experts called to testify on whether or not the community and the children themselves were being harmed by Texas' refusal to admit the children to public schools.

In Chicago, the issue was settled on a local level in favor of the immigrant children by a 1978 lawsuit. In 1977 Los Angeles ended the practice of admitting alien children then turning around and reporting them to immigration authorities. The New York City Board of Education passed a resolution specifically forbidding the school district from policing the schools for illegal immigrants.

But in Texas, Torres says: "There is genuine fear here because this used to be Mexico. There is fear that the development of civil rights for Mexicans will lead to major conflict between the English and Spanish-speaking populations. Much of this conflict centers around language rights. Until 1969, I grew up with a law that made it a misdemeanor to speak Spanish on school grounds. I suppose that law was based on a fear of the Mexican population becoming dominant in the community politically, legally and otherwise." The law banning the use of Spanish in the public schools was repealed by the Legislature in 1969.

Despite arguments to the contrary raised by Texas school boards, Torres says, "The Supreme Court decision opening the schools to immigrant children is not a money-absorbing decision." The decision will not result in an opening of floodgates for illegal migration, he says, since immigrants come here primarily for jobs and not schooling.

"Even the Houston establishment recognized that undocumented Mexican aliens are mainstays in the local economy. That position was reflected in an article printed in the Houston Business Journal dated May 5, 1980," Torres says.

Mexican immigrants have traditionally accepted jobs that no one else wants. "They dig irrigation ditches, work construction sites and take land-

scaping jobs. While there have historically been repeated sweeps of undocumented workers, these workers have traditionally underwritten the economy of the Southwest. They are fundamental to the Houston economy, and the business community realizes this.

"Alien workers hardly ever claim their benefits. Tax money is normally withheld from their checks, but they rarely if ever claim Social Security, unemployment, Medicare, food stamps or disability insurance," Torres says.

He continues: "Undocumented aliens do pay their taxes and contribute positively to the community. The innocence of children is not the issue here. Undocumented workers in general are not a negative force. They take very difficult back-breaking jobs that residents will not take. We saw that well documented with the results of Operation Jobs. Immigrant workers were picked up and deported, but the Texas Employment Commission and the employers themselves reported that those jobs were not filled by U.S. citizens or permanent residents."

Torres reasons that if the United States willingly exploits illegal Mexican labor, then it ought to be sensitive to the harm that results to the children and to the community from banning the laborers' children from attending school. "Fortunately, the court agreed. There has been no decision like this since 1954. It is an opening," he says.

Softspoken throughout the interview, Torres appears ruffled when Texas' request for federal aid to fund the children's education is brought up. In a word, he's against it. "They are just jockeying for political position. It is absurd. Texas ranks fourth in wealth in the nation and 42nd in per-pupil expenditures. Other states should not foot the bill for this," he says.

Torres had his day before the Supreme Court and he may again. He plans another case — this time on higher education — that will likely be as hotly contested as the last. "We've chosen a family who has been here many years to show how irrational the law is and how harsh it is on the family. It is a case in which the father is a U.S. citizen and one of his children is allowed in school and the other isn't."

In the meantime, Torres' penniless days appear to be over. He works out of a plush law office on Richmond with the firm of Lopez, Medina, Ramirez and Torres, which he helped found. The civil rights attorneys take on numerous wage and hour cases.

He grimaces, "You'd be surprised how many Salvadoreans work at car washes 12 hours a day, seven days a week without being paid overtime."