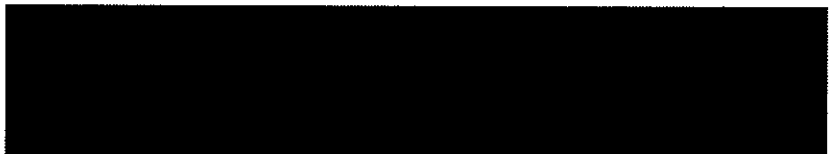
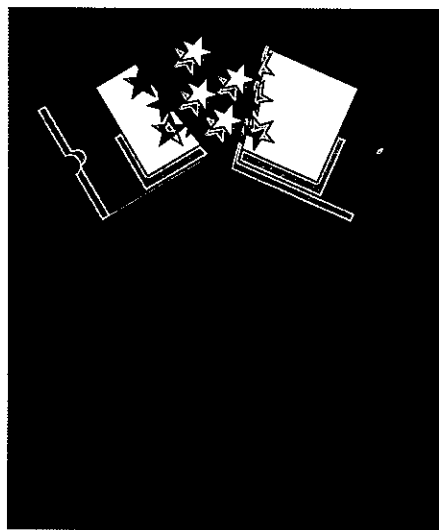


# Exploring THE COLOR OF JUSTICE



The Problem We All Live With, from the collection of the Norman Rockwell Museum at Stockbridge, reproduced by permission of the Norman Rockwell Estate Licensing company, Niles, Illinois.

## an IRT Study Guide

### Separate but Equal?

**S**chool segregation is an issue which still haunts us today, despite a landmark decision by the United States Supreme Court almost 50 years ago banning the institution as inherently discriminatory. To examine the roots of this issue, we must dig even deeper into history.

In 1865 the 13th Amendment to the Constitution ended slavery in the United States; but a tradition of more than 200 years of black oppression did not simply end with the ratification of one law. Many white Americans, particularly in the South, where slavery was most prevalent, were unwilling to grant black Americans the equal rights guaranteed to them by not only the 13th but also the 14th and 15th Amendments. Unscrupulous politicians quickly found ways to get around these federal laws. Local “grandfather” clauses, for example, limited voting rights to those whose grandfather had voted; since slaves had never been allowed to vote, no newly freed black Americans had grandfathers who had voted, and thus their right to vote was denied.

Other so-called “Jim Crow” laws prohibited black citizens from using public facilities designated for whites only. In theatres, blacks had to sit in “colored” balconies separated from the whites on the main floor. Not only did trains have separate cars for black passengers to ride in, train stations had separate waiting rooms for black passengers to wait in. Invariably, these “colored” facilities were cheap and

shoddy compared to the forbidden “white” facilities. An 1896 Supreme Court case known as *Plessy v. Ferguson* decreed that such “separate but equal” facilities were perfectly acceptable under the Constitution. Of course, such “separate” facilities for blacks were rarely, if ever, “equal” in quality to those reserved for whites only, but proving such inequalities in a court of law was extremely difficult.

In the early 1950s, the NAACP was involved in several court cases dealing with the issue of school desegregation. Five of these cases were appealed to the Supreme Court under the “umbrella” of *Brown v. Board of Education of Topeka, Kansas*. In her play *The Color of Justice*, playwright Cheryl L. Davis creates a fictional family, the Carters, who are one of many families involved in the Topeka case. Young Grace Carter is dissatisfied with the cast-off textbooks and equipment which her “col-

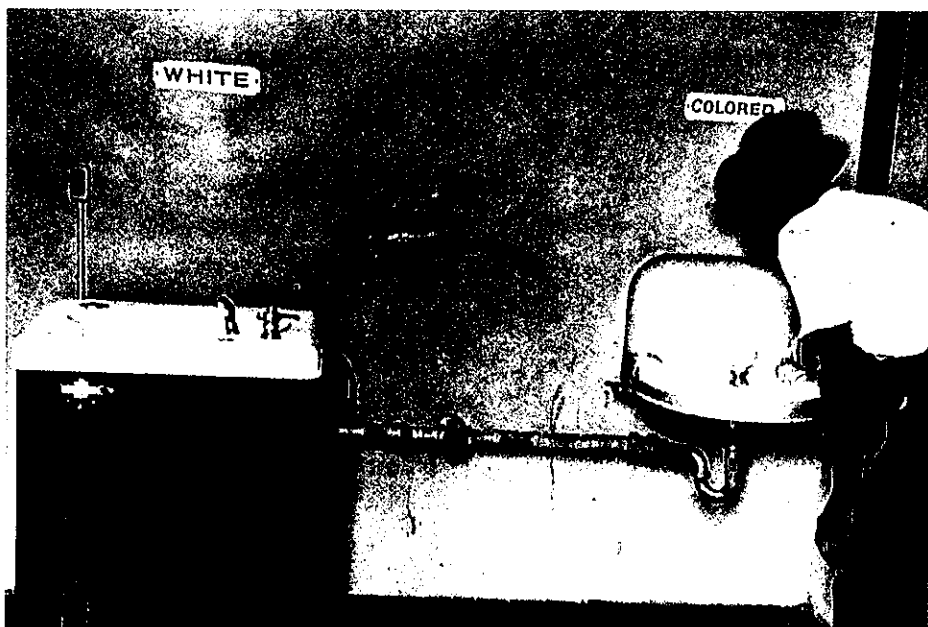
ored” school receives from the white schools. Her parents, Ernest and Marion, are concerned about the long, dangerous walk she must make every day to a school located across town from their home.

The Carters join several other black Topeka families in a court case petitioning the school board to end segregation. After they lose locally, they appeal. During the process Grace loses friends and her parents are threatened. Still, they stick to their principles, all the way to the Supreme Court.

Although the Carters are a fictional family, their experiences are representative of what many such families actually experienced during this time. Friends and jobs were lost and homes were threatened, some even burned. An experiment depicted in the play involving two dolls, one white and one black, is very similar to tests conduct-

ed by psychologist Kenneth Clark in his work for the NAACP. And although Thurgood Marshall never actually spoke in Topeka, as he does in the play, he did travel to many other places in the country to do similar work. In combining certain historic figures and compressing the sequence of certain events, the playwright uses dramatic license to craft a vivid, compelling portrait of an important episode in our American history. ★

*The Color of Justice*, while inspired by historical characters and events, is a work of fiction, and does not make any factual representations whatsoever.



Briggs v. Elliott

Brown

Belton-Bulah v. Gebhart

Davis v.  
County School Board of Prince Edward County V.

Bolling v. Sharpe

# Board of Education of Topeka, Kansas

The Supreme Court decision in the case known as *Brown v. Board of Education* is actually a response to five different cases heard at the same time. In the early 1950s, the NAACP became involved in a number of cases throughout the United States which challenged the concept of “separate but equal” education. When five cases dealing with this issue were appealed at approximately the same time, the Supreme Court decided to hear all five cases at once. Because the Court did not wish to give the impression that the issue applied only to the South, *Brown v. Board of Education of Topeka, Kansas* was the “umbrella” name given the case. But each of the five cases was unique.



The *Briggs v. Elliott* case originated in Clarendon County, South Carolina. When Joseph DeLaine, principal of a black school, tried to get one school bus for black students out of 34 buses used for white students, he was fired from his job and his house was set on fire as local firemen watched it burn to the ground. The NAACP filed a lawsuit against superintendent R. W. Elliott, with twenty black citizens of Clarendon county as petitioners. Harry Briggs, father of five, a gas station attendant and a Navy veteran, was the first to sign the petition; during the hearing, he was fired from his job.

The Brown in *Brown v. Board of Education of Topeka, Kansas* was Oliver Brown, father of seven-year-old Linda Brown. The Browns wished for their daughter to attend a nearby school designated for white children, rather than travel more than an hour all the way across town to the designated “colored” school. The Browns were only one of several families who filed a joint lawsuit, but Mr. Brown’s name was first on the list.

In 1951, two similar joint lawsuits were filed in Delaware: *Belton v. Gebhart* and *Bulah v. Gebhart*. It was a major victory in 1952 when the NAACP won these Delaware cases, but the state appealed the decisions.

*Davis v. County School Board of Prince Edward County* began when 16-year-old Barbara Rose Johns convinced all 450 students at her Virginia school to strike for better conditions; the students remained on strike for two weeks, until 117 signatures were collected on a petition to desegregate their county schools.

The fifth case was *Bolling v. Sharpe*. A Washington, DC, barber named Gardner Bishop, unhappy with the conditions in his daughter’s black school, attempted to enroll eleven black children in a new white school; when they were denied, a lawsuit was filed.

The Briggs, Brown, and Davis cases were all appealed to the Supreme Court by the NAACP, while the State of Delaware appealed the Belton-Bulah decisions. The Court decided to hear the Bolling case at the same time as the others.



(above) Before integration, black schools were often crowded into one room and poorly equipped.

(left) The plaintiffs in the Davis case.

(below) Thurgood Marshall, James Nabrit (the lawyer in the Bolling case), and Jack Greenberg (NAACP lawyer in the Brown case—and another character in the play).

(right) Even after the Brown decision, school integration was a controversial issue. In this photo, white students shout racial epithets at Elizabeth Eckford, one of the first black students to attend Central High School in Little Rock, Arkansas, in 1957.

(bottom) On the steps of the Supreme Court, Mrs. Nettie Hunt explains the Court’s decision to her daughter, Nikie.



A Supreme Court hearing is unlike any other court proceeding. No witnesses are called, and the hearing is relatively brief. Before the hearing, the Justices familiarize themselves with the previous court proceedings of the case being appealed. Each party also submits a legal brief summarizing their arguments. At the hearing itself, each lawyer has one hour to present his client’s case. The Justices may interrupt at any time to ask questions. If the counsel does not use his entire hour, he may save that time for rebuttal of his opponent.

In December 1952 the Supreme Court heard arguments concerning *Brown v. Board of Education*, with ten different lawyers presenting the opposing sides of the five cases. Thurgood Marshall appealed the *Briggs v. Elliott* case. His opposing attorney was John W. Davis, one of the nation’s most respected attorneys, a veteran of 140 Supreme Court cases. After three grueling days of intense debate, it was time to wait for the Court’s decision.

The justices of the Court are always deliberate, but this case was particularly challenging. After six months of consideration, the Court asked the parties in the cases to appear for re-argument, focusing specifically on the intent of Congress when the 14th Amendment was approved. The re-argument occurred in December 1953, one year after the initial hearing.

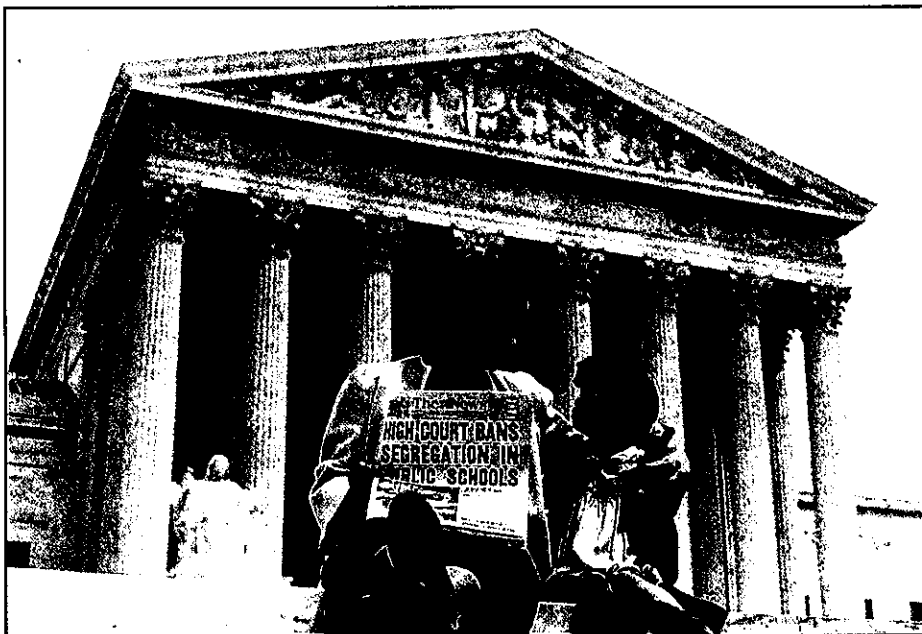


Chief Justice Earl Warren was convinced that a decision this controversial needed to be unanimous, and it took him several months to convince all eight associate justices to agree. On May 17, 1954, Warren read the Court’s decision:

We conclude that in the field of public education the doctrine of “separate but equal” has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated . . . are . . . deprived of the equal protection of the laws guaranteed by the 14th Amendment.

Implementation of the Court’s order was not immediate. In May 1955, one year later, the Court decreed that desegregation must be accomplished “with all deliberate speed.” Few if any of the students named in the original cases ever attended integrated schools themselves.

Nonetheless, an important battle was won: the decree that segregation of schools in the United States is not legal. This was only one of many battles, however, in the long, difficult, and ongoing struggle for equal rights for all Americans. Even today, almost fifty years later, the reverberations of *Brown v. Board of Education* can still be heard in our nation’s schools, and in our courts. ★



# Thurgood Marshall

Thurgood Marshall was born in West Baltimore, Maryland, in 1908. His father, William, was a dining-car waiter for the Baltimore & Ohio Railroad, and his mother, Norma, was a teacher in a segregated school. Thurgood and his older brother, Aubery, attended segregated schools. Their father was interested in the law and liked to debate the issues of the day with his sons, and both parents taught their sons to have pride in themselves.

Aubery Marshall attended Lincoln University, a traditionally black college in Pennsylvania, eventually becoming a doctor specializing in tuberculosis. Thurgood also attended Lincoln, where he was a popular student and star of the debate team. Upon graduation, he was denied admission to the University of Maryland School of Law due to his color; this event would have a profound effect upon the rest of his life and career.

Marshall graduated first in his class from the Howard University Law School in Washington DC in 1933, and set up practice in Baltimore. It was the height of the Depression, and many clients could not afford legal fees. Marshall became known as a champion of the underdog, “the little man’s lawyer.” In 1934 he became the lawyer for the local chapter of the NAACP.

In 1936 Marshall moved to New York City to work with Charles Houston, one of his Howard University professors who was now the NAACP special counsel. In 1938 they had their first major victory; the Supreme Court ruled in favor of a black student who wanted to attend the formerly all-white University of Missouri Law School; this was the first of numerous school desegregation



cases Marshall would win in his career. In 1938 Marshall succeeded Houston as the NAACP’s chief counsel; the next year he was named director of the new NAACP Legal Defense and Educational Fund. Over the next several years, due to the efforts of Marshall and his team of NAACP lawyers, the Supreme Court abolished state laws denying blacks the right to vote and rights to decent housing. Black students also won the right to attend graduate school at several southern universities. Marshall himself came to be known as “Mr. Civil Rights.”

Marshall’s most famous case was *Brown v. Board of Education* in 1954. All in all, he won 29 out of 32 Supreme Court cases he argued. In 1961, President John F. Kennedy appointed Marshall to the US Court of Appeals. Every one of 100 decisions he made there was upheld by the Supreme Court. In 1965 he was appointed US Solicitor-General; this is the third highest legal office in the nation, after Attorney General and Assistant Attorney General; In this position, Marshall argued numerous cases on behalf of the federal government.

In 1967, President Lyndon Johnson appointed Marshall to the Supreme Court itself; he was the first African American ever to become a Supreme Court justice. For more than twenty years he served on the highest court in the land. He retired in 1991 and died in 1993.

Throughout his long life and career, Thurgood Marshall was a champion of equal rights under the law and equality of education. He never stopped believing, as he said in 1954, that “provided it is adequately enforced, law can change things for the better; moreover, it can change the hearts of men.” ★

# Questions for Critical Thinking

Imagine the challenges faced by children like Grace Carter who risked their friendships, their homes, and their personal safety to try to achieve an important goal. What other examples can you remember of children who accomplished extraordinary things? How do you think you would respond if you were faced with such a challenge?

How did the Brown decision make life better for African Americans? In what way did the decision create new challenges for all Americans to face? Discuss the impact this decision has made in American life, not only in school, but beyond. How might your life be different if school desegregation had never occurred?

Since this case was decided in 1964, how far has America come in realizing equal rights for all? Does racism (and other forms of prejudice) still exist today? What can we do to fight racism and achieve equal rights? Think about not only big, important efforts but also small, important everyday actions, choices, and decisions which can make a difference. What role should the government play today in ensuring or enforcing equal rights?



# vocabulary

## brief

A legal brief is a concise statement of the legal points of a law case, usually filed by counsel for the information of the court.

## Constitution

The United States Constitution is the central framework for the laws and government of our country. Written in 1787 by a committee representing all thirteen original colonies, it established the three chief branches of US government: legislative (Congress), executive (the President), and judicial (the Supreme Court). Among the chief points at issue at the time of its creation was how much power to allow the central government and how much power would be retained by state and local governments. This issue of states’ rights continued to be important throughout the twentieth century, as different parts of the country felt differently about Civil Rights issues. The work of many minds, the Constitution stands as a model of cooperative statesmanship and the art of compromise.

## counsel

A lawyer or group of lawyers giving advice about legal matters and representing clients in court.

## Jim Crow Laws

Even though the 13th Amendment abolished slavery and the 14th and 15th Amendments guaranteed equal

rights for all citizens, many southern states in the late 1800s enacted laws intended to deny equal rights to blacks. Such laws were called Jim Crow laws. Jim Crow was an insulting term for black people, coming from the name of a minstrel show character. Many of these laws involved the establishment of segregation through separate facilities marked “White” and “Colored.”

## NAACP

The National Association for the Advancement of Colored People was established in 1909. It worked to prevent violence against blacks, unjust legal penalties, and job discrimination. Much of its activity centered on passage and enforcement of anti-lynching laws. During World War II (1939-1945), the NAACP tried to obtain equal rights for black military personnel and more job opportunities for black civilians. After the war, the association stepped up its long struggle against the policy that treated blacks as “separate but equal.” Today the NAACP continues its work to end discrimination against blacks and other minority groups

## plaintiff

A person who brings a suit into a court of law; the complainant.

## Plessy v. Ferguson

In 1892, Homer Plessy purchased a first-class train ticket in New Orleans. When he refused to sit in the “col-

ored” coach, he was arrested. Judge John Ferguson ruled against him, but he appealed the case all the way to the Supreme Court. In 1896, the Supreme Court upheld the “separate but equal” law of Louisiana, and *Plessy v. Ferguson* put the Supreme Court stamp of approval on segregation throughout the South.

## suit

An action to secure justice in a court of law; an attempt to recover a right or claim through legal action.

## Supreme Court

The Supreme Court, as its name suggests, is the highest judicial authority in the United States. It consists of a Chief Justice and eight Associate Justices who are charged by the Constitution with interpreting the laws of the land. Specifically, the Court reviews the decisions of lower courts—state courts, federal courts, and appeals courts—and determines whether their decisions are consistent with the Constitution. Most law cases begin in a local court. The losing party has the right to appeal to a higher court; perhaps, eventually, all the way to the Supreme Court. If the Supreme Court agrees with the decision of a lower court, that decision is upheld and becomes binding on all parties. If the Supreme Court determines that the finding of a lower court contradicts the Constitution, that decision is overruled and becomes invalid.

## v.

versus; in contest against. ★

# Civil Rights in America

- 1661 Virginia is the first American colony to give statutory recognition to slavery.
- 1777 Vermont abolishes slavery.
- 1787 The U.S. Constitution, with three clauses protecting slavery, is approved at the Philadelphia Convention.
- 1793 The first fugitive slave law is enacted by Congress, making it a criminal offense to harbor or prevent the arrest of a fugitive slave.
- 1800 The black population of the United States totals 1,002,037; of those, 108,435 are free, and 893,602 are held in slavery.
- 1816 Indiana's Constitution forbids slavery.
- 1831 Nat Turner leads a slave revolt in Virginia, killing some 60 whites overnight. Turner and his followers are caught the next morning, and dozens of innocent slaves are tortured or killed in retaliation.
- 1837 Indiana law provides that local school corporations should include white residents only.
- 1852 Harriet Beecher Stowe's novel *Uncle Tom's Cabin* is published, leading to popular support for abolition.
- 1857 The Supreme Court, in the Dredd Scott decision, declares that slaves are property and cannot sue for rights as citizens.
- 1861 The Civil War begins, and thousands of slaves begin the process of self-emancipation, many fleeing to Union lines and joining their efforts to those of the Union soldiers.
- 1862 Congress abolishes slavery in Washington, D.C.
- 1863 President Lincoln issues the Emancipation Proclamation, freeing slaves in Confederate states.
- 1865 The Civil War ends.
- 1865 The 13th Amendment to the U.S. Constitution abolishes slavery.
- 1866 The Ku Klux Klan is founded.
- 1868 The 14th Amendment is ratified, extending citizenship rights to African Americans.
- 1869 Indiana authorizes the establishment of separate schools for Negroes.
- 1870 The 15th Amendment is ratified, prohibiting voting laws which discriminate on the basis of race.
- 1875 The Civil Rights Bill of 1875 provides for equal access to public accommodations without regard to race.
- 1896 The Supreme Court, in *Plessy v. Ferguson*, establishes the standard of "separate but equal" as an acceptable justification for segregation.
- 1909 The NAACP is founded.
- 1910 Madame C. J. Walker opens Indianapolis headquarters for her hair and skin-care products company.

- 1936 Jesse Owens is the top athlete at the Berlin Olympics. Hitler leaves the stand when Negro athletes come forward to receive their medals.
- 1939 Marion Anderson is refused permission to sing in Constitution Hall by the Daughters of the American Revolution because she is black. Eleanor Roosevelt resigns from the DAR in protest and arranges for Anderson to perform for 75,000 at the Lincoln Memorial.
- 1942 The United States Army, Navy, and Marines admit blacks for unsegregated training.
- 1945 Thousands of white students walk out of classes in protest of integration in Gary, Indiana.
- 1947 Jackie Robinson breaks the color barrier in big league baseball, becoming the first black in the major leagues.
- 1949 The Ku Klux Klan meets in Montgomery, Alabama, to form a national association of six Southern states. Intimidation activities and violence escalate through the fifties and sixties, and blacks mobilize to gain the rights granted them through constitutional amendment but never realized.

- 1957 In a major challenge to *Brown v. Board of Education*, Arkansas Governor Orval Faubus refuses to integrate Little Rock schools. It takes a presidential proclamation, the 101st Airborne Division, and the state militia to ensure the safe entrance of nine black teenagers to the high school.
- 1960 The era of sit-ins and "Freedom Rides" all over the South: black youths begin to conduct protests against segregated restaurants, parks, swimming pools, etc. They also assert their rights on public transportation, often eliciting violence.
- 1962 President Kennedy sends federal troops to the University of Mississippi to ensure the safety of James Meredith, the first black student to enroll in the famous southern school. The riot which ensues leaves two dead, 200 arrested, and dozens of weapons confiscated.
- 1963 Civil Rights activist Medgar Evers is assassinated in Jackson, Mississippi, where he had been leading a campaign for fair employment and integration against a stubborn city government. His killer will not be convicted until 1993.
- 1963 Martin Luther King, Jr., delivers his famous "I Have a Dream" address at the Lincoln Memorial.
- 1964 Congress passes the Civil Rights Act, aimed at ending discrimination against blacks and other minority groups. The law provides measures to ensure equal rights for all Americans to vote, to work, and to use public accommodations, public education, and programs receiving federal funding.
- 1967 Thurgood Marshall is the first African American ever to become a Supreme Court justice.
- 1974 Court-ordered busing to achieve racial integration in schools leads to violence in Boston.
- 1978 The Supreme Court rules that fixed racial quotas in school admission policies are unconstitutional.
- 1987 *Ebony* magazine reports that, although the number of middle-class blacks more than doubled between 1969 and 1984, still only 30% of black families fall into this category, as opposed to nearly 50% of white families.
- 1992 Three days of riots erupt in Los Angeles after four white police officers are acquitted of beating a black motorist, Rodney King.
- 1997 Winning the US Masters, Tiger Woods is the first black man to win a major golf championship.



- 1954 The landmark Supreme Court case *Brown v. Board of Education* brings an end to legal education discrimination. Chief Justice Earl Warren declares in his opinion that "separate educational facilities are inherently unequal." The decision compels schools to accept both black and white students, although in many southern states the ruling is ignored.
- 1955 Rosa Parks, a department store seamstress, refuses to give up her seat to a white man on a bus in Montgomery, Alabama. She is arrested and her action launches the Montgomery Bus Boycott, a 381-day event which results in the Supreme Court order to desegregate the bus system in Montgomery. The young Martin Luther King, Jr., comes forward as a leader in this event.

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### Upcoming Student Matinees

*Art* • February 20

*Agnes of God* • April 10

*Julius Caesar* • Tuesday-Friday, April 3 - May 10

*Ah, Wilderness!* • April 30, May 1, 2, 3, 8