

**Chapter 19:
Measure of Progress**



All Pianos Have Keys & Other Stories

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Chapter 19: Measure of Progress

“Mr. Juan Hernández is here to see you.”

“Who?”

“Mr. Juan Hernández. He says you do not know him, but you have heard of him.”

“Dr. Cárdenas? *Yo soy Juan Hernández. El Señor Kaimowitz me dijo que hablara con usted.* [I am Juan Hernández. Mr. Kaimowitz asked me to talk to you.]”

Similar conversations have become a part of daily life. I strained to remember but couldn't. I said a few pleasant trivial things, “How are you?” etc., keeping the conversation going while I tried to remember or pick up some clue – any clue to prevent the embarrassment of having to say, “I don't know who you are, please tell me.”

“My daughter, Guadalupe Hernández...”

That rang a bell, “Guadalupe Hernández...,” and suddenly flood gates of my memory opened, inundating me with information.

Guadalupe Hernández... *Hernández v. Porter*... Michigan... “Mr. Kaimowitz sends his regards...”

Gabe Kaimowitz, attorney... never met him, but communicated with him... both by phone and mail...

“Dr. Cárdenas, we just moved to San Antonio. Mr. Kaimowitz gave me this note with your name and address. He said that if we had any problems to contact you immediately.” They say that in the split second between the realization that death is coming and the end of life, a person's whole life comes into consciousness. I really don't know, never having been in that situation, but I do know that at the moment of remembering, large quantities of stored knowledge immediately surface. Not as if it goes past chronologically or in any other type of sequence. It is suddenly all just there.

This happened now. Guadalupe Hernández... 10, no 11 years-old now... born in Texas... Mexican American... Spanish speaking... moved to Detroit... enrolled in the public schools...

“*Por favor sientese, Señor Hernández.* [Please have a seat, Mr. Hernández.]”

Those who study human behavior say that the human mind seeks closure. We enjoy entering the last word in a crossword puzzle, closing a circle. It felt like that to see Juan Hernández, who up to now had been only a name. I wished I could see Guadalupe.

Guadalupe Hernández moved with her parents to Detroit, Michigan. In September 1970, she was enrolled in the first grade in the Detroit Public School System. Like so many other children moving toward the northern part of the United States with their families looking for better work, she had been reared in a Spanish-speaking home. At the time of the first grade enrollment, she spoke no English.

The psychometrist who spoke no Spanish administered an individual intelligence test and, in spite of the incompatibility of language, determined the child was not mentally retarded.

Yet the school had no program to deal with a 6-year-old child who spoke no English. So the psychometrist recommended that she be placed temporarily in Logan School which had a class for

mentally handicapped children. The reason for the recommendation was that the classes for the mentally retarded were much smaller and could allow for one-to-one instruction made necessary by the language characteristic.

Unfortunately, none of the school personnel to whom Guadalupe was assigned did or could communicate with her in Spanish. She was placed in a classroom with mentally handicapped children and stayed there for two years without any special instruction compatible with her language characteristic, but very compatible with the non-existing mentally retarded characteristic.

In September 1972, the Hernández family moved to the Lincoln Park School District in Michigan. Again, Guadalupe was placed in a class for mentally and/or emotionally handicapped children; again, in an all-English instructional program.

Guadalupe's parents, aware of the disservice being done to their child, attempted to have her moved out of the class for the mentally retarded. In her own neighborhood, Guadalupe was already labeled a "dummy," and her parents were aware that she was not doing well in school. Efforts to get her out of the class for the mentally retarded were unsuccessful for five years.

Finally in 1975, after hearings requested by a community organization, it was determined that Guadalupe had been misplaced, and she was moved to a regular classroom. But since it was evident that she was not mentally retarded, no special program was afforded or made available to her.

Finally, the family, along with the families of other children in similar circumstances, sued the school districts, the Michigan Superintendent of Public Instruction, the Michigan State Board of Education, and just about everybody connected with the situation.

Although I never met with Gabe Kaimowitz, who handled the case for the Michigan Legal Services, Inc., there was extensive communication between us, and using some of the arguments I had previously presented in *U.S. v. Texas* and *Keyes v. Denver*, the attorney won the case. A final settlement was reached in 1977.

A lot of publicity associated with this case was that the families asked not only for injunctive relief in the Federal District Court, but also asked for payment for damages suffered by the children involved at the hands of the school, making the case an early "educational malpractice" suit.

"Dr. Cárdenas, we just moved to San Antonio. Mr. Kaimowitz gave me this note with your name and address. He said that if we had any problems to contact you immediately."

"Please have a seat, Mr. Hernández, what seems to be the problem?"

"Well, we moved to San Antonio and enrolled Guadalupe in the school district where we live."

"That's nice."

"Well, it's not that nice. In spite of our objections, on the basis of her records, which show placement in special education in Michigan, she has just been placed in a special education class for the mentally retarded, and..."