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IN THE
BALTIMORE CITY COURT.

DONALD G. MURRAY

VS.

RAYMOND A. PEARSON et al.

REPLICATION

Mr. Clerk:

Please file, etc.

Thurgood Marshall.

THURGOOD MARSHALL
ATTORNEY AT LAW
604 PHOENIX BUILDING
BALTIMORE, MD.

FILED

21st May 1935.

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DONALD G. MURRAY

vs.

IN THE BALTIMORE CITY COURT

RAYMOND A. EBARSON, et al

1. ~~has set up and~~ REPLICATION ~~of the answer~~, or ever has
2. ~~made~~ Now comes Donald G. Murray, Petitioner, by Charles H. Hous-
3. ton, Thurgood Marshall and William I. Gosnell, his attorneys, and
4. for reply to the answer filed by the defendants to his petition
5. for writ of mandamus says:
6. As to that portion of the answer denominated by the defendants
7. "a further answer", beginning page 3, line 16, and continuing
8. thence to the end of said answer, page 7; and dealing with the
9. paragraphs of said "further answer" seriatim, paragraphs numbered
10. 1 through 6 as appears therein - - -
11. 1. He admits that he is a Negro. He denies that the State of
12. Maryland provides adequate, or satisfactory or equal educational
13. facilities or opportunities to Negroes of the State, or that the
14. State maintains separate institutions of learning for Negroes
15. except in the elementary, high school, normal and agricultural
16. departments or levels. He denies that any of said separate in-
17. stitutions are adequate, or satisfactory or equal, but avers that
18. severally and collectively they are inadequate, unsatisfactory
19. and inferior to similar institutions for the education of white
20. persons provided and maintained by the State of Maryland, in viola-
21. tion of the 14th Amendment to the Constitution of the United
22. States. Petitioner avers that he is a citizen of Maryland en-
23. titled to the equal protection of the laws under the 14th Amend-
24. ment aforesaid, no more and no less, and as such does not desire
25. any special protection, privilege or benefit above that accorded
26. the white citizens or persons of the State, and objects to any
27. unequal burden or discrimination placed upon him by the State on
28. account of his race or color. He avers he is ready and willing
29. to matriculate and attend, and to abide by the same rules and regu-

1. lations of the School of Law of the University of Maryland, upon
2. the same terms and conditions governing the matriculation and at-
3. tendance at said school of any student white or otherwise.
4. 2. He denies that the General Assembly of the State of Mary-
5. land has set up and/or that the State now maintains, or ever has
6. maintained, an elaborate or adequate system of education for Ne-
7. groes in Maryland, free or otherwise. He avers that the State
8. through its General Assembly, in violation of the 14th Amendment
9. of the Constitution of the United States, has established a system
10. of education for Negroes in Maryland unequal, inferior and inade-
11. quate in every respect; that in the matter of school terms,
12. teachers' salary schedules, transportation, physical plant, number
13. and distribution of schools, curriculum offerings, enforcement of
14. school attendance laws, and other respects, the State both by law
15. and official administrative policy discriminates directly itself
16. and/or through its subordinate governmental subdivisions having
17. jurisdiction in its premises, against its Negro citizens and the
18. Negro population of the State. Further he denies that the State
19. maintains or provides any institution of higher learning for Ne-
20. groes, except a State normal school. He denies that the Prin-
21. cess Anne Academy is an institution of higher learning, and avers
22. that the defendants, the Board of Regents, and their predecessors
23. in office, have deliberately maintained the said Princess Anne
24. Academy as an inferior, ill equipped, underfinaced and poorly
25. staffed institution of less than true collegiate or junior col-
26. legiate rating, under the guise of an institution for higher learn-
27. ing and labelled the Eastern Branch of the University of Maryland,
28. and that the same constitutes a fraud upon the rights of the Negro
29. citizens of the State of Maryland and a denial to them of the
30. equal protection of the laws guaranteed them under the 14th Amend-
31. ment to the Constitution of the United States. He admits the
32. existence of the acts of 1933 and 1935 alleged in said paragraph
33. 2 of defendants' "further answer", but denies that the same offer

1. or provide equal or satisfactory educational opportunity to Ne
2. groes in the premises; and avers that although many Negro stu-
3. dents have made applications for scholarships under said Act of
4. 1933, no Negro student has received any substantial money grant.
5. He avers that said legislation subjects Negro students to tests
6. and other conditions not imposed or required of white students of
7. Maryland seeking the same educational courses, in violation of the
8. equal protection clause of the 14th Amendment of the Constitution
9. of the United States. Further as to said Act of 1933, he avers
10. that said Act does not grant any increased bounty to Negroes for
11. educational opportunity, but in reality decreases the resident
12. opportunities to Negroes for education within the State by pinch-
13. ing off money out of the budget of the Princess Anne Academy,
14. which both before and after the passage of said Act was inadequate,
15. penurious, and unable to support an institution of higher
16. learning conducted upon any standard maintained by the State for
17. the higher education of white students in Maryland. Petitioner is
18. without information as to the operation of the said Act of 1935
19. and can neither affirm nor deny, but calls for strict proof of any
20. matters relevant thereto.

21. 3. He denies each and every allegation in paragraph three of
22. defendants "further answer".

23. 4. He admits that he applied for admission to the School of
24. Law of the University of Maryland, and the correspondence with the
25. defendant Pearson as alleged. The further steps taken by petition-
26. er to be admitted to the said School of Law appear in his petition
27. heretofore filed in this cause. He admits defendant Pearson
28. called his attention to the School of Law of the Howard University but
29. denies that the defendant did so in a true interest in petitioner's
30. legal education; and asserts that the real reason of the defendant
31. was to try to dissuade petitioner from insisting upon his legal
32. rights under the 14th Amendment of the Constitution of the United
33. States and the laws enacted in conformity therewith, under the

1. Constitution and laws of the State of Maryland, and the charter
2. and regulations of the University of Maryland and the School of
3. Law thereof, to matriculate in said school. Further petitioner
4. avers that in spite of the defendant Pearson's opinion that the
5. School of Law of Howard University offers exceptional facilities
6. for the study of law with tuition and fees lower than those
7. charged in the School of Law of the University of Maryland, never-
8. theless neither the defendant Pearson nor any of the other defen-
9. dants recommend to white students applicants for admission to the
10. School of Law of the University of Maryland that they matriculate
11. in the School of Law of Howard University rather than in the School
12. of Law of the University of Maryland; but said recommendation to
13. petitioner was in execution of the official policy of the State,
14. and the defendant Pearson acted in the premises as the official
15. agent of the State, to deny petitioner the equal protection of the
16. laws as guaranteed to him by the Fourteenth Amendment to the Con-
17. stitution of the United States, solely on account of his race or
18. color.

19. 5. He denies that it is now, or ever has been, the policy of
20. the State of Maryland to provide educational facilities for Negroes
21. in proportion to their true needs, and denies that the educational
22. facilities furnished or maintained by the State for Negroes are
23. adequate, or equal, or elaborate, or cares for substantially all
24. the educational requirements of its Negro citizens. He avers
25. that the educational opportunities and facilities provided by the
26. State for Negroes have lagged far behind the demands and require-
27. ments of the Negro population of the State, and denies that said
28. educational opportunities and facilities are equal to those
29. provided by the State for white people, within the meaning of the
30. Fourteenth Amendment of the Constitution of the United States. He
31. avers it is immaterial as to the numbers of Negroes in Maryland who
32. have applied for a legal education; but if said numbers be materi-
33. al, then the State is estopped to assert any paucity of numbers
34. because both by law and official administrative policy it has made

1. it difficult -- if not impossible -- for a Negro citizen
2. of Maryland to qualify to study law because of the inferior, in-
3. adequate and discriminatory prelegal education offered by the State
4. to its Negro citizens in violation of the equal protection of the
5. laws guaranteed by the 14th Amendment of the Constitution of the
6. United States. Further he denies that the scholarships offered
7. in form by the State to Negroes for professional study outside
8. the State are adequate, or offer them equal or equivalent education-
9. al opportunity to that offered to white students of Maryland with-
10. in the State, under the meaning of the provisions of the 14th
11. Amendment to the Constitution of the United States.

12. 6. He denies that he will suffer no damage if refused ad-
13. mission to the School of Law of the University of Maryland, and
14. avers that he will suffer irreparable damage if his application is
15. not received and acted upon in good faith in due course, and if he
16. is not admitted to said school. He denies that the Howard Uni-
17. versity School of Law offers him an equivalent legal education for
18. the following reasons. The Howard University School of Law is
19. essentially a national law school with students coming from all
20. sections of the country, and often from foreign countries. Being
21. such it does not pretend to pay particular attention to the law
22. and procedure of the State of Maryland. On the other hand the
23. School of Law of the University of Maryland is essentially a State
24. school serving the citizens of the State of Maryland and making a
25. specialty of the law and procedure of Maryland, along with insrtuc-
26. tion in the general substance and procedure of our Anglo-American
27. legal system. Petitioner, a citizen of Maryland and resident of the
28. City of Baltimore, expects to practice law in the State of Maryland,
29. and will be immeasurably handicapped in competition with members of the
30. Maryland Bar, a large number of whom are graduates of the School
31. of Law of the University of Maryland, who will have received the
32. special instruction in Maryland law and procedure at the School of
33. Law of the University of Maryland as aforesaid. Further peti-

1. tioner avers that while attending the School of Law of the Univer-
2. sity of Maryland, located in the City of Baltimore, he could live
3. at home in said City of Baltimore, and have no extra expense for
4. room and board; that if he attended the Howard University School
5. of Law in Washington, D.C., he would have to expend large sums of
6. money for separate board, lodging and maintenance which he would
7. not have to spend while attending the School of Law of the Univer-
8. sity of Maryland in Baltimore; that the large sums which he would
9. have to spend attending the Howard University School of Law as
10. aforesaid would more than offset the small difference the fees and
11. tuition at Howard University School of Law are lower than similar
12. fees and tuitions at the School of Law of the University of Mary-
13. land; and that it would be more expensive for him to attend the
14. Howard University School of Law than the School of Law of the
15. University of Maryland.

16. 7. And by way of further reply to the answer and "further
17. answer" of the defendants herein filed as aforesaid, petitioner
18. avers that the defendants and each of them, as agents of the
19. State of Maryland, and the said State of Maryland, unlawfully and
20. arbitrarily have denied and refused, and still deny and refuse, to
21. receive and consider his application for admission to the School of
22. Law of the University of Maryland, solely on account of the fact he
23. is a Negro, in violation of the rights guaranteed to him by the
24. Fourteenth Amendment of the United States and the law of the land.

25. As to paragraphs one to seventeen of the answer filed by
26. the defendants the petitioner says that insofar as the allegations
27. contained therein deny the allegations of the corresponding par-
28. agraphs of the petition filed herein, your petitioner joins issue
29. with such allegations of the answer.

30. And as in duty bound, etc.

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Donald Gaines Murray

Donald Gaines Murray

~~Charles Marshall~~

~~Thurgood Marshall~~

William L. Tompkins
Attorneys for petitioner

STATE OF MARYLAND

CITY OF BALTIMORE, ss:

I hereby certify, that on this twenty first day of May 1935, before me the subscriber, a Notary Public of the State of Maryland in and for the City of Baltimore, personally appeared Donald G. Murray, petitioner herein, and made oath in due form of law that the matters and things contained in the within replication are true to the best of his knowledge and belief.

Sarah J. Amherst
Notary Public.