

No. 53 Pet. P/31

IN THE
COURT OF APPEALS
OF
MARYLAND

RAYMOND A. PEARSON,
et al constituting the
Board of Regents of the
University of Maryland,

vs.

DONALD MURRAY

PETITION TO ADVANCE
CASE FOR AN IMMEDIATE
HEARING

Mr. Clerk:

Please file.

Herbert R. O'Connor
Attorney General

Chas. J. LeVine III
Asst. Attorney General

Attorneys for Board of Regents
of the University of Mary-
land.

HERBERT R. O'CONNOR
ATTORNEY GENERAL
1901 BALTIMORE TRUST BUILDING
BALTIMORE MARYLAND

FILED

August 6, 1931

RAYMOND A. PEARSON, President,)
W. M. HILLEGEIST, Registrar,)
and GEORGE M. SHRIVER, et al)
constituting the BOARD OF)
REGENTS OF THE UNIVERSITY OF)
MARYLAND,)

vs.)

DONALD MURRAY.)

IN THE
COURT OF APPEALS
OF
MARYLAND.

The petition of the Board of Regents of the University of Maryland, appellants in the above entitled case, by Herbert R. O'Connor, Attorney General of the State of Maryland, and Charles T. LeViness, 3d, Assistant Attorney General, their attorneys, respectfully shows:

1. That by reason of the decision of the Baltimore City Court in the above entitled case, from which appeal to this Court was duly entered on the 25th day of June, 1935, and by reason of the writ of mandamus issued by said Court, your petitioners are required to admit the appellee to its Law School on September 24th, 1935.

2. That pursuant to the above mentioned Order of the trial court, several other applications by members of the colored race for admission to the Law School of the University of Maryland have been received by the registrar of the Baltimore schools of the University.

3. That one application by a colored student has been received for admission to the Pharmacist School of the University of Maryland.

4. That also there have been received and are on file applications by colored students for admission to the College of the University of Maryland, at College Park.

5. That your petitioners will be required to rule upon these applications, both for the Professional School, located in Baltimore, and the collegiate department located at College Park, prior to the opening of college in September.

6. That you petitioners consider it to be highly desirable, not only from the point of view of the University of Maryland, but from the point of view of the members of the white and colored races who are interested in the University of Maryland, that this question of the admission of colored students to the University be finally decided by this Honorable Court prior to the opening of college; and that your petitioners believe that they owe a duty to the parents of the members of the student body now enrolled in the University of Maryland to advise them prior to the opening of college whether or not colored students will be admitted, for such action as they may deem necessary or desirable to take; and your petitioners believe and therefore aver that in the interests of the public welfare of both the colored and the white races in this State and as a matter of public policy of this State this appeal, now set for the October term of the Court of Appeals, should be advanced and heard by this Honorable Court during the month of August, 1935, so that a decision may be obtained prior to the opening of college as aforesaid.

7. That it has always been the policy of this State to provide separate institutions of learning for members of the white and colored races; this policy has been effected

and safeguarded by the establishment of separate schools for colored persons, from the elementary grades up to and including the collegiate level; that for professional work special provision is made for members of the colored race by means of scholarships to institutions outside of the State, inasmuch as up to this time there has not been a sufficient number of colored applicants for professional education to require or to support separate professional schools; that this traditional policy of separation of the races is for the benefit of the colored as well as the white citizens of our community and undoubtedly has been a leading cause of the present amicable and cooperative relations which exist in this State between the two races.

8. That the Order of the Baltimore City Court hereinabove referred to presents a matter of grave public policy and is of immeasurable importance to the members of both the white and the colored races in this State; that it is as much to the advantage of the colored citizens as to the white race that this question be settled by this Honorable Court at the earliest possible moment; that there are approximately 2000 white students enrolled at College Park, 500 of whom are females; that your petitioners have been advised and therefore aver that there will be numerous withdrawals of white students, particularly female students, if the Order of the lower court hereinabove referred to is allowed to stand. As an indication of what may be anticipated in this respect, your petitioners here quote a letter received by the Acting President, from a father having three daughters now students at the University.

"Mr. H. C. Byrd
Acting President
University of Maryland
College Park, Md.

Dear Mr. Byrd:-

I received information indirectly from a negro engaged in educational work in Washington that a recent decision of the Court in Baltimore opens the University of Maryland to negroes this fall. And further, that negroes have applied for admission to the College Park branch of the University as well as to the branch located in Baltimore.

I am vitally interested in knowing immediately whether this information is correct, as I have three daughters in the University of Maryland, and naturally, would not want them to remain there. I would appreciate an immediate answer so that I can make other arrangements before the school term begins.

I should like to state further that I cannot understand why this information, if true, is being withheld from the parents of the student body and not allowing them sufficient time to make other arrangements. It would be most unfair to withhold this information.

Sincerely yours,

s/s George M. Quirk,
1305 Delafield Pl. N. W."

9. That the Attorney General's Office, which is by law designated as the legal advisor of the University of Maryland, is in receipt of a letter here quoted, from Acting President Byrd in respect to the possibility of colored students at College Park, coupled with a request that the case be heard immediately by this Honorable Court:

"The Attorney General of Maryland

Dear Sir:

The order of the Court to admit a negro to our Law School has created a situation which may be very disastrous for the University, and I am herewith making a special appeal to you to request the Court of Appeals to hear, immediately, our appeal from the lower court's decision.

Under the law, I am responsible for all discipline in the University, but if the order of the lower court is carried out, and negro students are admitted to the University, I should not like to be held responsible for what may happen. With five hundred girls on the campus at College Park, and with girls entering the Baltimore schools in constantly increasing numbers, the seriousness of the situation for the University, financially and in many other respects, cannot be overestimated.

I am convinced that the people of Maryland, because of custom, the State's long standing policy, and laws enacted by the Legislature, will support me in this request.

Sincerely,

/s/ H. C. Byrd

Acting President.

10. That the University of Maryland is only partially supported by the State and depends very largely upon the income from the student tuition fees and other similar charges; that the withdrawal of any considerable number of students will leave the University without funds for its current operation, resulting in great hardship to members of the faculty and possibly necessitating the abandoning of some of its academic work.

11. That your petitioners are advised that in refusing admission to the appellant under the circumstances of this case, that they acted within the power conferred upon them by Chapter 480 of the Acts of 1920, creating the University of Maryland through the merger of the former University of Maryland and the Maryland State College of Agriculture, and that the Board's action was in keeping with the traditional policy of the State of Maryland to conduct separate schools for white and negro citizens, and

in harmony with the design and intention of the Maryland Legislature as expressed in Chapter 234 of the Acts of 1933, and as expressed in the laws relating to the public school system of the State of Maryland. Your petitioners are further advised that the action of said Board was not in violation of any provision of the State or Federal Constitutions.

12. Your petitioners further show that unless the appeal in this case is heard prior to the date fixed for the opening of the institution in September, or unless this Court should grant a stay of execution from the order of the lower Court until this appeal is heard, the University of Maryland will suffer irreparable damage through the threatened withdrawal of students and the failure of other students to enter the University.

WHEREFORE YOUR PETITIONERS pray that this Court, in the exercise of its discretion, and in the public interest, may advance the hearing of this appeal and set the case for hearing during the month of August or early part of September, 1935, so that a decision may be obtained prior to the opening of College Park and the Professional Schools in the latter part of September; or in the alternative, your petitioners pray that this Court may grant a stay of execution from the order of the lower Court issued on June 25th, 1935 requiring your petitioners to admit the appellee as a student of the University.

And as in duty bound, etc.

Herbert R. O'Connor
Attorney General

Chas. J. Lewis, Jr.
Asst. Attorney General.

