72/16 013829

BALTIMORE CITY COURT

YEAR 1949 FILE NO. 72/16 013829 DOCKET 16 FOLIO 72

013829

TITLE OF CASE	DATE	NUMBER	DESCRIPTION OF PAPER
PLAINTIFF:			
Donald W. Stewart	7-26-49	1	Petition for Writ of Mandamus, affidavit and Order of Court filed.
minor by	8/26/49	2	Respondents answer, affidavit and
Clarence Stewart			Exhibit A, filed.
his next friend & Parent	4-2-51	3	Dismissed without Prejudice Order filed.
		4	Dismissed Order Judge Byrnes
DEFENDANT:			
Harry C. Byrd			
President			
et al			
THIRD PARTY:			
ATTORNEY FOR PLAINTIFF:			
Donald G. Murray and			
Charles H. Houston			
ATTORNEY FOR DEFENDANT:			
Hall Hammond			
Kennetty C. Proctor			
ATTORNEY FOR THIRD PARTY:			

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DONALD W. STEWART, minor, by CLARENCE STEWART his next friend and parent 2422½ Pennsylvania Avenue	:	IN THE
	:	BALTIMORE
Vs.	:	CITY COURT
HARRY C. BYRD, et al	:	

FILED APR - 2 1951

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DISMISSAL AND ORDER

MR. CLERK:

The above entitled cause having been filed in your Honorable Court and an answer having been filed for the Respondents by the Attorney General, and proper costs having been paid, please dismiss the above entitled cause without prejudice.

Donald G. Murray
Donald G. Murray
Attorney for Petitioner

FILED APR - 2 1951

ORDER

Let the within cause be dismissed as prayed, this second day of April, 1951.

Joseph R. Byrne
JUDGE

E.J.D.
4/2/51.

2 / 72/16

DONALD W. STEWART, minor, by CLARENCE STEWART his next friend and parent 2422½ Pennsylvania Avenue	:	IN THE
Vs.	:	BALTIMORE
HARRY C. BYRD, PRESIDENT; WILLIAM P. COLE, JR., STANFORD Z. ROTHSCHILD, J. MILTON PATTERSON, PETER W. CHICHESTER, EDWARD F. HOLTER, E. PAUL KNOTTS, CHARLES P. McCORMICK, HARRY H. NUTTLE, PHILIP C. TURNER, MILLARD E. TYDINGS, MRS. JOHN L. WHITEHURST, constituting the BOARD OF REGENTS OF THE UNIVERSITY OF MARYLAND; J. BEN ROBINSON, DEAN OF SCHOOL OF DENTISTRY and EDGAR F. LONG, DIRECTOR OF ADMISSIONS OF THE UNIVERSITY OF MARYLAND 109 East Redwood Street	:	CITY COURT

FILED AUG 26 1949

ANSWER

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Harry C. Byrd, President; William P. Cole, Jr., Stanford Z. Rothschild, J. Milton Patterson, Peter W. Chichester, Edward F. Holter, E. Paul Knotts, Charles P. McCormick, Harry H. Nuttle, Philip C. Turner, Millard E. Tydings, Mrs. John L. Whitehurst, constituting the Board of Regents of the University of Maryland; J. Ben Robinson, Dean of School of Dentistry and Edgar F. Long, Director of Admissions of the University of Maryland, by Hall Hammond, Attorney General, and Kenneth C. Proctor, Assistant Attorney General, their attorneys, in answer to the Petition for Writ of Mandamus filed against them respectfully shows unto your Honor:

(1) Answering Paragraph First, the Respondents admit that Donald W. Stewart is a Negro, nineteen (19) years of age and, at all times material, was and is a citizen and resident of the United States and the State of Maryland. Further answering said paragraph, the Respondents admit that, by application dated November 16, 1948, and received by the Respondents on November 23, 1948, the Petitioner applied for admission as a first year student in the School of Dentistry of the University of Maryland for the academic year beginning September 21, 1949.

FILED AUG 26 1949

Further answering said paragraph, the Respondents say that the general policy of the State of Maryland regarding education has always been to segregate the white and Negro races; that for many years the State of Maryland, in the development of its secondary public schools and of the University of Maryland, has attempted to and, as herein set forth, now does provide facilities which are equal for both the white and Negro races; that, in furtherance of said policy, the Governor of the State of Maryland entered into a Compact dated February 8, 1948, known as "The Regional Compact", with the Governors of the States of Florida, Georgia, Louisiana, Alabama, Mississippi, Tennessee, Arkansas, North Carolina, South Carolina, Texas, Oklahoma, West Virginia and the Commonwealth of Virginia; that the General Assembly of Maryland, by Chapter 282 of the Laws of 1949, approved, confirmed and ratified said Compact, the Act of approval being effective June 1, 1949; that said Compact has been approved by proper legislative action by more than six of the aforesaid States, and is now in full force and effect; that The Regional Compact makes provision for education, in the professional, technological, scientific, literary and other fields, of all citizens of the several signatory States, regardless of race or creed, at jointly owned and operated regional educational institutions in the Southern States; that the educational advantages and facilities contemplated by and provided under The Regional Compact for the citizens of the several States, regardless of race or creed, who reside within said region fully comply with the requirements of the Fourteenth Amendment of the Constitution of the United States, 8 U.S.C. 41, and of the decisions of the Supreme Court of the United States.

Further answering said paragraph, the Respondents say that on August 13, 1949, the Respondent Edgar F. Long wrote to the Petitioner regarding the aforesaid application, copy of the letter is annexed hereto, marked "Respondents' Exhibit A" and is prayed to be taken as a part hereof; that the Petitioner was advised that, in

Further answering said paragraph, the respondents say that the general policy of the State of Maryland regarding education has always been to segregate the white and Negro races; that for many years the State of Maryland, in the operation of its accompanying public education of the children of its citizens, has attempted to do so as herein set forth. Now does provide facilities which are equal for both the white and Negro races; that in furtherance of said policy, the Governor of the State of Maryland entered into a compact dated February 5, 1949, known as "The Regional Compact" with the governors of the states of Florida, Georgia, Louisiana, Alabama, Mississippi, Tennessee, Arkansas, North Carolina, South Carolina, Texas, Oklahoma, West Virginia and the Commonwealth of Virginia; that the General Assembly of Maryland, by Chapter 222 of the laws of 1949, approved, confirmed and ratified said Compact, the Act of approval becoming effective June 1, 1949; that said Compact was duly approved by proper legislative action by more than six of the aforesaid states, and is now in full force and effect; that the regional compact makes provision for education, in the professional, technological, scientific, literary and other fields, of all citizens of the several states, regardless of race or creed, or jointly owned and operated regional educational institutions in the southern states; that the educational advantages and facilities contemplated by and provided under the regional compact for the citizens of the several states, regardless of race or creed, who reside within said region, fully comply with the requirements of the fourteenth amendment of the Constitution of the United States, 8 U.S.C.A. 41, and of the decisions of the Supreme Court of the United States.

Further answering said paragraph, the respondents say that on August 12, 1949, the respondent Rogers, pursuant to the settlement of regarding the aforesaid litigation, copy of the letter is annexed hereto, marked "respondents' exhibit A" and is proved to be taken as a part hereof; that the petitioner was advised that, in

accordance with the aforesaid policy of the State of Maryland and the provisions of The Regional Compact, aforesaid, he is authorized to study dentistry at the Meharry Medical College, Nashville, Tennessee, which is an institution under The Regional Compact to which the signatory States will send students for medical, dental and nursing education; that arrangements will be made so that Petitioner's total expenses, incidental to attending Meharry Medical College, School of Dentistry, including necessary travel and room and board, will not exceed what it would cost him to attend the University of Maryland; that Meharry Medical College, School of Dentistry, affords the same kind and quality of education as the University of Maryland School of Dentistry; that the Petitioner was requested to contact the Director of Admissions of the University of Maryland, who will advise him as to the procedure to be employed for admission to Meharry Medical College, School of Dentistry; that it is necessary, under The Regional Compact, that Petitioner's application be certified to Meharry Medical College by the Director of Admissions of the University of Maryland.

Further answering said paragraph, the Respondents deny that the University of Maryland authorities have refused to pass on Petitioner's application, and allege that they have handled said application in the manner just described. Further answering said paragraph, the Respondents admit that, since receipt of Petitioner's application, similar applications of white students have been appraised and passed upon.

(2) Answering paragraphs Second, Third and Fourth, the Respondents admit the matters and facts therein set forth.

accordance with the aforesaid policy of the State of Maryland and the provisions of the Regional Compact, aforesaid, be is authorized to attend dentistry at the Emmanuel Medical College, Baltimore, which is an institution under the Regional Compact to which the Maryland State will send students for medical, dental and nursing education; that arrangements will be made so that petitioner's total expenses, incidental to attending Emmanuel Medical College, School of Dentistry, including necessary travel and room and board, will not exceed what it would cost him to attend the University of Maryland, that Emmanuel Medical College, School of Dentistry, offers the same kind and quality of education as the University of Maryland School of Dentistry; that the petitioner was requested to contact the director of admissions of the University of Maryland, who will advise him as to the procedure to be employed for admission to Emmanuel Medical College, School of Dentistry; that it is necessary, under the Regional Compact, that Petitioner's application be certified to Emmanuel Medical College by the Director of Admissions of the University of Maryland.

Further answering said paragraph, the respondents deny that the University of Maryland authorities have refused to act on Petitioner's application, and allege that they have handled said application in the manner just described. Further answering said paragraph, the respondents aver that, since receipt of Petitioner's application, similar applications of white students have been approached and treated upon.

(2) Answering paragraphs Second, Third and Fourth, the Respondents admit the numbers and dates therein set forth.

(3) Answering paragraph Fifth, the Respondents admit the matters and facts therein set forth, except that the Respondents deny that the School of Dentistry of the University of Maryland is "a member of the Council of Education of the American Dental Association", and allege that said Council is merely the representative of the American Dental Association which examines and approves or disapproves Schools of Dentistry throughout the United States; the Respondents further allege that no School of Dentistry is "a member of the Council of Education of the American Dental Association". Further answering said paragraph, the Respondents allege that the Dental School of Meharry Medical College, Nashville, Tennessee, is fully approved by the Council of Education of the American Dental Association and, in all respects, is equal to the School of Dentistry of the University of Maryland.

(4) Answering paragraph Sixth, the Respondents admit the matters and facts therein set forth. Further answering said paragraph, the Respondents admit that the allegations enclosed in quotation marks in said paragraph are in general the requirements necessary to be met by an applicant for admission to the School of Dentistry of the University of Maryland, but deny that all persons possessing said qualifications are admitted as students into said School, the reason therefor being that applicants to the University of Maryland, School of Dentistry, at the present time, far exceed the capacity of such school.

(5) Answering paragraph Seventh, the Respondents admit that the Petitioner is a candidate for admission as a first year student in the School of Dentistry of the University of Maryland. Further answering said paragraph, the Respondents allege that it is not certain whether said Petitioner is fully qualified in all lawful and proper respects for admission to said School, for the reason that Petitioner failed to submit to the representatives of the University of Maryland a transcript of his record for the first semester of his second year at Morgan State College, and for the further reason that from the records submitted by the Petitioner to

(2) Answering paragraph fifth, the respondents admit the matters and facts therein set forth, except that the respondents deny that the School of Dentistry of the University of Maryland is a member of the Council of Education of the American Dental Association, and allege that said Council is merely the representative of the American Dental Association which examines and grades on different grades of dentistry throughout the United States; the respondents further allege that no School of Dentistry is a member of the Council of Education of the American Dental Association. Further answering said paragraph, the respondents allege that the Dental School of Temple University College, Philadelphia, is fully approved by the Council of Education of the American Dental Association and, in fact, is equal to the School of Dentistry of the University of Maryland.

(4) Answering paragraph sixth, the respondents admit the matters and facts therein set forth. Further answering said paragraph, the respondents admit that the allegations enclosed in quotation marks in said paragraph are in general the requirements necessary to be met by an applicant for admission to the School of Dentistry of the University of Maryland, but deny that all persons possessing said qualifications are admitted as students into said school, the reason therefor being that applicants to the University of Maryland, School of Dentistry, at the present time, far exceed the capacity of such school.

(5) Answering paragraph seventh, the respondents admit that the relator Ouer is a candidate for matriculation as a first year student in the School of Dentistry of the University of Maryland. Further answering said paragraph, the respondents allege that it is not certain whether said relator has fully qualified to all lawful and proper requirements for admission to said school, for the reason that relator failed to submit to the respondent Dean of the University of Maryland a transcript of his record for the first semester of his second year at Morgan State College, and for the reason that relator failed to submit the reports submitted by relator to

the representatives of the University of Maryland, it is not clear that he completed a full year of physics, one of the required courses for admission to the School of Dentistry. Further answering said paragraph, the Respondents admit that, by application dated November 16, 1948, and received by the University of Maryland on November 23, 1948, Petitioner applied for admission to the School of Dentistry of the University of Maryland and transmitted to the University of Maryland along with said application the required investigation fee of Five Dollars ($5.00) -- not Ten Dollars ($10.00), as alleged in said paragraph.

Further answering said paragraph, the Respondents deny that Petitioner submitted a complete transcript of his record from schools attended by him.

Further answering said paragraph, the Respondents deny that the Petitioner's application blank and accompanying transcript showed that his moral and educational qualifications were as good as or better than those of applicants admitted to the School of Dentistry prior to the submission of Petitioner's application, or subsequently admitted to said School, for the reason that said transcript is not complete in the particulars heretofore stated.

(6) Answering paragraph Eighth, the Respondents admit that they have had notice of the Petitioner's application, but deny that they have had ample time and opportunity to consider and act upon the same, for the reason that Petitioner's transcript is incomplete in the particulars heretofore stated. Further answering said paragraph, the Respondents admit that the Petitioner has appealed as to his application successively to the President and the Board of Regents of the University of Maryland, but deny that he has not been able to get any satisfactory and definite action on his appeal, and allege that said application is being and will be handled in the manner described in paragraph (1) of this Answer and in Respondents' Exhibit A.

the representatives of the University of Maryland, it is not clear that he completed a full year of degree, one of the required courses for graduation in the school of Dentistry. Further answering said paragraph, the respondents admit that, by application dated November [illegible], 1948, and received by the University of Maryland on November [illegible], 1948, petitioner applied for admission to the School of Dentistry of the University of Maryland and transmitted to the University of Maryland along with said application the required investigation fee of Five Dollars ($5.00) -- matriculation dollars ($10.00), as stated in said paragraph.

Further answering said paragraph, the respondents deny that Petitioner submitted a complete transcript of his record from schools attended by him.

Further answering said paragraph, the respondents deny that the Petitioner's application blank and accompanying transcript showed that his moral and educational qualifications were superior to other cases of qualified applicants to the School of Dentistry prior to the admission of Petitioner's application, or subsequently admitted to said School, for the reason that said paragraph is not supported in the qualifications heretofore stated.

(3). Answering paragraph [illegible], the respondents admit that they have had copies of the Petitioner's application, but deny that they have had sufficient time and opportunity to consider and act upon the same, for the reason that a complete transcript is incomplete in the particulars heretofore stated. Further answering said paragraph, the respondents admit that the Petitioner has appealed to his application processing to the President and the Board of Regents of the University of Maryland, but deny that he has not been able to receive satisfactory and definite action on his appeal, and allege that said application is being and will be handled in the manner described in paragraph (1) of this Answer and in respondents' exhibit A.

Further answering said paragraph, Respondents can neither admit nor deny the allegation that "applicants having no better moral or educational qualifications were admitted to the School of Dentistry for the academic year beginning September 21, 1949 subsequent to the date of the Petitioner's application", for the reason that the transcript of Petitioner's record is incomplete in the particulars heretofore stated. Further answering said paragraph, the Respondents deny that Petitioner's application was refused wrongfully and arbitrarily, solely because of his race and color and in direct contravention of the provisions of the Fourteenth Amendment of the Constitution of the United States, 8 U.S.C. 41, and the Supreme Court decisions of the United States.

Further answering said paragraph, the Respondents allege that the provision for education of Petitioner at the Meharry Medical College, School of Dentistry, under The Regional Compact aforesaid, (if duly qualified for admission to said School) does not discriminate against the Petitioner in any way whatsoever; and the Respondents further allege that Meharry Medical College, under The Regional Compact, provides facilities for education which are substantially equal to the facilities at the University of Maryland; and the Respondents further allege that, as set forth in paragraph (1) above, the Petitioner's expenses at Meharry Medical College, School of Dentistry, will not exceed what his expenses would be at the University of Maryland, School of Dentistry; and the Respondents further allege that, as the provision for education of citizens of the several signatory States, under The Regional Compact, applies to all such citizens, regardless of race or creed, it fully complies with the requirements of the Fourteenth Amendment of the Constitution of the United States, 8 U.S.C. 41, and of the decisions of the Supreme Court of the United States, and it fully meets the obligation of the State of Maryland to the Petitioner under said Amendment and decisions.

Further answering said paragraph, respondents can neither admit nor deny the allegation that applicants having no type moral or educational qualifications were admitted to the School of Dentistry for the academic year beginning September 21, 1949, inasmuch as the date of the petitioner's application, for the reason that the transcript of petitioner's record is incomplete in the particulars heretofore stated. Further answering said paragraph, respondents deny that petitioner's application was refused arbitrarily and capriciously, solely because of his race and color and in direct contravention of the provisions of the Fourteenth Amendment of the Constitution of the United States, 8 U.S.C.A. 41, and the supreme court decisions of the United States.

Further answering said paragraph, the respondents allege that the motivation for exclusion of petitioner at the Hahnemann Medical College, School of Dentistry, under the regional Commission, is only qualified for admission to said school) does not discriminate against the petitioner in any way whatsoever; and the respondents further allege that Hahnemann Medical College, under the regional compact, provides facilities for education which are substantially equal to the facilities at the University of Maryland; respondents further allege that as set forth in paragraph (1) above, the petitioner's expenses to Maryland Medical College, School of Dentistry, with no expense at his expenses would be at the relatively reasonable School of Dentistry; and the respondents further allege that, in the provision for education or courses of the several elementary years, under the Regional Compact, applicants must attend a recognized college or group, formally complied with the requirements of the Commonwealth Department of the establishment of the United States, U.S.A., and of the decisions of the Supreme Court of the United States, and it fully meets the obligations under the Plessy v. Ferguson decisions.

(7) Answering paragraph Ninth, the Respondents say that they have no personal knowledge of the matters and facts therein set forth and, therefore, demand strict proof thereof.

(8) Answering paragraph Tenth, the Respondents say that the matters and facts therein set forth are conclusions of law alleged by the Petitioner and as such, the Respondents are informed and believe that they are not required to answer the same in this pleading.

(9) Answering paragraph Eleventh, the Respondents deny each and every allegation thereof, and demand strict proof of said allegations.

AND, having fully answered the aforesaid Petition for Writ of Mandamus, the Respondents ask that they be dismissed with their proper costs.

AND as in duty bound, etc.

Hall Hammond
Attorney General

Kenneth C. Proctor
Assistant Attorney General
Attorneys for Respondents.

STATE OF MARYLAND, BALTIMORE CITY, To Wit:

I HEREBY CERTIFY that on this 23 day of August, 1949, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County ~~xxxxxxx~~, personally appeared EDGAR F. LONG, DIRECTOR OF ADMISSIONS OF THE UNIVERSITY OF MARYLAND, and made oath in due form of law that the matters and facts stated in the foregoing Answer are true to the best of his knowledge, information and belief.

AS WITNESS my hand and notarial seal, the day and year last above written.

Agnes T. Conroy
Notary Public

(7) Concerning paragraph fourth, the respondents say that they have no personal knowledge of the matters and facts therein set forth and, therefore, demand strict proof thereof.

(8) Answering paragraph tenth, the respondents say that the matters and facts therein set forth are conclusions of law alleged by the relators and as such, the respondents neither admit nor believe that they are not required to answer the same in this pleading.

(9) Answering paragraph eleventh, the respondents deny each and every allegation therein, and demand strict proof of said allegations.

WHEREFORE, having duly answered the alleged petition for writ of mandamus, the respondents ask that they be dismissed with their proper costs.

AND as in duty bound, etc.

Attorney General

Assistant Attorney General
A. Deceye for Respondents.

STATE OF MARYLAND, BALTIMORE CITY, TO-WIT:

I HEREBY CERTIFY that on this ____ day of August, 1949, before me, the subscriber, a Notary Public of the State of Maryland in and for Baltimore County aforesaid, personally appeared Eugene Bond, Attorney General of Maryland, and made oath in due form of law that the matters and facts stated in the foregoing answer are true to the best of his knowledge, information and belief.

AS WITNESS my hand and notarial seal, the day and year first above written.

Notary Public

I HEREBY CERTIFY that copies of the within Answer were mailed this 25th day of August, 1949, to Charles H. Houston, Esq., 615 F Street, N.W., Washington, D.C., and Donald G. Murray, Esq., 1506 Pennsylvania Avenue, Baltimore 17, Maryland, attorneys for the Petitioner.

Kenneth C. Proctor
Assistant Attorney General

RESPONDENTS' EXHIBIT A

August 13, 1949

Mr. Donald Wallace Stewart
2422½ Pennsylvania Avenue
Baltimore 17, Maryland

Dear Mr. Stewart:

Relative to your application for admission to the University of Maryland, School of Dentistry, may I advise you as follows:

The General Assembly of Maryland (Laws of 1949, Chapter 282), in its session last winter, authorized the State of Maryland to enter into a compact with certain other states relating to the development and maintenance of regional educational services and schools in the professional, technological, scientific, literary and other fields. This compact applies to both white and negro students. This compact has been ratified by the requisite number of states and is now in effect. The State of Maryland has already sent to the University of Georgia, under this compact arrangement, ten white students to study veterinary medicine. Arrangements have been made whereby the Meharry Medical College at Nashville, Tennessee, has become a compact institution to which the signatory states will send students for Medical, Dental and Nursing education.

Therefore, in accordance with the State policy established by the Legislature, you will be authorized to study Dentistry at the Meharry Medical College. Arrangements will be effected so that your total expenses incident to attending Meharry Medical College, including necessary travel and room and board, will not exceed what it would cost you to attend the University of Maryland. You will, of course, receive the same kind and quality of work there as you would receive at the University of Maryland.

If you will kindly get in touch with me, either at my office at College Park or Baltimore, I shall be very glad to advise you as to the procedure to be employed for admission to Meharry. It is necessary that your application be certified to Meharry Medical College by the Director of Admissions of the University of Maryland.

Very truly yours,

Edgar F. Long
Director of Admissions

RESPONDENTS' EXHIBIT A

August 13, 1949

Mr. Donald Wallace Stewart
2422½ Pennsylvania Avenue
Baltimore 17, Maryland

Dear Mr. Stewart:

Relative to your application for admission to the University of Maryland, School of Dentistry, may I advise you as follows:

The General Assembly of Maryland (Laws of 1949, Chapter 282), in its session last winter, authorized the State of Maryland to enter into a compact with certain other states relating to the development and maintenance of regional educational services and schools in the professional, technological, scientific, literary and other fields. This compact applies to both white and negro students. This compact has been ratified by the requisite number of states and is now in effect. The State of Maryland has already sent to the University of Georgia, under this compact arrangement, ten white students to study veterinary medicine. Arrangements have been made whereby the Meharry Medical College at Nashville, Tennessee, has become a compact institution to which the signatory states will send students for Medical, Dental and Nursing education.

Therefore, in accordance with the State policy established by the Legislature, you will be authorized to study Dentistry at the Meharry Medical College. Arrangements will be effected so that your total expenses incident to attending Meharry Medical College, including necessary travel and room and board, will not exceed what it would cost you to attend the University of Maryland. You will, of course, receive the same kind and quality of work there as you would receive at the University of Maryland.

If you will kindly get in touch with me, either at my office at College Park or Baltimore, I shall be very glad to advise you as to the procedure to be employed for admission to Meharry. It is necessary that your application be certified to Meharry Medical College by the Director of Admissions of the University of Maryland.

Very truly yours,

Edgar F. Long
Director of Admissions

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72/16

DONALD W. STEWART, minor, by CLARENCE STEWART his next friend and parent 2422½ Pennsylvania Avenue	:	IN THE BALTIMORE
VS.	:	
HARRY C. BYRD, PRESIDENT; WILLIAM P. COLE, JR., STANFORD Z. ROTHSCHILD, J. MILTON PATTERSON, PETER W. CHICHESTER, EDWARD F. HOLTER, E. PAUL KNOTTS, CHARLES P. McCORMICK, HARRY H. NUTTLE, PHILIP C. TURNER, MILLARD E. TYDINGS, MRS. JOHN L. WHITEHURST, constituting the Board of Regents of the University of Maryland; J. BEN. ROBINSON, DEAN OF SCHOOL OF DENTISTRY and EDGAR F. LONG, DIRECTOR OF ADMISSIONS OF THE UNIVERSITY OF MARYLAND 109 East Redwood Street	:	CITY COURT

FILED JUL 26 1949

: : : : : : : : : : : :

PETITION FOR WRIT OF MANDAMUS

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Petition of Donald W. Stewart, minor, by Clarence Stewart his next friend and parent, respectfully shows:

First: Donald W. Stewart, a Negro, is nineteen (19) years of age, and at all times material was and is a citizen and resident of the United States and the State of Maryland. On or about November 16, 1948 he duly applied for admission as a first year student in the School of Dentistry of the University of Maryland for the academic year beginning September 21, 1949. The University authorities have refused to pass on this application although they have appraised and passed on other similar applications by white students.

Second: Harry C. Byrd is the President and Executive Head of the University of Maryland, Edgar F. Long is the Director of Admissions of the Baltimore Schools of the said University, which includes the School of Dentistry; J. Ben Robinson is the Dean of the School of Dentistry of the said University; William P. Cole, Jr., Stanford Z. Rothschild, J. Milton Patterson, Peter W. Chichester, Edward F. Holter, E. Paul Knotts, Charles P. McCormick, Harry H. Nuttle, Philip C. Turner, Millard E. Tydings, and Mrs. John L. Whitehurst constitute the Board of Regents of the University of Maryland.

Third: The University of Maryland is an administrative department of the State of Maryland. It is a State institution performing an essential governmental function.

Fourth: Under the acts of the Legislature of the State of Maryland, which form the Charter of the University of Maryland, as now constituted, the Board of Regents, who are appointed by the Governor, by and with the consent of the Senate, are vested with the powers of governing the University. The President of the University of Maryland, the Director of Admissions of the Baltimore Schools, and the Dean of the School of Dentistry function as their agents under their supervision and control.

Fifth: Under the Charter of the University of Maryland, the Faculty of Dentistry is expressly established and conducts a School of Dentistry of the University of Maryland as an integral component part of the said University subject to the laws and regulations governing the same. The aforesaid School of Dentistry is the only State institution which affords a dental education and is the only dental school in Maryland approved by the American Dental Association and a member of the Council of Education of the American Dental Association which gives it and its graduates high standing among the dental profession.

Sixth: The Faculty of Dentistry offers a four year course in said School of Dentistry leading to the degree of Doctor of Dental Surgery (D. D. S.). The requirements for admission to said course are:

"Applicants for admission must present evidence of having successfully completed two full years of work in an accredited college of arts and sciences based upon the completion of a four-year high-school course. No applicant will be considered who has not completed all requirements for advancement to the Junior year in the arts and sciences college from which he applies. His scholastic attainments shall be of such quality as to insure a high standard of achievement in the dental course."

"The college course must include at least a year's credit in English, in biology, in physics, and in inorganic chemistry, and a half year's credit in organic chemistry. All courses in science should include both class and labaratory instruction. Formal credit in biology and physics, but not in English and chemistry, may be waived in part or in whole in the case of exceptional students

with three years or more of college credit earned in an accredited college or university."

"The credentials of all students admitted to the Dental School, University of Maryland, under the foregoing permissive regulation will be submitted for approval to the Council on Education of the American Dental Association."

"In the selection of students to begin the study of dentistry the School considers particularly a candidate's proved ability in secondary education and his successful completion of prescribed courses in predental collegiate training. The requirements for admission and the academic regulations of the College of Arts and Sciences, University of Maryland, are strictly adhered to by the School of Dentistry.

Seventh: The Petitioner, Donald W. Stewart, is a candidate for admission as a first year student in the School of Dentistry of the University of Maryland and is fully qualified in all lawful and proper respects for admission thereto. On November 16, 1948 Petitioner applied to the School of Dentistry accompanying said application with the required ten dollars ($10.00) investigation fee and transcript of his record from the schools attended by him. Said application blank and said accompanying transcript showed that the Petitioner's moral and educational qualifications were as good as or better than those admitted prior to this submission of application or subsequently admitted to the School of Dentistry.

Eighth: The Board of Regents, the Director of Admissions and the Dean and Faculty Committee of the University of Maryland have had notice of this application and ample time and adequate opportunity to consider and act upon the Petitioner's application aforesaid in that the Petitioner appealed as to his application successively to the President and the Board of Regents, but has not been able to get any satisfactory and definite action on his appeal, and there is no other authority within the University of Maryland organization to whom he can now appeal. Upon information and belief your Petitioner avers that applicants having no better moral or educational qualifications were admitted to the School of Dentistry for the academic year beginning September 21, 1949 subsequent to the date of the Petitioner's application. Upon information and belief your Petitioner avers that his application was refused wrongfully and arbitrarily solely because of his race and color and in direct contravention of the provisions of the Four-

teenth Amendment of the Constitution of the United States, 8 U. S. C. 41, and the Supreme Court decisions of the United States.

Ninth: The Petitioner is ready, willing and able to perform any lawful requirements and pay all proper fees and provide himself with all the necessary facilities for admission as a first year student at the School of Dentistry of the University of Maryland and so tenders himself at this time.

Tenth: The actions of the Respondents in refusing to consider the application of the Petitioner were wrong, unlawful and arbitrary, thereby the State of Maryland did deny the Petitioner, a resident and citizen of the United States and the State of Maryland, the equal protection of the laws guaranteed him under the Fourteenth Amendment to the Constitution of the United States and did violate Title 8 U. S. C. Section 41.

Eleventh: Unless this Honorable Court, by a Writ of Mandamus shall secure, preserve, and enforce the rights of the said Donald W. Stewart, Petitioner, he will suffer irreparable injury and will be without adequate remedy in the premises for the inception of the academic year for 1949-1950 of the School of Dentistry in immanent; to wit: September 21, 1949.

WHEREFORE: Your Petitioner prays this Honorable Court to issue a Writ of Mandamus directed to the Respondents, Harry C. Byrd, President and Executive Head of the University of Maryland, Edgar F. Long, Director of Admissions of the Baltimore Schools of the University of Maryland, J. Ben Robinson, Dean of the School of Dentistry of the University of Maryland, and William P. Cole, Jr., Stanford Z. Rothschild, J. Milton Patterson, Peter W. Chichester, Edward F. Holter, E. Paul Knotts, Charles P. McCormick, Harry H. Nuttle, Philip C. Turner, Millard E. Tydings, and Mrs. John L. Whitehurst, constituting the Board of Regents of the University of Maryland at their office located at 109 East Redwood Street, requiring the Respondents by and through their agents Edgar F. Long, Director of Admissions and J. Ben Robinson, Dean of the School of Dentistry to (a) consider and act on Petitioner's application of November without regards to creed or color and admit him to the semester beginning September 21, 1949 in the School of Dentistry, and if his application predates the applications of any student already admitted to the School of Dentistry for the current academic semester upon Petitioner's complying with the uniform, lawful requirements for admission; or (b) to certify him at the beginning of the next academic term when entering students are accepted

and to certify him on the same terms and conditions applicable to other students applying to the School of Dentistry with regards to creed or color or race; and further ordering such other and further relief and protection to your Petitioner as aforesaid may be proper and necessary in the premises.

Donald G. Murray
Donald G. Murray

Charles H. Houston
Charles H. Houston
Solicitors for Petitioner

Donald W. Stewart
Donald W. Stewart

STATE OF MARYLAND, CITY OF BALTIMORE, to wit:

I HEREBY CERTIFY, That on this 26th day of July, 1949, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City, aforesaid, personally appeared Donald W. Stewart and made oath in due form of law that the matters and facts therin set forth in the Petition are true to the best of his knowledge, information and belief.

AS WITNESS my hand and Notarial Seal.

Dorothy L. Lewis
Notary Public

DONALD W. STEWART, minor, by CLARENCE STEWART his next friend and parent 2422½ Pennsylvania Avenue	:	IN THE BALTIMORE
VS.	:	
HARRY C. BYRD, PRESIDENT; WILLIAM P. COLE, JR., STANFORD Z. ROTHSCHILD, J. MILTON PATTERSON, PETER W. CHICHESTER, EDWARD F. HOLTER, E. PAUL KNOTTS, CHARLES P. McCORMICK, HARRY H. NUTTLE, PHILIP C. TURNER, MILLARD E. TYDINGS, MRS. JOHN L. WHITEHURST, constituting the Board of Regents of the University of Maryland; J. BEN ROBINSON, DEAN OF SCHOOL OF DENTISTRY and EDGAR F. LONG, DIRECTOR OF ADMISSIONS OF THE UNIVERSITY OF MARYLAND 109 East Redwood Street	:	CITY COURT

: : : : : : : : : : : : : :

Upon the aforegoing Petition, it is by the Baltimore City Court this 27th day of July, 1949,

ORDERED, That the Defendants, Harry C. Byrd, President; the Board of Regents of the University of Maryland, J. Ben Robinson, Dean of the School of Dentistry, and Edgar F. Long, Director of Admissions of the University of Maryland show cause on or before the 26TH day of August, 1949, why the relief prayed for should not be granted.

PROVIDED, That a copy of said Petition shall be served the Defendants on or before the 7TH day of August, 1949.

J. Mau Sayler
JUDGE

Mr. Sheriff:

Please serve copy on
DEPOTS. AT 109 E. REDWOOD ST

John C. Rutherford, Clerk,
Baltimore City Court.

RECEIVED
SHERIFF'S OFFICE
JUL 27 11.10 AM '49
BALTIMORE CITY, MD.

Petition & Order

7/27/49

copy of the Within Petition and Order of Court served on Harry C Byrd President William P. Cole Jr Stanford J Rothschild J. Milton Patterson Peter W. Chichester Edward J Holter E. Paul Knotts Charles P. McCormick Harry H Nuttle Philip L. Turner Millard E. Tydings and Mrs John L Whitehurst constituting the Board of Regents of the University of Maryland J. Ben Robinson Dean of School of Dentistry and Edgar F Long Director of Admissions of the University of Maryland by leaving on Stanford J Rothschild Board of Regents in the 28th day of July 1949 in the Presence of William Fowler

Joseph L Dezar
Sheriff

Fee $.75