

THE
SUPREME
COURT OF
FLORIDA

A JOURNEY
TOWARD
JUSTICE,
1972-1987

NEIL SKENE

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VIRGIL HAWKINS

Crossing the Bar

Virgil D. Hawkins was dead when he was readmitted to the Florida Bar on October 20, 1988, but he had plenty of supporters, now, when they were no longer much good to him. Five years earlier, fighting disbarment over his handling of some clients' cases, he had told the Florida Supreme Court, "When I get to heaven, I want to be a member of the Florida Bar." But he resigned, and by the time the court let him back in, it was after St. Peter's deadline.

After his long struggle to become a lawyer, Virgil Hawkins was, at the end of his eight years as a member of the Bar, simply another lawyer who had fouled up cases and couldn't account for client funds. He was reprimanded and finally forced to resign from the Bar. In death, however, Hawkins became an icon of the civil rights struggle, a man who had spent the last half of his eighty-one years trying and failing and trying again to become a member of the Florida Bar. On October 20, 1988, he became the only American ever readmitted to the practice of law after his death, according to his lawyer and friend who urged the honor, Harley Herman, who added that the only other man in the world to receive such an honor was another man of peaceful and determined protest, Mohandas Gandhi. (On March 16, 2015, the California Supreme Court posthumously admitted Hong Yen Chang to the California Bar after his denial under the Chinese Exclusion Act 125 years earlier.)¹

Now, with Hawkins's posthumous readmission to the Bar, the institutions that had stood in his way and begrudged everything he got from them could hardly do enough to honor him for what they had put him through.² His original lawsuit seeking admission to the University of Florida Law School in 1949 had prompted the creation of the "separate but equal" Florida A&M Law School. His success at integrating Florida law schools contributed to the demise of FAMU Law (it was resurrected in Orlando in 2002) in favor of a new law school at Florida State. Now that Hawkins was dead, things were named

for him—an Inn of Court, the Legal Clinic at the UF Law School, and at FSU Law School a scholarship and a collection of books moved from across the tracks when the FAMU law school was closed. The University of Florida even awarded Hawkins an honorary degree in 2001, first in the main university graduation and then at a law school ceremony. Hawkins's sister, Harriett Livingston, accepted the award, and his niece, Halle Williams, remarked, "Justice delayed is still justice."³

Born in the small black community of Okahumpka near Leesburg in Lake County in 1907, Hawkins was the son of a preacher and as an adult moved into teaching in local schools and then into public relations at Bethune-Cookman College. Harley Herman, the lawyer who sought Hawkins's posthumous readmission, wrote that Hawkins had wanted to be a lawyer ever since he saw black defendants in his home county sentenced to six months on the chain gang for playing penny-ante poker.⁴ But Hawkins did not pursue that goal until after World War II, when the U.S. Supreme Court was first beginning to order blacks admitted to universities. When Thurgood Marshall and the NAACP Legal Defense Fund decided to target Florida graduate schools, Hawkins became one of five who filed applications at Florida professional schools that did not have Negro analogs in Florida's "separate but equal" system. Hawkins's application prompted the legislature and the Board of Control, which governed Florida universities, to create a "separate but equal" law school for blacks at Florida A&M. (More details on desegregation efforts in Florida are in the previous volume of this history series.)⁵

Turned down by the University of Florida Law School, Hawkins sought a writ of mandamus from the Florida Supreme Court against the Board of Control, which later morphed into the Board of Regents. Alex Akerman Jr. initially represented him. Akerman was also working with Thurgood Marshall on the defense of the "Groveland Boys" in Lake County during that era.⁶

The Hawkins petition was soon bolstered by a U.S. Supreme Court decision on June 5, 1950, in another of Thurgood Marshall's challenges, *Sweatt v. Painter*,⁷ which rebuffed Texas' strategy to avoid integration of the University of Texas Law School by the rapid creation of a separate black law school. That was exactly what Florida was doing in authorizing a new FAMU law school. Instead of following the ruling of the higher court, Florida's Board of Control just ignored it and offered to either pay for Hawkins to attend a law school out of state or let him attend a new law school being created at Florida A&M.

The Florida Supreme Court, likewise ignoring the *Sweatt* case, produced a unanimous opinion written by Justice Harold L. "Tom" Sebring, who had been a prosecutor in the Nuremberg war crimes trials of Nazis after World War