

21,138

Motion
Monday, May 30, 1949

IN THE SUPREME COURT OF THE
STATE OF FLORIDA

Reply Exhibit M

THE STATE OF FLORIDA, ex rel.,
VERGIL D. HAWKINS,

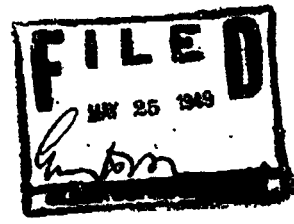
Plaintiff, *Return*

-vs-

THE BOARD OF CONTROL OF
FLORIDA, a body corporate
under the laws of the State
of Florida, J. THOMAS GURNEY,
N. B. JORDAN, THOMAS W. BRYANT,
J. HINSON MARKHAM, and HOLLIS
RENEHART, as members of the
Board of Control of State of
Florida; J. HILLIS MILLER, as
President of the University of
Florida, and R. S. JOHNSON, as
Registrar of the University of
Florida,

Respondents.

MANDAMUS



~~PETITION FOR ALTERNATIVE WRIT~~ PETITION FOR ALTERNATIVE WRIT

TO THE HONORABLE JUDGES OF THE ABOVE STYLED COURT:

Your petitioner, Virgil D. Hawkins, respectfully
presents unto the Court:

Grant writ - Return 30 day

That your petitioner is a citizen and a resident of
Alachua County, Florida; that the respondent, the Board of
Control of Florida, is a body corporate created by the laws
of the State of Florida and its principal office and place of
business is in Tallahassee, Leon County, Florida; that the
respondent, J. Thomas Gurney, is a citizen and resident of
Orange County, Florida, and is the duly appointed, qualified
and acting member and chairman of said Board of Control; that
the respondent, N. B. Jordan, is a citizen and resident of Gads-
den County, Florida, and is the duly appointed, qualified and
acting member of said Board of Control; that the respondent,
Thomas W. Bryant, is a citizen and resident of Polk County,

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*Allegation because the petitioners have not
sought their remedy by applying
to the State Board of Education.*

Florida, and is a duly appointed, qualified and acting member of said Board of Control; that the respondent, J. Hinson Markham, is a citizen and resident of Duval County, Florida, and is a duly appointed, qualified and acting member of said Board of Control; that the respondent, Hollis Rinehart, is a citizen and resident of Dade County, Florida, and is a duly appointed, qualified and acting member of said Board of Control; that the respondent, J. Hillis Miller, is a citizen and resident of Alachua County, Florida, and is the duly appointed and qualified president of said University of Florida; that the respondent, R. S. Johnson, is a citizen and resident of Alachua County, Florida, and is the duly appointed and qualified registrar of said University of Florida.

-2-

That the petitioner desires to study law in the College of Law of the University of Florida which is supported and maintained by the taxpayers of the State of Florida for the purpose of preparing himself to practice law in the State of Florida and for public service therein and has been arbitrarily refused admission.

-3-

That the petitioner has an AB degree from Lincoln University, Pennsylvania.

-4-

That on or about the 4th day of April, A. D., 1949 your petitioner, duly applied for admission to the first year class of the College of Law of the University of Florida, for attendance at the coming summer session of said school. He then possessed, and still possesses, all the scholastic, moral and other lawful qualifications prescribed by the Constitution and Statutes of the State of Florida, by the Board of Control of the State of Florida and by all the duly authorized officers and agents of said Board of Control and the University of Florida and the College of Law for admission in the first year class of the College of Law of said University. He was then, and is still,

ready and willing to pay all uniform fees and charges and to conform to all lawful uniform rules and regulations established by lawful authority for admission to said class.

-5-

That contrary to the usual and customary procedure, the respondent, R. S. Johnson, forwarded petitioner's application to the respondent, the Board of Control and thereafter, to-wit: the 15th day of May, A. D., 1949, your petitioner, by and through his attorney, did appear before said Board of Control at a regular meeting of said Board of Control in Tallahassee, Leon County, Florida, for a hearing upon his application for admission. That at said hearing the respondents, J. Thomas Gurney, N. B. Jordan, Thomas W. Bryant, J. Hinson Markham and Hollis Rinehart, did deny the application of your petitioner and did refuse to grant him admission into the first year class of the College of Law at the University of Florida, and did then and there announce that said application was denied solely because of certain provisions of the Constitution and Statutes of the State of Florida which deny the right of your petitioner admission to the said University solely because of your petitioner's race and color, thus denying unto your petitioner the equal protection of laws solely on the ground of his race and color, contrary to the Constitution of the United States.

-6-

That the College of Law of the University of Florida is the only law school in the State of Florida supported and maintained by the taxpayers of the State of Florida. That the College of Law specializes in law and procedure which regulates the Courts of Justice and the government of the State of Florida and there is no other law school maintained by the public funds of the State of Florida where your petitioner can study Florida law and procedure to the same extent and on an equal level of scholarship and intensity as in the College of law of the Uni-

versity of Florida. That the arbitrary and illegal refusal of the respondents, the members of the Board of Control to admit your petitioner to the first year of law school solely on the grounds of race and color has caused irreparable injury and will place him at a distinct disadvantage at the Bar of Florida and in the public service of the aforesaid State with persons who have had the benefit of the unique preparation in Florida law and procedure given to white students in the law school of the University of Florida.

-7-

That the respondents, J. Hillis Miller, as president of the University of Florida and R. S. Johnson, as registrar, have refused to admit your petitioner to the University of Florida, solely because of race and color, thus denying your petitioner equal protection of the law, while at the same time admitting white applicants with less qualifications than your petitioner.

-8-

The petitioner further shows that he has no speedy, adequate remedy at law and that unless a Writ of Mandamus is issued he will be denied the right and privilege of pursuing the course of instruction in the school of law as hereinabove set out.

Your petitioner further shows unto this Court that the question involved in this proceeding is a special and peculiar question of law, an early decision of which, will avoid litigation in other cases which will be controlled by force of the decision of this case, that the respondents herein are a State Board, State offices, and other agencies, authorized to represent the public generally and that this is a case in which this Honorable Court should exercise its original jurisdiction.

WHEREFORE, your petitioner prays the issuance of an alternative writ commanding the respondents herein, within the time set by this Court, to admit your petitioner into the College of Law of said University of Florida or to show to this Court for their refusal so to do.

V. D. Hawkins

Petitioner

Alex Akerman, Jr.

Alex Akerman, Jr.
Attorney for Petitioner

401 First National Bank Building
Orlando, Florida

STATE OF FLORIDA

COUNTY OF *Marion*

Personally appeared before me the undersigned authority, duly authorized by law to administer oaths, Virgil D. Hawkins, who, after being duly sworn, deposes and says that he is the Petitioner in the above and foregoing Petition for Alternative Writ of Mandamus and that he has read said Petition for Alternative Writ of Mandamus and the facts set forth therein are true and correct.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at *Marion* Florida, in said State and County aforesaid, this *22nd* day of May, A. D., 1949.

James F. J. Agnew
Notary Public


Notary Public, State of Florida at large
My commission expires March 9, 1953.
Bonded by American Surety Co. of N. Y.

STATE OF FLORIDA

COUNTY OF ORANGE


Personally appeared before me, Alex Akerman, Jr.,
who, being duly sworn, deposes and says:

That he is the attorney in the above and foregoing
cause and that he has read the above and foregoing Petition
for Alternative Writ of Mandamus and that the matters and things
stated therein contained are true.



Alex Akerman, Jr.

Sworn to before me, and
subscribed in my presence
this 24TH day of May, A. D.,
1949.



Notary Public

Notary Public, State of Florida at large
My commission expires March 9, 1953.
Bonded by American Surety Co. of N. Y.