

EDWIN L. BRYAN

PRACTICE IN ALL COUNTIES, STATE AND FEDERAL

CHAS. W. BRYAN

BRYAN & BRYAN  
LAWYERS  
1181 FRANKLIN STREET  
TELEPHONE M1887  
TAMPA, FLORIDA

July 26, 1941

JUL 28 1941

Honorable Thurgood Marshall  
c/o N. A. A. C. P.  
69 Fifth Avenue  
New York, New York.

13039

Dear Sir:

We represent the local branch of the N. A. A. C. P. here.

The White Municipal Party of this city, under Chapter 15533, enacted by the Legislature of Florida, at the 1931 session, are holding a municipal primary on the first Tuesday in September, this year, to be followed by a general election on the first Tuesday in November this year.

This primary and general election are provided by the act.

The act created what is known as a Board of Elections for the City of Tampa which Board has complete charge and direction of all elections both primary and general, held in and for the City of Tampa. The act provides for the registration of electors under the direction and control of the Board of Elections.

There is only one local political party in the City, known as the White Municipal Party.

The registration books were opened some weeks ago and electors invited to register. Certain of our clients, members of the N. A. A. C. P. applied to the Board of Elections for permission to register for the primary and general elections. They were refused this privilege so far as the primary was concerned. They, of course, cannot be excluded from the participation in the general City election.

When they were refused the privilege of registering for the primary they came to us and employed us to sue out an alternative writ of mandamus against the Board of Elections. We sued out the writ promptly against the Board of Elections and the Circuit Court issued the writ without question. The respondents filed their return and the matter was argued before the Court

Honorable Thurgood Marshall  
Page Two  
July 26, 1941

yesterday. The Court held with us as to the right of our clients to register and their right to vote in the general election but held that they could not vote in the municipal primary, holding that the primary was a party matter and was being held under the auspices of the White Municipal Party and that the White Municipal Party had a right to fix the qualifications of electors. We contended in our pleading and in our argument before the Court that the holding of this primary is a municipal function and not a party function for the reason that the act creating the Board of Elections requires the Board to collect from any candidate to be voted for in the primary seven and one half per cent of one year's salary which must be placed in the general fund of the City and the act requires the City to pay from its general fund all expenses connected with the primary and general elections.

The high courts including the United States Supreme Court have held almost universally that where the expenses of holding a primary or a general election are required to be paid by the State or the municipality that such elections become State or municipal elections and not party elections.

The Circuit Judge held that we have a right to register; That after registering we have a right to vote in the general election but denies us the right to vote in the primary.

We won every point that we were contending for except the right to vote in the primary which we consider a very important right.

We are now preparing to take the case by appeal to the Supreme Court of Florida and if necessary from that Court to the United States Supreme Court.

The respondents contended before the Circuit Court that the primary election is strictly a party matter and that they had the right to fix the standard and qualifications of electors and to exclude negroes, regardless of who paid the expenses of the election.

As we understand the law and the Courts have so held, whenever the State or the municipality pays the expense of the election out of the public fund such elections become a State

Honorable Thurgood Marshall  
July 26, 1941  
Page Three

or municipal function and not a party function.

We believe that the Supreme Court of Florida will agree with us in view of one opinion involving the same act rendered by that Court.

Our clients have requested us to write you and give you a brief outline of the case.

We will be glad to hear from you in regard to the same.

Very truly yours,

BRYAN & BRYAN

C. S. Bryan  
E. L. Bryan R

ELB/R