

BRYAN & BRYAN

LAWYERS

TELEPHONE M 1327

315½ FRANKLIN STREET

TAMPA, FLORIDA

Tampa Florida

December 22nd, 1941

National Association for the Advancement of Colored People
69 Fifth Avenue
New York, New York,

Attention: Honorable Thurgood Marshall

Dear Mr. Marshall:

Your long letter of December 16th addressed to E. Norman Lacy, Secretary, Tampa Branch N. A. A. C. P., has been referred to us.

We regret very much to note from your letter that there appears to have been some misunderstanding in regard to the information furnished you by this office in reference to this case.

Without reference to the dates of the several letters passed between us we wish to say that we have from time to time furnished you all the information that you requested in regard to the Tampa Primary Case. We find that we did not advise you as to the termination of the case before the Supreme Court of Florida but for your information we advise you at this time that the Supreme Court of Florida, on November 5, 1941, entered an order dismissing the case and refusing to consider it on its merits.

In order that you may understand the action of our Supreme Court on this proposition permit me to say that the defendants, the Tampa Board of Elections, filed a Motion to Dismiss the case in the Supreme Court on the ground that the questions involved were moot; that the primary election had already been held before the case reached the Supreme Court and for that reason the respondents contended that the questions involved were moot questions.

We contended before the Court both orally and by brief that the questions involved were not moot questions as they involved questions of law and constitutional rights which should be heard and considered by the Court and that the case should be heard and decided on its merits rather than on a motion to dismiss.

We could not have possibly gotten the case before the Supreme Court any sooner then we did and as a matter of law and

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constitutional rights it made no difference whether the case was argued before the Supreme Court of Florida before or after the holding of the primary election because a substantial legal proposition and legal and Constitutional question can never be held to be moot but are always subject to consideration by the appellate courts whenever they are raised in the appellate court within the time allowed for appeals and this case certainly reached the Supreme Court a very few days after the Circuit Court passed on it as we prepared the necessary appeal papers and sent them up within just five or six days after the lower court passed on the case.

Lacy and two other members of the Tampa Branch are now in our office and they are suggesting that we suggest to you that you file the necessary petition for Writ of Certiorari in the United States Supreme Court and a brief and get the case at issue there. If you can and will do that we will procure a complete certified copy of the record in the Supreme Court of Florida as that will be necessary as a basis for applying for the Writ of Certiorari.

This letter is going to you by hand, and the carrier will further discuss the matter with you.

In any event, let us know your reaction by return mail or by bearer upon his return.

Very truly yours,

BRYAN & BRYAN

E. L. Bryan
E. L. Bryan *E.L.*

ELB/RC