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May 28, 1938

Mr. Thurgood Marshall
Assistant Special Counsel NAACP
69 Fifth Avenue
New York, N. Y.

8045

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In Re: John Gilbert v. Board of Public
Instruction of Brevard County, Florida.

Dear Sir:

I think you should know what has been done in the above matter.

Last month we filed a petition in the Supreme Court of Florida on behalf of John Gilbert for a writ of mandamus against the Board of Public Instruction of Brevard County, Florida. You have copy of the petition. The Court, on the 28th day of April, issued an order directing the cause to be first filed in the Circuit Court of Brevard County, Florida. As I told you in a previous letter, the Supreme Court only has concurrent jurisdiction in mandamus cases and it is discretionary before the court whether or not it will take original jurisdiction in such cases. In this case, it elected not to, so on the 24th inst., we filed our petition with the Circuit Court of Brevard County, Florida.

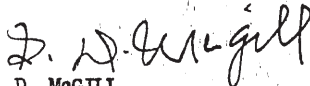
The Judge was frank in his statement that he had never seen or read of a similar case to ours, that he was wholly unfamiliar with the law bearing on the legal question presented and will require some time studying our brief before any action will be taken. However, I am informed that we may expect the court to issue some sort of order next week. I do not know what it will be but this letter is to inform you that the fight is on. If the Circuit Judge should dismiss our petition for any reason our remedy is by appeal to the Supreme Court of Florida. If the court should issue the alternative writ, then the answer or motion to quash will be in order by the respondents.

You are in possession, as I have stated, of the petition just as we have filed it and a copy of the writ to be issued by the court was sent for your files. Candidly, I am not expecting any favorable action from the trial court but I do believe that the Supreme Court of Florida will hand down a decision in this case, if it has a chance to, that will be very far reaching and of great benefit to the teachers of this State.

With every good wish, I am,

Very truly yours,

MCGILL & MCGILL



S. D. MCGILL

sdm/w