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October 29, 1938

*D.S.
Fla. 10/29/38*

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

10665

OCT 31 1938

Dear Mr. Marshall:

In Re: John Gilbert vs. L. R. Highfill, et al
School Board

I received your telegram this morning and answered as requested, right away. I know you have received it ere this.

The time for filing briefs in the above case in the Supreme Court of Florida expired October 26th. Realizing, however, that your brief that you wanted to prepare would not reach here in time to be filed, I secured an order from that Court extending the time ten (10) days. That means that the brief should be in the Supreme Court of Florida on or before November 5th.

I do not think it necessary for you to go into the constitutional question at any length. The authorities I have before me will be quite sufficient at this time, in my opinion. The legal question that must be stressed is whether or not our petition for writ of mandamus makes out a prima facie case. In this connection, I call your attention to a provision in the Florida Constitution - para 4 of the petition - which provides that colored and white children shall not be taught in the same school but impartial provisions shall be made for both. Whether "impartial provisions" as set forth in the Constitution is equivalent to "equal provisions" is a matter that I am now considering and I hope you will do likewise. Let me have your memorandum in time to work it into our brief to be filed as provided by the rule.

With every good wish, I am,

Very truly yours,

S. D. McGill

S. D. MCGILL

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