

J.S. Fla. - m. gee

November 21, 1939

Mr. S. D. McGill
Attorney at Law
P. O. Box 702
Jacksonville, Fla.

Dear McGill:

I notice from early correspondence that you mentioned the 1937 Florida statute providing for the establishment of salary schedules by the county boards. A check of the Florida laws reveals that the statute was passed in 1937. See Chapter 18134, No. 428, and particularly subsection 4 of section 6. Please let me know whether or not this was presented to the Supreme Court of Florida and what position, if any, the Supreme Court took on this particular point.

The question that worries us most on this case is that the Supreme Court of Florida took the position that mandamus would not lie to compel anything but a clear duty and that there was no duty to establish salary schedules.

I note in the Petition for Writ of Mandamus at page 4, paragraph V, that it is alleged that "it was and is the duty of the ...Board of Public Instruction...to adopt scales of salaries for teachers in the public school...". Yet in Petitioner's Brief at page 4, beginning of last paragraph, it is stated that "It is true that there is no statute in Florida requiring the Board to establish salary schedules for teachers...". Please explain this difference.

Sincerely yours,

Thurgood Marshall
Special Counsel

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