



The Law, Librarians, and Brown v. Board of Education

BLACK LAW LIBRARIANS SIS

OUR VALUE PROPOSITION

AALL is dedicated to supporting the career development needs of law librarians through quality educational programming and events designed specifically for legal information professionals.

AALL embraces law librarians in all stages of their careers to provide exceptional experiences, tools for success and premier services to support professional growth.

Program Description

This Black History Month program focuses on the story of Brown v. Board of Education and the impact it has had not just for the nation as a whole, but upon researchers, librarians, and lawyers who were and still are part of the struggle for equality and the quest to make Black Lives Matter in the present day.

Panelists



Professor John C. Brittain

University of the District of Columbia

David A. Clarke School of Law



Ryan Haygood

President & Chief Executive Officer

New Jersey Institute for Social Justice
(NJISJ)



**Professor Reginald J.
Mitchell**

Florida A&M University
College of Law

Professor John C. Brittain

University of the District of Columbia,
David A. Clarke School of Law

*the
daily*

MISSISSIPPIAN

Vol. LVIII No. 93

University, Mississippi

Thursday, Feb. 26, 1970

UNIVERSITY OF
MISSISSIPPI

92

MAR 1 '70

LIBRARY

Eighty-nine blacks arrested



Ole Miss New Yorker, Article, February 20,2021

In 1970, John Brittain was fresh out of Howard University Law School. As an undergraduate there, he befriended Stokely Carmichael and immersed himself in civil-rights activism on campus, and he had just taken a job with North Mississippi Rural Legal Services, which served clients who lived below the poverty line. Late that February evening, he found himself representing all eighty-nine Ole Miss students. “The principle in both domestic and international law is called collective punishment,” Brittain said. “The arrest that evening was illegal because there's no probable cause against any one of them, but they did it figuring if they arrest everybody, somebody is bound to tell them something.”

Continued from the New Yorker Magazine

News of the protest and arrests moved across campus fast. Soon eighteen other black students gathered nearby in solidarity. Ten others staged a protest at the home of Chancellor Fortune. All of them were arrested, too. “If you were black and walking around the Ole Miss campus in the aftermath of that event, you were arrested,” John C. Brittain, the attorney who represented the protesters, said. Forty-nine of the students that evening found themselves locked inside the Lafayette County jail after their arrest. The remaining forty were taken on an hour-plus-long bus ride to the notorious Parchman Farm Penitentiary, in the heart of the Mississippi Delta, a place synonymous with crime and punishment in Mississippi.

Continued from the New Yorker Magazine

It was at Parchman, in a section of the prison known as Little Alcatraz, where the state of Mississippi placed the Freedom Riders, in 1961, and later other civil-rights protesters for a “breach of peace,” the same charge that had been levied against the Ole Miss students. (Earlier that month, a group of eight hundred and ninety-four students from the nearby Mississippi Valley State College had been jailed at Parchman, for protesting their campus living conditions and the quality of instruction at the college; the *Times* called this roundup “the greatest mass arrest ever conducted on an American campus.”)

The students in the county jail were released after about twenty-four hours, and the students at Parchman after just under forty-eight. Hoping to clog up the system enough to get the charges dropped, Brittain pushed for a separate jury trial for each student. The strategy worked, and the local prosecutor dropped the charges. But the students were still subject to disciplinary hearings for violating the Ole Miss code of conduct. “And I jammed that up, too, by requesting an evidentiary hearing in every one of those cases,” Brittain said. Eighty-one of the students were suspended for one day and placed on academic probation, without hearings.

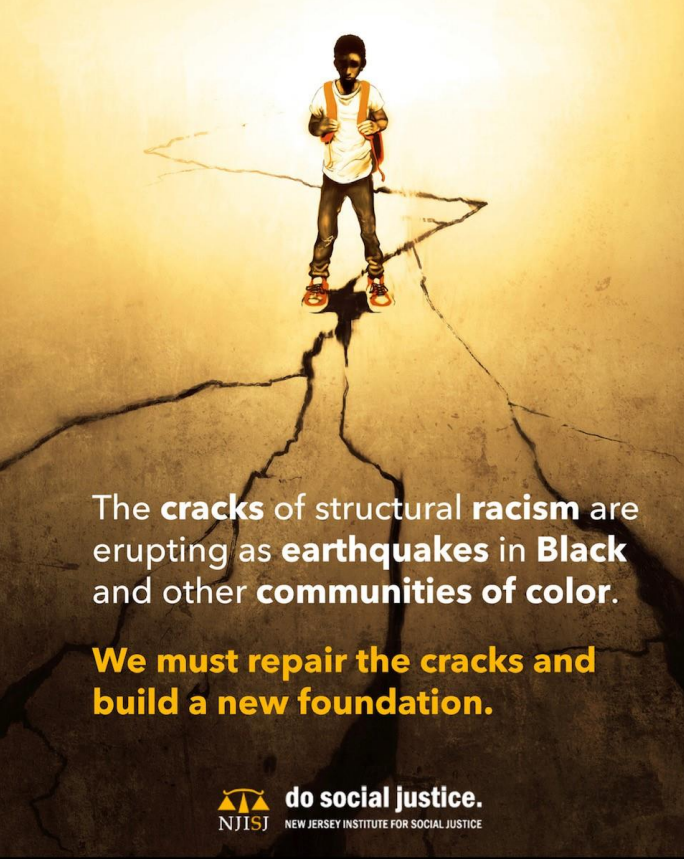
Continued from the New Yorkers Magazine

The remaining eight students were marked as the ring leaders, because of photographic evidence capturing them onstage at Fulton Chapel: Cole, Evans, Mayfield, John Donald, Paul Jackson, Alva Peyton, Henrieese Roberts, and Linnie Willis (née Liggins). “This should assure [*sic*] that they won’t be involved in any more disturbance,” a Mississippi State Sovereignty Commission investigator wrote in March, 1970.

Ryan P. Haygood

President & Chief Executive Officer
New Jersey Institute for Social
Justice (NJISJ)



New Jersey

A person wearing a white t-shirt, dark pants, and a backpack stands on a cracked, yellowish-brown surface. A large, deep crack runs from the bottom left towards the person's feet. The background is a bright, hazy yellow light.

The **cracks** of structural **racism** are erupting as **earthquakes** in **Black** and other **communities of color**.

We must repair the cracks and build a new foundation.

 **do social justice.**
NEW JERSEY INSTITUTE FOR SOCIAL JUSTICE

 [FACEBOOK.COM/NJISJ](https://facebook.com/njisj) |  [@NJ_JSJ](https://twitter.com/NJ_JSJ) |  [DOSOCIALJUSTICE](https://instagram.com/DOSOCIALJUSTICE)

BLACK IN NEW JERSEY
2021-2022 ACTION AGENDA

>3:1 RATIO OF BLACK TO WHITE INFANT MORTALITY
HIGHEST DISPARITY IN U.S.

>2:1 BLACK TO WHITE LIKELIHOOD OF
COVID-19 HOSPITALIZATION

62% PERCENTAGE OF INCARCERATED PEOPLE DENIED
THE VOTE WHO ARE BLACK (VS 15% POPULATION)

12:1 RATIO OF BLACK TO WHITE ADULTS INCARCERATED
HIGHEST DISPARITY IN U.S.

21:1 RATIO OF BLACK TO WHITE KIDS LOCKED UP
HIGHEST DISPARITY IN U.S.

3:1 BLACK TO WHITE LIKELIHOOD
OF FACING POLICE FORCE

SIXTH MOST SEGREGATED STATE
IN THE NATION FOR BLACK STUDENTS

\$106,210 VS **\$179**
MEDIAN NET WEALTH OF WHITE RESIDENTS
BLACK AND LATINA/LATINO

\$352,000 VS **\$6,100** FOR BLACK FAMILIES
\$7,300 FOR LATINA/LATINO FAMILIES
WHITE FAMILY MEDIAN NET WEALTH
HIGHEST IN AMERICA







Professor Reginald J. Mitchell

Florida A&M University College of Law

Research Acknowledgement from 1988 - Present

- Bishop C. Holifield, FAMU General Counsel
- Dr. James Eaton, Prof. Elizabeth Muriel Dawson, & Dr. Nashid Madyun D. M. - FAMU's Meek-Eaton Black Archives and Research Center (MEBA)
- Miriam Spalding, Florida State Archives Reference Coordinator
- Yolanda P. Jones, Law Library Director and Associate Professor of Law - FAMU College of Law
- Harley Herman, Esq.

Black Education during slavery

- From 1740-1840 Slave Codes are enacted in North Carolina, South Carolina, and Virginia that among other things specifically outlaw teaching slaves to read.
- The Florida Slave Codes did not explicitly outlaw the teaching of slaves as its sister Confederate states did, but it made slaves completely considered property and subject to the unobjectionable discretion of their owners. It also had provisions that discouraged escape or the conspiracy to assist escape including lopping off noses and ears as general punishment, as well as death for injuring slave catchers.
- The Florida “Black Tax” of 1845 charged \$.50 (50 cents) per slave or white person, but \$3 annually for all existing free black persons. This created the incentive for free blacks to sell themselves to the kind white master of their choice.

Florida Separate, but equal codified

Section 12. White and colored children shall not be taught in the same school, but impartial provision shall be made for both. **F. S. A. Const. Art. 12 § 12 (1885)**

228.09 Separate schools for white and negro children required

‘The schools for white children and the schools for negro children shall be conducted separately. No individual, body of individuals, corporation, or association shall conduct within this state any school of any grade (public, private, or parochial) wherein white persons and negroes are instructed or boarded in the same building or taught in the same classes or at the same time by the same teachers.’

§209, ch. 19355, 1939, Comp. Gen Laws 1940 Supp., §892 (29)] (emphasis added) This law applied to all schools whether public, private or religious.

§1.01 Definition - ...((6) The words “negro”, “colored”, “colored persons”, “mulatto” or “persons of color”, when applied to persons, include every person having one-eighth or more of African or negro blood. **[Rev. Gen. St. 1920, §§3939; Comp. Gen. Laws 1927, §5858.]**

21 States & D.C. Education Segregation Laws

1. Alabama, Art. XIV, §256, Const. 1901
2. Arizona, §54-416, Education Code (1912)
3. Arkansas, §§ 80-3201 – 80-3215 (1873)
4. Delaware, Art. X, §2, Const. 1897
5. District of Columbia, §§31-1109 – 31-1113 (1906)
6. Florida, Art. XII, §12, Const. 1885
7. Georgia, Article VIII, §1 (6576), Const. 1877

21 States & D.C. Education Segregation Laws

8. Kansas, 72-1724 (L. 1862, Ch. 46, §1)
9. Kentucky, §187, Const. 1891
10. Louisiana, Art. XII, §§1 & 9, Consts. 1845 & 1879
11. Maryland, Art. 77, An. Code (1924)
12. Mississippi, Art. 8, §207, Const. 1890
13. Missouri, Art. IX, §1, Const. 1945; §10349, R.S. 1929, §9216
14. New Mexico, §55-1201, Laws 1923, ch. 148, §1201, p.290

21 States & D.C. Education Segregation Laws

- 15. North Carolina, Art. IX, §2, Const. 1868
- 16. Oklahoma, Article 5, Title 70, §5-1, Ok. Stat. 1949
- 17. South Carolina, Art. 11, §7, Const. 1895
- 18. Tennessee, Art. 11, §12, Const. 1890
- 19. Texas, Art. 7, §§7 & 14, Const. 1876
- 20. Virginia, Art. IX, §140, Const. 1902
- 21. West Virginia, Art. XII, §8, Const. 1872
- 22. Wyoming, Art. VII, §10, Const. of 1889

Legal Path to Florida

Plessy v. Ferguson, 163 U.S. 537, 537 (1896) – Separate but Equal

Pearson v. Murray, 169 Md. 478, 182 A. 590 (1936) Maryland Court of Appeals (State's highest court) – Separate still means Equal in state (MD)

Missouri ex rel. Gaines v. Canada, 305 U.S. 337 (1938) - United States Supreme Court - Separate still means Equal in state (Supreme Court)

Twenty Black Law Schools created throughout America from 1857 - 1974

Florida BOC created – **Out of State Aid for Negro Students** (1945)

The Southern Region Education Board was created (1948) at a meeting of many southern governors in an attempt to create regional segregated institutions that could educate African Americans at institutions outside of their state.

Legal Path to Florida

Sweat v. Painter, 339 U.S. 629 (1950) – No segregation of Professional Schools

Brown v. Board, 347 U.S. 483 (1954) – Separate is inherently unequal (Brown I)

Brown v. Board of Educ., 349 U.S. 294 (1955) Integrate Schools with “...all deliberate speed.” (Brown II)

HBCU Law Schools created...



Loyd Gaines was to **Lincoln University (Missouri)** and eventually University of Missouri (1939);

Robert Richard Bond was to **North Carolina Central University** and eventually the University of North Carolina and Duke University (1939);

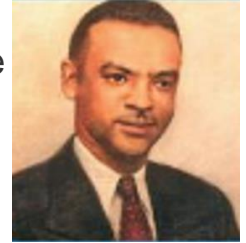
Charles J. Hatfield was to **Southern University** and eventually Tulane, Loyola University, or Louisiana State University in Louisiana, (1946);

Heman Marion Sweatt was to **Texas Southern University** and eventually the University of Texas in Texas (1947);

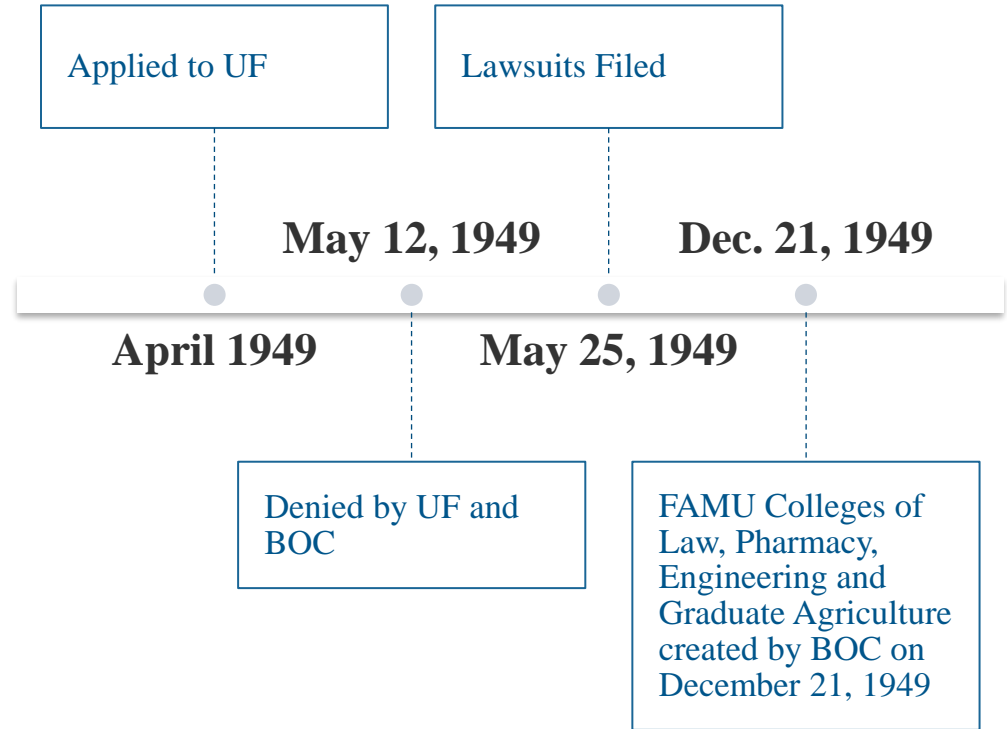
John H. Wrighten was to **South Carolina State University** and eventually University of South Carolina (1947);

Ada Lois Sipuel was to **Langston University** and eventually the University of Oklahoma (1948).

Virgil Hawkins was to **FAMU** and eventually the University of Florida and Florida State (1949)



Five Students Timeline



Phantom Application Approved

On September 19, 1951, FAMU Registrar Edwin M. Thorpe **approved the application** of Virgil Hawkins to the newly established FAMU Law School. Unfortunately, however, **Virgil Hawkins never applied** to the FAMU law school.

CLASS OF SERVICE DESIRED	
TELEGRAM	CABLE
DAY LETTER	URGENT
NIGHT LETTER	DEFERRED

1207

WESTERN UNION

A. N. WILLIAMS
PRESIDENT

Send the following telegram, subject to the terms on back hereof, which are hereby agreed to

To Mr. Virgil D Hawkins September 19 19 51

Care of or Apt. No. _____

Street and No. 1425 W Sixth Street

Place Jacksonville, Florida

YOUR APPLICATION FOR ADMISSION TO THE LAW SCHOOL HAS BEEN APPROVED
REGISTRATION FOR FALL SEMESTER CLASSES WILL BE HELD ON SATURDAY MORNING
SEPTEMBER 22 PLEASE REPORT TO COLLEGE GYMNASIUM AT 8:00 A.M. YOU
MAY OBTAIN HOUSING IN SAMPSON HALL REPORT TO MR B L PERRY DEAN OF MEN FOR
ROOM ASSIGNMENT HOUSING FOR MARRIED STUDENTS MAY BE OBTAINED IN POLKINGHORNE
VILLAGE

E M Thorpe
Registrar
Florida A and M College
Tallahassee, Florida
Sender's name and address
(For references only)

FOR VICTORY
BUY
WAR BONDS
TODAY

Source: Telegram was provided by the FAMU College of Law Library

Intimidation

- FAMU President Gray removed as President
- Virgil risked lynchings
- Pressure upon BCC President to fire him
- Threatened to raise educational standards higher than 90% of Blacks in the State of Florida
- Virgil and Ida had to divorce and pretend to remain so in order to keep her out of harm and termination.
- Supreme Court turned their backs on Attorney Horace Hill
- Johns Committee confiscated records of Attorney Horace Hill and applied pressure until he resigned the case.

Florida Diploma Privilege

<u>Law School</u>	<u>Law School Founding Date</u>	<u>Year Diploma Privilege Granted</u>	<u>Laws of Florida</u>
Stetson University College of Law	1900	1901	Fla. Laws 1901, c. 5009
University of Florida Levin College of Law	1909	1909	Fla. Laws 1909, c. 5949, §1.
University of Miami School of Law	1926	1925	Fla. Laws 1925, c. 10175, §3.
Horace E. Hill and Robert W. Gray – One of the 1 st students to receive Out- Of-State Student Aid scholarships to law school and Howard Law School graduates; African Americans sent Outside of Florida via Out of State Student Aid	October 16, 1948	1948	<u>In re PLANT et al., State Board of Law Examiners</u> , FSC #19- 580; and see also <u>In re WATTS et al., State Board of Law Examiners</u> , 54 So.2d 151)
Florida A&M University College of Law	Established December 21, 1949 on Paper; Actual Law School Opening Date of September 15, 1951	The Diploma Privilege was repealed in 1951 with an effective date of “...enrolling in an accredited law school on or before July 25, 1951 ”, 52 days before the FAMU Law School opened.	Fla. Laws 1951, c. 26655

Virgil Hawkins Cases

1. 53 So.2d 116 - 6-15-1951 - State ex rel Hawkins v BOC (FSC) (Filed in 1949)
2. **U.S. 877 - 11-13-1951 - State of Florida ex rel Hawkins v BOC (USSC)**
3. 60 So.2d 162 - 8-1-1952 - State ex rel Hawkins v BOC (FSC)
4. **347 U.S. 971 - 5-24-1954 - State of Florida ex rel Hawkins v BOC (USSC)**
5. 83 So.2d 20 - 10-19-1955 - State ex rel Hawkins v BOC (FSC)
6. **350 U.S. 413 - 3-12-1956 - State of Fla ex rel Hawkins v BOC (USSC)**
7. 93 So.2d 354 - 3-8-1957 - State ex rel Hawkins v BOC (FSC)
8. **355 U.S. 839- 10-14-1957 - State of Fla ex rel Hawkins v BOC (USSC)**
9. **162 F.Supp. 851 - 6-18-1958 - Hawkins v Board of Control of Fla (USDC)**
10. 339 So.2d 637 - 11-12-1976 - Virgil Hawkins Admission to the Florida Bar (FSC)
11. 532 So.2d 669 - The Florida Bar In Re Virgil Darnell Hawkins - Posthumous Reinstatement (FSC)

Resisting “any and all” Integration

The Board of Control of Florida Institutions of Higher Learning met in Sarasota on Friday of last week. At that time it prepared a resolution endorsing the action theretofore taken by the Attorney General in resisting any and all attempts to enforce integration of white people and Negroes in Florida's institutions of higher learning. It also concurred in the Attorney General's recommendation that he continue to present all defenses available under the Constitution and the Statutes of the State of Florida to prevent integration in those institutions.

Source: Memorandum from Mr. Fred H. Kent (BOC Chairman) to Dr. J.B. Culpepper (Florida Education Secretary), March 19, 1956.

Closure of the original FAMU College of Law

1965 - The Florida legislature votes to close the FAMU law school and open a law school at Florida State University. Funds previously allocated for the FAMU law school were to be transferred to Florida State University's law school.

1966 - The Florida Board of Control (later known as the Board of Regents) withdrew its permission for the institution to admit law students.



FAMU College of Law 1968 Graduating Class
l-r: Perker Meeks, Glenn Pritchett, Arthenia Joyner,
C. Bette Wimbish, Howard Knight, and Ralph
Flowers.

The Road Back to the newly established College of Law

In 1988 Dr. Frederick S. Humphries decides to request the reestablishment of the FAMU College of Law in each of every 5-Year New Program Request to the Board of Regents.

3/20/1991 Senate Education Committee unanimously approved **State Senator Carrie Meeks' SB 1314** to conduct a **feasibility study for the reestablishment of the FAMU College of Law.**

1993 Dispute surfaced in the FL Legislature between the largely Democratic Black Caucus and the largely Republican Hispanic Caucus as to **which institution should administer a new law school**, predominately African American FAMU, or predominately Hispanic FIU?

1994 Established in 1994, the Minority Participation in Legal Education (MPLE) Program, funded by the Florida Legislature, was designed to address the underrepresentation of historically disadvantaged minorities practicing law in the State of Florida.

Countdown to Bill Signing

4/7/2000 The **Florida Bar Board of Governors** agreed to **support the bar examiners' petition to raise the passing score**. The Florida Bar Board of Governors also voted to oppose the establishment of either new public law school. On March 20, 2003 the Florida Supreme Court ordered that "the pass/fail line is increased to 133 effective July 1, 2003, and raised further to 136 on July 1, 2004." [*See Amendments to Rules of the Supreme Court Relating to Admissions to the Bar, 843 So.2d 245*]

5/5/2000 - Florida Legislature unanimously passed legislation establishing a law school at Florida A&M University. [SB 68 & H2129]. The Bill sponsors were State Senators Betty Holzendorf & Mario Diaz-Balart; as well as Representatives Gaston Cantens and Rudy Bradley. After the initial four sponsors of bills in the Senate and House there were several additional co-sponsors.

06/01/2000 - Signed by both Florida Legislature Branch Officers and presented to Governor

Dedication to providing opportunities

1004.40 College of law at Florida Agricultural and Mechanical University.—

(6)The college of law at Florida A&M University shall be dedicated to providing opportunities for minorities to attain representation within the legal profession proportionate to their representation in the general population; however, the college of law shall not include preferences in the admissions process for applicants on the basis of race, national origin, or sex.

Now FAMU is recognized as one of the top diverse law schools in the country.

The Final Bills of the 2000 Legislature

FAMU & FIU Law School Bills

**Lieutenant
Governor
of Florida
(2003-2007)**

*Succeeded
Frank Brogan*



**Senate President Toni
Jennings – R- Orlando**

FSU Medical School Bill

**President of
Florida State
University**



**House Speaker John
Thrasher – R - Jacksonville**

Return of the FAMU College of Law



06/14/2000 Approved by Governor; Chapter No. 2000-259, Laws of Florida (§1004.40, Florida Statutes) - **College of law at Florida Agricultural and Mechanical University.**

Questions and Answers

Thank You

