



Friday, November 8, 2024
2:05 PM -- 3:20 PM

Session 304 | AAPIs and Education: *Tape v. Hurley* and *Gong Lum v. Rice*

Over the years, AAPIs have played a prominent role in American education. Today, they are at the center of the affirmative action dispute, with some suggesting that there are too many AAPIs in certain elite schools. But there was a time when AAPIs were denied admission to public schools because of their Asian ancestry. In 1884, seventy years before the Supreme Court decided *Brown v. Board of Education*, Joseph and Mary Tape sued in San Francisco after their eight-year old daughter Mamie was turned away from the Spring Valley Primary School -- an all-white school -- because she was of Chinese ancestry. And in 1924, Gong Lum sued in Bolivar County, Mississippi, after his daughter, nine-year old Martha, and three other children of Chinese ancestry were sent home from the Rosedale Consolidated School because the school was for whites only. This case would reach the Supreme Court of the United States. This program will tell the stories of Mamie Tape and Martha Lum and their efforts to fight discrimination, through narration, reenactment of court proceedings and historic photographs. This is the sixteenth in a series of historic reenactments presented by the Asian American Bar Association of New York.

Moderators:

Denny Chin, U.S. Circuit Judge,

U.S. Court of Appeals for the Second Circuit

Kathy Hirata Chin, Chair, Board of Advisors,

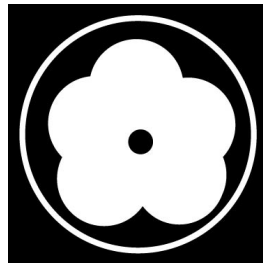
Center on Asian Americans and the Law, Fordham Law School

Speakers:

Members of the Asian American Bar Association of New York
and Special Guests

AAPIs
and Education:
Tape v. Hurley
and
Gong Lum v. Rice

CLE Packet
2024 NAPABA Convention
Seattle
November 8, 2024



**Asian American
Bar Association
of New York**

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Timeline

- 1864 A 12-year old Chinese boy named Chew Diep arrives in San Francisco and finds work as a houseboy.
- 1868 An 11-year old Chinese girl arrives in San Francisco and a few months later is delivered by Rev. A.W. Loomis to a shelter run by the Ladies' Protection and Relief Society. She is given the name Mary McGladery.
- 1875 Chew Diep and Mary McGladery are married by Rev. A.W. Loomis on November 16 at the First Presbyterian Church in San Francisco. They are known thereafter as Joseph and Mary Tape.
- 1882 Chinese Exclusion Act.
- 1884 On September 29, Justice Stephen Field in *In re Look Tin Sing* rules that a Chinese boy born in California who had traveled to China must be allowed to return to the United States.
- On October 21, the San Francisco Board of Education passes a resolution prohibiting any principal from admitting "any Mongolian child" into "each and every public school" in San Francisco city and county. Suit is filed by Tape shortly thereafter.
- 1885 On January 9, 1885, Hon. James G. Maguire rules that Mamie Tape must be admitted to the school.
- On March 3, the Supreme Court of California affirms.
- A month later, the California State Legislature passes a bill establishing separate schools for Chinese students.
- On April 13, 1885, a school for Chinese students opens in Chinatown as the "Chinese Primary School."
- 1906 On September 27, after the San Francisco earthquake, so many Chinese had left the city that the school board changes the name from "Chinese Primary School" to the "Oriental School." Two weeks later, all principals are directed to send all Chinese, Japanese, and Korean children to the Oriental Public School.
- 1924 On April 1, the Oriental Public School is renamed Commodore Stockton.
- On September 15, Martha and Berda Lum and two other Chinese children are told by the principal of Rosedale Consolidated High School in Bolivar County, Mississippi, that they are no longer welcome at the school, which is only for white children.
- On September 29, suit is filed on behalf of Martha.

- On November 5, Hon. William Aristides Alcorn, Jr. issues a writ of mandamus to grant admission to the school to Martha and grants defendants' motion to appeal.
- 1925 On May 11, the Mississippi Supreme Court reverses.
- 1927 On November 2, 1927, the U.S. Supreme Court affirms.
- 1954 *Brown v. Board of Education.*
- 1971 *Johnson v. San Francisco Unified School District and Guey Heung Lee v. Johnson* (desegregation case in San Francisco).
- 1974 *Lau v. Nichols* (bilingual education case).
- 2023 *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College* (affirmative action case).

Letter from Mrs. Mary Tape
Published in the Daily Alta California, April 16, 1885

CHINESE MOTHER'S LETTER

A LETTER FROM MRS. TAPE

The following is a verbatim copy of a letter received
from Mrs. Tape, in regard to her children
at present attending the Chinese school:

1769 Greene Street
San Francisco, April 8, 1885

To the Board of Education --

DEAR SIRs:

I see that you are going to make all sorts of excuses to keep my child out of the Public schools. Dear sirs, Will you please tell me! Is it a disgrace to be born a Chinese? Didn't God make us all!!! have you to bar my children out of the school because she is a chinese Descend. They is no other worldly reason that you keep her out, except that I suppose, you all goes to churches on Sundays! Do you call that a Christian act to compell my little children to go so far to a school that is made in purpose for them. My children don't dress like the other Chinese. They look just as phunny amongst them as the Chinese dress in Chinese look amongst you Caucasians. Besides, if I had any wish to send them to a chinese school I could have sent them two years ago without going to all this trouble. You have expended a lot of the Public money foolishly, all because of a one poor little Child. Her playmates is all Caucasians ever since she could toddle around. If she is good enough to play with them! Then is she not good enough to be in the same room and studie with them? You had better come and see for yourselves. See if the Tape's is not same as other Caucasians, except in features. It seems no matter how a Chinese may live and dress so long as you know they Chinese. Then they are hated as one. There is not any right or justice for them.

You have seen my husband and child. You told them it wasn't Mamie Tape you object to. If it were not Mamie Tape you object to, then why didn't you let her attend the school nearest her home! Instead of first making one pretense Then another pretense of some kind to keep her out? It seems to me Mr. Moulder has a grudge against this Eight-year-old Mamie Tape. I know they is no other child I mean Chinese child! care to go to your public Chinese school. May you Mr. Moulder, never be persecuted like the way you have persecuted little Mamie Tape. Mamie Tape will never attend any of the Chinese schools of your making! Never!!! I will let the world see sir What justice there is When it is govern by the Race prejudice men! Just because she is of Chinese descend, not because she don't dress like you because she does. Just because she is descended of Chinese parents I guess she is more of an American then a good many of you that is going to prewent her being Educated.

Mrs. M. Tape

No. 9916

In the Supreme Court

—OF THE—

STATE OF CALIFORNIA.

MAMIE TAPE, (AN INFANT) BY HER GUARDIAN,
ad litem, JOSEPH TAPE, *Respondent.*

vs.

MISS JENNIE M. A. HURLEY, ET ALS.,
Appellants.

TRANSCRIPT ON APPEAL.

H. G. PLATT,

Attorney for Appellants.

WM. F. GIBSON,

Attorney for Respondent.

Filed February 5th 1885.

J. W. McCarthy Clerk.

By Frank Myers Deputy Clerk.

Barry, Baird & Co., Book and Job Printers, 419 Sacramento Street.

1 **In the Supreme Court**

OF THE

STATE OF CALIFORNIA.

*In the Superior Court of the City and County of
San Francisco, State of California, Depart-
ment No. 4.*

2 MAMIE TAPE, (AN INFANT) BY HER
GUARDIAN, *ad litem*, JOSEPH
TAPE, *Applicant*,
vs.

3 MISS JENNIE M. A. HURLEY, Princi-
pal of the Spring Valley Primary
School, and ANDREW J. MOULDER,
Superintendent of Public Instruc-
tion of the City and County of
San Francisco, and ROBERT P.
HASTINGS, ROBERT I. BOWIE,
ERNEST BRAND, CHARLES D.
CLEVELAND, FRANK CONKLIN,
JOHN CAHALIN, ISIDOR DANIEL
WITZ, JAMES M. EATON, JOHN M.
FOARD, JESSE A. MELCHER,
CHARLES E. TRAVERS and HOR-
ACE G. PLATT, constituting and
comprising the Board of Educa-
tion of the City and County of
San Francisco, *Respondents*.

Affidavit for a Writ of Mandate.

STATE OF CALIFORNIA, }
City and County of San Francisco. } ss.
Joseph Tape, being first duly sworn, deposes and
says:

4 I am the father of the girl Mamie Tape, who is under the age of fourteen years, namely, of the age of between eight and nine years. I am the husband of Mary M. Tape, having been married to the said Mary M. Tape in the City and County of San Francisco, State of California, on the 16th day of November, A. D. 1875, conforming to the requirements of the laws and statutes of said State then in force relating to the subject of marriage, and the act having been solemnized according to
5 the rights and ceremonies of the Presbyterian denomination, at the First Presbyterian Church of San Francisco, by the Rev. A. W. Loomis, D. D., assisted by the Rev. I. M. Condit, clergymen of said denomination, and in good standing therein. The above mentioned Mamie Tape is the issue of said marriage, having been born in the house situated on the northwest corner of Gough and Vallejo streets, in the City and County of San Francisco, on the 18th day of August, A. D. 1876.
6 Shortly after the birth of said Mamie Tape, I, with my family, moved into a house on the same block, but situated on Green street, between Gough and Octavia streets, where the said Mamie Tape has ever since continuously resided.

At present, and for more than fifteen years last past, my wife and I have been domiciled in said City and County. I now reside with my family, and for more than seven years last past, have con-

7 tinuously resided at 1769 Green street, in said City and County. At present I am engaged in the business of draying and expressing, in said City and County and have followed the same continuously in said place for more than ten years last past.

Fifteen years ago I discarded my queue, and have never since worn one. My wife and I are now, and for fifteen years last past, have been clothed in the American costume. The said
8 Mamie Tape is now and always has been dressed in the American costume, in the manner common and usual for a child of her years.

The City and County of San Francisco is not now and for the year last past has not been divided into school districts, but by law, and also by the custom adopted and established by the Board of Education of said City and County, pupils residing therein have a right to be received as
9 such in the public schools nearest their residence, in case such a school is not full, and they have made sufficient progress to be admitted thereto. The nearest public school to my said residence, and in said City and County for six months last past and now, is the Spring Valley Primary School, on Union street, between Franklin and Gough streets, in the City and County of San Francisco, a public school under the Board of Education of said City and County, sustained by taxes raised in

10 said City and County for the support of the public schools therein, of which taxes I have always been willing to pay and have paid my reasonable and lawful share.

At the time the application hereinafter mentioned was made, the said Spring Valley Primary School was, and ever since then has been, and is now under the control and in the charge of Miss J. M. A. Hurley, as principal thereof, appointed thereto and holding office as such under the said
11 Board of Education. On or about the 22nd day of October, A. D. 1884, by my consent and direction, my wife, the said Mary Tape, accompanied said Mamie Tape to the Spring Valley Primary School, the same being in session, and there found the said Miss Jennie M. A. Hurley, then and there acting as the principal of said school, and then and there as such, being the only and proper person to whom to make application for the admission of pupils to the same, and presented the said
12 Mamie Tape to said principal as a pupil, asking to be admitted as such to said school. The said school then and there was not full, nor was there any good or valid reason why the said Mamie Tape should not be received therein as such pupil as aforesaid.

The said Mamie Tape is not a child of filthy or vicious habits, or suffering from any contagious or infectious disease.

- 13 But the said Miss Jennie M. A. Hurley, Principal of said school, instead of making inquiry respecting the said Mamie Tape, her residence, her citizenship, her character, her habits, her health, her age, or in any other respect, or examining her as to her qualifications, or proficiency, at once politely, but firmly and definitely declined to entertain the said application or to admit the said Mamie Tape as such pupil, assigning as the only reason for such action and refusal the fact that Mamie
- 14 Tape was of Chinese descent, and that no provision had been made for the education of a child of Chinese descent; but that on the contrary, the said Board of Education, of said City and County, of San Francisco, under whose authority and direction said Miss Jennie M. A. Hurley acts as principal of said school, had expressly enjoined and prohibited said Miss Jennie M. A. Hurley, as principal of said school, from receiving or admitting any child of Chinese descent as a pupil there-
- 15 to, and referred to the following resolution, adopted by said Board of Education on the 21st day of October, A. D. 1884, at a regular session of said Board, viz.:

Resolved, That each and every principal of each and every public school throughout this City and County, under the jurisdiction of Board of Education, be and he or she is hereby absolutely prohibited from admitting any Mongolian (Chinese)

16 child of schoolable age or otherwise, either male or female into such school or class.

Resolved, That a violation of the foregoing "resolution will subject such principal or teacher to immediate dismissal from the department.

The reason so assigned was true in fact and was in truth and fact the only reason existing for such action and refusal of the said Miss Jennie M. A. Hurley, principal of said school. For my family and I do now reside and at all the times mentioned in this affidavit have resided at a great distance from that part of the City and County of San Francisco commonly known and designated as Chinatown. My child, the said Mamie Tape, has always played and otherwise associated with American children, and speaks the English language readily, which is the language used by my family and myself at my said house and residence. Moreover, both my family and myself have adopted the manners, habits and customs of American people of our station in life, and the only objection that can possibly be made to the admission of said Mamie Tape to the said Spring Valley Primary School was on the ground of race or color.

The said Spring Valley Primary School was at the time of the refusal above mentioned and is now of the class called Primary Schools of the City and County of San Francisco, and which are described in the "Rules of the Board of Education

19 and Regulations of the Public Schools of San Francisco" adopted by said Board of Education, as follows:

"Section 65. The primary schools form the lowest grade in the system of public instruction in this city, and in them are taught the rudiments of an English education.

The said child, Mamie Tape, at the time of the said application belonged to the class of pupils qualified to enter the lowest, but not the highest
20 grade of said school.

The said child, Mamie Tape, is the party beneficially interested in this application and she has no plain, speedy or adequate remedy whereby to obtain relief against the aforesaid action of Miss Jennie M. A. Hurley, Principal of the Spring Valley Primary School, and Andrew J. Moulder, Superintendent of Public Instruction, of the City and County of San Francisco, and Robert P. Hastings, Robert I. Bowie, Ernest Brand, Charles
21 D. Cleveland, Frank Conklin, John Cahalin, Isidor Danielwitz, James M. Eaton, John M. Foard, Jesse A. Melcher, Chas. E. Travers and H. G. Platt, consisting and comprising the Board of Education of the City and County of San Francisco except by a writ of mandate as I am advised and verily believe.

Wherefore, in accordance with and in pursuance of the facts and premises stated herein on behalf

22 of the said Mamie Tape (an infant) I pray your Honorable Court that an alternative Writ of Mandate may issue from your Honorable Court to Miss Jennie M. A. Hurley, Principal of the Spring Valley Primary School, and to Andrew J. Moulder, Superintendent of Public Instruction of the City and County of San Francisco, and to Robert P. Hastings, Robert I. Bowie, Ernest Brand, Charles D. Cleveland, Frank Conklin, John Cahalin, Isador Danielwitz, James M. Eaton, John M. Foard,

23 Jesse A. Melcher, Charles E. Travers and Horace G. Platt, constituting and comprising the Board of Education of the City and County of San Francisco, commanding and enjoining the said Miss Jennie M. A. Hurley as such Principal, having charge of the Spring Valley Primary School, and the said Andrew J. Moulder, Superintendent of Public Instruction of the City and County of San Francisco, and the said Robert P. Hastings, Robert I. Bowie, Ernest Brand, Charles D. Cleveland,

24 Frank Conklin, John Cahalin, Isadore Danielwitz, James M. Eaton, John M. Foard, Jesse A. Melcher, Charles E. Travers and Horace G. Platt, constituting and comprising the Board of Education of the City and County of San Francisco, to receive and act upon the application of the said Mamie Tape to be admitted as a pupil in said school, and also to examine the said Mamie Tape as such applicant, and if found qualified, to enter

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25 said school as a pupil, to receive and admit said Mamie Tape as such, or to show before your Honorable Court at some day to be fixed by your Honorable Court any good or valid reason why said Mamie Tape shall not be examined on her application to enter the Spring Valley Primary School as a pupil, and for such other and further mandate as said Mamie Tape shall be entitled to in the premises, and also for costs of this proceeding.

JOSEPH TAPE.

26

Subscribed and sworn to before me, this 25th day of October, A. D. 1884.

R. D. McELROY,

[SEAL.]

Notary Public.

Endorsed: Filed Oct. 28, 1884.

WILLIAM T. SESNON, Clerk,

J. D. Ruggles, Deputy Clerk.

27

Alternate Writ of Mandate.

[Title of Court and Cause.]

The People of the State of California—

To Miss Jennie M. A. Hurley, Principal of the Spring Valley Primary School; and Andrew J. Moulder, Superintendent of Public Instruction of the City and County of San Francisco, and Robert P. Hastings, Robert I. Bowie, Ernest Brand,

Judgment.

[Title of Court and Cause.]

In open Court, January 19th, 1885.

46 This cause came on regularly this day for trial, Wm. Gibson Esq., appeared as attorney for the plaintiff, and Messrs. Platt and Young as attorneys for the defendants. Defendants by their attorneys in open Court admitted that all the facts stated in the petition for a writ of mandate herein are true, upon which the cause
 47 was submitted to the court for consideration and decision, and now the Court having fully considered the same and being fully advised therein, the Court ordered^s that the proceedings, in so far as they relate to the members of the Board of Education, be and the same are hereby dismissed, and that a peremptory writ of mandate do forthwith issue out of this Court commanding the respondents, Andrew J. Moulder, Superintendent of Public Schools of the City and County of San Francisco,
 48 and Jennie M. A. Hurley, Principal of the Spring Valley Primary School, to admit and receive Mamie Tape, the petitioner herein, into the said Spring Valley Primary School as a pupil. It is further ordered that all proceedings upon the said writ of mandate be and the same is hereby stayed for the period of thirty (30) days.

Judgment recorded January 21st, 1885, B. J. P. 661, D. 4.

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, ~~1925~~ 1926 1927

No. ~~11-40~~ 29

GONG LUM AND CHEW HOW, NEXT FRIEND FOR
MARTHA LUM, PLAINTIFFS IN ERROR,

vs.

G. P. RICE, L. C. BROWN, HENRY MCGOWAN, ET AL.

IN ERROR TO THE SUPREME COURT OF THE STATE OF
MISSISSIPPI

FILED NOVEMBER 16, 1925

(31,534)

[fols. 1 & 2] [Caption omitted]

[fol. 3]

IN CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF BOLIVAR COUNTY, MISSISSIPPI

PETITION FOR WRIT OF MANDAMUS—Filed September 29, 1924

To the Honorable Wm. A. Alcorn, Judge of the Eleventh Circuit Court, District of the State of Mississippi, sitting in and for the First Judicial District of Bolivar County, Mississippi:

Your petitioners, Gong Lum, an adult, and Martha Lum, a minor, by her next friend Chew How, an adult, come and complain of Mr. J. H. Nutt, Mr. G. P. Rice, Mr. L. C. Brown, Mr. Henry McGowan and Mr. W. F. Bond, State Superintendent of Education of the State of Mississippi, and charge the facts to be:

That Gong Lum is a resident of the First District of Bolivar County, Mississippi and resides in the Rosedale Consolidated High School District; that your petitioner, Martha Lum, is a native born citizen of the United States and that her parents were residents of the United States and the State of Mississippi, engaged in the mercantile business, and not directly or indirectly connected with the consular service, or any other service, of the government of China or any other government, at the time of her birth; that she is nine years old, having been born January 21, 1915, and she sues by her next friend, Chew How, who is a native born citizen of the United States and the State of Mississippi, and they charge that she, the said Martha Lum, is of good moral character and is a good, clean, moral girl between the ages of five and twenty-one years and a native born citizen of the United States and the State of Mississippi, and a resident citizen of the Rosedale Consolidated High School District in Bolivar County, Mississippi, and that as such citizen and educable child it becomes her father's duty under the law to send her to school. And that [fol. 4] she is an educable child of the said district and desires to attend the Rosedale Consolidated High School, and

at the opening of said school she appeared as a pupil but at the noon recess was notified by the superintendent, Mr. J. H. Nutt, in charge of the school that she would have to return to her home and would not be allowed to return to the school. That an order had been issued by the Board of Trustees, composed of G. O. Rice, L. C. Brown and Mr. Henry McGowan, excluding her from attending said school, solely on the ground and for the reason that she was of Chinese descent and, therefore, not a member of the white or Caucasian race, and that said order had been made in obedience to the instructions of W. F. Bond, State Superintendent of Education of the State of Mississippi.

Your petitioners would further show to this Honorable Court, that there is no school maintained in the district for the education of children of Chinese descent and none established in said district or county where she could attend.

Your petitioners would further charge, that the constitution of the State of Mississippi requires that there shall be a County common school fund, which shall consist of poll taxes to be retained in the counties where the same is collected, and a State common school fund to be taken from the general fund in the State treasury, which together shall be sufficient to maintain a common school for a term of four months in each scholastic year, but any county or separate school district may levy an additional tax to maintain schools for a longer time than a term of four months, and that the said common school fund shall be distributed among the several counties and separate school districts in proportion to the number of educable children in each, to be collected from the data in the office of the State Superintendent of Education in the manner prescribed by law, and the constitution also requires that it shall be the duty of the legislature to encourage by all suitable means the promotion of [fol. 5] intellectual, scientific, moral and agricultural improvement, by establishing a uniform system of free public schools by taxation or otherwise, for all children between the ages of five and twenty-one years, and as soon as practicable to establish schools of the higher grade, and in obedience to this mandate of the constitution, the legislature has provided by law for the establishment and for the payment of the expenses of the Rosedale Consolidated High School, and petitioner's father is a tax payer and helps

support and maintain said school and she, as an educable child between five and twenty one years and a resident within said district, is entitled to attend said school as a pupil, and it is made the duty of her father to send her to school and that this is the only school conducted in said district available for her as a pupil; that the right to attend said school is a valuable right; that she is not a member of the colored race nor is she of mixed blood, but she is of pure Chinese origin or descent and a native born citizen of the United States and the State of Mississippi and of the Rosedale Consolidated High School District, and, is therefore, an educable child between the ages of five and twenty-one years in every way competent and qualified to attend said school, and has a right to attend said public school and said right is a valuable right, and that she is advised that notification had been issued by Mr. W. F. Bond, State Superintendent of Education of the State of Mississippi, to the superintendent, Mr. J. H. Nutt, and to the Board of Trustees, whose names are above set forth, to deny her this right solely and exclusively on the ground that she is of Chinese descent, and she is therefore discriminated against directly and denied the valuable right and privilege which she is entitled to, as a citizen of the State of Mississippi, on account of her race, and that the State of Mississippi, by its duly constituted Superintendent of Education and by [fol. 6] its Superintendent of the Rosedale Consolidated High School and by the Trustees of said consolidated high school, is denying to her, a native born resident citizen of the United States and the State of Mississippi, the privileges and immunities of her citizenship; and that the right to attend said Rosedale Consolidated High School is a valuable right and a valuable opportunity to her, and that she is being deprived thereof without the process of law, and that on account of her race or descent she is being denied the equal protection of the law, and contrary to the provisions of the constitution of the United States and the constitution and laws of the State of Mississippi. That the said state Superintendent of Education, superintendent of the Rosedale Consolidated High School and Trustees of the Rosedale Consolidated High School have been requested to permit the said Martha Lum to attend said public school in the said district in which she resides and wherein she is an

educable child and citizen of the United States, as aforesaid, and not a member of the colored race or of any mixed colored blood, but that the said school authorities have denied to her this valuable right and privilege solely and exclusively on the ground and for the reason that she is of Chinese origin and descent. That the said school authorities have no discretion under the law as to the admission of the said Martha Lum as a pupil of the school aforesaid but that they continue without authority of the law to deny her the right to attend the said school as a pupil thereof.

That your petitioners are entitled to have a writ of mandamus issued from this Court commanding the defendants and each of them to admit the said Martha Lum into the said school as a pupil and to desist from discriminating against her on account of her race or ancestry, and to accord to her the same rights and privileges accorded to other educable children between the ages of 5 and 21 years residing [fol. 7] in the said Rosedale Consolidated High School district. And in petitioning for said writ of mandamus your petitioners allege that they have no other plain, adequate and complete remedy in the premises.

Wherefore premises considered, your petitioners pray that process be issued to each of the said defendants commanding them to be and appear before the Circuit Court of the First Judicial District of Bolivar County, Mississippi, on the Third Monday in October, 1924, then and there to plead, answer or demur to the allegations of this petition and to show cause, if any they have, as to why the writ of mandamus should not be issued to them by the Court as hereinbefore prayed for in this petition, commanding them to admit the said Martha Lum as a pupil of the school aforesaid, and as a duty enjoined upon them by virtue of their offices under the constitution of the United States and of the constitution and laws of the State of Mississippi.

That the said J. J. Nutt, G. P. Rice, L. C. Brown and Henry McGowan, are resident citizens of the First Judicial District of Bolivar County, Mississippi, and that W. F. Bond, State Superintendent of Education, is a resident citizen of Hinds County, Mississippi.

Your petitioners further pray that the defendants be taxed with all costs in this behalf expended. And as in duty bound will ever pray, etc.

Gong Lum, Martha Lum, by her next friend, Chew How, Petitioners.

[File endorsement omitted.]

[fol. 8] IN CIRCUIT COURT OF BOLIVAR COUNTY

GONG LUM et al.

vs.

G. P. RICE et al.

ORDER SETTING CAUSE

This cause this day coming on to be heard, and it appearing to the court that counsel representing the petitioners and defendants in the above cause have agreed that said cause may be tried in vacation as in term time, on the 5th day of November, 1924, or at such later date as W. A. Alcorn, Jr., Judge of this court may name and that it may be tried at such place as may be convenient to said Judge:

Therefore, the above cause is hereby taken under advisement to be tried by W. A. Alcorn, Jr., Judge of this Court, on the 5th day of November, 1924, at such place as will suit the convenience of said Judge, at nine o'clock A. M. on said date, and if it is not convenient for said judge to hear said cause on said date, then said cause shall be heard on such other date as soon thereafter and at such place as said Judge may designate. The said cause shall be tried in vacation as in term time and such orders and judgments shall be entered therein in vacation as could be entered in term time.

Ordered, adjudged and decreed on this 28th day of October, 1924.

In the Circuit Court of the First Judicial District of Bolivar County, State of Mississippi.

Martha Lum, et al. Petitioners

Vs

G. P. Rice, et al. Defendants.

This cause this day came on to be heard in vacation upon petition of Martha Lum, et al asking for a writ of Mandamus directed to the Superintendent and Trustees of the Rosedale Consolidated High School and to the State Superintendent of Education of Mississippi to compel them to admit the said Martha Lum as a pupil in said High School and upon the demurrer of the Defendants to said petition, and it appearing to the Court that at the last regular term of this Court an order was entered taking this cause under advisement to be heard on this date, and the Court having considered the petition and the demurrer thereto, and having heard and carefully considered the authorities and argument of counsel for all parties, and being of the opinion that the demurrer should be overruled, therefore.

It is by the Court ordered that the demurrer be and the same is hereby overruled and the Clerk of the Circuit Court of the First Judicial District of Bolivar County, Mississippi, is hereby ordered and instructed to issue a writ of Mandamus as prayed for in the petition directed to J. H. Nutt, G. P. Rice, L. C. Brown, H.H. McGowan, and W. F. Bond, directing them to admit petitioner, Martha Lum, as a pupil in the Rosedale Consolidated High School as prayed for in the petition.

Upon motion properly made, defendants are hereby granted an appeal to the Supreme Court of the State of Mississippi.

Ordered and adjudged this the 5th day of November, 1924.

William A. Alcorn, Jr.,

Judge & c

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