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## Drum Majors for Justice

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As our question of the month, we asked readers to submit Black History Month essays. Below are articles about Supreme Court Justice Thurgood Marshall and two lesser-known Marylanders who made significant contributions.

By F. MICHAEL HIGGINBOTHAM AND JOSE F. ANDERSON

**M**ANY lawyers worked with the legendary Thurgood Marshall to overturn the Supreme Court's infamous separate but equal doctrine, which had permitted racial segregation in schools and public accommodations. But while most Marylanders are aware of Marshall's contribution, few recognize the name of his colleague, William I. Gosnell.

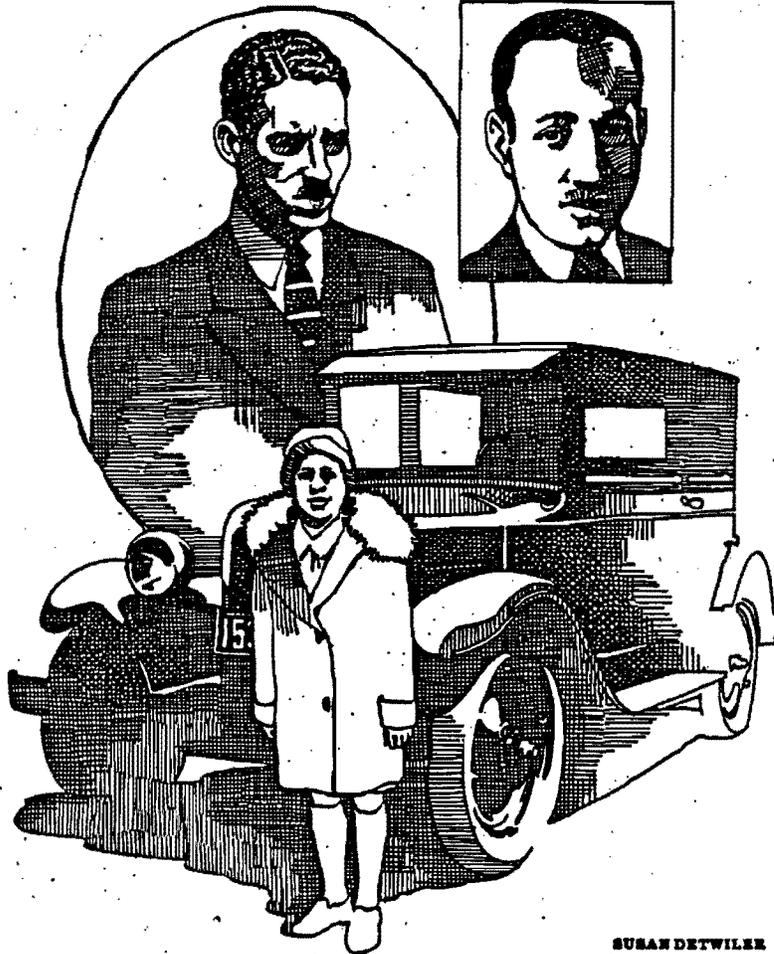
Born in Carroll County, Gosnell graduated from the University of Chicago Law School. He was co-counsel with Marshall and Charles Hamilton Houston, legal director of the National Association for the Advancement of Colored People in *Pearson vs. Murray*, the landmark school desegregation case.

## Major win

While Marshall and Houston argued the case, Gosnell played a major role in preparing the brief. The 1935 *Murray* decision — widely recognized as Marshall's first civil rights victory — desegregated the University of Maryland School of Law.

At that time, Gosnell was one of only 32 black lawyers in the state of Maryland. In fact, due to the state's racial segregation policy, both he and Marshall had received scholarships to attend out-of-state law schools. They were denied entry to the University of Maryland because of their skin color. While Marshall went on to win 28 of 31 cases before the Supreme Court, Gosnell remained in Baltimore and developed a successful law practice. He died in March 1978.

In the recently published biography, "Thurgood Marshall, American Revolutionary," author Judith Williams noted that Gosnell spent many hours with Marshall preparing the *Murray* case. But Gosnell's efforts actually preceded Marshall's involvement. Gosnell introduced Donald Murray, a



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**Legal pioneers:** This depicts how Thurgood Marshall (left), William I. Gosnell and Margaret Williams Rose looked in 1935.

well-qualified Amherst College graduate, to Marshall as a potential plaintiff. Also, Gosnell encouraged the youth to challenge the segregation policy.

Moreover, Gosnell ignored Houston's caution to make no commitments and instead told a meeting of interested lawyers and citizens that he was prepared to go forward alone with the case. It was only after Gosnell told Marshall what he had done that Houston allowed the NAACP to join the case.

## Letter of record

Gosnell had previously advised Murray to write University of Maryland president Raymond A. Pearson, requesting admission to the law school. In his letter, Murray told Pearson that he was

black. In response, Pearson suggested Murray attend then-Morgan State College, which did not have a law school.

Ultimately, Houston, Marshall and Gosnell won a stunning victory in Baltimore before Judge Eugene O'Dunne, who ordered that Murray be admitted immediately to the law school. The order was affirmed by the Maryland Court of Appeals.

The *Murray* decision declared that the equal protection mandate of the 14th Amendment must be satisfied within the confines of a particular state. Thus, Maryland's claim that it provided Murray with equal treatment by providing a scholarship to Howard University in Washington — as was done with Marshall and Gosnell — was rejected because it was

an out-of-state remedy.

Even more important to the segregation effort, Murray was titled to an immediate remedy. Maryland's denial of his equal protection rights. Thus, if Maryland failed to provide Murray with equal law school within the state, it had to admit him to the school reserved for whites.

Two years later, the U.S. Supreme Court upheld the Maryland Court's interpretation in *Gaines vs. Missouri*. Along with the *Gaines* case, the *Murray* decision provided Marshall with the ammunition to attack racial segregation in higher education throughout the United States.

As a result, Marshall had the legal precedent to demand that states provide equal facilities for blacks in higher education regardless of cost.

While the *Murray* case catapulted Marshall and Houston to the national stage, Gosnell continued to practice law here, coming an expert in real-estate and probate law, eventually gaining several important cases before Maryland's highest court.

The late Baltimore jurist Herbert Watts said that "Gosnell was an outstanding lawyer with a creative practice who was running his own or control over 100 properties."

Gosnell, however, did not abandon his commitment to civil rights. Among his many victories was a 1942 case, where he teamed with Marshall and Houston to desegregate Baltimore public golf courses.

While the genius of Marshall and his dedication and commitment to Houston are unsurpassed, the role of Gosnell should not be overlooked.

Today in Lawyer's Mall, near the Maryland State House in Annapolis, stands a grand memorial to former Supreme Court Justice Thurgood Marshall and the *Murray* case, but no public monument marks Gosnell's participation — an omission that should be addressed.

F. Michael Higginbotham and Jose F. Anderson are professors at the University of Baltimore School of Law. Professor Anderson is the great-grandnephew of William I. Gosnell.

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Today in Lawyer's Mall, near the Maryland State House in Annapolis, stands a grand memorial to former Supreme Court

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