Ada Lois Sipuel Hurst previously applied for admission to the University of Oklahoma Law School in 1946. Based on her race, she was denied. Buoyed by the decision Gaines (See Historical Context), Houston’s former student and protégée Thurgood Marshall filed suit on Sipuel’s behalf.

As a delaying tactic, the state countered that they had plans to build a separate law school for black students and because of those plans, they should not be forced to accept any African American students in the state’s all white law schools. Black students should be forced to wait until the law school for black students was constructed and staffed. The Oklahoma State Supreme Court supported that decision.

**Historical Context**

Public education in the south was not deemed an important priority in the late 19th century. Even white children rarely attended school, and when they did their education generally stopped at the sixth grade. The school year was tied to the rhythms of agriculture, and children were expected to contribute to the family as an economic unit.

The education of black children in the south was virtually non-existent, and illiteracy rates were extraordinarily high. Prior to the Civil War some of the southern states had laws against educating black children whether slave or free. During Reconstruction, a number of schools for newly freed slaves sprang up all across the south. Many of these schools owed their existence to philanthropists and religious missionaries. Even so, the curriculum was rudimentary, physical facilities were poor, and teachers were barely compensated. Black children were even more the captives of the agrarian system in the south; it was common for their school year to be shorter than that of white children.

The strategy developed by the National Association for the Advancement of Colored People (NAACP) in the 1930s was simple: the organization meant to force the southern states to comply with the separate-but-equal ruling in *Plessy v Ferguson* (1896). The challenge was led by Charles Hamilton Houston, a black graduate of Harvard Law School. In his role as vice dean of the law school at Howard University, Houston had completely revamped the school, its curriculum and faculty, turning it into a most potent tool in the fight for black equality. Hired by the NAACP to head its legal program, Houston traveled throughout the south and recorded scores of black schools, laying bare the south’s refusal to equalize their facilities.

Houston’s first victory using the new strategy came in the case of *Missouri ex rel Gaines v Canada* (1938). During the 1930's there was no law school in the state of Missouri that would admit black students. Lloyd Gaines applied to the law school at the University of Missouri. He was denied admission, but the state did offer to pay his tuition if he left the state. With the help of the NAACP, Gaines filed suit.
Charles Hamilton Houston convinced the United States Supreme Court that offering to pay out-of-state tuition for black students violated the equal protection clause of the 14th Amendment. The state of Missouri had to create a law school for black students or admit black students to the formerly all-white law school. In the time during which the case had been argued, Lloyd Gaines had disappeared. When the University of Missouri moved to vacate the decision in the case, the NAACP did not object. Last seen in Chicago in 1938, Gaines was never heard from again. Nonetheless, the NAACP had established a fine precedent.

**Question**

Did forcing African American residents of the state of Oklahoma to wait until a law school was constructed and staffed for them a black student to a formerly all-white school but separated them from white students violate the equal protection clause of the 14th Amendment?

**Conclusion**

In a per curiam opinion, the U. S. Supreme Court decided that if qualified Fisher should be enrolled in the University of Oklahoma Law School to commence her studies until the separate law school for blacks was established or that no students of any race be enrolled in the law school until an all-black law school was established.

**Contemporary Relevance**

While African American students are no longer restricted solely to attending historically black colleges and universities (HBCUs), the road to college for blacks students is often extremely difficult. African American students are often not academically ready to attend college, and are disproportionately represented in remedial classes. While the cost of higher education is a concern for all but the very wealthy, black students are especially burdened by this. Given that the median income for black families is only about 30 percent of what white families earn, the cost of college is an extra burden. Furthermore, federal financial aid has decreased dramatically. There have also been a number of challenges to affirmative action programs that have opened the pathway to higher education for minority students, but they remain under continued challenges and have often led many public colleges and universities to scrap them all together. This has caused a decrease in the number of black high school graduates attending college. Finally, students of color are more often likely to be targeted by predatory lenders which often leaves black students with enormous debt and impairs their progress toward a degree.