

# Thurgood Marshall

For people and institutions etc. named after Thurgood Marshall, see Thurgood Marshall (disambiguation).

**Thurgood Marshall** (July 2, 1908 – January 24, 1993) was an Associate Justice of the United States Supreme Court, serving from October 1967 until October 1991. Marshall was the Court's 96th justice and its first African-American justice.

Before becoming a judge, Marshall was a lawyer who was best known for his high success rate in arguing before the Supreme Court and for the victory in *Brown v. Board of Education*, a decision that desegregated public schools. He served on the United States Court of Appeals for the Second Circuit after being appointed by President John F. Kennedy and then served as the Solicitor General after being appointed by President Lyndon Johnson in 1965. President Johnson nominated him to the United States Supreme Court in 1967.

# 1 Early life



Henry Highland Garnet School (P.S. 103), where Marshall attended elementary school

Marshall was born in Baltimore, Maryland, on July 2, 1908. He was the great-grandson of a slave who was born in the modern-day Democratic Republic of the Congo; [2][3] his grandfather was also a slave. [4] His original name was Thoroughgood, but he shortened it to Thurgood in second grade because he disliked spelling it. His father, William Marshall, who was a railroad porter, and his mother Norma, a teacher, instilled in him an appreciation for the United States Constitution and the rule of law. [5]

## 2 Education

Marshall attended Frederick Douglass High School in Baltimore and was placed in the class with the best students. He graduated a year early in 1925 with a B-grade average, and placed in the top third of the class. Subsequently he went to Lincoln University. It is commonly reported that he intended to study medicine and become a dentist. But according to his application to Lincoln University, [6] Marshall stated that his goal was to become a lawyer. Among his classmates were poet Langston Hughes and musician Cab Calloway. Initially he did not take his studies seriously, and was suspended twice for hazing and pranks against fellow students. [7][8] He was not politically active at first, becoming a "star" of the debating team<sup>[8]</sup> and in his freshman year opposed the integration of African-American professors at the university.<sup>[7]</sup> Hughes later described him as "rough and ready, loud and wrong". [9] In his second year he got involved in a sit-in protest against segregation at a local movie theatre. In this same year, he was initiated as a member of the first black fraternity, Alpha Phi Alpha.<sup>[10]</sup> His marriage to Vivien Burev in September 1929 encouraged him to take his studies seriously, and he graduated from Lincoln with honors (cum laude) Bachelor of Arts in Humanities, with a major in American literature and philosophy.<sup>[8]</sup>

Marshall wanted to study in his hometown law school, the University of Maryland School of Law, but did not apply because of the school's segregation policy. Marshall instead attended Howard University School of Law, where he worked harder than he had at Lincoln and his views on discrimination were heavily influenced by the dean Charles Hamilton Houston. [8] In 1933, he graduated first in his class at Howard. [11]

# 3 Marriage and family

Marshall was married twice. He married Vivien "Buster" Burey in 1929. After her death in February 1955, Marshall married Cecilia Suyat in December of that year. They were married until he died in 1993, having two sons together: [12] Thurgood Marshall, Jr., a former top aide to President Bill Clinton; and John W. Marshall, a former United States Marshals Service Director and Virginia Secretary of Public Safety.

2 4 LAW CAREER

## 4 Law career



Thurgood Marshall in 1936 at the beginning of his career with the NAACP

After graduating from law school, Marshall started a private law practice in Baltimore. He began his 25-year affiliation with the National Association for the Advancement of Colored People (NAACP) in 1934 by representing the organization in the law school discrimination suit *Murray v. Pearson*. In 1936, Marshall became part of the national staff of the NAACP.<sup>[11]</sup>

In Murray v. Pearson, Marshall represented Donald Gaines Murray, a black Amherst College graduate with excellent credentials, who was denied admission to the University of Maryland Law School because of its segregation policy. Black students in Maryland wanting to study law had to attend segregated establishments, Morgan College, the Princess Anne Academy, or out-ofstate black institutions. Using the strategy developed by Nathan Margold, Marshall argued that Maryland's segregation policy violated the "separate but equal" doctrine of Plessy v. Ferguson because the state did not provide a comparable educational opportunity at a staterun black institution.<sup>[13]</sup> The Maryland Court of Appeals ruled against the state of Maryland and its Attorney General, who represented the University of Maryland, stating, "Compliance with the Constitution cannot be deferred at the will of the state. Whatever system is adopted for legal education must furnish equality of treatment now."[14]

# 4.1 Chief Counsel for the NAACP Legal Defense and Educational Fund

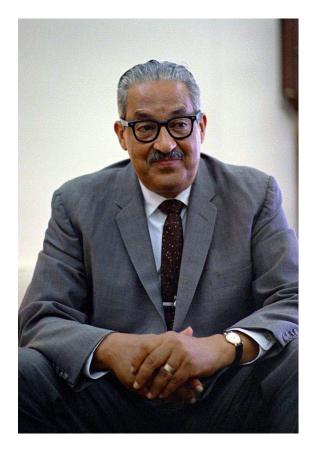
At the age of 32, Marshall won U.S. Supreme Court case Chambers v. Florida, 309 U.S. 227 (1940). That same year, he founded and became the executive director of the NAACP Legal Defense and Educational Fund. [15] As the head of the Legal Defense Fund, he argued many other civil rights cases before the Supreme Court, most of them successfully, including Smith v. Allwright, 321 U.S. 649 (1944); Shelley v. Kraemer, 334 U.S. 1 (1948); Sweatt v. Painter, 339 U.S. 629 (1950); and McLaurin v. Oklahoma State Regents, 339 U.S. 637 (1950). His most famous case as a lawyer was Brown v. Board of Education of Topeka, 347 U.S. 483 (1954), the case in which the Supreme Court ruled that "separate but equal" public education, as established by *Plessy v. Ferguson*, was not applicable to public education because it could never be truly equal. In total, Marshall won 29 out of the 32 cases he argued before the Supreme Court.

During the 1950s, Thurgood Marshall developed a friendly relationship with J. Edgar Hoover, the director of the Federal Bureau of Investigation. In 1956, for example, he privately praised Hoover's campaign to discredit T.R.M. Howard, a maverick civil rights leader from Mississippi. During a national speaking tour, Howard criticized the FBI's failure to seriously investigate cases such as the 1955 killers of George W. Lee and Emmett Till. In a private letter to Hoover, Marshall "attacked Howard as a 'rugged individualist' who did not speak for the NAACP."[16] Two years earlier Howard arranged for Marshall to deliver a well-received speech at a rally of his Regional Council of Negro Leadership in Mound Bayou, Mississippi only days before the Brown decision. [17] According to historians David T. Beito and Linda Royster Beito, "Marshall's disdain for Howard was almost visceral. [He] 'disliked Howard's militant tone and maverick stance' and 'was well aware that Hoover's attack served to take the heat off the NAACP and provided opportunities for closer collaboration [between the NAACP and the FBI] in civil rights.'"[16]

#### 4.2 Court of Appeals and Solicitor General

President John F. Kennedy appointed Marshall to the United States Court of Appeals for the Second Circuit in 1961 to a new seat created on May 19, 1961, by 75 Stat. 80. A group of Senators from the South, led by Mississippi's James Eastland, held up his confirmation, so he served for the first several months under a recess appointment. Marshall remained on that court until 1965, when President Lyndon B. Johnson appointed him to be the United States Solicitor General, the first African American to hold the office. [18] As Solicitor General, he won 14 out of the 19 cases that he argued for the government.

#### 4.3 U.S. Supreme Court



Thurgood Marshall photographed in 1967 in the Oval Office

On June 13, 1967, President Johnson nominated Marshall to the Supreme Court following the retirement of Justice Tom C. Clark, saying that this was "the right thing to do, the right time to do it, the right man and the right place." Marshall was confirmed as an Associate Justice by a Senate vote of 69–11 on August 30, 1967. [19] He was the 96th person to hold the position, and the first African American. President Johnson confidently predicted to one biographer, Doris Kearns Goodwin, that a lot of black baby boys would be named "Thurgood" in honor of this choice. [20]

Marshall served on the Court for the next 24 years, compiling a liberal record that included strong support for Constitutional protection of individual rights, especially the rights of criminal suspects against the government. His most frequent ally on the Court (the pair rarely voted at odds) was Justice William Brennan, who consistently joined him in supporting abortion rights and opposing the death penalty. Brennan and Marshall concluded in *Furman v. Georgia* that the death penalty was, in all circumstances, unconstitutional, and never accepted the legitimacy of *Gregg v. Georgia*, which ruled four years later that the death penalty was constitutional in some circumstances. Thereafter, Brennan or Marshall dissented from every denial of *certiorari* in a capital case and from every decision upholding a sentence of death.

In 1987, Marshall gave a controversial speech on the occasion of the bicentennial celebrations of the Constitution of the United States.<sup>[21]</sup> Marshall stated:

The government they devised was defective from the start, requiring several amendments, a civil war, and major social transformations to attain the system of constitutional government and its respect for the freedoms and individual rights, we hold as fundamental today.<sup>[22]</sup>

In conclusion Marshall stated:

Some may more quietly commemorate the suffering, struggle, and sacrifice that has triumphed over much of what was wrong with the original document, and observe the anniversary with hopes not realized and promises not fulfilled. I plan to celebrate the bicentennial of the Constitution as a living document, including the Bill of Rights and the other amendments protecting individual freedoms and human rights.<sup>[22]</sup>

Although best remembered for jurisprudence in the fields of civil rights and criminal procedure, Marshall made significant contributions to other areas of the law as well. In Teamsters v. Terry, he held that the Seventh Amendment entitled the plaintiff to a jury trial in a suit against a labor union for breach of duty of fair representation. In TSC Industries, Inc. v. Northway, Inc., he articulated a formulation for the standard of materiality in United States securities law that is still applied and used today. In Cottage Savings Association v. Commissioner of Internal Revenue, he weighed in on the income tax consequences of the Savings and Loan crisis, permitting a savings and loan association to deduct a loss from an exchange of mortgage participation interests. In Personnel Administrator MA v. Feeney, Marshall wrote a dissent saying that a law that gave hiring preference to veterans over non-veterans was unconstitutional because of its inequitable impact on women.

Among his many law clerks were attorneys who went on to become judges themselves, such as Judge Douglas Ginsburg of the D.C. Circuit Court of Appeals; Judge Ralph Winter of the United States Court of Appeals for the Second Circuit; Supreme Court Justice Elena Kagan; as well as notable law professors Dan Kahan, Cass Sunstein, Eben Moglen, Susan Low Bloch, Rick Pildes, Paul Gewirtz, Randall L. Kennedy, and Mark Tushnet (editor of *Thurgood Marshall: His Speeches, Writings, Arguments, Opinions and Reminiscences*); and law school deans Paul Mahoney of University of Virginia School of Law, Martha Minow of Harvard Law School, and Richard Revesz of New York University School of Law.

Marshall retired from the Supreme Court in 1991 and was reportedly unhappy that it would fall to President George 4 5 DEATH AND LEGACY

H. W. Bush to name his replacement. [23] Bush nominated Clarence Thomas to replace Marshall.

# 5 Death and legacy

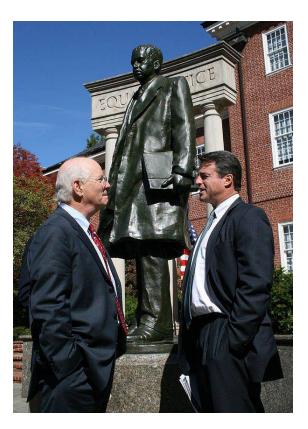


U.S. circuit judges Robert A. Katzmann, Damon J. Keith, and Sonia Sotomayor (later Associate Justice) at a 2004 exhibit on the Fourteenth Amendment, Thurgood Marshall, and Brown v. Board of Education

Marshall died of heart failure at the National Naval Medical Center in Bethesda, Maryland, at 2:58 pm on January 24, 1993, at the age of 84. He is buried in Arlington National Cemetery. [24] His second wife and their two sons survived him.

Marshall left all his personal papers and notes to the Library of Congress. The Librarian of Congress, James H. Billington, opened Marshall's papers for immediate use by scholars, journalists and the public, insisting that this was Marshall's intent. The Marshall family and several of his close associates disputed this claim.<sup>[25]</sup> The decision to make the documents public was supported by the American Library Association.<sup>[26]</sup> A list of the archived manuscripts is available.<sup>[27]</sup>

There are numerous memorials to Marshall. One, an eight-foot statue, stands in Lawvers Mall adjacent to the Maryland State House. The statue, dedicated on October 22, 1996, depicts Marshall as a young lawyer and is placed just a few feet away from where the Old Maryland Supreme Court Building stood; the court where Marshall argued discrimination cases leading up to the Brown decision.<sup>[28]</sup> The primary office building for the federal court system, located on Capitol Hill in Washington D.C., is named in honor of Justice Marshall and contains a statue of him in the atrium. In 1976, Texas Southern University renamed its law school after the sitting justice. [29] In 1980, the University of Maryland School of Law opened a new library which it named the Thurgood Marshall Law Library.[30] In 2000, the historic Twelfth Street YMCA Building located in the Shaw neighborhood of Washington, D.C. was renamed the Thurgood Marshall Center. The major airport serving Baltimore and the



U.S. Senator Ben Cardin (left) and Maryland Attorney General Doug Gansler talk in Lawyer's Mall, near a statue of Thurgood Marshall (October 2007).

Maryland suburbs of Washington, DC, was renamed the Baltimore-Washington International Thurgood Marshall Airport on October 1, 2005. The 2009 General Convention of the Episcopal Church added Marshall to the church's liturgical calendar of "Holy Women, Holy Men: Celebrating the Saints," designating May 17 as his feast day. [31] His membership of the Lincoln University fraternity Alpha Phi Alpha is to be memorialized by a sculpture by artist Alvin Pettit in 2013. [32]

The University of California, San Diego, renamed its Third College after Thurgood Marshall in 1993. [33] Marshall Middle School in Olympia, Washington, is also named after Thurgood Marshall, as is Thurgood Marshall Academy in Washington, D.C.

In 2006, *Thurgood*, a one-man play written by George Stevens, Jr., premiered at the Westport Country Playhouse, starring James Earl Jones and directed by Leonard Foglia. [34] Later it opened Broadway at the Booth Theatre on April 30, 2008, starring Laurence Fishburne. [35] On February 24, 2011, HBO screened a filmed version of the play which Fishburne performed at the John F. Kennedy Center for the Performing Arts. The production was described by the Baltimore Sun as "one of the most frank, informed and searing discussions of race you will ever see on TV.". [36][37] On February 16, 2011, a screening of the film was hosted by the White House as part of its celebrations of Black History Month [38][39] A painting of

Justice Thurgood by Chaz Guest currently hangs at the White House. [40][41]

## 6 Thurgood Marshall Award

The Legislative Assembly of Puerto Rico instituted<sup>[42]</sup> in 1993 the annual Thurgood Marshall Award, given to the top student in civil rights at each of Puerto Rico's four law schools. It includes a \$500 monetary award. The awardees are selected by the Commonwealth's Attorney General.

### 7 Timeline



Marshall in 1957

- 1908 Born July 2 at Baltimore, Maryland, United States
- 1930 Graduates with honors from Lincoln University (cum laude).
- 1934 Receives law degree from Howard University (magna cum laude) and begins private practice in Baltimore, Maryland.
- 1934 Begins to work for Baltimore branch of NAACP.

- 1935 Working with Charles Houston, wins first major civil rights case, *Murray v. Pearson*.
- 1936 Becomes assistant special counsel for NAACP in New York.
- 1940 Wins *Chambers v. Florida*, the first of twenty-nine Supreme Court victories.
- 1943 Won case for integration of schools in Hillburn, New York.
- 1944 Successfully argues *Smith v. Allwright*, overthrowing the South's "white primary".
- 1946 Awarded Spingarn Medal from the NAACP. [43]
- 1948 Wins Shelley v. Kraemer, in which Supreme Court strikes down legality of racially restrictive covenants.
- 1950 Wins Supreme Court victories in two graduate-school integration cases, *Sweatt v. Painter* and *McLaurin v. Oklahoma State Regents*.
- 1951 Visits South Korea and Japan to investigate charges of racism in U.S. armed forces. He reported that the general practice was one of "rigid segregation."
- 1954 Wins *Brown v. Board of Education of Topeka*, landmark case that demolishes legal basis for segregation in America.
- 1956 Wins *Browder v. Gayle*, ending the practice of segregation on buses and ending the Montgomery Bus Boycott.
- 1957 Founds and becomes the first presidentdirector counsel of the NAACP Legal Defense and Educational Fund, Inc., a nonprofit law firm separate and independent of the NAACP
- 1961 Defends civil rights demonstrators, winning Supreme Court victory in *Garner v. Louisiana*; nominated to Second Circuit Court of Appeals by President John F. Kennedy.
- 1961 Appointed circuit judge, makes 112 rulings, none of them reversed on certiorari by Supreme Court (1961–1965).
- 1965 Appointed United States Solicitor General by President Lyndon B. Johnson; wins 14 of the 19 cases he argues for the government (1965–1967).
- 1967 Becomes first African American named to U.S. Supreme Court (1967–1991).
- 1991 Retires from the Supreme Court.
- 1991 Received the Freedom medal<sup>[44]</sup>

6 10 NOTES

- 1992 Receives the U.S. Senator John Heinz Award for Greatest Public Service by an Elected or Appointed Official, an award given out annually by Jefferson Awards. [45]
- 1992 Receives the Liberty Medal recognizing his long history of protecting individual rights under the Constitution.
- 1993 Dies at age 84 in Bethesda, Maryland, near Washington, D.C.
- 1993 Receives Presidential Medal of Freedom, posthumously, from President Bill Clinton.

For more, see Watson (2003).

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### 9 See also

- List of Justices of the Supreme Court of the United States
- List of law clerks of the Supreme Court of the United States
- List of U.S. Supreme Court Justices by time in office
- United States Supreme Court cases during the Warren Court
- United States Supreme Court cases during the Burger Court
- United States Supreme Court cases during the Rehnquist Court

#### 10 Notes

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- FBI file on Thurgood Marshall

## 13 Text and image sources, contributors, and licenses

#### 13.1 Text

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