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GREGORY HILTON, CLERK
SUPREME COURT OF MARYLAND

March 27, 2023

Gregory Hilton, Clerk
The Supreme Court of Maryland
Robert C. Murphy Courts of Appeal Building
361 Rowe Blvd., Fourth Floor
Annapolis, MD 21401
greg.hilton@mdcourts.gov

VIA REGULAR MAIL AND EMAIL

RE: Petition for the Posthumous Admission to the Bar of Maryland of Edward Garrison Draper

Dear Mr. Hilton:

Please find attached (and enclosed) the following documents:

- Petition for Posthumous Bar Admission of Edward Garrison Draper to the Bar of Maryland;
- Motion for Special Admission of John G. Browning;
- Proposed Order Admitting John G. Browning

Pursuant to Chief Justice Fader's correspondence of February 27, 2023, my co-counsel, Domanique A. Flowers, and I are submitting the enclosed Petition for the posthumous admission of Edward Garrison Draper to the Bar of Maryland, together with Mr. Flowers' Motion for my special admission to practice before the Court for this limited purpose, and a proposed Order granting same. As you are aware, we are submitting this Petition at the invitation of the Court. If there is anything else that is required for the Court's consideration, please feel free to contact Mr. Flowers and myself. Thank you for your attention to and assistance in this matter.

Very truly yours,

/s/ John G. Browning
Justice (ret.) John G. Browning

Domanique A. Flowers
Domanique A. Flowers

_____ No. _____

IN THE
SUPREME COURT OF MARYLAND

In re Petition for Posthumous Bar Admission of Edward Garrison Draper

NOW COME, John G. Browning, Domanique Flowers, and Jose Anderson, Petitioners, and respectfully request that this Court posthumously admit Edward Garrison Draper to the Bar of Maryland, and in support of this request would show the following:

I.
INTRODUCTION

On October 29, 1857, a young man named Edward Garrison Draper presented himself for examination before Baltimore Superior Court Judge Zachaeus Collins Lee, in accordance with the requirements then in effect for those seeking admission to practice law in Maryland. Draper satisfied or exceeded virtually every criteria for becoming a Maryland lawyer. Born in Baltimore on January 1, 1834, as the son of a successful tobacconist, Draper was a free citizen of Maryland, over the age of twenty-one, who had studied law for at least two years. His good character, another required element, was attested to by the Baltimore lawyer under whom he had studied, Charles Gilman. As a graduate of Dartmouth, Draper had something most aspiring attorneys of the time lacked—a college education.. Judge Lee was impressed by Mr. Draper, finding the young man to be “most intelligent and well informed in his answers to the questions propounded by me.” In fact, Judge Lee found Edward Draper to be “qualified in all respects to be admitted to the Bar in Maryland,” except for one thing: he was not white. Edward Garrison Draper was thus denied admission to practice in Maryland, for no reason other than the color of his skin. By granting this Petition, the Court has the opportunity to right a historic wrong and join in a growing line of sister courts around the country who have taken steps to address the racial injustices of the past.

II. DRAPER SATISFIED ALL CRITERIA FOR ADMISSION BUT THE RACIAL ONE

Until passage of its bar admission statute in 1832, no formal standards existed for becoming a lawyer in Maryland.¹ Before the Civil War, there were only a handful of law schools in the United States, none of which were in Maryland.² Most lawyers in the United States received their training by “reading the law” under the tutelage of an older practitioner or judge.³ Even late in the 19th century, college degrees were not common; as late as 1883, less than half of the students at the fledgling University of Maryland School of Law had bachelor’s degrees.⁴

With the 1832 statute, Maryland spelled out that an applicant for admission must be a free male citizen of Maryland over twenty-one years of age who had been “a student of the law in any part of the United States, for at least two years previous to said application.”⁵ In addition, the statute specified that an applicant had to be white.⁶ Applicants could make their petition in open court, at any of the county courts, “courts of equity or courts of appeals . . .”⁷ The statute called for the courts “to examine the applicant upon the same day during the regular session [of the court], touching his qualifications for admission . . . and they shall also require and receive evidence of his probity and general character . . .”⁸ Upon a satisfactory examination, the newly admitted attorney was entitled to practice in all courts of the state.⁹

¹ David S. Bogen, *The First Integration of the University of Maryland School of Law*, 84 MD. HIST. MAG. 39 (1989).

² David S. Bogen, *The Transformation of the Fourteenth Amendment: Reflections from the Admission of Maryland’s First Black Lawyers*, 44 MD. L. REV. 939, 981–82 (1995).

³ See generally MAXWELL BLOOMFIELD, *AMERICAN LAWYERS IN A CHANGING SOCIETY, 1776–1876* (Cambridge: Harv. U. Press 1976).

⁴ ROSCOE POUND, *THE LAWYER FROM ANTIQUITY TO MODERN TIMES, 177–87* (1953).

⁵ Act of March 10, 1832, ch. 286, 1831 Md. Laws.

⁶ *Id.* § 1.

⁷ *Id.* § 2.

⁸ *Id.*

⁹ *Id.* § 3.

Edward Garrison Draper led a relatively comfortable life. His parents, tobacconist Garrison Draper and his wife Charlotte Draper, were free—like roughly half of Maryland’s Black population. And, as of the census of 1860, nearly three-quarters of the free Black population were literate. But Edward Draper received a better education than nearly all of his contemporaries. His parents sent him to a school for Black children in Philadelphia, and this preparatory education enabled him to pass Dartmouth’s entrance examination in 1851. Draper excelled at Dartmouth, graduating in 1855.¹⁰ Still, despite his exceptional educational achievements, Draper’s decision to pursue a legal career was ambitious. As of 1857, only a handful of Black men had become lawyers: Macon Bolling Allen, admitted in 1844 in Maine and in Massachusetts in 1845; Robert Morris, admitted in Massachusetts in 1847; George Boyer Vachon, admitted in New York in 1848 (after being denied admission in Pennsylvania the previous year); John Mercer Langston, admitted in Ohio in 1854; and Aaron Alpeoria Bradley, admitted in Massachusetts in 1856.¹¹

However, Edward Garrison Draper was a determined young man who was keenly aware of the prejudices and disparity in equal rights faced by even free Black people. Aware of the work of the Maryland Colonization Society, which promoted emigration of free Black men and women to Liberia, Draper envisioned going to Liberia as an educated and licensed attorney. Between 1855 and 1857, he “read the law” under the tutelage of Baltimore attorney Charles Gilman (who would later sponsor Draper for admission).¹² Desiring practical knowledge of trial practice, Draper spent several months with the Boston office of prominent abolitionist attorney Charles W. Storey, who

¹⁰ For a more detailed chronicle of Mr. Draper’s background and upbringing, see John G. Browning, *To Fight the Battle, First You Need Warriors: Edward Garrison Draper, Everett Waring, and the Quest for Maryland’s First Black Lawyer*, 53 U. BALT. L. FORUM 1 (Fall 2022).

¹¹ *Id.* at 3.

¹² *Id.* at 10–11.

also served as clerk of Suffolk County (Massachusetts) Superior Court. Draper was able to witness trial proceedings in person.

So, when he presented himself for examination by Judge Lee on October 29, 1857, Edward Garrison Draper likely felt as prepared as a candidate for the bar could feel. But Judge Lee—a first cousin to Robert E. Lee and a slaveowner himself—would adhere to Maryland’s racially restrictive bar admission statute. Even though he acknowledged that Mr. Draper’s examination and credentials made him “qualified in all respects to be admitted to the Bar,” Judge Lee hastened to add, “if he was a free white citizen of this State.”¹³ In an effort to salvage something from his two year-long quest to become a lawyer, Draper informed Judge Lee of his intent to emigrate to Liberia and his desire to begin a legal career there. Judge Lee then issued Draper a certificate that stated as follows:

STATE OF MARYLAND
City of Baltimore
October 29, 1857

Upon the application of Charles Gilman, Esq. of the Baltimore Bar, I have examined Edward G. Draper, a young man of color, who has been reading law under the direction of Mr. Gilman, with the view of pursuing its practice in Liberia, Africa. And I have found him most intelligent and well informed in his answers to the questions propounded by me, and qualified in all respects to be admitted to the Bar of Maryland, *if he was a free white citizen of this State*. Mr. Gilman, in whom I have the highest confidence, has also testified to his good moral character.

This Certificate is therefore furnished to him by me, and with a view to promote his establishment and success in Liberia at the Bar there.

Z. Collins Lee
Judge of the Superior Court, Baltimore, Maryland¹⁴

¹³ *Id.* at 12.

¹⁴ While the original certificate was presumably taken with Draper to Liberia and its current whereabouts are unknown, a copy of it appears in the *Journal of the Maryland Colonization Society*, which supported and touted Draper’s accomplishments and trip to Liberia. See Z. Collins Lee, Certificate Attesting that Edward G. Draper is Fit to Practice Law (Oct. 29, 1857), in 9 MD. COLONIZATION J. 89 (1857) (emphasis added).

Armed with this certificate, the newly married Edward Garrison Draper and his wife, Jane Rebecca Jordan, set sail from Baltimore to Liberia six days later. Tragically, Draper died within a year after his arrival in Liberia of tuberculosis, on December 18, 1858—only two weeks before his 25th birthday.¹⁵

III.
THIS COURT HAS THE AUTHORITY, AND PRECEDENT EXISTS, FOR EDWARD
DRAPER’S POSTHUMOUS BAR ADMISSION

As the highest court in Maryland, this Court is the final arbiter regarding admission to the practice of law in this state. Furthermore, as has been demonstrated, Edward Garrison Draper satisfied or exceeded all requirements then in effect for admission to the Maryland bar, but for the color of his skin. Despite the fact that every other former slaveholding state began admitting Black lawyers to the profession between 1866 and 1878,¹⁶ Maryland resisted legal challenges to its racially restrictive admission statute until well after the ratification of the Fourteenth Amendment.¹⁷ A Black man would not be admitted to practice before Maryland’s state courts until Everett J. Waring in 1885; the statute itself was not formally repealed until 1888.¹⁸

A growing body of precedent has emerged as the highest courts in multiple states have granted posthumous bar admission on behalf of minority aspiring attorneys from the late 19th and early 20th centuries who were rejected by the bar on racial grounds.¹⁹ In 2001, the Washington Supreme Court granted posthumous bar admission to Takuji Yamashita, a Japanese American and naturalized citizen who had graduated from the University of Washington School of Law and

¹⁵ Browning, *supra* note 10, at 13.

¹⁶ *Id.* at 14–15.

¹⁷ *In re Taylor*, 48 Md. 28 (1877) (rejecting Charles S. Taylor’s lawsuit on Fourteenth Amendment grounds); *see also Admitted to the Bar*, BALT. SUN, Mar. 20, 1885, at 1, col. 4.

¹⁸ Browning, *supra* note 10, at 20–25.

¹⁹ *See generally* John G. Browning, *Righting Past Wrongs: Posthumous Bar Admissions and the Quest for Racial Justice*, 21 BERKELEY J. AFR. AM. L. & POL’Y 1 (2021).

passed the bar exam—only to be denied admission by the Washington Supreme Court in 1902.²⁰ On March 1, 2001, in response to a petition by the University of Washington Law School, the Washington State Bar Association, and the Asian Bar Association, the Washington Supreme Court posthumously admitted Mr. Yamashita.²¹

In 2010, the Pennsylvania Supreme Court posthumously admitted George Boyer Vachon. Vachon, the first Black graduate of Oberlin College, would go on to become the first Black lawyer admitted in New York (1848) and in the District of Columbia (1868), but only after Allegheny County, Pennsylvania denied his admission there in 1847 on racial grounds. In granting a petition filed by one of Vachon’s descendants, the Pennsylvania Supreme Court posthumously admitted Mr. Vachon, calling the discrimination he faced “intolerable.”²²

In 2015, a law professor at the U.C. Davis School of Law led a petition effort on behalf of Hong Yen Chang. Mr. Chang, a Chinese American, had attended Yale, received a law degree from Columbia, became a naturalized citizen, passed the New York bar, and been admitted to practice in New York in 1888. But when he sought admission in California in 1890, the California Supreme Court denied his application, citing the Chinese Exclusion Act.²³ More than a century later, the court righted this injustice and posthumously admitted Mr. Chang, calling the “discriminatory exclusion of Chang from the State Bar of California” a “grievous wrong.”²⁴ Two years later, the California Supreme Court posthumously admitted Sei Fujii, a Japanese American who graduated from the University of Southern California School of Law in 1911, but who was similarly

²⁰ *In re Takuji Yamashita*, 30 Wash. 234 (Wash. 1902).

²¹ Steven Goldsmith, *Takuji Yamashita: State’s Leaders Honor a Man Once Rejected Because of His Race*, U. WASH. NEWS (Feb. 12, 2001), <https://www.washington.edu/news/2001/02/12/takuji-yamashita-states-leaders-honor-a-man-once-rejected-because-of-his-race/>.

²² Order, *In re Vachon*, Case No. SWM-2010 (Pa. May 4, 2010) (per curium).

²³ *In re Hong Yen Chang*, 24 P. 156 (Cal. 1890).

²⁴ *In re Hong Yen Chang*, 344 P.3d 288 (Cal. 2015).

prohibited from practicing law on racial grounds.²⁵ Fujii being barred from obtaining a license was, as the Supreme Court put it, “an injustice that we repudiate today.”²⁶

William Herbert Johnson was Syracuse University Law School’s first Black graduate in 1903, and the valedictorian of his class. Although he passed the bar exam, no local white lawyers would vouch for his character and fitness to practice, and so Johnson was never licensed. Syracuse’s Black Alumni Collective and surviving descendants of Mr. Johnson petitioned for his posthumous admission to the New York bar. Over 116 years after his historic graduation, on October 18, 2019, the Appellate Division, Fourth Department of New York posthumously admitted Mr. Johnson.²⁷ Presiding Justice Gerald Whalen stated that the court’s ruling “will correct a historic wrong,” and he further noted that “While in this case the just result may have been delayed, justice was not, in the end, denied.”²⁸

The most recent posthumous bar admission was in 2020. J.H. Williams, a Black man and “colored disciple of Blackstone,” arrived in Dallas, Texas seeking admission to the bar roughly two years after the city’s first and only Black lawyer had left within six months because of the prejudice he encountered. In keeping with local practice, the presiding judge appointed a four-man examining committee comprised of local attorneys. But when two members of the panel (including the president of the Dallas Bar Association) voted their conscience and pronounced Williams qualified, the committee deadlocked 2–2. Infuriated, the judge handpicked a second committee that wasted no time in reaching the desired result, finding Mr. Williams “not qualified” the same day they were selected. In 2020, then-Justice John Browning researched and drafted a petition to

²⁵ Admin. Order 2017-05-17 (S239690), 394 P.3d 488 (Cal. 2017).

²⁶ *Id.*

²⁷ Press Release, Fourth Department Schedules Special Posthumous Bar Admission Ceremony for First African-American Graduate of the Syracuse University College of Law, Sup. Ct. of the State of New York (Sept. 30, 2019), <https://ad4.nycourts.gov/press/notices/5d938c81c5379565541557e5>.

²⁸ *Id.*

the Supreme Court of Texas calling for Mr. Williams' posthumous bar admission, citing the racially charged circumstances behind the original denial. On October 19, 2020, the Supreme Court of Texas unanimously granted the petition and posthumously admitted J.H. Williams to the Texas bar.²⁹

IV. CONCLUSION AND PRAYER FOR RELIEF

The cynical among us may question the value in granting the relief sought and posthumously admitting Edward Garrison Draper to the Maryland bar. But such admissions are for more than mere symbolic coda. They are an important step in acknowledging the racial injustices of the past that still resonate in the present. As the California Supreme Court observed in posthumously admitting Sei Fujii, the discriminatory exclusion he suffered was not only “a blow to [those who] aspired to become a lawyer only to have their dream deferred on account of their race, alienage, or nationality,” but it was also “a loss to our communities and to society as a whole, which denied itself the full talents of its people and the important benefits of a diverse legal profession.”³⁰ Although posthumous bar admission on racial grounds has occurred only six times in U.S. legal history, each occasion marks an important step in addressing the past racial injustice that has contributed to the lack of diversity from which the legal profession still suffers.

Dr. Martin Luther King, Jr. famously said, “The time is always right to do what is right.” More recently, in explaining his 2022 posthumous pardon of Homer Plessy, Louisiana Governor John Bel Edwards observed that “justice has no expiration date.” Edward Garrison Draper met or exceeded all lawful requirements for admission to the Maryland bar in 1857, proving the lie of

²⁹ *In re Application for Posthumous Bar Admission of J.H. Williams*, Misc. Docket No. 20-9121 (Tex. S. Ct. Oct. 19, 2020).

³⁰ Admin. Order 2017-05-17 (Cal. 2017) (quoting *In re Hon Yen Chang*, 60 Cal. 4th 1169, 1175 (2015)).

Chief Justice Roger Taney’s infamous characterization earlier that same year of Black men and women as “beings of inferior order” with “no rights which the white man was bound to respect.”³¹

This Court has the authority to posthumously admit Edward Garrison Draper to the Maryland bar. Petitioners urge the Court to follow in the footsteps of their counterparts on the highest courts in Washington, Pennsylvania, California, New York, and Texas in granting the posthumous admission. As further support for this request, Petitioners have attached an Appendix consisting of letters of support from prominent stakeholders in the community. These letters are as follows:

Appendix Ex. 1 – March 1, 2023 letter to the Court from Philip J. Hanlon, President of Dartmouth College;

Appendix Ex. 2 – March 1, 2023 letter to the Court from the current and incoming presidents of the Black Alumni of Dartmouth Association, Maryland attorney Karin Marshall and Dr. Maria Cole;

Appendix Ex. 3 – March 11, 2023 letter to the Court from the Alliance of Black Women Attorneys of Maryland, Inc.;

Appendix Ex. 4 – March 16, 2023 letter to the Court from the Monumental Bar Association;

Appendix Ex. 5 – March 24, 2023 letter to the Court from the National President of the American Board of Trial Advocates.

Appendix Ex. 6 – March 26, 2023 letter to the Court from Chief Judge (ret.) Wanda Keyes Heard.

These letters represent just a sampling of the support that this cause enjoys in the community. Maryland, sadly, was not in the forefront of welcoming Black attorneys to the legal

³¹ Dred Scott v. Sandford, 60 U.S. 393 (1856).

profession. But by granting posthumous bar admission to Edward Garrison Draper, this Court can place Maryland in the vanguard of restorative justice and demonstrate conclusively that justice delayed need not be justice denied.

Respectfully submitted,

Domonique Flowers

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/s/ John G. Browning

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APPENDIX

APPENDIX

EXHIBIT 1

DARTMOUTH

The President

Hanover, New Hampshire, 03755

March 1, 2023

Chief Justice Matthew J. Fader
Supreme Court of Maryland
361 Rowe Boulevard
Annapolis, MD 21401

Dear Chief Justice Fader and Justices of the Supreme Court of Maryland,

It is my honor and privilege to write in support of a petition, submitted to the Maryland State Board of Law Examiners by the Black Alumni of Dartmouth Association, to posthumously admit Edward Garrison Draper to the Maryland Bar.

Mr. Draper, a man of color and graduate of Dartmouth College in 1855, was admitted to this College by President Nathan Lord. Notwithstanding President Lord's controversial views on slavery, he believed it was this college's mission to educate men like Draper. According to one observer, "when other Colleges closed their doors, President Lord threw the portals of Dartmouth wide open to the colored race."[†]

We now have in hand the well-documented evidence that Mr. Draper took full advantage of his talent, and training, to convince Judge Zaccheus C. Lee of the Maryland Superior Court of his fitness to serve on the Maryland Bar. That he was denied this privilege remains a stain on the fabric of this society that must be expunged. Mr. Draper lives in the memory of this College. I strongly urge you to recognize and honor his life and legacy.

Sincerely,



Philip J. Hanlon

[†]Crosby, A. B. (1872). A Eulogy Commemorative of the Life and Character of Nathan Lord, President of Dartmouth College. USA: J. B. Parker.

APPENDIX

EXHIBIT 2



March 1, 2023

Supreme Court of Maryland
Robert C. Murphy Courts of Appeal Building
361 Rowe Blvd.
Annapolis, MD 21401

Dear Justices of the Court:

For centuries, Black Americans and other people of color have been prevented from enjoying the fruits of their labor and ability simply because they were not white. One example is the countless Black Americans denied admission to colleges and universities, professional schools, and in the case of Edward Garrison Draper, admission to the bar of the State of Maryland. The Maryland Supreme Court must now take the opportunity to right this wrong.

We, the current and incoming Presidents of the Black Alumni of Dartmouth Association (BADA) on behalf of our membership write in support of the Petition filed by Justice (ret.) John G. Browning seeking posthumous admission of Edward Garrison Draper to the Maryland Bar. Unlike the practice of law today, there was no bar exam that qualified men in 1857 to practice law. One studied under an attorney as an apprentice to qualify for licensure. This is exactly what Mr. Draper did and his record of achievement clearly demonstrates that he was imminently qualified to practice law. Despite his qualifications, however, he was denied this privilege based solely on the color of his skin.

As the historical record demonstrates, the fact that authorities in the State of Maryland barred Black citizens like Edward Garrison Draper and others from becoming lawyers for so long is a stain on the legal profession and justice system of this State. Granting Mr. Draper (and others similarly situated) posthumous bar admission is not merely a symbolic gesture but a long-overdue acknowledgment of the accomplishments of Black Americans and an important step toward racial justice. Additionally, the posthumous bar admission we seek is supported by precedent from the highest courts in multiple other states.

Edward Draper of Baltimore, Maryland and Graduate of Dartmouth College (1855)

Edward Garrison Draper was born in 1834 in Baltimore, Maryland, to an educated, free Black family.¹ His father, Garrison Draper, a well-regarded Fell's Point tobacconist, and mother, Charlotte Gilburg Draper, a devout Presbyterian, carefully prepared their only child to gain the virtues and rewards of a Christian education. At age eleven, they sent the young Draper north to a co-educational seminary in Harmorton Village, Chester, PA, founded by abolition-leaning Quakers who had opened their doors to young men and women of all races. After three years, he next completed pre-college preparation at Whitesboro Seminary, another abolitionist-run academy in Oneida, NY. His mother wrote that at these seminaries, her son "so conducted himself as to gain the esteem and respect of both sexes. They said we love him for his intelligence and self-respect."²

Mr. Draper matriculated at Dartmouth College in 1851, only the sixth Black student to do so at that point. Dartmouth was the only college among those later forming the Ivy League to admit and graduate Black men or women in the antebellum era.³ While at Dartmouth, Mr. Draper progressed academically without interruption. His mother wrote, "He had a social and political standing as a Whig in the young Whig association" and performed well academically, maintaining "a very respectable standing, socially, and in his class." At graduation in 1855, Mr. Draper penned with tongue in cheek a note to his classmates,

*"Though we would both give three groans for, and bury in oblivion that insignificant body of weak-minded men, called the Faculty of Dart. Coll, yet do not forget the class and especially your friend, Edward G. Draper."*⁴

The abolitionist press took notice of the unusual instance of a colored man successfully completing a college course:

*A Colored Graduate. – Among the graduates at Dartmouth College, at the late commencement, was Mr. E. G. Draper of Baltimore, who spoke well and was much applauded. Now Dartmouth opens her doors to colored students, giving them the place due to their talents and character. Who will say that a colored College is needed, when our most popular institutions of learning, one after another, are evincing a willingness to receive students, without regard to complexional distinction.*⁵

Following his Dartmouth graduation, Mr. Draper was realistic in assessing his career options. Only a handful of Black Americans had become lawyers, first in 1844 with Macon

¹ Chapman, George T. 1867. *Sketches of the Alumni of Dartmouth College: From the First Graduation in 1771 to the Present Time, with a Brief History of the Institution*. Cambridge, MA: Riverside Press, p. 414.

² Draper, Charlotte Gilburg. (1860). Sacred to the Memory of Edward Garrison Draper. In *For the Presbyterian Female of Color's Enterprising Society in Baltimore: A Free Will Offering* (pp. 78-94). Baltimore, Md.: Frederick A. Hanzsche.

³ Lee, Forrester A. and Pringle, James S (2018). *A Noble and Independent Course: the Life of the Reverend Edward Mitchell*. Hanover, NH, Dartmouth College Press.

⁴ Edward Draper Alumni File. Rauner Special Collections Library, Dartmouth College.

⁵ A Colored Graduate (1855), *The National Era*, Washington, D.C. Sept 6.

Bolling Allen of Maine. Like most states in that era, Maryland did not require a college degree or law school education for admission to the bar, and there was no formal bar examination. An aspiring lawyer merely had to be over 21 years of age, a citizen of Maryland of good moral character and had to have engaged in the study of law for at least two years – usually by “reading the law” under the tutelage of an older lawyer or judge. Judges were empowered to examine a candidate themselves; in later years, they would appoint an examining committee comprised of local bar members. Fully aware of the obstacles, Mr. Draper returned to Baltimore to pursue training for a legal career. With aid from the Maryland Colonization Society, he secured legal training from John Joseph Gilman, a Baltimore lawyer and fellow Dartmouth graduate (1838). After two years of reading law with Mr. Gilman, Mr. Draper completed training by observing courtroom proceedings in Boston with the prominent attorney Charles W. Storey, a friend of Boston’s antislavery community. Prepared by this significant experience and ability, Mr. Draper was ready for the next step – an oral examination before a Maryland court justice.⁶

At his examination in November 1857, Maryland Superior Court Judge Zaccheus Collins Lee found Mr. Draper competent in the law but unable to practice in the State by custom and law.

I have examined Edward G. Draper, a young man of color, who has been reading law under the direction of Mr. Gilman, with the view of pursuing its practice in Liberia, Africa. And I have found him most intelligent and well informed in his answers to the questions propounded by me, and qualified in all respects to be admitted to the bar in Maryland, if he was a free white citizen of this State. Mr. Gilman, in whom I have the highest confidence, has also testified to his good moral character. This Certificate is therefore furnished to him by me, with a view to promote his establishment and success in Liberia at the bar there. Z. Collins Lee, Judge of Superior Court, Balt., Md., Oct 29, 1857.⁷

Thus, Judge Lee denied Mr. Draper admission based solely on the only criteria he could never meet because he was not a white man. Although disappointed, Mr. Draper understood the judge’s logic and accepted its certainty. With eyes now fixed beyond America’s shoreline, he cast his fate to the African colonization movement with hopes of becoming Liberia’s first college-educated lawyer and finalized plans to emigrate to Liberia with his wife, Jane Rebecca Jordan of Baltimore. The couple set sail on November 2, 1857, aboard the *Mary Caroline Stevens* for Liberia,⁸ where his arrival was much anticipated. The Maryland Colonization Society wrote:

We consider the settlement of Mr. Draper in the Republic as an event of no little importance. True, there are many very intelligent, well-informed men now in the practice of law in Liberia, but they have not been educated to the profession. To our

⁶ Bogen, David S. (1985). The Transformation of the Fourteenth Amendment: Reflections from the Admission of Maryland’s First Black Lawyers. *Maryland Law Review*, 44(4), 939-1046.

⁷ A Lawyer for Liberia (1857). *Maryland Colonization Journal*, 9(6), 89.

⁸ Third Departure of the *Mary Caroline Stevens* (1857). *The African Repository*, 33(12), 23.

*Liberia friends we commend him as a well-educated, intelligent man, of good habits and principles; one in whom they may place the fullest confidence.*⁹

Upon reaching the port of Monrovia in December 1857 with a college diploma and bar exam certificate in hand, Mr. Draper's future success seemed assured. Soon after arriving in Liberia, however, he became ill with African fever, a common illness arriving colonists suffered. He recovered but a year later succumbed to consumption (pulmonary tuberculosis) and died in Cape Palmas on December 18, 1858. His mother wrote and published a remarkable bound memorial volume in her son's name, "Sacred to the Memory of Edward Garrison Draper," elevating Mr. Draper to reside in the heavens among Liberia's most glorious sons.¹⁰

Posthumous Admission to the Maryland Bar to Right a Historic Injustice

After the Civil War, other Black Americans applied for admission to the Maryland bar, including attorneys already licensed in other states. These applicants were uniformly denied admission, which resulted in legal challenges such as Massachusetts-licensed Charles Taylor's 1877 lawsuit seeking his admission to practice in Maryland. The Maryland Court of Appeals denied his petition.

Maryland's racially restrictive bar admission statute withstood such legal challenges until 1885, when Everett J. Waring was admitted to practice law, and Maryland became the last former slave state to acknowledge that the 14th Amendment provided equal protection to Black Americans' rights to pursue legal careers. We respectfully request that this Court grant the Petition for posthumous bar admission brought on behalf of Edward Garrison Draper, a loyal son of Dartmouth, and that it consider similar acknowledgement for Charles Wilson and other Black lawyers who were denied admission to practice in Maryland solely on the basis of race.

We have seen evidence that the indefensible bias and prejudices of this bygone era that resulted in injustices to Black Americans, other people of color and women are being displaced with more enlightened thought. The highest courts in other jurisdictions have established precedent for the posthumous bar admission we seek, and BADA brings the below examples to the Court's attention:

- In 1902, the State of Washington denied bar admission to Japanese American Takuji Yamashita, a University of Washington Law School graduate, even after passing the bar exam. Recognizing the injustice, in 2001, the Washington Supreme Court posthumously admitted Mr. Takuji.
- In 2010, the Pennsylvania Supreme Court posthumously admitted George Vashon, a Black American who had been denied bar admission in 1847.
- In 1890, the State of California denied Hong Yen Chang, a Chinese American, admission to the bar. He had attended Yale College, graduated from Columbia Law School, and already passed the New York State bar exam when he was admitted.

⁹ A Lawyer for Liberia (1858). In *The African Repository and Colonial Journal*, vol 2, 1858.


¹⁰ Draper, C.G. *op. cit.*

Further, the California Supreme Court took appropriate action in 2013 by posthumously admitting Mr. Vashon to the California bar. In 2017, the California Supreme Court also granted posthumous bar admission to Japanese American Sei Fujii, a 1911 USC Law School graduate.


- In 2019, the New York Court of Appeals granted posthumous bar admission to William Herbert Johnson, Syracuse University Law School's first Black graduate in 1903, who was denied bar admission at the time.
- In 2020, the Supreme Court of Texas granted posthumous bar admission to J.H. Williams, a Black man wrongfully denied admission to the Texas bar in 1882.

The State of Maryland has come a long way since denying Mr. Draper admission to the bar. Maryland can now boast that it has Black American members of the bar serving in all capacities throughout the State, including on the Maryland Supreme Court. While the legal profession has made significant progress in addressing its historical prejudices, it continues to grapple with a lack of diversity and inclusion. Although many barriers to a legal career for Black Americans have been removed, some remain. Granting the Petition for Edward Garrison Draper's posthumous admission to the Maryland Bar would further serve to demonstrate the progress that has been made as well as serve as a reminder that justice delayed need not necessarily be justice denied. The Black Alumni of Dartmouth Association urges this Court to right a historic injustice by granting this Petition.

Respectfully yours,

DocuSigned by:


5773E616DC65425...
Karim D. Marshall, Esq. (MD Bar# 0812170243)
Dartmouth Class of 2003
BADA President (2018-2023)

DocuSigned by:


59AFF166B87846A...
Dr. Maria Cole
Dartmouth Class of 1984
BADA President (2023-2025)

APPENDIX

EXHIBIT 3



Alliance of Black Women Attorneys of Maryland, Inc.
Post Office Box 23784 • Baltimore, Maryland 21203

March 11, 2023

Justices of the Supreme Court of Maryland
Supreme Court of Maryland
361 Rowe Boulevard
Annapolis, MD 21401

**RE: Support for Petition for Posthumous Admission of Edward Garrison Draper
to the Maryland Bar**

Dear Justices of the Supreme Court of Maryland:

The Alliance of Black Women Attorneys of Maryland, Inc. writes this letter in support of the Petition to posthumously admit Edward Garrison Draper to the Bar of Maryland. In 1857, Edward Garrison Draper sought admission to the Maryland Bar and was only denied admission because of the color of his skin. Mr. Draper met all other requirements to become a licensed attorney in the State of Maryland at the time he sought admission.

It is never too late to administer Justice, and the Petition before the Court seeks to do just that. The Petition before the Court is not purely a symbolic gesture. The Petition helps to build the foundation of recognizing the contributions and accomplishments of Black Americans that have been ignored and erased from the legal history of this State. Granting the Petition is an important step in achieving racial justice.

In 1857, an aspiring lawyer had to be a free, white male citizen of Maryland, over 21 years of age who had been a student of the law for at least two years prior to their application to the bar of Maryland. Applicants could petition any of the county courts for admission. Judges were empowered to examine a candidate the day of their petition, “touching on his qualifications of admission...and they should require and receive evidence of his probity and general character.” There was no requirement of formal education.

On January 1, 1834, Edward Garrison Draper, was born in Baltimore, MD. to Charlotte Gilburg Draper and Garrison Draper, a successful tobacconist and cigar-maker. As a child, Edward Garrison Draper attended public school for Black children in Philadelphia and went on to graduate from Dartmouth College in 1855. Following his formal education, Edward Garrison Draper studied under the well-respected Baltimore attorney, Charles Gilman. Mr. Draper then continued his “reading” of the law in Boston with prominent attorney, Charles Story. Attorney Charles Gilman attested to Edward Garrison Draper’s good and moral character. In 1857, at the age of twenty-four, Edward Garrison Draper sought admission to the Maryland Bar. Baltimore City Superior Court Judge Zacheus Collins Lee administered the examination of Edward Garrison Draper. Judge Lee found Mr. Draper to be “most intelligent and well informed in his answers to the questions proposed by me, and qualified in all respect to be admitted to the bar in Maryland, if he was a free white citizen of this state.” Despite Judge Lee’s confidence in Edward Garrison Draper ability to practice law in the State of Maryland, he denied Mr. Draper’s admission to the bar. The denial was solely because Mr. Draper was Black.

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| Hon. Videtta A. Brown | (2019-2020) |
| Michelle K. Wilson | (2020-2021) |
| Letam Duson | (2021-2022) |

The denial of admission to Edward Garrison Draper was not an isolated incident. Maryland continued to deny admission to Black Americans who sought admission to the Maryland Bar. Even though qualified Black candidates continued to petition for admission to the Bar of Maryland, it was not until 1885 that the first Black American was admitted to the bar. On October 10, 1885, Everett J. Waring became the first Black attorney admitted to practice in the courts of Maryland.

The time is always right to do what is right.” – Dr. Martin Luther King Jr.

The Petition before the Court presents an opportunity to begin to remedy the years of injustice and discrimination Black attorneys are still facing today. The Alliance of Black Women Attorneys of Maryland, Inc. respectfully requests this Court grant the Petition to posthumously admit Edward Garrison Draper to the Bar of Maryland. Such acknowledgement is not foreign, as several states have already set the precedent for posthumous bar admissions.

Edward Garrison Draper’s admission to the Bar of Maryland is long overdue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Durriyyah Hollimon', written in a cursive style.

Durriyyah Hollimon

President

Alliance of Black Women Attorneys of Maryland, Inc

APPENDIX

EXHIBIT 4



Monumental City Bar Association

822 Guilford Avenue, #425
Baltimore, Maryland 21202

Executive Board

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Renita L. Collins, Esquire

Aaron DeGraffenreidt, Esquire

Membership

Renita L. Collins, Esquire

Technology/Communications

Kendrick McLeod, Esquire

March 16, 2023

Supreme Court of Maryland

Robert C. Murphy Courts of Appeal Building

361 Rowe Boulevard, Fourth Floor

Annapolis, Maryland. 21401

Re: Support for Petition for Posthumous Admission of Edward
Garrison Draper to the Maryland Bar

Dear Supreme Court of Maryland,

I am writing on behalf of the executive board and membership of the Monumental City Bar Association in support of the Petition filed by Justice (ret.) John G. Browning seeking the posthumous admission of Edward Garrison Draper to the Maryland Bar. As you may know, the Monumental City Bar Association was founded by pioneering Maryland attorneys future Supreme Court Justice Thurgood Marshall, Warner McQuinn, and W. Ashbie Hawkins in 1935. Since that time, our membership has grown to include the country's most prominent attorneys and judges. The mission of our founders and continuing to the present time was and is to form a coalition of black lawyers promoting justice for all people.

Therefore, in keeping with our history and mission, it is our honor to support Justice Browning's petition. Edward Garrison Draper was born in Baltimore, Maryland to a free Black business owner and his wife in 1834. He received his degree from Dartmouth College in 1855, 10 years before to the 13th Amendment abolished chattel slavery in the United States. Although Mr. Draper's academic achievements were vast, when Mr. Draper sought admission to the bar in 1855 Maryland did not require a college degree or law school education for admission to the bar. Instead, Maryland only required that the person seeking admission be 21, a citizen of Maryland, of good moral character, and have engaged in a course of study of law for at least two years. At the time Mr. Draper sought admission to the Maryland bar he easily exceeded those qualifications. In addition to his Dartmouth education, Mr. Draper was 24 years old, he had apprenticed and studied for more than two years under respected



Monumental City Bar Association

822 Guilford Avenue, #425
Baltimore, Maryland 21202

Baltimore attorney Charles Gilman, and spent several months in Boston observing court proceedings with prominent attorney Charles Storey. Mr. Draper's moral character was never called into question. In fact, Superior Court of Baltimore City Judge Zachaeus Collins Lee conducted Mr. Draper's oral examination and issued him a certificate establishing his qualifications so that he could practice somewhere other than Maryland. The only noted qualification that Mr. Draper did not meet was his race. Mr. Draper was denied admission simply because he was Black. In denying his application, Judge Lee found Mr. Draper "most intelligent and well informed for his answers to the questions posed by me, qualified in all respects to be admitted to the bar in Maryland, if he was a free white citizen of this state." Tragically, Mr. Draper passed away in 1858 in Liberia.

It was not until 1885, when Everett J. Waring was admitted to practice in this state that Maryland's racially restrictive bar admission policy was successfully challenged and Black Americans could pursue legal careers in Maryland. The fight continued on, in 1936 our co-founder, Thurgood Marshall, successfully argued the case of *Pearson, et al. v. Murray*, 169 Md. 478, 182 A.2d 590 (1936) before this Court and ended the University of Maryland School of Law's racially restrictive admissions policy. The fight to provide justice for our legal community and those we serve continues to this day in a number of avenues, including Justice Browning's petition.

Therefore, we respectfully request that this Court grant the Petition for Posthumous Bar Admission bought on behalf of Edward Garrison Draper. His admission would right a historic wrong and is long overdue.

Respectfully,

h

Renita L. Collins
Monumental City Bar Association President 2022-2023
822 Guilford Avenue, #425
Baltimore, Maryland 21202
renitalcollins@gmail.com

APPENDIX

EXHIBIT 5



American Board
of Trial Advocates

ABOTA National Office
2001 Bryan Street
Suite 3000
Dallas, TX 75201
(214) 871-7523

March 24, 2023

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Chief Justice Matthew J. Fader
Supreme Court of Maryland
361 Rowe Boulevard
Annapolis, MD 21401

Justices of the Supreme Court of Maryland
Supreme Court of Maryland
361 Rowe Boulevard
Annapolis, MD 21401

RE: *ABOTA supports Posthumous Admission of Edward Garrison Draper to the Maryland Bar*

Dear Chief Justice Fader and the Justices of the Supreme Court of Maryland:

On behalf of the American Board of Trial Advocates, I am contacting you regarding the Petition filed by Justice John G. Browning (Ret.) seeking posthumous admission of Edward Garrison Draper to the Maryland Bar.

ABOTA is an invitation-only national association of experienced trial lawyers and judges dedicated to the preservation and promotion of the Seventh Amendment to the U.S. Constitution, which guarantees the right to civil jury trials. The Maryland Chapter of ABOTA has a long history of supporting America's judicial system and the rule of law throughout the state. ABOTA's primary goal is to educate the American public about the history and value of the right to trial by jury. The organization is dedicated to elevating the standards of integrity, honor and courtesy in the legal profession. Founded in 1958 with a membership of more than 7,300 experienced attorneys representing both the plaintiff and defense bars in civil cases, ABOTA is uniquely qualified to speak to the necessity of preserving and protecting our constitutionally-mandated jury system as the protector of the rights of persons and property. The ABOTA Foundation was established in 1991 to provide education to the American public about the right to trial by jury and to promote the professional education of trial attorneys.

A vibrant and ever-evolving democracy demands collaboration by people with diverse experiences and perspectives. ABOTA is committed to increasing equity and promoting persons who have been historically underrepresented in the profession of law and the participation in civil jury trials. We support a diverse and inclusive civil justice system through initiatives on education, promoting the right to trial by jury, judicial independence, and the rule of law.

ABOTA strongly believes that Mr. Draper is long overdue for admission into the Maryland Bar. The fact that Mr. Draper, an Ivy League-educated Black man in 1857 who met the requirements for admission to practice law in

Maryland but for the color of his skin, was denied entry to the legal profession remains a historic wrong that needs to be righted. Granting Mr. Draper posthumous bar admission is supported by precedent from the highest courts in multiple other states.

Mr. Draper, the only child of a free Black business owner in Baltimore and his wife, graduated from Dartmouth in 1855. At this juncture in American history, only a handful of Black Americans had become lawyers, beginning with Macon Bolling Allen in 1844. In those days, Maryland (like most states) did not require a college degree or law school education for admission to the bar, and there was no formal bar examination. An aspiring lawyer merely had to be over 21 years of age, a citizen of Maryland, of good moral character, and had to have engaged in the study of law for at least two years, usually by “reading the law” under the tutelage of an older lawyer or judge. Judges were empowered to examine a candidate themselves; in later years, they would appoint an examining committee comprised of members of the local bar.

Mr. Draper met all of the requirements: he was 24 years old; had studied for more than two years under the tutelage of a well-respected Baltimore lawyer, Charles Gilman (who also attested to Draper’s good moral character); and had even spent several months in Boston with prominent attorney Charles Storey observing courtroom proceedings. The examining judge, Judge Zacheus Collins Lee of the Superior Court of Baltimore City, found Mr. Draper “most intelligent and well informed in his answers to the questions proposed by me, and qualified in all respect to be admitted to the bar in Maryland, if he was a free white citizen of this state.” Judge Lee denied Mr. Draper admission, solely because he was not white.

Mr. Draper moved to Liberia, hoping to put his legal training to good use, but he died just over a year later, on December 18, 1858.

The denial of admission to Mr. Draper was not an isolated incident. After the Civil War, other Black Americans applied for admission to the Maryland Bar, including attorneys already licensed in other states, such as Charles Taylor, an attorney licensed in Massachusetts who was denied admission in 1877.

Maryland’s racially-restrictive bar admission statute withstood legal challenges until 1885 when Everett J. Waring was admitted to practice and Maryland became the last former slave state to acknowledge that the 14th Amendment provided equal protection to Black Americans’ rights to pursue legal careers.

We respectfully request that this Court grant the Petition for posthumous bar admission brought on behalf of Mr. Draper, and that it consider similar acknowledgement for Charles Wilson and other Black lawyers who were denied admission to practice in Maryland solely on the basis of race. The highest courts in other states have established precedent for such posthumous bar admissions. Japanese American Takuji Yamashita, a University of Washington Law School graduate who had passed the bar exam only to be denied bar admission in 1902, was posthumously admitted by the Washington Supreme Court in 2001. Black American George Vachon, who was denied admission in Pennsylvania in 1847, was posthumously admitted by the Pennsylvania Supreme Court in 2010. Chinese American Hong Yen Chang, a Yale and Columbia Law School graduate who had passed the bar

and been licensed in New York but rejected by the California Bar in 1890, was posthumously admitted by the California Supreme Court in 2013. In 2017, the California Supreme Court granted posthumous bar admission to Japanese American Sei Fujii, a 1911 graduate of USC Law School. In 2019 New York's highest court granted posthumous bar admission to William Herbert Johnson, who was Syracuse University Law School's first Black graduate in 1903 and yet was denied bar admission. And in 2020, the Supreme Court of Texas granted posthumous bar admission to J.H. Williams, a Black man denied admission to the Texas Bar in 1882.

ABOTA is thoroughly supportive of the Petition. The Maryland Chapter and the ABOTA Diversity of Membership Committee wholeheartedly recommended support. The Spring 2023 issue of *Voir Dire* magazine, the flagship publication of ABOTA, is featuring the article, "Acknowledging the Forgotten Firsts" by Justice Browning which describes many experiences of the earliest Black lawyers in this country.

Granting the Petition for Edward Garrison Draper's posthumous bar admission would illustrate that justice delayed need not be justice denied. It would right a historic wrong, and – at a time in which the legal profession continues to address its lack of diversity and inclusion – it would represent an important and overdue acknowledgement of the barriers that have been placed in the paths of aspiring attorneys of color. Please remedy this past injustice.

Respectfully yours,



Steven W. Quattlebaum
National President

CC: Justice John G. Browning (Ret.)
Alison D. Kennamer, Co-Chair, ABOTA Diversity of Membership Committee
John Sweeney, Co-Chair, ABOTA Diversity of Membership Committee
Gregory Hilton, Clerk, Supreme Court of Maryland
Thomas L. Kemp, President, ABOTA Maryland Chapter
Kevin McCarthy, National Board Representative, ABOTA Maryland Chapter
David G. Halpern, Co-Chair, *Voir Dire* Editorial Board
Lish Whitson, Co-Chair, *Voir Dire* Editorial Board
Brian W. Tyson, ABOTA Executive Director

APPENDIX

EXHIBIT 6

RE: Support for Petition for Posthumous Admission of Edward Garrison Draper to the Maryland Bar

Dear Supreme Court of Maryland;

I am a retired judge of the Circuit Court of the Eighth Judicial Circuit of Maryland (Baltimore City) and support the Petition which has been filed by Justice (ret.) John G. Browning seeking posthumous admission of Edward Garrison Draper to the Maryland State Bar.

I attended the University of Maryland School of Law (nka the University of Maryland King Carey School) and in 2017, I became the first woman Chief Judge of the Circuit Court for Maryland, Eighth Judicial Circuit. After hundreds of discriminatory practices targeting blacks and women and legal battles fighting obstacles to the bench and legal profession, it wasn't until 2017 that a woman had served long enough in the Circuit Court for Baltimore City to be the most senior jurist and therefore, was honored with the title, Chief Judge. This would be the highlight of my legal career.

After being a member of the Maryland State Bar for 40 years and serving on the bench for almost 21 years, I am outraged to find that a highly credentialed individual like Edward Garrison Draper was never admitted to the practice of law in Maryland - but I am not surprised. Obstacles existed for me as I pursued a law degree and served as a member of the judiciary from the 70s until present day. Mr. Draper was an Ivy League-educated man and met all of the requirements for admission to practice law in Maryland but for the color of his skin. Mr. Draper pursued admittance to the Bar in 1857, one hundred years before I was born. At that time, he was denied entry to the legal profession in Maryland where I would later be admitted to practice in 1983 and become Chief Judge. Why was he denied admittance ? The sole reason was that Mr. Draper was a Black man. This was an injustice that must be corrected by this Court - if only posthumously.

There is a historical stain on the legal profession in Maryland that needs to be removed. The State of Maryland can and should grant Mr. Draper admission to the Bar of the State of Maryland. At the time when Mr. Draper sought admission, many well known attorneys spoke of his knowledge and legal skill. He had received an excellent education from top schools like Dartmouth, an unusual occurrence for a Black man at that time. Judge Zacheus Collins Lee of the Superior Court of Baltimore City, observed that Mr. Draper was a "most intelligent and well informed individual in his responses to questions proposed, and qualified in all respect to be admitted to the bar in Maryland, *if he was a free white citizen of this state.*" It is for that reason only that Judge Lee denied Mr. Draper admission. The singular requirement Mr. Draper could not meet, was that he was not white. The racially-restrictive statute stood as the singular obstacle to Mr. Draper's admission and the admission of many others to the Maryland State Bar.

Unfortunately, Maryland's racially-restrictive bar admission statute withstood legal challenges until 1885, when Everett J. Waring was admitted to practice in Maryland. Mr. Draper died in 1858 in Liberia and would never see this admission occur. Maryland needs to make this "wrong" right.

I wholeheartedly support this Petition and respectfully request that this Court grant the Petition for posthumous bar admission of Edward Garrison Draper. Further, I ask that the Court consider

similar acknowledgements of Charles Wilson and other Black lawyers who were denied admission to practice in Maryland solely on the basis of race.

The time has come. Please, no further delay or excuse. Admit Edward Garrison Draper, posthumously, to the practice of law in Maryland.

Respectfully Submitted,

Wanda Keyes Heard

Chief Judge, Eighth Judicial Circuit of Maryland (retired)

807 Winans Way, Baltimore Maryland 21229 wkheard@gmail.com

Domonique Flowers
4402 Scarlet Oak Lane
Baltimore, MD 21229

Gregory Hilton, Clerk
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