

## Negro loses; can't swim in Newton pool

This newspaper clipping addresses the case of D.E. Kern of Newton, Kansas. Newton, an African American, was refused the right to swim in Newton's pool "on the ground that his general reputation for morality in the community was bad." The Kansas Supreme Court ruled against Kern but claimed that it was not "passing on the general question as to whether Negroes could use municipal pools."

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### Negro Loses; Can't Swim in Newton Pool

**High Court Makes It  
Clear It Is Not  
Passing on Race Issue**

D. E. Kern, Newton Negro, lost in the Supreme Court yesterday for the second time in his fight to use his city's municipal swimming pool.

Braden C. Johnston, Marion attorney, named by the high tribunal as commissioner to take evidence in the case, recommended that Kern's plea be denied on the ground that his general reputation for morality in the community was bad.

This recommendation was accepted by the Supreme Court, which made clear that it was not passing on the general question as to whether Negroes could use municipal pools, however.

Kern contended that because of his race he was denied use of the pool, built from proceeds of a \$30,000 bond issue. Asserting that his constitutional rights were being violated, he filed application in the high court June 8, 1936, for a writ of mandamus against Newton city officials.

The tribunal first denied the writ April 6, 1940, holding that Kern had not taken the necessary preliminary step of presenting himself at the pool and being refused the right to swim.

Later Kern went to the pool and made two separate requests. The case then was reopened and a commissioner named.