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## Recollections of My Time in the Civil Rights Movement

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# RECOLLECTIONS OF MY TIME IN THE CIVIL RIGHTS MOVEMENT

*Melvyn Zarr*

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## RECOLLECTIONS OF MY TIME IN THE CIVIL RIGHTS MOVEMENT

*Melvyn Zarr\**

“Let us realize that the arc of the moral universe is long,  
but it bends toward justice.”

—Dr. Martin Luther King, Jr.<sup>1</sup>

### I. INTRODUCTION

A while back, in November 2007, some students came down after class and asked me why I never told any personal stories during class. I gave them my standard reply that class time was too valuable for the telling of “war stories.” “Well,” they countered, “would you be willing to tell your ‘back story’ after class?” I had no objection to that, as long as they would set it up. I half-expected nothing further to come of it, but the students did set it up, publicizing it to the whole law school community. On the appointed day, an overflow crowd gathered in our largest classroom, and I gave my talk.

There I expected matters to rest, but that was not to be. Tina Nadeau, Class of 2010, volunteered to take my talk off the tape, put it on the page, and add some helpful footnotes (I had spoken from a rough outline). So my thanks for this piece go to Tina, without whom it would not have been published.

I divided my talk into five short takes, each prefaced by a bit of advice, and a conclusion.

### II. TAKE NUMBER ONE: BE OPEN TO A CHANGE IN YOUR CAREER PLANS

I knew precisely what I wanted for a career while I was in law school. I wanted to work in criminal law. I wanted to be a prosecutor. And I went about achieving that end.

In 1960, there were no clinical programs, if you can imagine that far back. There was no way to “do” any criminal defense or criminal prosecution work or gain that experience as a law student. There was only one course offered in criminal law at all when I was in school—a basic, first-year, first-semester course. I had to be enterprising. I took the subway down to the Middlesex County District Attorney’s office in Cambridge and asked to be—even though the concept really did not exist then—an intern. They agreed to it, so I became a kind of “go-fer,” but a very interesting kind of go-fer. I was allowed to second-chair prosecutions and see what prosecutors were doing at Superior Court jury trials in Massachusetts. If a legal point arose during trial that was unforeseen, I would run up two flights of stairs to the library,

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1. Dr. Martin Luther King, Jr., Address at the Southern Christian Leadership Conference’s Tenth Anniversary Convention (Aug. 16, 1967), *available at* <http://www.indiana.edu/~ievieweb/mlkwhere.html>.

grab some books, come back, and give my best off-the-cuff legal advice. That was the way it was done back then, before laptops.

I had no political connections whatsoever—and usually it took some connections to get a permanent job with the district attorney’s office. And yet, as a result of my unstructured internship, the district attorney offered me a position after law school. Early in my third year, I had my job; I was off to follow a very predictable career path, and all was well with the world. But then, as they say, fate took a turn.

I had a two-month gap between the June 1963 bar examination and when I was to start my prosecutor’s job in September. I was left with these two months in between, so I went to the career placement office and asked, “Do you have anything for two months?” They replied, “We’ll get back to you.” And, indeed, shortly thereafter, they did get back to me. It turned out that there was an organization that had an opening for two months. I was going to New York City to work for an organization called the NAACP Legal Defense and Educational Fund, Inc. People called it the “Inc. Fund” (Fund) for short.<sup>2</sup> I had never heard of it, but the position came with a livable wage and it was for two months. I did not know what I would be doing there exactly, but at least I knew I would be doing some kind of legal work. I found out later that this was the organization that Thurgood Marshall headed before being elevated to the bench two years earlier.<sup>3</sup> I later learned that the Fund represented Dr. Martin Luther King’s organization, the Southern Christian Leadership Conference (SCLC),<sup>4</sup> and that the

2. Future Supreme Court Justice Thurgood Marshall founded the NAACP Legal Defense and Educational Fund, Inc., in 1940, in order to provide civil rights assistance to African-Americans. Over the past seven decades, the Fund has represented a wide variety of clients in civil rights, education, civic participation, economic access, affirmative action, and criminal justice cases. According to its website, the Fund “has been involved in more cases before the U.S. Supreme Court than any organization except the U.S. Department of Justice.” NAACP Legal Defense Fund: News, <http://www.naacpldf.org/content.aspx?article=292> (last visited Feb. 9, 2009). Furthermore, the website details:

In addition to its landmark *Brown v. Board of Education* victory [in 1954], during the 1950s LDF won many important cases that barred discrimination in housing, voting access and jury selection, and the use of forced confessions and denial of counsel.

Since the 1950s, LDF has been engaged in a monumental effort to enforce the desegregation orders placed on numerous school districts throughout the country.

During the civil rights protests of the 1960s, LDF was the legal arm of the freedom movement. It represented and provided counsel for Dr. Martin Luther King, Jr., and countless demonstrators. It took 45 of these cases to the Supreme Court, and won nearly all of them.

*Id.*; see also JACK GREENBERG, CRUSADERS IN THE COURTS: HOW A DEDICATED BAND OF LAWYERS FOUGHT FOR THE CIVIL RIGHTS REVOLUTION (1994); MICHAEL MELTSNER, THE MAKING OF A CIVIL RIGHTS LAWYER (2006).

3. Justice Marshall was elevated to the Supreme Court on September 1, 1967, in a private oath-taking ceremony in Justice Hugo Black’s chambers. He publicly took the constitutional oath at the U.S. Supreme Court on October 2, 1967, making him the ninety-sixth justice, and the first African-American justice, in the Court’s history. JUAN WILLIAMS, THURGOOD MARSHALL: AMERICAN REVOLUTIONARY 338 (1998). See generally MICHAEL D. DAVIS & HUNTER R. CLARK, THURGOOD MARSHALL: WARRIOR AT THE BAR, REBEL ON THE BENCH (1992); ROGER GOLDMAN & DAVID GALLEN, THURGOOD MARSHALL: JUSTICE FOR ALL (1992); GREENBERG, *supra* note 2.

4. The beginnings of the SCLC lie with the Montgomery bus boycotts of 1955 to 1956. The organization itself was established in 1957 as a group of activist African-American clergymen and was instrumental in each major civil rights campaign of the late 1950s and throughout the 1960s, including the Albany (Ga.) Movement, the Birmingham (Ala.) Campaign, the March on Washington, the Selma (Ala.)

Fund was currently involved in defending demonstrators arrested in the Birmingham, Alabama, demonstrations of April 1963,<sup>5</sup> but I did not know any of these things at the time I accepted a job there.

Following the bar exam, I went down to New York City and presented myself for the two-month job. I distinctly remember my assignment for the summer. The Fund had the second-largest volume of cases before the U.S. Supreme Court at the time, second only to the Solicitor General—an enormous amount of cases.<sup>6</sup> Many of these were sit-in cases, protest cases of one kind or another, and the Fund had many cases in which its petitions for writs of certiorari had been granted, and the clock was running for the submission of the briefs. The Fund needed help with brief-writing, and I was given my assignment. My boss, Jack Greenberg, gave me a stack of materials, about a foot high, showed me a desk, and said, “Here’s your case. Now, do a draft of the brief.” And I keenly remember that time, looking at the stack—I did not know at the time that it was called “the record”—with the cert. petition at the top. I remember leafing through the stack and thinking, “What do I do now?” There I was, a law school graduate, but I lacked useable knowledge. I thought to myself, “There must be some rules of the Supreme Court somewhere.” Sure enough, I found the rules, which explained what goes into a Supreme Court brief. With the rules as my guide, I did what I thought I had to do to get my draft done.

The case was a sit-in case.<sup>7</sup> Those of you who are first-year students will be particularly interested in this: My statement of facts reflected the fact that I had no idea

Voting Rights Campaign, the Grenada (Miss.) Freedom Movement, and the Poor People’s Campaign. Dr. King served as the organization’s leader from the group’s inception until his death on April 4, 1968. Perhaps the most extensive history of the SCLC and Dr. King has been compiled by historian Taylor Branch in three volumes. *See generally* TAYLOR BRANCH, *AT CANAAN’S EDGE: AMERICA IN THE KING YEARS, 1965-68* (2006); TAYLOR BRANCH, *PILLAR OF FIRE: AMERICA IN THE KING YEARS, 1963-65* (1998); TAYLOR BRANCH, *PARTING THE WATERS: AMERICA IN THE KING YEARS, 1954-63* (1988).

5. The “Birmingham Campaign,” as it was known to the SCLC, took place in the spring of 1963 and consisted of a series of non-violent, direct action demonstrations and protest techniques. It was during this campaign that Dr. King wrote his now-famous *Letter from a Birmingham Jail* and the world was exposed to the Birmingham demonstrations visually and immediately through the mass media. BRANCH, *PARTING THE WATERS*, *supra* note 4, at 708-802; ADAM FAIRCLOUGH, *TO REDEEM THE SOUL OF AMERICA: THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE AND MARTIN LUTHER KING, JR.* 111-39 (1987); GREENBERG, *supra* note 2, at 334-38; ROBERT WEISBROT, *FREEDOM BOUND: A HISTORY OF AMERICA’S CIVIL RIGHTS MOVEMENT* 68-73 (1990).

6. *See supra* note 2.

7. According to Jack Greenberg, then director-counsel of the Fund:

The sit-in cases had top priority. If [the Fund] won, the movement would continue on toward inevitable success. If we lost, the consequences would be unknowable. Things might slow down, but more likely there would be calls for changes in strategies and tactics, with nonviolence losing influence as the overall strategy of choice. At least some in the movement, frustrated in attempts to gain legitimate goals through peaceful protest, would start calling for violence. In a chaotic environment everyone would lose, most of all blacks.

In any event, the influence of LDF would be sharply reduced.

GREENBERG, *supra* note 2, at 306. *See, e.g.*, *Barr v. City of Columbia*, 378 U.S. 146 (1964) (holding that the petitioners’ criminal trespass convictions must be reversed, as there was no evidence to support their convictions); *Bouie v. City of Columbia*, 378 U.S. 347 (1964) (holding that the trespassing convictions of civil rights protesters must be reversed, as the crime itself was not enumerated in the statute, thus depriving the defendants of their due process rights under the Fourteenth Amendment).

what *should* be done in such a statement or, more importantly, what *could* be accomplished with a good statement of facts. My first draft came back to me bleeding red ink, and I was as astonished as I was embarrassed. I thought I knew how to do this, but I did not. I realized over time what I could and should be doing with a statement of facts in a brief, and the later drafts went much better.

I remember that on August 28, 1963, most people in the office decamped to Washington, D.C., for the March on Washington,<sup>8</sup> but I hadn't finished my draft, so I was one of those people who did not get to go. I saw it on television, like the rest of the country. I stayed at my desk and finished my draft, and, ultimately, my boss liked it. He offered me a job as a full-time staff member for the Fund. I had to think about it overnight because my career path (so I had thought) had been set. And here I was, being thrown a curve ball that would take me in a completely different direction. I very much wanted to be a prosecutor, but, on the other hand, this was something that I could not resist. I called up the district attorney and told him that I would be taking another position. He was very understanding, and that began my six-and-a-half-year career as a civil rights lawyer in the 1960s. I started my career in 1963 and left at the end of 1969. When I get to "Take Five," I will tell you why I left.

### III. TAKE NUMBER TWO: I CAN SAY FROM PERSONAL EXPERIENCE THAT "LLDP"<sup>9</sup> WORKS

I worked on briefs in the Fund office in the fall of 1963. The idea was that the junior people would work on the briefs and senior people would argue the cases before the Supreme Court. Only if you became senior enough would you be able to argue the case that you briefed, and it was not until 1969 that I was senior enough to argue a Supreme Court case.<sup>10</sup> But, until then, I was briefing and doing parts and pieces of briefs as a team member.

Another person I should mention at this point is Thurgood Marshall.<sup>11</sup> Even though he left the Fund in 1961, he would come back to the office—especially after he had been elevated to the Supreme Court—just to hang out with the Fund's staff. I think he enjoyed being back there more than he enjoyed being in chambers at

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8. The March on Washington for Jobs and Freedom was the brain-child of civil rights veterans A. Philip Randolph and Bayard Rustin. More than a quarter-million marchers converged on Washington on August 28. The SCLC and Dr. King saw the march as a means to bring both civil rights and economic issues to national attention. It was at this march that Dr. King galvanized the Civil Rights Movement with his "I Have a Dream" speech. BRANCH, PARTING THE WATERS, *supra* note 4, at 847-87; WEISBROT, *supra* note 5, 76-85.

9. "LLDP" is one of the corny aphorisms that I use in class, knowing that it will provoke snickers, but also secure in the knowledge that students will not forget it. The letters stand for "Law [is a] Lawyer-Driven Process." The lesson is that how a case turns out depends vitally on how lawyers drive (or fail to drive) the legal process.

10. See *Davis v. Mississippi*, 394 U.S. 721 (1969) (holding that fingerprint evidence is no exception to the rule that all evidence obtained by searches and seizures in violation of the Constitution is inadmissible in a state court; that the Fourth Amendment applies to involuntary detention occurring at the investigatory stage as well as at the accusatory stage; and that detentions for the sole purpose of obtaining fingerprints are subject to the constraints of the Fourth Amendment). See also Brief for Petitioner, *Davis v. Mississippi*, 394 U.S. 721 (1968), 1968 WL 112753.

11. See *supra* note 2.

Washington. Justice Marshall would sit in the Fund's library and tell stories; people would go in and listen. He enjoyed telling these stories, and he certainly enjoyed having an audience. Justice Marshall was a great storyteller, and I greatly regret the fact that usually I was working so hard that I did not have more time to listen to his stories. I should have done that more.

In the spring of 1964, we got a call from a person by the name of Mickey Schwerner, a civil rights worker in Meridian, Mississippi.<sup>12</sup> Schwerner was heading a voter rights registration campaign there, and some folks of his were in jail, and he wanted a "civil rights expert" to come down and help. I had been working at the Fund for eight months and was now considered a "civil rights expert," so Jack Greenberg sent me down to Mississippi to help out. Fortunately, Jack got a professor from the University of Pennsylvania named Anthony (Tony) Amsterdam to go also.<sup>13</sup> Tony was as much an "expert" as I was, but, thankfully, he was a quicker study.

We went down to Mississippi together, and we quickly agreed that we did not want to submit our clients' fates to the home cooking of the state courts. We had to contrive a way to get these criminal cases into federal court. This was not easy. There were three conceivable ways to do this. First, we could seek a federal injunction against the prosecution going forward in state court; this was riddled with problems. We could try to remove the cases based on an old Reconstruction-era civil rights statute, but there really was very little law on this, and what existed was unfavorable. Or, we could try habeas corpus pretrial, which had precedent, but, again, not very favorable precedent. One way or another, we had to figure out how to get these cases away from the local courts and into the hands of the federal judiciary.<sup>14</sup>

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12. Michael "Mickey" Schwerner, along with his wife Rita and carloads of northern volunteers, traveled to Mississippi to organize voter registration drives throughout the state on behalf of the Congress of Racial Equality (CORE). Schwerner, Meridian native James Chaney, and northern volunteer Andrew Goodman, all CORE field workers, were killed on June 21, 1964, by Ku Klux Klansmen in Philadelphia, Mississippi, while investigating an African-American church burning in the area. Their deaths cast a pallor over the Mississippi Freedom Summer, a massive campaign that attempted to register as many African-American voters as possible over the course of the summer. Freedom Schools and other political causes were furthered by the actions of the volunteers and local African-American leaders. See BRANCH, PILLAR OF FIRE, *supra* note 4, at 361-74; WEISBROT, *supra* note 5, 99-100, 110-14; HOWARD ZINN, A PEOPLE'S HISTORY OF THE UNITED STATES 1492-PRESENT 447-48 (1995).

13. "Throughout the judiciary, the legal profession, law schools, and government agencies, a galaxy of present and former LDF staff, board members, and clients has had astounding impact on the law." GREENBERG, *supra* note 2, at 521. According to Jack Greenberg, stories of Tony Amsterdam's "genius and energy abound." A former clerk for United States Supreme Court Justice Felix Frankfurter, Amsterdam's work ethic and meticulousness were legendary. *Id.* at 343. Besides Amsterdam, many LDF staffers went on to various prestigious positions in government, as professors, and as leaders of non-profit organizations, including Drew Days, who served as the United States Solicitor General; Leroy Clark, who teaches at Catholic University; Derrick Bell, who became a famous law professor at Harvard and at New York University; and Michael Meltsner, who became dean at Northeastern Law School and a university professor. See, e.g., GREENBERG, *supra* note 2, at 519-22, 611-13. Working at the Fund was one of those jobs that became so highly prized that people did not leave often, unless to become a judge or a professor.

14. Specifically, the United States Court of Appeals for the Fifth Circuit in New Orleans. Most of the federal district court judges in Mississippi at that time were no bargain. See *infra* note 17.

This was far beyond what I had learned in law school (I won't speak for Tony). I personally had never taken a Federal Courts course;<sup>15</sup> before leaving the office, I pulled down the leading casebook to see what it said about these three routes to federal court. What it said, to be blunt, was virtually nothing. We were on the cutting edge. There was no precedent for what we needed to do. We needed to drive the process along a way where there was no marked-out path. We had to drive the process ourselves and essentially—here is another corny expression I use—“be our own law professors.” We had to figure out what we needed to know in order to teach ourselves, to do what it was we felt we had to do. I repeat this to my students to the borders of boredom, but the point of law school is to learn thinking skills, self-teaching skills. If you learn the self-teaching skills, you can practice in an area you never thought you would, and you can teach yourself what you need to know.

For a number of years, we were able to remove many of these cases out of state court and into federal court, at least long enough for them to die. We got the demonstrators out of jail, and we kept the opposing law forces at bay, so that the movement itself was able to do what it had to do. State prosecutors did not want to be in federal court, even though they had some friendly federal district judges, because we had the ultimate backstop—the good ‘ole Fifth Circuit Court of Appeals in New Orleans. We always knew we could take the plane down to New Orleans and get some relief, and, in the end, we did. Whereas I did not argue my Supreme Court case until 1969, I spent much time in the Courts of Appeals, usually appealing unfavorable decisions of local federal judges.<sup>16</sup>

William Harold Cox,<sup>17</sup> the federal district judge in Jackson, Mississippi, was a real out-and-out racist, and he was not at all embarrassed about that. He told me once, “I think you’re just using me as a way-station on your way to New Orleans.” I responded, “Well, I know one way you can stop that. Give us some relief.” But he would not and did not.

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15. My Constitutional Law course had concentrated on the Commerce Clause, especially the famous “Milk Cases.” See, e.g., *Nebbia v. New York*, 291 U.S. 502 (1934).

16. *Editor’s note*: For a sampling of Professor Zarr’s work before the Fifth Circuit, see *Singleton v. Jackson Mun. Separate Sch. Dist.*, 419 F.2d 1211 (5th Cir. 1969); *Anthony v. Marshall County Bd. of Educ.*, 409 F.2d 1287 (5th Cir. 1969); *Henry v. Clarksdale Mun. Separate Sch. Dist.*, 409 F.2d 682 (5th Cir. 1969); *McLaurin v. Burnley*, 401 F.2d 773 (5th Cir. 1968); *Sanders v. Russell*, 401 F.2d 241 (5th Cir. 1968); *Davis v. Francois*, 395 F.2d 730 (5th Cir. 1968); *Presley v. City of Monticello*, 395 F.2d 675 (5th Cir. 1968); *Barnhardt v. Meridian Mun. Separate Sch.*, 394 F.2d 454 (5th Cir. 1968); *Orange v. Alabama*, 386 F.2d 829 (5th Cir. 1967); *Bell v. Southwell*, 376 F.2d 659 (5th Cir. 1967); *Hamer v. Musselwhite*, 376 F.2d 479 (5th Cir. 1967); *Guyot v. Pierce*, 372 F.2d 658 (5th Cir. 1967); *Strother v. Thompson*, 372 F.2d 654 (5th Cir. 1967); *Chinn v. Mississippi*, 364 F.2d 829 (5th Cir. 1966); *Blackwell v. Issaquena County Bd. of Educ.*, 363 F.2d 749 (5th Cir. 1966); *Smith v. City of Drew*, 360 F.2d 283 (5th Cir. 1966); *McGee v. City of Meridian*, 359 F.2d 846 (5th Cir. 1966); *Brown v. City of Meridian*, 356 F.2d 602 (5th Cir. 1966); *Cooper v. Alabama*, 353 F.2d 729 (5th Cir. 1965); *Brumfield v. Carrothers*, 350 F.2d 318 (5th Cir. 1965); *Rachel v. Georgia*, 342 F.2d 336 (5th Cir. 1965).

17. Judge Cox, described by Jack Greenberg as “possibly the most racist judge ever to sit on the federal bench,” was one of President John F. Kennedy’s appointees to the federal district court. GREENBERG, *supra* note 2, at 321. Kennedy had reportedly traded Cox “(who called blacks ‘niggers’ and ‘chimpanzees’ from the bench) . . . for the agreement of James Eastland (Cox’s college roommate), chair of the Senate Judiciary Committee, not to block other appointments, including Thurgood Marshall’s, to a federal court of appeals.” MELTSNER, *supra* note 2, at 63.



Spring of 1964 marked my first trip to Mississippi. I had never been to the South. I am from Massachusetts, and I went to both college and law school in Massachusetts. Thinking back on it now, though you probably would not believe me, traveling to Mississippi then felt like being a spy in enemy territory. There were signs “White Only,” “Colored Only.” Probably none of you here remember that, but I still do. Everywhere you went, it was segregated, and it was not subtle, either. The whole environment had an alien feel to it.

I was in Jackson in the summer of 1964 and in Grenada in 1966. Grenada is near the place where James Meredith was shot on his march from Memphis to Jackson, so that is where Dr. King and SCLC decided to conduct a series of demonstrations and that is where I spent the summer of 1966.<sup>18</sup> I know that in Spain it’s pronounced “Grenah-da,” but in Mississippi, it’s pronounced “Gre-nay-da.”

There were some hairy moments there in Grenada; I remember one incident in particular. We had gone to the federal district court and obtained an injunction requiring the state police to protect the demonstrators, because we knew that there was violent Klan activity there. SCLC was doing marches, one of which was a nighttime march, which we Fund lawyers advised against. This nighttime march led into the town square. The Klan was out and had gathered just beyond the town square. What they had were these high-powered slingshots with metal pellets, which came raining down upon the demonstrators. People were being carted off left and right, and we were left with some injuries. I quickly found the head of the state police named Giles Crisler, who later became Mississippi’s Commissioner of Public Safety. I will never forget him, because he was right out of central casting as “Marine Colonel Just Back from Combat,” lean and tanned. I told him, “Listen, if you don’t stop this now, I will see you in federal court tomorrow morning for violating the injunction.” Obviously, I might not have seen him in federal court the next day, but he did not know that. He agreed, however, to put a stop to the violence and sent his men out to quell it. Sometimes, a little bluffing goes a long way.

I look back, and, obviously, I am glad I was not hit by those pellets, but at the time, when you are trying to do your job, the one thing you are more afraid of than whizzing pellets is not doing your job effectively. These people needed protection, and they were depending on me as a “civil rights expert” to do something.

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18. James Meredith first garnered national attention as the first African-American student to enroll at, and integrate, the University of Mississippi. His attempts at integration were impeded by the Governor of Mississippi himself, Ross Barnett. Eventually, President Kennedy was forced to deploy the National Guard and United States Marshalls to Oxford, Mississippi, to quell the violence that erupted around Meredith’s attempted enrollment. After graduating from law school, Meredith set off on a “March Against Fear,” which commenced in Tennessee and was to end in Jackson, Mississippi. Meredith was shot just a day into his march, prompting others to continue the march towards Jackson and demonstrate against Meredith’s shooting. See BRANCH, *AT CANAAN’S EDGE*, *supra* note 4, at 475-76; TOWNSHEND DAVIS, *WEARY FEET, RESTED SOULS: A GUIDED HISTORY OF THE CIVIL RIGHTS MOVEMENT* 282-84 (1998); GREENBERG, *supra* note 2, at 318-32; WEISBROT, *supra* note 5, 196-97.

IV. TAKE NUMBER THREE: EXPECT YOUR CLIENT TO BE IMPATIENT WITH THE LAW  
(AT LEAST SOMETIMES)

Our organization, the Fund, was general counsel to Dr. King's organization, the SCLC. And where Dr. King went, we would go along to supplement the local lawyers. We had at the office what was called the "Demonstration Team." There were three of us on the team, so that if Dr. King demonstrated in Georgia or South Carolina, one of my colleagues would go there; if Dr. King demonstrated in Alabama, another colleague would go there; and if Dr. King demonstrated in Mississippi, I was available for duty there. I had been to Mississippi in the spring of 1964, so that was now my territory.

When I first went to Mississippi in 1964 there were only three resident African-American lawyers: Jack Young, R. Jess Brown, and Carsie Hall, each with his own small private practice. In the summer of 1964, the Fund set up Marian Wright (later Marian Wright Edelman) to run the Mississippi office.<sup>19</sup> Marian and I had both graduated from law school in 1963 (she from Yale, I from Harvard), so by 1964, we were both civil rights "veterans." I would help when she needed me, particularly when Dr. King had a campaign going on.

The reason that I say you have to expect that your clients will be impatient with the law is that, on all occasions but one, Dr. King was impatient with me. We would have conversations that would start with him saying, "Brother Zarr, do you mean to tell me it will take that long?" And I would respond, "Yes, Dr. King. The law is slow. We can try to get this case into federal court, but it will not be as fast as you want it." The law was always too slow and always too uncertain for Dr. King. I did not guarantee him any victories. Looking back, we Fund lawyers were more victorious than not, but I could not come up with any guarantees at the time. Dr. King was, like many of your clients-to-be, appreciative, but only to a point. Your clients will be impatient with the law, as it is slower, more costly, and more uncertain than they would like it to be.

V. TAKE NUMBER FOUR: HAVE THE COURAGE OF YOUR CONVICTIONS

I mentioned one exception to the rule of client impatience, and it was my only "non-business conversation" with Dr. King. It occurred on March 13, 1968, in Atlanta, three weeks before his assassination. I had been working in Mississippi, where he had been organizing the Poor People's March.<sup>20</sup> We had planned a summit meeting with lawyers from along the route of the march to discuss how this march was going to proceed. I flew in from Mississippi for the meeting. We had this summit meeting, as usual, in a back room of the restaurant at Paschal's Motel in Atlanta. I remember that my plane arrived late, so I was late to this important meeting—late, tired, and hungry.

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19. Marian Wright Edelman was one of LDF's first interns. In 1964, she "opened an office above a pool hall on Farish Street in Jackson and nominally clerked for" Mississippi's three other African-American lawyers until she became a member of the Mississippi bar, working on LDF projects. In 1973, she founded the Children's Defense Fund as a voice for poor, minority, and disabled children. GREENBERG, *supra* note 2, at 341, 522.

20. Between 1967 and 1968, Dr. King and the SCLC organized the Poor People's Campaign to address issues of economic inequity across racial lines. *See generally* FAIRCLOUGH, *supra* note 5, at 357-83; GREENBERG, *supra* note 2, at 430-33; WEISBROT, *supra* note 5, at 272-75;.

I could hear that the meeting had started in the back room. Jack Greenberg, Leroy Clark, and Lou Pollak had already arrived from New York. So I decided to do what any rational person would do: I sat down in the front, in a booth, and ordered some supper. I assumed that Dr. King was in the meeting, but he was not. It turned out that he was late too, and was hungry, so he sat down, and we had a talk over supper.

He was in despair. You have to remember that before he died, things were not going well for Dr. King. The Memphis Sanitation Workers' Strike<sup>21</sup> had been going very badly, and he was being reviled not only by whites but also by blacks for his opposition to the Vietnam War.<sup>22</sup> If you go back and read the history, he was unpopular among the black community for not supporting the war. They felt that he was not supporting the troops, many of whom were black. He was under enormous pressure. His organization, SCLC, also was under enormous pressure and was suffering financially. Dr. King had to go back to Memphis to address some gang violence that had arisen, which associated itself with his non-violent campaign there.<sup>23</sup>

Three weeks after I spoke with Dr. King in Atlanta, I was in New Orleans, preparing to argue a case before the Fifth Circuit. I heard about Dr. King's death around six o'clock that evening. I had to argue the case the next morning. I remember thinking that there was no time to grieve: I had to sit down and work on my argument, which I presented the next day.

For those of you who only remember Dr. King as some figure on a stamp, or by the fact that we have a holiday devoted to him, you also should remember that he always had the courage of his convictions. Things did not always go well for him; in fact, things often went badly. In my conversation with him three weeks before he was assassinated, he was not happy. This conversation with Dr. King, however, only underscored my belief that you must hold onto the courage of your convictions. Often you will not be appreciated for what you do, but if you believe it is the right thing to do, then you must do it.

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21. Beginning in February 1968, the Memphis Sanitation Workers' Strike involved the protest of more than one thousand city sanitation workers, citing poor treatment, low wages, and dangerous working conditions. After two months of struggle, protest, and national media scrutiny, the strike ended on April 12, 1968, with union recognition and wage increases. Dr. King was assassinated in Memphis on April 4 while lending his support to the strike. See generally BRANCH, *AT CANAAN'S EDGE*, *supra* note 4, 683-722; DAVIS, *supra* note 18, at 361-68. For a discussion of Dr. King's state of mind during the strike, see WEISBROT, *supra* note 5, at 267-68 (describing King's changes in mood as having "periods of anguished questioning followed by a recovery of purpose and faith").

22. Historian Howard Zinn explained: "In the spring of 1968, [Dr. King] began speaking out, against the advice of some Negro leaders who feared losing friends in Washington, against the war in Vietnam." ZINN, *supra* note 12, at 453. Dr. King connected war and poverty:

[I]t's inevitable that we've got to bring out the question of the tragic mix-up in priorities. We are spending all of this money for death and destruction, and not nearly enough money for life and constructive development . . . . [W]hen the guns of war become a national obsession, social needs inevitably suffer.

*Id.*; see also BRANCH, *AT CANAAN'S EDGE*, *supra* note 4, at 579-80; WEISBROT, *supra* note 5, at 266-67.

23. "Violence marred a demonstration on March 28, and the press fixated on the actions of a few unruly black teenagers rather than on the extensive excesses by the nearly all-white police force. Under the strain, feeling personal responsibility for the breakdown of nonviolent discipline, King lapsed into melancholic despair." WEISBROT, *supra* note 5, at 267.

## VI. TAKE NUMBER FIVE: KNOW HOW AND WHEN TO PASS THE BATON TO OTHERS

I had a six-and-a-half-year career as a civil rights lawyer. When the '60s ended, so did that career. By 1969, the need for a Northern lawyer to go down to places like Mississippi had been reduced, largely by our own efforts. The Fund set up an intern program at its New York headquarters, in which newly-minted lawyers would come and work one-on-one with one of us "senior staff civil rights experts" for a year, and then go back to the South and set up practices. I worked with the Mississippi interns, and I remember in 1968, I had an intern, Reuben Anderson, who was one of the first African Americans to graduate from Ole Miss Law School.<sup>24</sup> After his internship, he returned to Mississippi and set up his practice. I was able to "pass the baton" to Reuben. Several years after I left the Fund, I am proud to say, Reuben Anderson became the first African-American Justice of the Mississippi Supreme Court,<sup>25</sup> which caused me no end of gratification. Every time I think about it, I get all choked up. The teacher should be able to expect that the student will surpass the teacher. I could go home because these new capable civil rights lawyers, like Reuben, were there to grab the baton and carry on the fight.

Following my career at the Fund, I spent three years as co-director of the Massachusetts Law Reform Institute, focusing on legal services and poverty law. I came here, to the University of Maine School of Law, in 1973.

## VII. CONCLUSION

Looking back on my experience, I think my greatest point of pride was simply survival, and I do not mean "survival" in a physical sense. There were very few times when I was physically in danger. But most of the time, it was a question of surviving doubts about not screwing up. It was a very weighty and powerful ambition—not screwing up—especially in light of the stakes. I would ponder what would happen if I did something wrong, if I just botched it; people's lives would be affected deeply, perhaps permanently. I had a sense that whenever I avoided a manhole and was able to get some good results, that was survival. Getting the job done without screwing up was my driving ambition.

It was an exciting time, working for the Fund in the 1960s. In one sense, it feels like it happened so long ago, and it did, but some of the memories are very vivid, things I remember that feel like they happened yesterday. I can remember some of these things better than things that actually did happen yesterday.

In terms of the disappointments, people look back upon that era, and they can see the bottle half-full or half-empty. People can say, "The Civil Rights Movement was a disappointment because of all the bad things that still exist." On the other hand, you

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24. See GREENBERG, *supra* note 2, at 343.

25. Following his work for the Fund, Anderson established the private of firm of Anderson, Banks, Nichols & Levanthal. He was appointed to a municipal court judgeship in 1976; in 1981, he was elevated to the Hinds County Circuit Court bench, where he served before he was elevated to the Mississippi Supreme Court in 1985. After serving on the Supreme Court for six years, Anderson returned to private practice with Phelps Dunbar, a Jackson law firm. *Trailblazers of the Mississippi Legal Frontier: Reuben V. Anderson, Jackson, MS*, MISS. LAW., Feb. 2003, at 15-16, available at <https://www.msbar.org/admin/spotimages/142.pdf>.

can look at it and say, “Look how far we have come, as a society, as a nation. How can we do more?” If you are an optimist or a pessimist, you can support your position with evidence from that time and from the present day. Because I, by nature, am an optimist, I tend to feel that things are much better than they were. Whatever the problems that still exist, things are better now than they were, and we were able to have some positive effects. Every week, the Fund was doing some good for somebody, or at least trying to. Whenever we lost, it was always a disappointment and we tried to learn some lessons from defeat.

Looking back on the Fund’s whole school desegregation effort, from the Fund’s victory in *Brown v. Board of Education*,<sup>26</sup> and the Fund’s school-desegregation cases for decades thereafter, it is such a mixed picture. On one side, you can say the school desegregation battle was a great success: the kinds of segregated schools that existed back then are no more. However, you can say, and you would be right, that there remain many all-black or all-minority schools today.<sup>27</sup>

Unless you take on a quiet collections practice, if you choose to take on a challenging career, you are always going to ask yourself, “Am I doing this right?” You are going to ponder whether you are doing things in a way that is as sound as it should be. It is a constant challenge for all of us.

Looking at today’s world, I think there are a lot of worthwhile paths your law degree can lead you towards. The prisoners’ rights movement is terribly underfunded, especially when you think about how badly our prisons are run, how few rights prisoners have, and how the whole criminal justice system is under stress. The legal rights of the mentally ill are also a huge challenge, as are the rights of the disabled. There are a host of issues in our law and society that call for improvement. It is not easy and probably not financially rewarding. You are not going to be thanked for your work in these areas by many in society. But there is much that those with legal training can accomplish. You may not accomplish all that you would like to all the time, but you can make a difference.

It is remarkable to me that lawyers have all this incredible potential for good. Maybe most lawyers will only make a difference in a small way, in a small area, for a small client, but at least they have contributed something positive to the world. That is one of the greatest things about being a lawyer: you can find out what wrongs need to be righted, and you can help right them. I think that is inspiring. And, to me, that is the legacy of my work in the movement.

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26. 347 U.S. 483 (1954).

27. See, e.g., MICHAEL JOHNSTON, *IN THE HEART’S DEEP CORE* (2002); JONATHAN KOZOL, *THE SHAME OF THE NATION: THE RESTORATION OF APARTHEID SCHOOLING IN AMERICA* (2005); Billy G. Bridges & Wendy E. Walker, *The Forty Year Fight to Desegregate Public Education in the Fifth Circuit and in Particular, Mississippi*, 16 MISS. C. L. REV. 289 (1996); Daniel Kiel, *Exploded Dream: Desegregation in the Memphis City Schools*, 26 LAW & INEQ. 261 (2008); Martha Minow, *After Brown: What Would Martin Luther King Say?*, 12 LEWIS & CLARK L. REV. 599 (2008).