

Mississippi Memories

Don H. Marmaduke, June 29, 1999

The place was Philadelphia, Mississippi, and the time was November, 1965, two years before Martin Luther King would be assassinated in Tennessee. A native Oregonian, I was there as a volunteer lawyer with The Lawyers' Committee for Civil Rights under Law. The Committee had filed a civil action in a federal court in Meridian, Mississippi, to desegregate the Neshoba County Courthouse in Philadelphia, the county seat. By chance, its trial date fell just before the end of my five-week period of volunteer service. It became up to me to take the case to trial. Getting the case ready for trial in Philadelphia, and trying it in Meridian, were the most interesting experiences among the many that I had already had during my brief time in Mississippi.

The case had special meaning for several reasons. Neshoba County, and the town of Philadelphia, were where some of the worst racial oppression and violence were to be found in the State of Mississippi. The Neshoba County Courthouse was the white man's citadel. It was located in the center of town as most courthouses were. Sheriff Lawrence Rainey and Deputy Sheriff Cecil Price, two big, armed, mean-spirited men, used the courthouse as their command headquarters in the war against the civil rights movement. Their official cars carried sub-machine guns across gun racks in the rear window and shotguns in upright racks by the dashboards. Their cars sprouted at least four radio antennas each and were remindful of military tanks, probably by design. The Voter Registration offices were located in the basement of the courthouse, so blacks who wished to register to vote had to brave the hostile atmosphere of the courthouse to do it. Drinking fountains and rest room facilities were segregated and separately marked for Whites and Negroes. Blacks were not permitted to occupy the public's benches on the first floor of the courtroom. They could only watch from benches in a balcony that they could reach by a stairway. If the real and symbolic barriers to racial equality could be breached in Philadelphia, they could be destroyed anywhere in the State. And everybody knew it.

The Lawyers' Committee had named Sheriff Lawrence Rainey and Deputy Sheriff Cecil Price as defendants in the lawsuit along with all of the County Commissioners. Deputy Price was a strapping man about 6' 6" tall.

He wore cowboy boots and a high-crowned “Tom Mix” cowboy hat that made him appear even taller. His eyes, at least when he was glaring at me, were flat and steely cold. He was suspected then of participating in the murders of three young civil rights workers in 1964, Andrew Goodman, Michael Schwerner and James Chaney. Their beaten and bullet-ridden bodies had been buried in an earthen dam not far from Philadelphia, and Price was there to help load the bodies into a hearse when they were uncovered. It wasn’t proven until two years after my trial in Meridian that he participated with other members of the Ku Klux Klan in the murders. Although Mississippi authorities never tried him, in 1967 a federal court convicted him of depriving the young men of their civil rights by killing them. He got ten years. He served four. That was Mississippi. He died in May, 2001.

My first job in taking charge of the case was to interview the individuals who were our clients, the plaintiffs in the case. I drove about eighty miles from the Committee’s headquarters in Jackson to a frame building on the outskirts of Philadelphia where only blacks lived. As I recall it, the house was either a COFO house or a SNCC house, and a young red-haired Jewish fellow from Princeton ran it. One of the three murdered civil rights workers had operated the house until his death, and the Princeton man took his place.

COFO stood for the Council of Federated Organizations. SNCC stood for the Student Non-violent Coordinating Committee. Whichever it was, the house was the focal point of the civil rights activities in Philadelphia. When I arrived, I noted that the pavement and streetlights stopped at the end of the white residential districts in Philadelphia. From there on, it was gravel or dirt roads and dark at night.

The house manager was cordial and very helpful to me. He arranged for the plaintiffs to come for interviews. He offered me a spare sleeping bag and space for the night. During the night, we noticed a spotlight raking the front of the house. When we awoke, we found a neat pile of dog excrement placed squarely in the center of the doormat at the front door. He said that it was the way the Philadelphia police expressed their feelings about our activities.

While I was moving about in Philadelphia, and leaving to return to Jackson, I was followed by a series of pickups, each equipped with a citizens

band radio and a long antenna. This was the only instance of threatening behavior directed at me that I experienced in Mississippi. One would trail me for a time, then turn off and be replaced by another trailing vehicle. Maybe they were trying to see whom I was interviewing, but I figured that they were just Klansmen, without their sheets and hoods, trying to do a little intimidating. That they were following me was pretty obvious. They quit after I had put on some miles en route to Jackson.

The plaintiffs were brave people. They had received warnings that if they crossed the Neshoba County line to go the forty miles to the federal court in Meridian where they were to testify, they would be killed. It really frightened them. But every single one of them showed up on the day of trial. This, in spite of the fact that on the night before the trial, a black woman, who lived in Meridian and was a single parent of several children, had her home strafed with machine gun fire for no apparent reason. Fortunately, all of them were in bed and the line of fire from the street was higher than their prone bodies, so no one was injured. We thought that this was an attempt to intimidate those who had come to Meridian to give testimony in support of our case. If it was, it failed.

There were only two black lawyers in the entire State of Mississippi when this case was tried. One of them served as my courtroom co-counsel. I admired his courage and the symbolism he offered our clients, but he was of little help. In fact, there came a time when the judge invoked a local rule, which co-counsel never disclosed to me, that I couldn't call anyone as a witness, even one of my plaintiffs, if he had been in the courtroom when anyone else testified, even someone on the same side. As a result, one (I think not more than one) of my plaintiffs was precluded from testifying. This may have been just as well, given the threats that they faced. The judge may have invoked the local rule just to put me in my place. It didn't matter in the end.

During the noon recess, as I was walking down the front steps at the federal courthouse in Meridian, a little white-haired grandmotherly woman, neatly dressed and much like my own grandmother in appearance, looked at me from a few feet away and hissed to express her utter disgust. It was a marker of the cultural distance between my state and family antecedents in Oregon, and the state of Mississippi and its white citizens, also likely of Scottish heritage, at the time. It made me wonder about the different historical influences on attitudes.

On the day before I caught a plane to go home to Oregon we won a permanent federal court injunction against Neshoba County's continued segregation of the Neshoba County Courthouse. The clients were ecstatic. So was I. I relished my eye contact with Deputy Cecil Price. He could have killed me, and, given the right chance, perhaps he would have. I smiled until he turned away. To me, he personified the forces of evil we were fighting.

Dick Tuttle, the head of the Committee's office in Jackson, was very pleased with the outcome of our case. When I got ready to leave for home, he asked me to call his old friend Warren Christopher in Los Angeles and tell him that Dick and his wife Sally were doing fine in the Deep South. I called "Chris" when I was back in my law office in Portland, little realizing then that I was talking to a future United States Secretary of State. He was very accessible, friendly, and down to earth. He had known Dick Tuttle for years, some of which were during the time that Tuttle served as California's Public Utility Commissioner.

I drafted the federal court injunction in my office back in Portland. I sent it to the Committee, and I think my friend Warren Fortson attended to having it entered of record. Warren was a Georgia native. He had lived in Americus, Georgia, Jimmy Carter's hometown, and he had done legal work for Jimmy Carter. He had been ostracized in Americus for representing one of a mixed race couple who was criminally charged with fornication. This was in spite of his brother's standing as Georgia's Secretary of State. Warren's role as a defense lawyer in that context was more than his community could stomach. His marriage was also on the rocks, though for what reason I don't know. So he moved to Mississippi, for a time, and served as volunteer counsel to the Committee. He is a fine man and is now with King & Spaulding, the largest law firm in Atlanta, where he serves as the primary lawyer for the Atlanta School District.

Warren, being a Southerner, was the volunteer who drew threats from a judge in Mississippi. The judge questioned his right to represent anyone in Mississippi, since he wasn't a member of the Mississippi bar, and threatened to hold him in criminal contempt and throw him in jail. Nobody ever made such threats to me, but then I was from Oregon, not Georgia. Some quick telephone conversations between the Presidents of the Mississippi Bar and of the American Bar Association put an end to the judge's threats. The ABA fully supported The Lawyers' Committee's activities. Besides, without legal

representation nobody could be constitutionally convicted and sent to jail. Since no Mississippi lawyer would represent a civil rights activist, the State needed *someone* to represent the activists if they wanted to jail them as examples to others. The judges and lawyers generally chose to overlook the fact that the volunteers with the Lawyers' Committee were unlicensed in Mississippi. We volunteers simply ignored the issue.

When I first arrived in Jackson from Portland, I expected to see a scene from Tobacco Road. Instead, Jackson, a city of 200,000 and the Committee's headquarters, wasn't that much different in appearance from Portland. Dick Tuttle met my plane and drove me to my place of residence: the second floor of a nondescript motel located near the Jackson State campus—I could hear crowds cheering football teams at times. There were no telephone numbers that identified the volunteers. We were on the second floor where presumably we would be safer from bomb attacks. I never registered at the motel, so I don't know how its registration book carried me, if it did. One thing Dick warned me about before dropping me off was that possession of alcohol was prohibited in Mississippi, though only in words, not deeds. He cautioned that possession of alcohol *could* be the basis for a criminal prosecution, if authorities wanted to use that as an excuse to punish an "outside agitator." I made sure that I stashed my Beefeaters' Gin out of sight and gave no one probable cause to think that I was a criminal in possession of contraband. Technically, I guess I was, but it wasn't hard to find stores that sold it quite openly.

Later, the transparency of the State's professed prohibition on alcohol became obvious. A Portland lawyer, Borden Beck, whom I had known since we were associates together at Stoel Rives, heard that I was going to Mississippi. He wrote to a Mississippi lawyer that he had met while they were both at Harvard Law School, and he introduced me to the lawyer by mail. The lawyer's name was Herman DeCell and he lived and practiced in Yazoo City, Mississippi. He and his wife, a schoolteacher, were very gracious to me. He initiated contact by inviting me to accompany him to a bar association meeting at a hotel in downtown Jackson. At least a couple hundred lawyers, probably more, attended the meeting. Uniformed police guarded the entrance to the meeting, but they admitted us with hardly a glance. Inside, the liquor was flowing in obvious and remarkable quantities, much like it would at a Multnomah Bar Association meeting at the Benson Hotel in Portland. This was prohibition, Mississippi style. I learned that the sheriffs in all of the many counties (eighty-two in all!) controlled liquor

distribution in their counties, and that it was quite a profitable enterprise for them. (Robin Hood, where are you when we need you?)

I was pleased that the members of the Hinds County Bar in Jackson were very friendly and welcoming in their attitudes toward me as a member of “The Lawyers’ Committee.” I detected no hidden animosities among them. They didn’t get deeply involved in the discussion of issues, but they were friendly in their social small talk, much like members of our local bar association in Multnomah County would be.

A few days later, Herman DeCell telephoned me and invited me to have dinner with him and his wife at their home in Yazoo City. I accepted the invitation and drove there at the appointed time. After a fine dinner, we three sat around and talked over drinks of some kind. In fact, we talked until almost 2:00 a.m. the next morning. Mostly, they talked and I listened. They poured out their innermost anxieties about the race issue and their guilt feelings about their silence in the presence of obvious injustices. They spoke of the social pressures that were ingrained in their culture. DeCell was a respected and influential state senator for many years. In 1960 he was appointed to the Sovereignty Commission, a prestigious (and to some, notorious) body committed by law to the preservation of state sovereignty, which some equated with the prevention of racial integration. He told of having driven his car around the block three times where a meeting of that organization was being held and finally forcing himself to park and attend. He explained the ostracism that inevitably followed a professional’s breaking ranks on the race issues. At the evening’s end, I had a better appreciation of the moral conflicts that people of mostly good intentions must have felt in remaining passive during the civil rights struggle in their own societies. I knew how much easier it was for me, an outsider who was there for but a few weeks, to stand up for recognizably right values. Herman DeCell was born in 1924, graduated from Harvard Law School in 1950 and died in 1986.

Going back to my impressions on arriving in Jackson, the Committee’s offices were on N. Farish Street in Jackson. They bore no markings. They consisted of a long, narrow space extending from N. Farish Street to parking spaces at the rear. Unmarked cars for the use of Committee lawyers were in the parking spaces at the rear. The parts of the offices that were closest to N. Farish Street were filled with file cabinets, desks and other physical barriers—not people. The idea was that if anyone were to

bomb the offices from N. Farish Street, the blast would be attenuated by the structures before it reached the office staff and attorneys. Unobtrusiveness and space barriers were the precautionary measures.

Inside, there were about seven or eight people: Dick Tuttle, the Director, Jack Doyle, the Assistant Director, Warren Fortson and me, the volunteer attorneys, Roy Self, the Committee's investigator, and two, possibly three, women who ran the office and did the secretarial work.

Dick Tuttle had been a San Francisco lawyer, I believe, but he had put aside his law practice when he became California's Public Utility Commissioner. He and his wife, Sally, owned ranch property in northern California. He was a bit older than the rest of us, probably in his late forties. He was always optimistic and full of good humor. A wonderful man to work with.

Jack Doyle was a young lawyer, probably in his mid-thirties, from Manhattan Island. He was a former Assistant United States Attorney for the Southern District of New York. He had solid experience as a federal trial lawyer and prosecutor. Later, he returned to NYC as a civil law practitioner. A fine man.

Roy Self had been a Baptist minister in Mississippi all of his life. In 1965, he must have been about 45-50 years of age. Apparently, he considered it his Christian duty to speak out against racial oppression, and his congregation ousted and shunned him. Their ostracism embittered him. He was a Mississippi native, knew the culture and was intelligent and courageous in performing his duties as an investigator. I respected him immensely.

I can't recall the names of the women for sure. They were very competent. The older woman, perhaps in her mid-fifties, was white and experienced in law office management. The younger one was black, named Sarah, I think, and, though inexperienced, was very bright and competent. They got things done quickly and efficiently. They were outstanding.

Our assignments were to advance pending cases, file new ones and meet the needs of civil rights activists for legal representation of whatever kind. The first day that I arrived in the office, I was taken to meet Marian Wright (now Marian Wright-Edelman), who was then still a Yale Law

student. She was working in the nearby offices of what was known as the “Inc. Fund.” That referred to the NAACP, Inc. Education Fund. Our office and the Inc. Fund worked hand in hand as circumstances required.

Marian gave me my first assignment, to get an injunction against the city of Canton, Mississippi, to prevent enforcement of a parade ordinance that was being used discriminatorily to bar blacks from a planned civil rights protest march. She noted that the KKK had experienced no difficulty in getting a parade permit, and that the city was enforcing the permit requirement only against the black community. We drafted and threatened to file the complaint, but, as I recall, the city backed down and a court hearing wasn’t required. The parade took place, although not without KKK club-swinging and name-calling harassment.

I can’t recall all of the individual cases that followed, but most of them involved my traveling from our base in Jackson to various towns and representing black activists whom the police had beaten and jailed as examples for others to see and learn what they could expect. I would drive to the town, interview the client, arrange a property bond to obtain his release from jail, appear with him at his arraignment, and file a petition for removal of the prosecution to federal court. The ground for removal to federal court was that the prosecution was pretextual, in violation of civil rights, and initiated solely to intimidate the leadership of the civil rights movement. The removed prosecutions piled up in the federal court in Jackson, and ultimately were dismissed without consequences.

I do recall a case involving a black citizens’ boycott of businesses in Natchez, and another involving a report of police beatings inflicted on blacks who were driving to mass meetings in their churches. Mass meetings were commonly held to provide moral support for civil rights activities, to disseminate information among the people, and to make plans for continuing nonviolent protest activities. To try to protect themselves from the police, the people would drive to the church in a caravan of cars. In one instance, we Committee volunteers took positions with tape recorders in various cars in the caravan hoping to record the police brutality. However, the anticipated attack on the caravan didn’t take place, so our plan went for naught.

I attended a memorable mass meeting at a church one evening. It was held in a big old steepled structure that was overflowing with black people,

many wearing overalls and other field workers' clothing. There were children there too. When I arrived the place was echoing with magnificent organ music and singing by the congregation. Then, one of several ministers would stand in the pulpit and give a moving speech, to which the congregation would interact periodically with "Yeah, brother!" or "Amen!" or the like.

A minister beckoned me to the platform and introduced me as one of the Lawyers' Committee volunteers, and everyone clapped and shouted their approval. I had people come up to me and take my hand while they said "Thank you for helping us."

I remember being approached by a little boy who was probably 7 or 8 years old. He had come up to me and had taken my hand while he looked up at my face with big round eyes. I looked down at him and said, "What do you want?" Without a moment's hesitation, he said, "I want my freedom now!" That said it all.

At the end of the mass meeting, we all stood and joined hands and sang "We Shall Overcome" while swaying gently from side to side. It was a moving experience that I will never forget. Even now, it brings tears to my eyes. I left the mass meeting, and later the State of Mississippi, with feelings of hope and optimism.