

A LIFE'S JOURNEY: FRED D. GRAY'S *BUS RIDE TO JUSTICE*

LAVERNE LEWIS GASKINS*

Typically, history celebrates a select few when paying homage to the foot soldiers of justice in the Civil Rights Movement. Thus, while most lawyers in that struggle for equality, save for The Honorable Justice Thurgood Marshall, may have some degree of recognition, they are not household names. Fred D. Gray's autobiographical *Bus Ride to Justice*,¹ presents a unique perspective of pivotal civil rights cases, shared from a lawyer's point of view, yet in a manner that laypeople may better understand and appreciate the valuable role that attorneys played in molding America into an inclusive society. This book offers an in-depth account of the Civil Rights Movement, insightful depictions of historical figures, and a fascinating description of Gray's involvement in landmark cases, most notably those concerning higher education. While Gray never sought praise or adulation for the significant work that he did, his story of courage and humility deserves to be heard because of the monumental influence that he had on the legal landscape of the Civil Rights Movement.

Gray's autobiography provides the reader with a front seat view of his personal journey through the twists and turns of America's legal system as the country struggled to live up to the dictates of espoused democratic ideals. The book begins by chronicling Gray's childhood experiences growing up in Alabama in the 1930s and 1940s. Gray goes on to describe his forced journey outside the state of Alabama to secure a law degree, his admission to the Ohio and Alabama Bars, and his early struggles in establishing a practice.² As was typical throughout America during that era, particularly in the South, racial segregation permeated all aspects of society. Gray's reaction to experiences designed to denigrate and relegate Black Americans to a second class citizenry, served as a solid foundation upon which he vowed to "destroy everything segregated [he] could find."³

* Laverne Lewis Gaskins received her J.D. from Florida State University's College of Law. She currently serves as the University Attorney at Valdosta State University.

1. FRED D. GRAY, *BUS RIDE TO JUSTICE: THE LIFE AND WORKS OF FRED D. GRAY* (2013).

2. *Id.* at 6–9.

3. *Id.* at 13.

In rich detail, the book goes on to offer a behind the scenes look into the systematic planning underlying a pivotal moment in civil rights history: the 1955 Montgomery Bus Boycott. Beginning with a discussion of his representation of Rosa Parks when she was charged with disorderly conduct,⁴ Gray divulges many of the legal strategies used by him and others, including Thurgood Marshall, then director of the NAACP, in *Browder v. Gayle*.⁵ *Browder* involved a challenge to the constitutionality of racially segregated buses.⁶ The district court, in a monumental decision that was ultimately affirmed by the United States Supreme Court,⁷ held that segregated buses were unconstitutional under the Fourteenth Amendment.⁸

Mr. Gray reveals that his victory in defeating segregation on buses did not come easy. He experienced retaliation, personal indignities that included a grand jury indictment for unlawfully filing *Browder*,⁹ and a complaint filed with the Alabama Bar Association for signing Mrs. Parks's appeal bond.¹⁰ Yet, despite, these personal battles, Mr. Gray continued his war on segregation by advancing the issue of voting rights. Following his victory in *Browder*, he challenged America to uphold the "one man, one vote theory" in the seminal case, *Gomillion v. Lightfoot*.¹¹ In his discussion of *Lightfoot*, Gray offers insight into his preparation for his oral argument before the United States Supreme Court in 1959, as well as the debates between him and his co-counsels over which arguments should be made.¹² Gray also describes the map that he used before the Supreme Court, which clearly evidenced the insidious nature of the gerrymandering in that case, and which significantly impacted the Court's decision that the Alabama legislature had violated the Fifteenth Amendment.¹³ In 1965, he once again took up the issue of voting rights when he agreed to represent those individuals brutally attacked at the Edmund Pettus Bridge on what is now referred to as "Bloody Sunday," in the case of *Williams v. Wallace*.¹⁴ The plaintiffs sought, and were granted, an order requiring police protection for marches traveling from Selma to Montgomery in protest over the right to

4. Parks v. City of Montgomery, 92 So. 2d 683 (Ala. Ct. App. 1957).

5. 142 F. Supp. 707 (M.D. Ala. 1956). Gray explains that Mrs. Parks was not a named plaintiff in *Browder* because he did not want to provide the Court with an excuse to dismiss *Browder* as a collateral attack on Mrs. Parks' prior criminal conviction for disorderly conduct. See GRAY, *supra* note 1, at 72.

6. *Id.*

7. Gayle v. Browder, 352 U.S. 903 (1956) (per curiam).

8. *Browder*, 142 F. Supp. at 717.

9. State v. Fred D. Gray, In the Circuit Court of Montgomery County, Case No. GJ202 (1956). The indictment was later dismissed.

10. GRAY, *supra* note 1, at 57.

11. 364 U.S. 339 (1960).

12. GRAY, *supra* note 1, at 117.

13. *Id.* at 118.

14. 240 F. Supp. 100 (M. D. Ala. 1965). See GRAY, *supra* note 1, at 216–220.

vote.¹⁵

Mr. Gray's most notable client, of course, was Dr. Martin Luther King. In 1960, Dr. King was indicted for perjury in connection with his income tax returns. Fortunately, an all-white jury acquitted Dr. King. Mr. Gray believes that, while the case may not have received considerable publicity, it was Dr. King's most important case because a conviction would have derailed the movement. Additionally, this case played a significant role in the modification of the law of libel as it relates to public officials. This is because actions related to the raising of money for Dr. King's defense in his tax case became the subject of *Times v. Sullivan*.¹⁶ In 1960, a committee, which included prominent Alabama ministers, placed an advertisement in the New York Times. A section of the advertisement stated, "we in the south who are struggling daily for dignity and freedom warmly endorse this appeal."¹⁷ L. B. Sullivan, then police commissioner of Montgomery, sued the ministers, alleging libel.¹⁸ While Mr. Gray's work on the case was primarily limited to the trial of the ministers, on appeal the Supreme Court held that the law applied by the Alabama courts was unconstitutional, and that in a libel action against a public official there must be a showing of actual malice.¹⁹

Gray's illustrious career also included effectuating the sound (albeit vague) declaration, "all deliberate speed," of *Brown v. Board of Education*²⁰ in Alabama. To this end, his work began in 1960, when college students from Alabama State College, following the example of students from North Carolina A&T, participated in a sit-in at the county courthouse lunch counter where they requested service.²¹ Instead of arresting the students, Montgomery courthouse officials closed the counter.²² Immediately thereafter, Governor Patterson contacted the president of Alabama State College and ordered the expulsion of the students.²³ Gray was retained to represent the students in *Dixon v. Alabama State Board of Education*²⁴ to set aside their expulsions. In seeking to overturn the expulsions, Gray argued that the students had been denied due process and deprived of the right to an education.²⁵ The district court ruled

15. *Williams*, 240 F. Supp. at 109.

16. 376 U.S. 254 (1964).

17. GRAY, *supra* note 1, at 156.

18. In fact, the three city commissioners of Montgomery filed suit against the ministers, but Sullivan's case was the first to go to trial and, ultimately, to the Supreme Court.

19. *Sullivan*, 376 U.S. at 271.

20. 349 U.S. 294 (1955).

21. *Dixon v. Ala. State Bd. of Educ.*, 294 F.2d 150, 152-53 (5th Cir. 1961).

22. GRAY, *supra* note 1, at 166.

23. *Id.* at 167.

24. *Id.*

25. *Id.* at 167.

against the plaintiffs, but the Fifth Circuit reversed, holding that students have a constitutional right to an education at a state-supported institution and have a right to due process.²⁶ Following the *Dixon* case, Gray recalled that:

[T]his ruling caused a tremendous stir among lawyers that represented colleges and universities Those lawyers decided among themselves that it was necessary for them to devise an appropriate plan as to how their particular institution would . . . satisfy the requirements of *Dixon*. The result of these informal meetings was the formation of the National Association of College and University Attorneys (NACUA).²⁷

Gray continued to play a role in the fight for integration by representing several African American students who desired to attend historically white colleges and universities. In 1963, Gray filed separate suits against the University of Alabama on behalf of Vivian Malone,²⁸ and against Auburn University on behalf of Harold Franklin,²⁹ resulting in the integration of both institutions. Gray also represented the plaintiff in *Lee v. Macon County Board of Education*.³⁰ The legacy of *Lee* is profound in that, “probably more than three hundred different opinions have been written on various aspects of the case.”³¹ *Lee* was an important case because it resulted in the integration of Alabama’s remaining segregated public schools, the integration of all institutions of higher education under the control of the Alabama State Board of Education, the merging of the African American and white high school athletic associations, and the integration of all state trade schools, junior colleges and technical schools.³²

Despite these early legal victories in desegregating colleges and universities, however, vestiges of discrimination remained in higher education for decades. Thus, in 1982, Gray agreed to represent one of the plaintiffs, Alabama State University, in *United States v. Alabama*.³³ There, the district court found that the state of Alabama had failed to dismantle the vestiges of race-based discrimination, and required the state, the governor and other named entities to submit a remedial plan.³⁴ The “Higher Education Case,” as this case is referred to, is of particular importance to Gray. In order to bring the state of Alabama in compliance with

26. *Dixon*, 294 F.2d 150.

27. GRAY, *supra* note 1, at 169.

28. *Id.* at 187–90.

29. *Id.* at 191–92.

30. 221 F. Supp. 297 (M. D. Ala. 1963), *aff’d*, 429 F.2d. 1218 (5th Cir. 1970).

31. GRAY, *supra* note 1, at 211.

32. *Id.*

33. 628 F. Supp. 1137 (N.D. Ala. 1985), *rev’d*, 828 F.2d 1532 (11th Cir. 1987).

34. *Id.* at 1173.

constitutional mandates, cases prior to *Alabama* were intended to “destroy segregation, ‘root and branch.’” Yet, as Gray explains, this case indicates that “segregation thrived, root, branch, and trunk [and it] became necessary in 1982 to file . . . additional suits to destroy . . . discrimination in higher education.”³⁵

One of the most unanticipated revelations in Gray’s autobiography is his inclusion of the late Governor George C. Wallace as one of the four lawyers who impacted his legal career. It takes digesting Gray’s appealing and thorough autobiography to understand the rationale behind his inclusion of a man best known for his infamous and defiant stance on integration: “Segregation now, segregation tomorrow, and segregation forever.” When one juxtaposes Wallace’s proclamation against Gray’s vow to “destroy everything segregated,” it stands to reason that their paths would, historically, be inextricably intertwined.

Charles Hamilton Houston, a prominent civil rights attorney, and architect of *Brown v. Board of Education*, believed that a lawyer should be an agent for social change: “[a] lawyer’s either a social engineer or he’s a parasite on society.”³⁶ Gray has, without a doubt, given credence to Houston’s belief. In his 59th year of practicing law, Gray is one of the most successful civil right attorneys in the twentieth century. *Bus Ride To Justice* provides a remarkable, historical exploration of legal challenges imbedded in the author’s humility, and the wisdom of reflection slowly aged by experience and time.

35. GRAY, *supra* note 1, at 338.

36. GENNA RAE MCNEIL, *GROUNDWORK: CHARLES HAMILTON HOUSTON AND THE STRUGGLE FOR CIVIL RIGHT* 84 (1983).

