

AN ESSAY ABOUT THE LIFE OF JUSTICE COLEMAN:
IT WAS THE JOURNEY AND THE DESTINATION

I am the son of a southern dirt farmer. I was born during the Great Depression when FDR was President. My midwife-paternal grandmother delivered me in a farmhouse that had neither running water nor electricity. President Roosevelt did not establish the Rural Electrification Administration (REA) until 1935, two years after my birth. Our house was one of the 90% of houses in rural America that had neither electricity nor telephones. Our family, like many others, did not obtain electricity until about the end of World War II. Telephone services were delayed until the 1950s.

My education began in a one-room schoolhouse. Its floor was made of rough boards and motor oil was used on it, instead of wax, to control insects and dust. I did my homework by the dim lighting of an oil lamp. There was no high school for African American students until my Junior year. My first two years were spent in make-shift arrangements on a black college campus. Poverty following the Great Depression was made much worse for people of color because the Supreme Court decision in Plessy v. Ferguson, nationalized segregation and poisoned the well of justice for more than half a century. Everything about segregation was designed to impress upon the nation that if you were black, you were inferior. But a person's place of origin and circumstances of birth need not determine what one can become with proper training, discipline and hard work.

Being an optimist has been critical to every step on the ladder I had to climb. I looked for the opportunity in every difficulty rather than the difficulty in every opportunity. I always saw the world as a place with limitless opportunities rather than a place where racism would prevent me from achieving my goals. I learned to transform anger into positive motivation. I focused on my goals rather than on my hardships. I was determined to triumph in the face of bigotry and

evilness no matter how difficult it was. To help achieve that objective, three of my guiding principles became part of my moral compass for life:

- 1) Do unto others as you would have them do unto you;
- 2) Treat every job as an important life experience and give it your best efforts;
- 3) Use my experiences with racial segregation and discrimination to make me a better rather than a bitter person.

My original professional goal was to become a medical doctor. I wanted to find ways to provide better medical care for my mother and others who suffered from severe diabetes. When I informed my mother while I was in high school that laboratory chemicals, such as formaldehyde, would prevent me from becoming a medical doctor, her response was then become some other kind of a doctor. When I enrolled in law school, I gave more thought to how I could please my mother. When I discovered that my law school Dean had a Juridical Science Doctorate Degree (J.S.D.), with a little research I thought just maybe I could still please my mother. To my surprise, I discovered that beginning around 1900, a dialogue had started about whether the first degree upon completing law school should be LL.B or J.D., a/k/a Doctor of Law. There is a striking similarity between medicine and law in that the moral matrix of medicine is to heal very much in the sense of the endless mission of the law is to do justice.¹ So, in 1963 or thereabouts, it was agreed that because the J.D. has parity with the M.D. and DD.S., I could finally be called Dr. Coleman.

Still trying to please my mother, I traded in my beautiful 1959 LL.B. Degree that was written in Latin, for a retrofitted J.D. Degree. But Mom was not all that pleased with me becoming that kind of a doctor. She asked: "What kind of illness has a doctor-lawyer ever

¹See In Re Quinlin, 70 N.J. 10, 47-48 (1976)

cured?” I gave an answer that was “a little bit pregnant” with incomparables. I told her that five of the signers of the Declaration of Independence and seven of the men who assisted in drafting the first U.S. Constitution (1787) were lawyers. I told her that those doctor-lawyers had cured birth pains associated with the birth of a new nation. Her response was: although you don’t look like them, I guess a doctor-lawyer can help to cure some of the social illnesses and cultural pathology that afflict so many people.

I, like so many young people, tried to please our mother. My great hope was that one of the giant prescription drug manufacturers would make a pill that would cure the socio-psychological malignancy that causes so much injustice. But, that was not to be. So, Dr. Coleman decided to try his holistic treatment plan. Consequently, I have spent my entire professional career—half a century—trying to help cure the social cancer diagnosed as injustice and exacerbated by Plessy, that metastasized throughout New Jersey and the Nation. In the process, I moved the arc of judicial history in New Jersey.

When I graduated from Law School in 1959, racism still existed in New Jersey. Although clerkships were mandatory for recent law graduates, the white law firms did not open their doors to people of color. The Union County Urban League persuaded one of its liberal white members to give me a clerkship. My weekly salary was \$15.00, of which \$5.00 was for room and board, \$5.00 for bus fare and \$5.00 for lunch and other living expenses. Incidentally, clerking at that time was less of a learning experience than serving as a glorified “gofer.”

Although I passed the Bar while clerking, after completing the clerkship, no firm would offer me a job; no bank would lend me money to open my office. When I tried to get a job in the Attorney General’s office, I could not get an interview. Finally, I was able to borrow \$1,000 to open my office. But clients were reluctant to retain black attorneys. To bridge the gap, I took a

second job in the public sector, first in the office of the Commissioner of Labor and next as a Judge of Workers' Compensation at the age of 31.

To enhance the chance that my dream of becoming an appellate judge would become a reality, I used part of my summer vacation for eleven years to enroll in post-judicial training. Those courses were conducted in New Jersey, New York, Massachusetts, Maine, D.C., Virginia, South Carolina, Washington, Nevada and Oxford, England. I enrolled in those courses to help perfect the art of judging and to help realize my full potentialities. I thought that in the event the Brown case opened some heretofore closed doors, I wanted to be prepared to enter and make a meaningful contribution.

As the first person of color to serve in the intermediate and in the highest appellate courts of New Jersey, I tried to be a “drum major” for justice for all people throughout my 39-year judicial career. Brush stroke by brush stroke, I painted a picture of myself as both a “social engineer” and as a moderate through the more than 2,000 opinions I authored during my career as a Judge and as a Justice. I became a “Bricolage” in that I used the interdisciplinary approach to examine issues. Like Brown v. Board of Education, I used social sciences to help shape the rule of law that dismantled racial profiling in motor vehicle stops, that required special jury instructions in criminal cases involving cross-racial identifications, and that prevented attorneys from excusing people of color from serving on juries solely because of race or ethnicity before Batson v. Kentucky was decided by the US Supreme Court. Those and some of my other decisions have become classics in the literature of the law because they removed some of the cancerous lesions of injustice that had metastasized throughout New Jersey and the Nation.²

²**Bellwether Cases and Publications**

Flagg v. Essex Co. Prosecutor, 171 N.J. 561 (2002)

State v. Carty, 170 N.J. 632 (2002)

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Throughout my judicial career I was guided by the notion that a judge must be a fountain of creativity in furtherance of his or her obligation to nudge the common law and state constitutional law forward to meet the needs of our evolving society. Because the object of law is justice, an appellate judge or justice in his or her gatekeeping role must, from time-to-time, change and reinterpret the law where existing law is inconsistent with twenty-first century notions of justice and fair play. Such generational changes are what Oliver Wendell Holmes called “the felt necessities of the times.” At the beginning of my judicial career in 1964, I saw the Statue of Justice in much the same way as did the famous Poet, Langston Hughes, namely as “bandages hiding two festering sores that once perhaps were eyes.” After 39 years of judicial service, and having witnessed the inauguration of President Obama, I now see the Statue as an optimist, as an advanced work in progress towards becoming the Goddess of Equal Justice. As

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State v. Maryland, 167 N.J. 471 (2001)

Watkins v. Nelson, 163 N.J. 235 (2000)

State v. Cromedy, 158 N.J. 112 (1999)

Brill v. Guardian Life Ins. Co., 142 N.J. 520 (1995)

State v. Gilmore, 195 N.J. Super. 163 (App. Div. 1984); 199 N.J. Super. 389 (App. Div. 1985); aff'd, 103 N.J. 508 (1986)

State v. Tate, 198 N.J. Super. 285 (App. Div. 1984), rev'd, 102 N.J. 64 (1986)

Teaneck Bd. of Edu v. Teaneck Teacher Ass'n, 185 N.J. Super 269 (A.D. 1982), aff'd, 94 N.J. 9, (1983)

The Evolution of Race in the Jury Selection Process:
48 Rutg.L.Rev.1105 (1996)

Tribute to Chief Justice Robert N. Wilentz:
7 Seton Hall L.J. 349 (1997)

Appellate Advocacy and Decisionmaking In State Appellate Courts
in the Twenty-First Century:
28 Seton Hall L. Rev. 1081 (1997-98)

The Role of the Legal Profession and the Judiciary In Creating and Defining
Black History:
53 Rutg.L.Rev. 573 (2001)

Senator Edward Kennedy said: “The work [must] go[] on, the cause [must] endure[], the hope still lives and the dream shall never die.”

I knew it would, indeed, be a daunting task to work my way from the farmland of southside Virginia onto the appellate courts of New Jersey. Although I experienced some defeats along the way, Maya Angelou was right when she said:

“You may encounter many defeats, but you must not be defeated. In fact, it may be necessary to encounter defeats, so you can know who you are, what you can rise from, how you can still come out of it.”

Having grown up under segregation, working to achieve diversity in the judiciary and in the legal profession became part of my core values. All too often the absence of diversity is rooted in injustice. As Dr. King said, “injustice anywhere is a threat to justice everywhere.” In furtherance of my core values, I used the Brown and Bakke decisions as a constitutional foundation for building a more diverse judiciary and legal profession based on both the “morality” and “business” models. In 1984, as soon as my decision to abolish discrimination in the jury selection process was published, I was appointed Chairman of the first Supreme Court Committee in the country to study racial and ethnic bias in the judiciary. Part of the immediate and long term impact of that Committee’s report was to incrementally increase racial-ethnic-minority judges in the trial courts from 2.8% in 1984 to 15.2% in 2008, to increase those judges in the Intermediate Appellate Court from 1 to 6, and to increase those justices in the Supreme Court from 0 to 2³. Similar improvements in diversity have been made with respect to administrative and executive-judicial positions as well as in the upper and middle managerial

³ Regrettably, that number was reduced to 1 on May 20, 2010, because the Governor refused to reappoint the only African-American member of that Court and to 0 on August 31, 2011, when the only Hispanic/Latino member of the Court did not seek reappointment.

positions. During the same period, the racial-ethnic law clerks increased from 2.6% to 20.3%. Much of that success was possible because of my work in tandem with two Chief Justices.

During my judicial career, I had 55 law clerks. They were chosen from virtually every racial, ethnic, religious and social background. They were about equally divided between the genders. That was one of my ways of giving back while preparing future generations of lawyers, judges and community leaders.

My efforts to expand diversity have continued since retiring from the bench. At the Porzio law firm, I serve on the Diversity Committee. I have helped to persuade the firm to establish a 1L scholarship for racial-ethnic law students. I also serve as a mentor to minority attorneys and others. As a tribute to my efforts at advancing diversity, I have been the recipient of awards from the State, African American, Hispanic/Latino and Asian-Pacific Bar Associations as well as from many other organizations. I also work with the three New Jersey Law Schools by lecturing, consulting and mentoring to improve diversity in the schools and in the legal profession. I continue to visit public and private schools grades 4 – 12 to discuss my life experiences in the hope of motivating some and inspiring others.

Finally, I serve the broader community by performing pro bono services for the James H. Coleman, Jr. NJ Workers' Compensation American Inn of Court, the ALI, the ABA Foundation and the NJ State Bar Foundation, the Judicial Council of the NBA, the NJ Death Penalty Study Commission, the Board of Trustees of the UMDNJ, former Chairman of the Board of Trustees of Legal Services of NJ, as former Co-Chairman of the Governor's Judicial Advisory Panel, and as consultant to a number of children and religious oriented organizations.

It was a remarkable journey from the time of my birth during the Great Depression in rural-segregated-south-side Virginia to the premier NJ Supreme Court. But I did not climb that

mountain alone. Part of my success is intertwined with my race, and the circumstances of my birth. Also, my generation was the first to be prepared to step into doors that Brown opened. Those and other factors motivated me to give back to my community and to allow others to use my shoulders to have an easier climb to success. Looking back, in many ways, I feel that I am living proof of what an American with hard work, honor and integrity, can achieve without birthright of social and economic privilege. Similarly, looking back on my contributions to the jurisprudence of New Jersey, Roscoe Pound, a great American scholar, best summarized the way I feel when he said “So venerable, so majestic, is the living temple of justice, this immemorial, yet ever freshly growing fabric of our common law, that the least of us is proud who may point to so much as one stone thereof and say the work of my hands is there.”⁴

⁴ Speech made in 1940s when accepting ABA Medal of Honor.