

## Children of the South

**FRED GRAY**

### **The Making of a Lawyer**

The nine old men inside were not waiting on me as I walked up the white marble steps of the U.S. Supreme Court on a warm May morning in 1959. But I was waiting for them. I—and those I represented—had been waiting for several centuries.

Across the top of the building were the famous words “Equal Justice Under Law.” As I passed beneath the chiseled phrase I recalled the constitutional law teachings of Professor Oliver Schroeder and thought to myself, “We shall see.”

I had my briefcase in one hand. Tucked under the other arm was a map of Tuskegee, Alabama. The map depicted one of the oddest municipal jurisdictions in recorded history, courtesy of the Alabama legislature, which in drafting the document had exceeded even its own substantial creativity at keeping black citizens *in their place*.

I really wanted to use this map, but my complaint in the case at hand had been dismissed in the lower court before I could use it. It was a fine map, drawn to scale by a major map company and ordered for me by William P. Mitchell, executive director of the Tuskegee Civic Association. The map cut to the heart of my case.

Mr. Mitchell’s map showed the square shape of the Tuskegee city boundaries before black citizens there began a voter registration campaign in 1956. Superimposed over the original map was the twenty-five-sided shape of the boundaries after the legislature had “improved” them. Coincidentally, the new boundaries managed to include virtually every white in the town while excluding virtually every black.

I entered the hallway and took the map to the marshal's office for transfer to the courtroom at the proper time. I was then ready to argue *Gomillion v. Lightfoot*, challenging the Alabama legislature's gerrymandering of Tuskegee for the purpose of denying blacks the right to vote. The case is recognized today as one of the landmark cases in U.S. voting rights law. Ironically, as I write these words more than fifty years later, the gerrymandering of black voters has been before the Supreme Court continually during these intervening years.

*Gomillion* was not my first experience with the nation's highest court. In 1956 I had won an appeal in which the Supreme Court had affirmed a lower court's ruling in my favor that segregated seating on Montgomery's city buses was unconstitutional. That was the famous Montgomery bus boycott case, which I had filed when I was only twenty-five years old. But this was my first time to appear in person before the court.

I entered the courtroom as another case was being argued. As I sat and listened, I felt weak with apprehension. I remembered my childhood in Montgomery. How could I, a black man, born in an Alabama ghetto, whose father died when I was two years old and whose mother had only a sixth-grade education, argue a case before the U.S. Supreme Court?

When I was a boy, I never dreamed of visiting the Supreme Court. Now I was ready to speak to the justices. This was the opportunity of a lifetime. I sat patiently, and when the case was called, I trembled with fear.

But I stood and addressed the court. "Mr. Chief Justice, may it please the Court, I am Fred Gray from Montgomery, Alabama, and along with Robert Carter, I represent the petitioners, Dr. Gomillion and others, in this case."

Before I could get started, Justice Felix Frankfurter, who we feared would rule against us in this case because of one of his earlier cases, asked me to explain the map. I did.

He then asked, "Where is Tuskegee Institute?"

I replied, "Tuskegee Institute is not on the city map."

He said, "You mean to tell me that Tuskegee Institute is not located in the city of Tuskegee?"

I said, "No, sir, your Honor. It was in, but they have excluded it."

"Tuskegee Institute is excluded from the city of Tuskegee?"

"Yes, sir, your Honor."

I think that satisfied Justice Frankfurter. I reasoned from his questions that if Tuskegee Institute was excluded from the city of Tuskegee, then my

clients were entitled to relief. It was just a question as to how the court would write the opinion to justify its conclusion.

As you can imagine, I felt that it was a good day's work.

However, my life and work did not begin in Washington, D.C., before the Supreme Court, but in Montgomery, Alabama. My desire to become a lawyer did not occur in Washington, D.C., but in Montgomery, while I was a student at Alabama State College. My secret desire to destroy everything segregated I could find did not originate in Washington, D.C., but on a bus in Montgomery.

I was always on and off the buses in Montgomery. Like most African Americans in Montgomery in the late 1940s and early 1950s, I did not have an automobile. My only means of transportation was the public buses. I was on and off the bus several times a day. I would leave home on the west side of Montgomery in the morning and catch the South Jackson Street bus, which would take me through town and then to the college. In the afternoon I would use the bus a second time, catching the Washington Park bus and getting off downtown to check in for my newspaper delivery job at the Advertiser Company. My third bus ride took me from the Advertiser Company back out to my delivery district on the east side of town. A fourth ride returned me downtown to check out. Frequently a fifth ride took me from the Advertiser back to the campus to the library. Finally, the sixth bus ride, this time on the Washington Park bus, carried me home on the west side. In short, I used the bus as often as six times a day, seven days a week.

All of the bus drivers were white. Discourteous treatment of black riders was more the rule than the exception. The buses were segregated. Even on the South Jackson–Washington Park bus route, which served a 90 percent black clientele, the bus drivers refused to allow African Americans to sit in the first ten seats, which included the cross seats.

The bus situation, especially the discourteous treatment by the drivers, grated on African Americans in Montgomery. Frequently, when the bus was crowded, the driver would collect your money in the front door and tell you to enter through the back door. Sometimes the driver would close the doors before a patron who had just paid could make his or her way to the back door. One man was killed by a bus driver. Virtually every African American in Montgomery had endured some negative experience with the buses. But we had no choice. We had to use the buses for transportation. As Jo Ann Robinson pointed out in her book *The Montgomery Bus Boycott*

*and the Women Who Started It*, working women were especially dependent on the buses. My own dissatisfaction with the bus situation grew more acute as my college years ensued.

### *My Early Life*

I was born on December 14, 1930, in Montgomery. My mother was Nancy Jones Gray Arms (August 19, 1894–October 3, 1992), and my father was Abraham Gray (July 15, 1874–December 23, 1932). Mom worked as a domestic, particularly a cook, in several white homes in Montgomery. My father was a carpenter who received his training at Tuskegee Institute. He died when I was two.

I was born in a shotgun house at 135 Hercules Street in the Washington Park section. A shotgun house was one with all of the rooms built directly behind each other. It probably was so-called because if a person fired a shotgun through the front door, the shot would travel through each of the rooms and out the back door. In 1930, Washington Park was a typical black community in Montgomery, with no paved streets, no running water, and no indoor sanitary facilities. There were no hospitals for African American children to be born. They, like me, were delivered by a midwife.

My parents were members of the Church of Christ. My father became a member in 1925 and my mother in 1928. Religion and the church played a major role in my family life. My father was a faithful member of the Holt Street Church of Christ until his death. He helped to build the first church building. He would canvass our neighborhood and take all the children to Sunday school. After his death, Mom would take us to Sunday school and church. The church was the center of our early childhood. Each of us became members of the church at an early age.

The Holt Street Church of Christ at 945 South Holt Street played a major role in my life, the lives of all my brothers and my sister, and the lives of many other African Americans in central Alabama.

Mom wanted all of her children to obtain an education, be good Christians, and make something of themselves. She specifically instilled in us that we could be anything we wanted to be if we did three things: Keep Christ first in our lives. Stay in school and get a good education. Stay out of trouble and don't get involved in the criminal justice system. I followed her instructions, which have worked well for me. My late wife, Bernice, and I attempted to instill those basic principles in our four children.

I am the youngest of five children, and after my father's death, my mother had to support us. Finding someone to keep me before I started

school was a problem for her, which led to my starting school early. The usual age for beginning school then was six years, but I would not turn six until December 14. My mother and her sister, Sarah Jones McWright, a first-grade teacher at Loveless School, devised a plan where my aunt enrolled me in her class when I was five. They did this so my mother could work and because Aunt Sarah believed I was ready for first-grade work. So my aunt and mother initiated in 1935 a “head start” program for me.

Loveless School was located on West Jeff Davis Avenue approximately two miles from where I was born and five blocks from where I grew up. We lived at 705 West Jeff Davis Avenue and continued to live there until I married in 1956. I attended Loveless School from the first through the seventh grades. Of course, all of the schools in Montgomery at that time were segregated. Loveless School was an all-black school. It remained so until I filed the suit *Carr v. Montgomery County Board of Education* in 1964. Today that school building houses the Loveless Academic Magnet School Program (LAMP), a nationally recognized magnet high school, with a fully integrated faculty and student body.

After I finished the seventh grade at Loveless School in 1943, Mom sent me to the Nashville Christian Institute (NCI), an African American boarding school in Nashville, Tennessee, operated by members of the Church of Christ. The Bible was taught daily, along with chapel programs, and emphasis was placed on teaching young men to become preachers and church leaders. From my childhood, Mom had wanted me to pursue the ministry. This school was a part of her plan.

The public schools in Montgomery opened in September, but NCI did not open until October. So when I did not enroll in Montgomery, one of my friends, Howard McCall, began to tease me, saying, “Fred is not going to school,” and implied that I was a dropout.

I was not a dropout. I was a twelve-year-old on a mission for God. My mother packed me up and sent me by our minister, Brother Sutton Johnson, to Nashville. At the time NCI was the only African American Church of Christ-supported high school. It was a coeducational boarding school with on-campus living facilities for boys; girl students who did not live in Nashville were boarded with individual members of the church in homes throughout the city.

NCI’s principal was E. Franklin Tharpe. He was a history graduate of Tennessee A&I State University. He would brag that he taught his students at the Nashville Christian Institute history from the same book, *Civilization Past and Present*, that freshmen studied at Tennessee A&I.

NCI was a small high school. We had approximately three hundred students from about twenty-five states. Our facilities were meager, but we had dedicated faculty members who were genuinely interested in the growth and development of their students. They gave us a good college preparatory education, and many of the graduates of NCI are leaders across the country and preachers in the Church of Christ. Many of the students who attended NCI later became outstanding citizens in their communities, engaged in various businesses and professions. We all developed close ties and friendships at NCI that have lasted a lifetime.

In order to graduate early, I attended summer school during the summer of 1947. I was scheduled to finish during the Christmas break of 1947. I wanted to return to Montgomery and enroll at Alabama State College for the winter quarter, which began on December 1. I was accepted at Alabama State subject to completing my high school work; however, this work would not be completed until the latter part of December. I went to my principal, told him I wanted to enroll in Alabama State, and asked if I could leave high school early. He said that if my teachers would give me the final examinations and, of course, if I passed, he would have no objections to my leaving early. My teachers were elated about my acceptance at Alabama State and were willing to give me my examinations early.

I passed the exams, left the Nashville Christian Institute during the Thanksgiving break, and enrolled in Alabama State College. I returned to Nashville for graduation ceremonies with my NCI class in May 1948.

Education was serious business for all the children of Abraham and Nancy Gray, he a carpenter and she a domestic.

#### *A Student at Alabama State College, 1947–1951*

I enrolled in Alabama State College for Negroes, now Alabama State University, on December 1, 1947. All my life I had been drawn to the ministry, and when I entered Alabama State I envisioned becoming a social science teacher and a minister, as those were the principal careers then open to college-educated African American males in Alabama. You either preached or taught school. But my studies and associations at Alabama State began to change my goals.

Professor Thelma Glass taught history, geography, and English. She impressed upon me the recipe for success in college. She advised us to learn exactly what the teacher wanted, how the teacher wanted the material presented, and then to try to present it in that fashion. I have followed

this advice ever since, not only in college but in law school and law practice. Professor Glass was also an active member of the Women's Political Council, which was to play such an important role in the Montgomery bus boycott. She retired from Alabama State University and lived in Montgomery until her death on July 24, 2012.

Another professor who made an indelible impression on me was J. E. Pierce, who taught political science and had done an extensive survey in the area of voter registration. Professor Pierce often talked about the importance of obtaining our civil rights. He noted my interest in civil rights and encouraged me to go to law school.

I worked my way through Alabama State College as a district circulation manager of the *Alabama Journal*, the afternoon paper in Montgomery. I was known on campus as the "newspaper boy." My delivery territory, District Six, encompassed the campus and all of the east side of Montgomery where African Americans resided—black district managers supervised black areas, and white district managers supervised white areas. As a district manager, it was my responsibility to oversee the distribution of the newspaper for thirteen routes, to employ and manage newspaper carriers, and to increase circulation.

Although it seems that I was always working, always getting on and off the buses, my grades never suffered. I graduated with honors in the upper 10 percent of my class.

Alabama State College, which I attended from December 1947 to May 1951, was altogether different from Alabama State University as it exists in 2012. For example, on November 22, 2012, ASU dedicated a new \$62 million stadium complete with 200 loge seats, 750 club seats, two party terraces, 20 luxury box suites, and a 64-foot high-definition scoreboard in time for the traditional Thanksgiving Day playing of ASU versus Tuskegee University football—the eighty-ninth time the schools had met in what is now nationally known as the "Turkey Day Classic." (Unhappily for Hornet fans, ASU lost.)

During my time at Alabama State, the school was small and entirely segregated—faculty, students, and staff. However, while we had a black president, the policy-making body was the all-white state board of education, with the governor of Alabama serving as ex-officio chairman. These white men all believed in the "southern way of life" that included segregation and second-class status for African Americans in every aspect of existence. This was just the way they believed and the way it was. Alabama