

ICLE

DRUM MAJORS FOR JUSTICE: THE LEGACY OF AND LESSONS FROM GEORGIA'S ICONIC CIVIL RIGHTS LAWYERS

PROGRAM MATERIALS

June 8, 2018

STATE BAR OF GEORGIA

Marietta St

June 8, 2018

ICLE: State Bar Series

DRUM MAJORS FOR JUSTICE: THE LEGACY OF AND LESSONS FROM GEORGIA'S ICONIC CIVIL RIGHTS LAWYERS

**3 CLE Hours Including
1 Ethics Hour | 1 Professionalism Hour**

Sponsored By: Institute of Continuing Legal Education

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The Institute of Continuing Legal Education of the State Bar of Georgia is dedicated to promoting a well organized, properly planned, and adequately supported program of continuing legal education by which members of the legal profession are afforded a means of enhancing their skills and keeping abreast of developments in the law, and engaging in the study and research of the law, so as to fulfill their responsibilities to the legal profession, the courts and the public.

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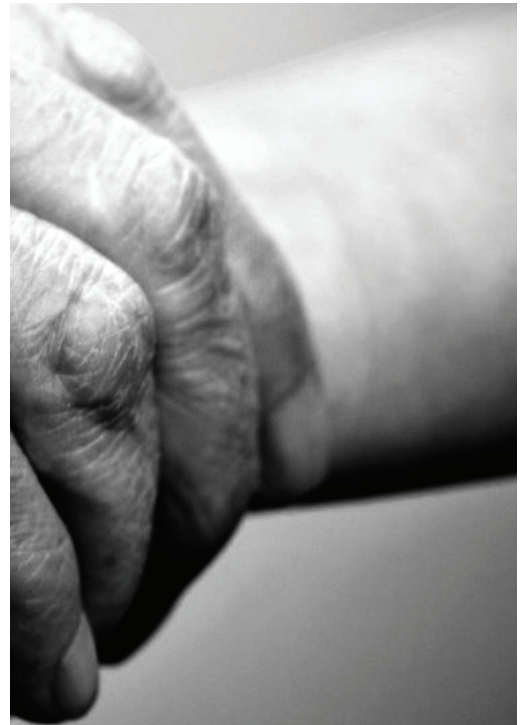


State Bar
of Georgia

INSTITUTE OF CONTINUING LEGAL EDUCATION



HOW CAN WE HELP YOU?



Who are we?

SOLACE is a program of the State Bar of Georgia designed to assist those in the legal community who have experienced some significant, potentially life-changing event in their lives. SOLACE is voluntary, simple and straightforward. SOLACE does not solicit monetary contributions but accepts assistance or donations in kind.

How does SOLACE work?

If you or someone in the legal community is in need of help, simply email SOLACE@gabar.org. Those emails are then reviewed by the SOLACE Committee. If the need fits within the parameters of the program, an email with the pertinent information is sent to members of the State Bar.

What needs are addressed?

Needs addressed by the SOLACE program can range from unique medical conditions requiring specialized referrals to a fire loss requiring help with clothing, food or housing. Some other examples of assistance include gift cards, food, meals, a rare blood type donation, assistance with transportation in a medical crisis or building a wheelchair ramp at a residence.

Contact SOLACE@gabar.org for help.



The purpose of the SOLACE program is to allow the legal community to provide help in meaningful and compassionate ways to judges, lawyers, court personnel, paralegals, legal secretaries and their families who experience loss of life or other catastrophic illness, sickness or injury.

TESTIMONIALS

In each of the Georgia SOLACE requests made to date, Bar members have graciously stepped up and used their resources to help find solutions for those in need.

A solo practitioner's quadriplegic wife needed rehabilitation, and members of the Bar helped navigate discussions with their insurance company to obtain the rehabilitation she required.

A Louisiana lawyer was in need of a CPAP machine, but didn't have insurance or the means to purchase one. Multiple members offered to help.

A Bar member was dealing with a serious illness and in the midst of brain surgery, her mortgage company scheduled a foreclosure on her home. Several members of the Bar were able to negotiate with the mortgage company and avoided the pending foreclosure.

Working with the South Carolina Bar, a former paralegal's son was flown from Cyprus to Atlanta (and then to South Carolina) for cancer treatment. Members of the Georgia and South Carolina bars worked together to get Gabriel and his family home from their long-term mission work.

Contact SOLACE@gabar.org for help.

FOREWORD

Dear ICLE Seminar Attendee,

Thank you for attending this seminar. We are grateful to the Chairperson(s) for organizing this program. Also, we would like to thank the volunteer speakers. Without the untiring dedication and efforts of the Chairperson(s) and speakers, this seminar would not have been possible. Their names are listed on the **AGENDA** page(s) of this book, and their contributions to the success of this seminar are immeasurable.

We would be remiss if we did not extend a special thanks to each of you who are attending this seminar and for whom the program was planned. All of us at ICLE hope your attendance will be beneficial as well as enjoyable. We think that these program materials will provide a great initial resource and reference for you.

If you discover any substantial errors within this volume, please do not hesitate to inform us. Should you have a different legal interpretation/opinion from the speaker's, the appropriate way to address this is by contacting him/her directly.

Your comments and suggestions are always welcome.

Sincerely,
Your ICLE Staff

Jeffrey R. Davis
Executive Director, State Bar of Georgia

Tangela S. King
Director, ICLE

Rebecca A. Hall
Associate Director, ICLE

AGENDA

3 CLE hours including 1 professionalism hour

**Drum Majors for Justice: The Legacy of and Lessons from
Georgia's Iconic Civil Rights Lawyers**

**Friday, June 8, 2018 - 2 - 5 p.m., Omni Amelia Island, Florida
Annual Meeting of the State Bar of Georgia**

Description: This historical-legal CLE provides perspectives on the lives and legacies of two iconic Georgia Civil Rights lawyers, Donald Lee Hollowell of Atlanta and C. B. King of Albany, We will explore their landmark cases and their impact and end with a discussion on today's implications for action.

Sponsoring Organizations:

Gate City Bar Association

Georgia Association of Black Women Attorneys

State Bar of Georgia Committee to Promote Inclusion in the Profession

Committee: Jacqueline Bunn, Jana J. Edmondson-Cooper, Laverne Lewis Gaskins, Avarita L. Hanson (Coordinator), R. Javoyne Hicks, Derrick A. Pope, Rita M. Treadwell

Moderator: M. Alexis Scott, Journalist, Executive, Community Leader, Atlanta, GA

I. Donald Lee Hollowell, Atlanta, GA

Prof. Maurice C. Daniels, Ed.D., University of Georgia, Athens, GA (Emeritus)

Hon. Warren P. Davis, Gwinnett County Superior Court, Lawrenceville, GA

Stanley E. Foster, Hollowell Foster & Herring PC

II. C. B. King, Albany, GA

Chevene B. King, Jr., The C. B. King Law Firm, Albany, GA

Hon. Herbert E. Phipps, Court of Appeals of Georgia, Albany, GA (Ret.)

Gregory W. Edwards, District Attorney, Dougherty Judicial Circuit, Albany, GA

III. Lessons Learned and Future Opportunities for Action

Christopher L. Johnson, The Hatchett Firm, Atlanta, GA

Francys Johnson, Jr., The Johnson Firm, PC, Statesboro, GA

Clyde E. Mize, Jr., President, Gate City Bar Association, Morris Manning & Martin LLP, Atlanta, GA

Derrick A. Pope, Director, Arc of Justice Project, Atlanta, GA

Tiffany W. Roberts, Community Outreach & Movement Building Counsel, Southern Center for Human Rights, Atlanta, GA

Andrea I. Young, Executive Director, American Civil Liberties Union of GA, Atlanta, GA

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Prof. Maurice C. Daniels, Ed.D., University of Georgia, Athens, GA (Emeritus)
Hon. Warren P. Davis, Gwinnett County Superior Court, Lawrenceville, GA
Stanley E. Foster, Hollowell Foster & Herring PC

-PROFESSIONALISM –

Drum Majors for Justice - Courage

Warren Davis, Judge, Gwinnett Superior Court
Jennifer Taylor, Attorney at Law
Gwinnett Justice & Administration Center
75 Langley Drive
Lawrenceville GA 30046-6935

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PROFESSIONALISM

FOUR SKILL SETS OF PROFESSIONALISM & ETHICS:

Mastering professionalism and ethics are based upon four skill sets:

- (1) The ability to recognize ethical and professionalism dilemmas;
- (2) The ability to form sound judgments;
- (3) The ability to prioritize values;
- (4) The ability to implement judgments - which requires cultivating personal and interpersonal skills and habits - communication, honesty, courage, prudence.

This year, we are going to further explore the professionalism criteria connected with courage. Courage is all too often overlooked as an element of professionalism, but we will explore courage in the practice of law as well as reach into our rich history for an example of courage by a lawyer who not only changed our state, but changed our nation.

One of the innate hallmarks of the study of this year's topic, Drum Majors for Justice, is their common thread of embodying the epitome of professionalism. These men embodied the best of our profession. As we study their lives and cases, please consider the criteria of the 'Lawyer's Creed and Aspirational Statement on Professionalism. These were developed by the Commission to encourage, guide and assist individual lawyers, law firms, and bar associations... The Creed and Aspirational Statement cannot be imposed by edict because moral integrity and unselfish dedication to the welfare of others cannot be legislated. Nevertheless, a public statement of

principles of professionalism can provide guidance for newcomers and a reminder for experienced members of the bar about the basic tenets of our profession.¹

THE LAWYER'S CREED

To my clients, I offer faithfulness, competence, diligence, and good judgment. I will strive to represent you as I would want to be represented and to be worthy of your trust.

To the opposing parties and their counsel, I offer fairness, integrity, and civility. I will seek reconciliation and, if we fail, I will strive to make our dispute a dignified one.

To the courts, and other tribunals, and to those who assist them, I offer respect, candor, and courtesy. I will strive to do honor to the search for justice.

To my colleagues in the practice of law, I offer concern for your welfare. I will strive to make our association a professional friendship.

To the profession, I offer assistance. I will strive to keep our business a profession and our profession a calling in the spirit of public service.

To the public and our systems of justice, I offer service. I will strive to improve the law and our legal system, to make the law and our legal system available to all, and to seek the common good through the representation of my clients.

Sadly, there has been a sharp decrease in collegiality among lawyers. While at one time concern for our professional colleagues was more the norm, that foundation has too often been replaced with 'cut-throat' competition not only involving adversaries but within the same legal organizations. That pervasive negative atmosphere has the expected outcomes. It should be no wonder that while basic tenets of professionalism and support have eroded, that stress, impairments and general dissatisfaction with the profession have sharply increased.

¹ <https://www.gabar.org/aboutthebar/lawrelatedorganizations/cjcp/lawyers-creed.cfm>

Professionalism attribute - Courage

We will now turn to the professionalism attribute of courage. As a trial judge, I see frequent acts of courage, which too often are taken for granted. Lawyers are routinely required to stand alone to espouse unpopular causes, which Clarence Darrow once opined is rooted in courage. Lawyers have an ethical duty to impart professional advice knowing full well that it will be poorly received. Oftentimes, lawyers while fulfilling their professional obligations know that their best advice is likely to result in heated arguments and personal accusations. Still they fulfill those duties. I have seen prosecutors stand next to victims as they describe horrendous losses and pour out grief. Some of those victims would not have been able to have their voices heard but for the very fact they knew the assistant district attorney assigned their case would be at their side. It is not easy to stand publicly and advocate for those charged with heinous crimes. Still lawyers undertake these difficult tasks on a daily basis. And then they pick up the next difficult case, and do it all over again. Many others would simply quit. Lawyers don't.

In that vein, we will close with instances of the legendary courage of a Georgia lawyer. This lawyer stood next to many an accused who was facing death by electrocution in a criminal case. He stood next to many who were facing the wrath of an angry mob. He stood next to clients who merely wanted a public education. The courage of this lawyer changed the laws of our state and our nation. That lawyer was Donald L. Hollowell.

Donald Hollowell wasn't from Georgia, he was born in 1917 in Wichita, Kansas. He originally joined the legendary 'Buffalo Soldier's' unit of the U. S Army, 10th Cavalry

Division. When WWII erupted he was recalled to duty and rose to the rank of Captain. He served in the United States and near the end of the war served in Europe. He earned an undergraduate degree at Lane College, Tennessee, and his law degree from Loyola University in Chicago.

After graduation, he could have easily chosen to practice law in more accepting locales. He chose the 'Jim Crow' south. After reviewing options and various cities, he chose, 'the City too busy to hate,' Atlanta, Ga. He became one of 10 black attorneys to practice law in Georgia at that time. He was busy.

Wikipedia has an excellent summary about Hollowell, it reads:

Donald Lee Hollowell (December 19, 1917 – December 27, 2004) [1] was an American civil rights attorney during the Civil Rights Movement, in the state of Georgia. He successfully sued to integrate Atlanta's public schools, Georgia colleges, universities and public transit, freed Martin Luther King, Jr. from prison, and mentored civil rights attorneys (including Vernon Jordan and Horace Ward). First black regional director of a federal agency (the EEOC), Hollowell is best remembered for his instrumental role in winning the desegregation of the University of Georgia in 1961. He is the subject of a 2010 documentary film, *Donald L. Hollowell: Foot Soldier for Equal Justice*.²

While Hollowell is perhaps best known for his work in civil rights, our presentation begins with a lesser known criminal case described by Malcolm Gladwell in his podcast series, *Revisionist History*, Season 2, Episode, "Mr. Hollowell Didn't Like That." It was this case that helped propel Hollowell's career and reputation for courtroom brilliance. The case was called, 'The Man in the Pyramid Hat,' in the pulp crime stories in the early 1950's. The client, was Willie Nash. Willie Nash was black and he was charged with two of the worst possible crimes facing a black defendant at that time; murder of a white man and rape of a white woman. Hollowell was hired when Nash couldn't find a 'real lawyer,' to handle his case. The situation was bleak. Nash was facing the death penalty

² https://en.wikipedia.org/wiki/Donald_L._Hollowell

on both counts. The State assumed the trial was a mere formality. Nash was clearly guilty. The State had two eye witnesses, a murder weapon, evidence putting Nash at the scene and the confession of the defendant. Hollowell had little more than a week to prepare; not enough time. The first attempt at trial ended in a mistrial. The prosecutor used a racial epithet disparaging one of the key witnesses in the presence of the jury. Hollowell was on his feet objecting to the trial judge that racial epithets and prejudice had no place in the courtrooms of Atlanta. The trial judge agreed. The trial was to be recommenced within the month. Hollowell gained the time he needed. Just two years out of law school, Hollowell proceeded to investigate and prepare. He learned that the eye witnesses really weren't so reliable. The time of the murder did not take place in full moonlight on that night. The murder weapon didn't have a drop of blood on it. According to the examining physician, no rape had occurred. The confession was made after five hours of police interrogation in the woods. Willie Nash was acquitted.

Hollowell was called upon to represent other black defendants facing the death penalty. He was renowned for racing back across the back roads of Georgia to various courthouses and various prisons as writs of habeas corpus were oftentimes more successful than trials before all-white juries. Not all his efforts were successful and sometimes his clients died in the electric chair. One of his more difficult challenges involved the case of Preston Cobb, a black youth. At age 15, Cobb was indicted, tried, convicted and sentenced to death by an all-white jury, all of which was completed within 24 hours. Cobb was condemned to death in Georgia's electric chair a mere 40 days later. Hollowell was able to procure a last-minute reprieve to permit higher courts to review the case. While it took years, the 5th Circuit Court of Appeals, found that Cobb had been denied a fair trial. Hollowell proved that the county in which Cobb was

convicted had many duly qualified black jurors listed on their docket. No one contended that they weren't qualified. However, in the entire history of that circuit, not a single black juror had ever been summoned to serve on a grand jury or a single trial jury. The records were clear, if a potential juror's name had a prefix of the letter 'w' the juror was summoned. If the potential juror's name had a prefix of the letter 'c' the juror was not summoned. Hollowell's client was spared.

Hollowell's most famous client was Martin Luther King, Jr, the leader of the nation's civil rights movement. King was routinely arrested and charged in connection with various marches and peaceful sit-ins. King also received a traffic violation. When King moved from Alabama to Atlanta, he failed to get a Georgia driver's license within the requisite 90 days. He was sentenced to 12 months on probation. The civil rights marches continued, as did the sit-ins. Shortly after receiving the traffic sentence King was arrested at a peaceful sit-in. The State demanded that King's probation be revoked. A DeKalb County State Court judge agreed. King was sentenced to serve all 12 months in a Georgia public works camp, otherwise known as a 'chain gang.' Given King's notoriety the local chain gang wasn't a sufficient sentence. King was sentenced to Reidsville, the toughest and most dangerous prison in Georgia.

Hollowell prepared his writ of habeas corpus and immediately went to the jail to serve the Sheriff. However, when he arrived, King had been removed in early morning hours to prevent his potential release. Hollowell was both a lawyer and a savvy advocate. The case of the King vs. (The warden) was not an ordinary habeas proceeding. As he garnered interested media to accompany him on a flight to Reidsville, he also began working behind the scenes to engage John F. Kennedy and Robert Kennedy, as well as to gain the support of Georgia's democratic governor and other political leaders. By the

time Hollowell's plane landed in Reidsville, many calls had been made. Hollowell walked out of Reidsville prison with King. Malcom Gladwell describes the scene in the famous photo when King emerges from inside the prison walls. 'They first looked to see whether King was okay and then they asked, "Where's Hollowell?" Sure enough, there he was, in the background, off a little to the left, crisp white shirt, elegant black bow tie, impassive, implacable.'

We close our story about Hollowell with his legal work challenging the desegregation of the University of Georgia, which was a two-fold process. First, Hollowell filed suit against the University of Georgia, School of Law. His client was Horace T. Ward, distinguished graduate of Morehouse College and recipient of a Master of Arts Degree from Clark Atlanta University who had applied to the University of Georgia, School of Law, but had been rejected. Neither Ward's credentials nor his qualifications were in dispute. It was his race that caused the problem. Hollowell's case progressed. The university kept changing criteria for admission, urging the courts to simply have Ward re-apply. These delaying tactics stalled the case. When Ward's court date was finally quickly approaching Ward was surprisingly 'drafted' into the U.S. Army. The case was dismissed. Ward completed his tour of duty which required time in Korea. Upon completion, Ward elected to enter Northwestern University College of Law. Upon graduation, he returned to Georgia, where he joined Hollowell's firm.

Hollowell's next case against the University of Georgia was filed on behalf of two students, a young man and a young woman. Their names were Hamilton E. Holmes and Charlayne Hunter. The year was 1961. The trial commenced in federal court. Horace T. Ward, previously denied admission to UGA School of Law, conducted direct examination of various witnesses. Judge Bootle rendered his decision. The students

were to be admitted. Segregation at the university would end. Holmes and Hunter began attending classes. Almost immediately, riots ensued. The university suspended them and removed them from campus contending that the school could not adequately protect them. Their lives were in danger. The lives of other students were in danger. Hollowell filed a new suit in federal court and they were immediately re-instated. Hollowell and the students were called upon to give a national news conference. It was classic ‘Hollowell.’ Remember how Gladwell described him in the famous photo of Martin Luther King, ‘crisp white shirt, elegant black bow tie, impassive, implacable.’ It was that Hollowell who addressed the citizens of Georgia as the walls of university segregation crumbled and his clients returned campus.

‘As to whether or not we’ve asked for any protection by law enforcement authorities, we have not as such. I think the city police there and such others that are deemed necessary by our justice department or state police authorities would be certainly capable of handling this situation.

I would like to think the people at the university and around the university are sufficiently fair-minded and they would want to see any Georgia citizen get the best education possible at facilities that are provided by the state.³

Hollowell, the consummate professional.

Holmes and Hunter would ultimately graduate from the university. Holmes became a renowned orthopedic surgeon at Emory. Hunter became an acclaimed journalist, both in written and broadcast journalism. Horace T. Ward continued to practice law until he was appointed to serve as a federal judge, U.S. District Court, Northern District of Georgia. Ward was a renowned judicial scholar.

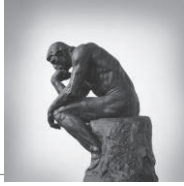
The University of Georgia, together with the School of Law, has become the leading repository for memorializing and heralding Hollowell’s life works and legal career. The university supported the research and publishing of the book, *Saving the*

³ Desegregation at the University of Georgia Press Conference, WSB-TV, Atlanta, GA. 1961.

Soul of Georgia, Donald L. Hollowell and the Struggle for Civil Rights, University of Georgia Press, 2013, by Maurice C. Daniels. Their library produced the 2010 documentary film, *Donald L. Hollowell: Foot Soldier for Equal Justice*. University president, Michael Adams, conferred an Honorary Doctorate of Laws upon Hollowell. And, both the School of Law and university endowed a professorship in his name, for the Study of Social Justice and Civil Rights Studies.

The legacy of Donald L. Hollowell is rooted in courage and professionalism. We are inspired by his leadership, compassion and commitment to changing the laws and practices of our state and our nation. We are so fortunate, he never gave up.

**PROFESSIONALISM – DRUM
MAJORS FOR JUSTICE -
COURAGE**



Warren Davis, Judge,
Gwinnett Superior Court
& Jennifer Taylor, Staff Attorney

*FOUR SKILL SETS OF
PROFESSIONALISM & ETHICS*

- (1) The ability to recognize ethical and professionalism dilemmas;
- (2) The ability to form sound judgments;
- (3) The ability to prioritize values;
- (4) The ability to implement judgments - which requires cultivating personal and interpersonal skills and habits - communication, honesty, courage, prudence.

Categories to explore this year

- Lawyer's Creed
- Courage

From the Professionalism Rules of the
State Bar of Georgia, Lawyers Creed

• **To my colleagues in the practice of law, I offer concern for your welfare.** I will strive to make our association a professional friendship.

Professionalism Aspirational Statement

- **As to my colleagues in the practice of law, I will aspire:**
- (a) To recognize and to develop our interdependence;
- (b) To respect the needs of others, especially the need to develop as a whole person; and,
- (c) To assist my colleagues become better people in the practice of law and to accept their assistance offered to me.

Courage – too often overlooked



Resource material – lessons of history

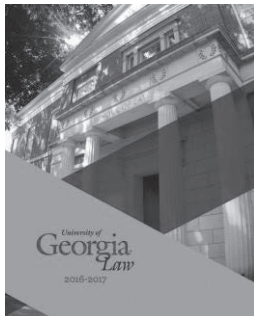
MALCOLM
GLADWELL
Revisionist
History



Commentary

- **Malcolm Gladwell:** This episode contains material that may be upsetting to some listeners.
-I wish he were still alive because he has so much to teach us like how do you keep going when all seems lost? How you behave? How do you conduct yourself? If you're one of the leaders of a losing cause, and for most of his life he fought uphill, how do you prepare those behind you for the day when you might succeed?

History – wasn't predicted in 1961



Man with the Pyramid Hat - Gladwell



Official Detective Stories, March 1954 issue



Couldn't afford a real lawyer

- State of Ga v. Willie Nash
- 1954 – Black man charged with death of white man
- Black man charged with rape of white woman
- Identification near the scene
- Murder weapon, a leaden pipe
- A confession
- Facing death sentence
- Only days to prepare.

Could afford this lawyer

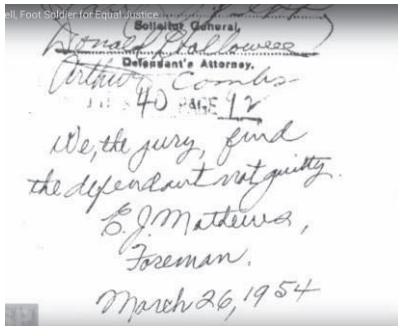
- Former 'Buffalo' soldier – 10th Cavalry Unit
- WWII veteran – Captain
- 2 years out of law school
- 1 of 10 black attorneys
- Could enter the front door
- But not eat in cafeteria



Mistrial and retrial -

- 1954 – woman's own words
- Death of boyfriend... other boyfriend left town..
- The almanac
- Murder weapon – GBI expert
- Confession – pre-Miranda... occurred in woods
- Rape – called the doctor

The verdict



Not all cases end in victory June, 3, 1960

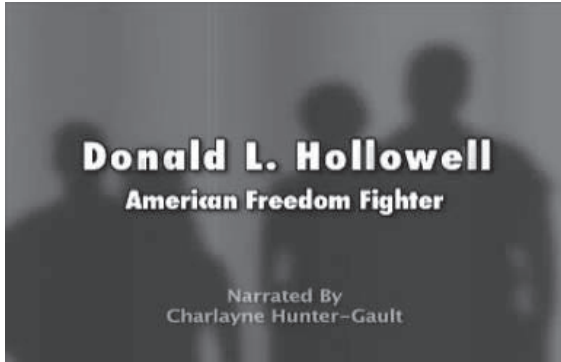
- State v. Nathaniel Johnson – 25 years old
- Rape – black defendant, white woman
- Plead guilty & avoid death penalty
- Entered case just before execution
- Johnson claimed they were lovers & fight was about \$ for abortion
- Justice delayed is justice denied
- Federal court, state court, Governor, Pardons & Parole
- Words

Next case...



Ex Rel. Preston Cobb, Jr., Appellant, v. R. P. Balkcom, Jr., Warden, Appellee, 339 F.2d 95 (5th Cir. 1964)

- Appellant Cobb, having been indicted for murder, was tried and convicted without a recommendation of mercy in the Superior Court of Jasper County, Georgia, on August 16, 1961. Consequently, he was sentenced, on the same day, to death by electrocution. Cobb was the sixth of nine children, and lived with his mother on the victim's farm where both were employed. His father was deceased. He was fifteen years of age at the time of his trial and sentence.
- Present counsel for Cobb were employed a few days after the imposition of sentence.
- Death sentence to be implemented within 40 days.



Representation of Martin Luther King

- Represented King many times.
- Most famous was the DeKalb County probation revocation.
- DL – moved to GA but didn't change AL > GA.
- 12 months.
- Arrested peaceful sit-in – leader of the movement.
- Probation revoked – Public Works Camp (Chain gang)
- Writ of habeas corpus.
- Worst night of King's life
- Hollowell put media on plane and flew to Reidsville (put into place calls to White House and Governor of GA)

Famous photograph



Legacy of professionalism - UGA

Next video clip....

The Foot Soldier Project for Civil Rights Studies, a partnership with the Russell Library for Political Research and Studies at the University of Georgia, is dedicated to chronicling Georgia's rich history in the Civil Rights movement.

Faith in the law

Faith in authorities to ultimately enforce the law
Faith in the people of Georgia to do what is right.

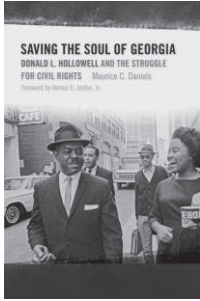
If not professional, likelihood of this video being produced. And, ultimately, who prevailed.

First attempt – Horace T. Ward





Legacy of Professionalism



The few....

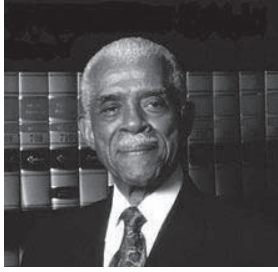


Atlanta Magazine - 1981

- "In practicing law, there are only limited situations where there might be a suggestion of racial overtones. In the courtroom there are set procedures and everybody knows them. There is an aura of respect about lawyers. Bailiffs, sheriffs, judges, all come to recognize you if you're a person with some skill.
- "There were times," he adds, "when people didn't do that. Sometimes I had to deal with them directly, but in most circumstances, you may call upon the court, the judge himself, to correct the 'mistakes'— invoke the sovereign presence of the court, so to speak.
- "There were many, of course, who gave less than a damn about who you were or what you did if your skin was black, but looking back at all the places we went all over the South, there were surprisingly few. There were some threats of violence, some phone calls, but no instances of real violence. No crosses burned.
- "There is a kind of protection that comes from being associated with the law," Hollowell explains. And from consistently conducting oneself with personal dignity.

Courage is about
perseverance, not
bravery.
Be courageous
despite the fear.

Slater Leadership.wordpress.com



II. C. B. King, Albany, GA

Chevene B. King, Jr., The C. B. King Law Firm, Albany, GA

Hon. Herbert E. Phipps, Court of Appeals of Georgia, Albany, GA (Ret.)

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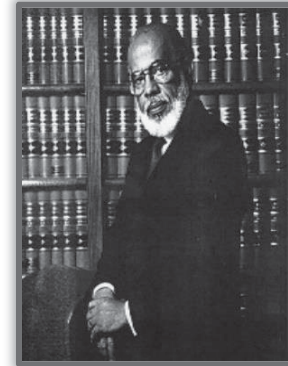
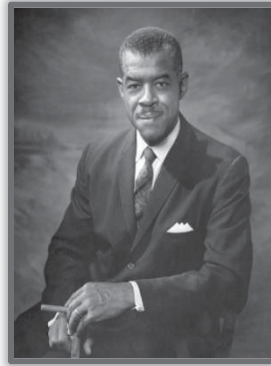
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DONALD LEE HOLLOWELL AND C. B. KING HIDDEN LEGAL FIGURES WHO CHANGED AMERICA

BY DERRICK ALEXANDER POPE, J.D.

Nothing is fixed forever. The earth is always shifting, the light is always changing, the sea does not cease grinding rock. Generations do not cease to be born, and we are responsible to them *because we are the only witnesses they have.* – James Baldwin



Donald Lee Hollowell and C.B. King have been described by those who worked with and knew them best in ways that are near reverent. Vernon Jordan described Hollowell as having possessed a “keen intellect and quiet determination... perfectly suited” to tackle “the most troubling moral and social issues of our time.”¹ King, thought former Georgia Court of Appeals Chief Judge Herbert E. Phipps, was “a truly great lawyer. . . who pursued his legal career with a deep commitment to truth and justice.”² To be sure, it would be difficult to find better instructive models for a budding civil rights advocate.

Hollowell and King are more than just luminaries in the law invoking sentimental remembrances of the bygone era when giants walked the earth. Instead, they are witnesses whose careers teach us a great deal about the profession. The credibility of their testimony – adduced from a life in the trenches – is unimpeachable. Their credentials as experts, stemming from numerous trial and appellate work, unchallengeable, and their character - revealed in the public counsel that mirrored their private conscious – unassailable.

The occasion to reflect upon these hidden legal figures invites an analysis of the true meaning of the lawyering endeavor. What can be learned from Hollowell and King is a four-fold understanding of what makes our professional undertaking a calling, how to be prepared to answer that call, what it takes to remain committed to that call, and the obligation to extend the call to others.

A CALL TO ARMS

There is a rather particular demeanor, a certain way of being that is commonly attributable to lawyers. Many of us, a time or two, have been met head-on with the belittling monikers others use to describe

¹ VERNON E. JORDAN, JR. WITH ANNETTE GORDON-REED, *Vernon Can Read! A Memoir*, 126, 130 (Public Affairs 2001).

² HERBERT E. PHIPPS, *Lawyers-The Guardians of Truth and Justice: Class of 2007 Commencement Address at the Case Western Reserve University School of Law* (May 20, 2007), in 58 *Cas. W. Res. L. Rev.* 483, 485 (2007).

what we do and worse, who we are.³ Too often, however, the persona associated with being an effective attorney – perceived by and adopted for a consuming public – masks the very character traits that are the heart and soul of good lawyering. Truth be told, there is more to the matter than just being a “hired gun.”

As it turns out, lawyers as a group are not that much different than most sub-species of the human family. We eat when we are hungry. We laugh to express joy. We require shelter from the elements. We have a tendency to find some things more desirable than others, and given a preference, we are more likely to choose comfort and tranquility over burden and conflict. And when deciding on a particular occupation, like others we opt for one that seems to strike a harmonious chord with an inner melody discovered in our formative years.

According to Anthony T. Kronman lawyers have certain traits “perhaps stemming from childhood, that are congenial to law’s practice or the legal profession would not have attracted us.”⁴ Generally, we all experience the immense joys and indiscriminating hardships that are so much a part of human existence. Each of us has the capacity to share in the delight of the one and be empathetic in the face of the other. This, Kronman maintains, is a “sympathetic leaning toward the issues and situations of others” making us, as he sees it, “inherently rescuers.”⁵ To be an advocate for another, in need of rescue, is our highest intrinsic value, our uppermost character trait and this noble undertaking has prompted many to characterize the lawyering endeavor as more than an occupation but rather a vocation.⁶

By definition, vocation is commonly associated with a response to a religious call,⁷ yet many legal commentators themselves identify the practice of law in these terms.⁸ It is not a stretch to describe the profession in this manner. Such a portrayal has just as much long-standing relevance to law. In its earliest use, vocation had a meaning that referred to some event or cause, either general or specific, that required

³ JOHN L. CROMARTIE, JR., *Reflections on Vocation, Calling, Spirituality and Justice*, 27 TEX. TECH. L. REV. 1061, 1065 (1996). “In addition to tiresome and unimaginative lawyer jokes I constantly hear . . . I also hear variations on the comment that the legal profession does not have a soul, and by implication that those within the profession are involved in work that kills the spirit and the soul.”

⁴ JAMES MCCOBB, *Abe’s Ethics: Lawyer Lincoln and the Golden Rule*, Law & Life, Oregon State Bar Bulletin (April 2005) at <http://www.osbar.org/publications/bulletin/05apr/lawlife.html>, referencing Anthony T. Kronman, *The Lost Lawyer: Falling Ideals of the Legal Profession* (1993).

⁵ *Id.*

⁶ CROMARTIE, *supra* note 3, at 1066.

⁷ “Vocation” is defined as “an urge or predisposition to undertake a certain kind of work, especially a religious career; a calling.” THE AMERICAN HERITAGE DICTIONARY 1353 (2nd ed. 1991). It comes from the Latin word *vocare* meaning “to call” which served as the basis for the religious use, as in answering a call to the ministry.

⁸ CROMARTIE, *supra* note 3, at 1061. (“ . . . the vocation of legal services worker was, for me, a deeply spiritual calling, and I have grown to understand that it was likewise true for so many of the wonderful people with which I have worked in my years of legal service.”). *See, also*, TIMOTHY W. FLOYD, *The Practice of Law as a Vocation or Calling*, 66 FORDHAM L. REV. 1405 (1998).

a response to the ethic of right and just considerations. This connotation was “the calling case.”⁹ One grand example of the calling case is the panoply of concerns we call civil rights. Teeming with the circumstances and situations that cry out for someone to advance the ethic of what is right and just, lawyers have been answering this call since the very beginning of the republic.

In early colonial America, the legal profession was looked upon as anathema in the new world as many colonists mistrusted lawyers. The 1669 constitution of the Carolinas, expressing its disapproval of lawyering, declared it “a base and vile thing to plead for money or reward.”¹⁰ However, as the society and the economy grew so did the need for those trained in the intricacies of law.¹¹ Central to this need were claims of freedom by indentured servants and slaves.¹² Beginning as early as 1656 and continuing to 1857, lawyers handled petitions brought by and on behalf of slaves. These “freedom suits” gave lawyers a platform to deploy their sympathetic leaning.¹³ Ironically, this historical marker informs us that what we have now termed human and civil rights issues were in fact a major part of the foundation of the legal profession in America. Virtually called into existence by the most troubling moral and social issue of the day, it is no surprise that law would appeal to a Donald Lee Hollowell and a C. B. King.

CALL WAITING

Our sympathetic leaning toward “the issues and situations of others” is enhanced where there exists a corresponding personal familiarity with the matter. Once as a child, C. B. King was playing near his home when a police officer drew his weapon, prompting “all of us little colored boys to run like chickens.”¹⁴ King decided to become a lawyer because he knew what it was like to be deprived of his rights. Hollowell had a brush with racial mistreatment during his military service, despite attaining an officer’s rank, leading him to consider a career as a dentist. This, he thought, would produce a calm and financially stable future and let him operate comfortably within a segregated system. A chance attendance at a Paul Robeson

⁹ *Vocativus*, from which vocation is ultimately derived, means “the calling case.” See, Ernest Weekly, AN ETYMOLOGICAL DICTIONARY OF MODERN ENGLISH 1602 (Vol. 2 1967).

¹⁰ MELVIN I. UROFSKY & PAUL FINKELMAN, *A March of Liberty: A Constitutional History of the United States*, 36 (Oxford University Press, 3rd ed. 2011).

¹¹ *Id.*

¹² *Id.* In addition to these claims, lawyers were needed in disputes between merchants, landowners contesting title, fraudulent conveyances of property, and complexities relating to inheritance.

¹³ *In Re Elizabeth Key* is the earliest American freedom suit occurring in 1656 in Virginia. *Dred Scott v. Sandford*, 60 U.S. 393 (1857) is the most well-known of these types of cases. However, “. . . before Scott v. Sandford became a landmark Supreme Court decision. . . it was first and foremost a common legal action.” KENNETH C. KAUFMAN, *Dred Scott’s Advocate: A Biography of Roswell M. Field*, 2 (University of Missouri Press 1996).

¹⁴ ELLEN LAKE, *C.B. King in Silhouette*, *The Harvard Crimson* (May 13, 1964), available at <https://www.thecrimson.com/article/1964/5/13/cb-king-pcb-king-is-a/>.

lecture, however, convinced him that law was his calling instead.¹⁵ It was the personal that prepared them for the professional.

Likewise, each of us can trace our decision to pursue a career in the law to some specific and certain inspiring encounter. For some it was Atticus Finch or Perry Mason, for others it was something more. Where civil rights issues are concerned, the something more is almost always personal.

At present, we are met with a barrage of reminders that ours is a society teeming with racially charged overtones. Our civic discourse is filled with planks of intolerance. Our political activities rife with indifference. Whether in the form of immigration policies or the repeated instances of black men being shot by overzealous law enforcement personnel or the frenetic, unhinged rants of the president, it is not lost on us that we are still grappling with the nation's longest problem, litigating it, as it were, in a case that could be styled *We the People v. All Other Persons*.

Admittedly, the American racial and social topography has morphed and so too has our individual and collective experience with its progeny. For all intents and purposes, ours is not a first-person involvement with the overt indices of a nation worshipping at the altar of white supremacy. There are no whites only signs. There are no denials of seating or refusals of service in places of public accommodations. There are no recalcitrant governors standing in the schoolhouse door blocking admissions to institutions of higher learning. Diversity and inclusion are the buzzwords that define the present day operative climate in the business and social sectors.

But, "an effect can become a cause, reinforcing the original cause and producing the same effect in an intensified form."¹⁶ To that end, we function in a zone of arms-length bigotry. With the republic having heeded the surgeon general's warning (albeit stubbornly) that racism may cause certain defects, we experience now something more akin to being affected by second-hand bias, a respiratory ailment making it difficult to breathe free. This is a matter of first impression and serious education in the roots of this malady is a valuable asset to prevent choking to death.

As lawyers, we will be summoned to the cases and controversies that will further shape the American experience. Our best means of preparedness comes in the deliberate effort to pry loose from the past the heroic and vital endeavors of the many legal figures who "have bent that arc of the universe

¹⁵ DERRICK ALEXANDER POPE, *Bending the Arc: Georgia Lawyers in the Pursuit of Social Justice*, Georgia Bar Journal, April 2018, at 30, 31.

¹⁶ GEORGE ORWELL, *Politics of the English Language* (1946).

towards justice.”¹⁷ Their work is an available and invaluable source of instruction, guidance, and inspiration.

However, it is important that we not excise some of the more troubling parts of our tortured narrative in favor of a reliance on the more idyllic chapters. Romanticized flirtations with the incidents of history are not enough; we should opt for a splendid intimacy with the imprint of history. History is a witness, and it is important that we let her tell *the truth* and *the whole truth* that we might get to *nothing but the truth*.

HOLD PLEASE

We may easily admit that law is a calling and we may find it effortless to immerse ourselves in the triumphant narrative of the distant and recent past. What may prove more cumbersome, however, is successfully navigating the tempting advances that have knocked so many others off course, a bewitching fate that if we are not careful, might hang us up in the process.

“For many of us the law has become a mere instrument for attaining economic or social objectives,” says former State Bar president Ken Shigley.¹⁸ This unfortunate assessment is not the invention of lawyers. Rather, it is symptomatic of what crept into our national conscious at the outset.

What we know to be undeniably true about our country ‘tis of thee is that its very founding is riddled with the tension between doing good and doing well. As a nation every aspect of our peoplehood has been accompanied by this maddening schizophrenia. The first two colonies – Virginia and Massachusetts, both brought into existence by a charter from the Virginia Company of London – set forth our enduring national conflict of interest, resulting in a sort of bipolar way of being.

We seek to be a shining city on a hill while we conduct a pogrom to exterminate the native inhabitants of the land. We wage a revolution based on the principles of the inherent equality of all men at the same time maintaining a dastardly system of human bondage. We seek to undo the damage by amending the national charter with a pledge toward equal protection all the while we grant to the corporation the fiction of personhood, giving it more rights than the people for whom the provision was

¹⁷ VERNON JORDAN, Remarks at the Harvard Law School Center on the Legal Profession, Third Annual Awards Dinner, *A Celebration of Black Lawyers, Past, and Present*, (June 5, 2017), available at <https://www.newyorker.com/news/news-desk/a-celebration-of-black-lawyers-past-and-present/amp>.

¹⁸ KENNETH L. SHIGLEY, *A Lawyer’s Calling*, Georgia Bar Journal, August 2011, at 6.

enacted. James Madison was right when he wrote, “most of our political evils may be traced to our commercial ones.”¹⁹

The capital conflict is where our work as lawyers is the trickiest, where the demand of the call seems too much. We too must make a living, and we too desire to soar to economic heights. This is especially true for those burdened with the fallout of having a citizenship originate in the “all other persons” basket. Having arrived rather recently to the inner corridors of the American civic, business, political, and social order, it can be understood when we protectively covet the positions we hold and the status we have attained. It is tempting to view the trails we have blazed and the ceilings we have cracked as an indication that our presence is the best evidence of progress.

But, if it is true that law “was conceived primarily as a mediating process” addressing itself to the “matter of holding people together” and to the “matter of reconciliation”²⁰ then the duty of the lawyer is sacrosanct. Whenever the capital conflict arises we endeavor to ensure the goals of the marketplace do not become an external contaminant and see to it that our own financial yearnings do not turn out to be an internal pollutant. Thankfully, we are not without guidance to aid us. Holy books speak about the unintended consequences of the pursuit of money as an end to itself.²¹ Scholars have taught of its constricting nature.²² Poets have made plain its competing ways.²³ Our aspirational standards of professionalism offer cues to our noble purpose.²⁴ Armed with these principled reminders, we are not likely to drop the call.

CALL TRANSFER

It would be ideal if we could mark the end of bias and indifference. There could be no greater outcome than if by the toil of the present generation of lawyers, the world was rid of the discriminatory instincts

¹⁹ CATHERINE DRINKER BOWEN, *Miracle at Philadelphia: The Story of the Constitutional Convention May to September 1787*, 10 (Little, Brown and Company 2010).

²⁰ HAROLD J. BERMAN, *Faith and Order: The Reconciliation of Law and Religion*, 49 (William B. Eerdmans Publishing Company, 2nd ed. 2000).

²¹ “Be . . . not greedy of filthy lucre.” 1 Tim. 3:3 (Holy Bible, King James Version). “But to those who treasure up gold and silver and expend it not in the Way of God, announce tidings of a grievous torment.” Sura 9:34 (Holy Quran).

²² “You cannot do wrong without suffering wrong. All the old abuses in society. . . all unjust accumulations of property and power, are avenged in the same manner.” RALPH WALDO EMERSON, *Compensation*, 1841 (The Essential Writings of Ralph Waldo Emerson, 163, Modern Library 2000).

²³ JAMES RUSSELL LOWELL, *The Present Crisis*, 1844.

*For Humanity sweeps onward; where to-day the martyr stands,
on the morrow crouches Judas with the silver in his hands...*

²⁴ “The primary justification for who we are and what we do is the common good we can achieve through the faithful representation of people who desire to resolve their disputes in a peaceful manner and to prevent future disputes...As professionals, we need aspirational ideals to help bind us together in a professional community...to stand against the negative trends of commercialization.

rehearsed again and again through the artificial classifications of race, gender, religion, ethnicity, sexual orientation, or national origin. The reality, however, is that the dominion tendencies and the inclination for intolerance is entrenched in the fabric of human history and is likely to continue. New occasions teach new duties so says the poet²⁵, and our efforts must be as instructive to the next generation of lawyers as Hollowell and King have been to the generation that inspired us. As Baldwin asserts, we are the only witnesses they have.

What is facing us is a set of circumstances no one would have thought imaginable; one that implicitly suggests an emerging sentiment that what has been achieved is enough. Considering the toll it took to achieve it, some of the holders of the view may not be able to resist its seductive lure. Yet, whatever set of issues lay beyond the horizon, our role – as advocates, as teachers, as judges, as speakers – is to reacquaint the body politic with the desire for justice. As we contend with the reemergence of all the old abuses and the hint of a return to unjust accumulations of property and power, through our strivings, we must demonstrate how to chart a course through and navigate the strong currents of the well-intentioned, but limited assistance of those who support and sympathize with you, and the shifting winds of those who oppose you. I fear that this will be the terrain on which we fight.

When they first met on a train ride – Hollowell on his way back to Loyola law school in Chicago, King heading to finish his undergraduate studies at Fisk – they shared with each other their mutual aspirations to become lawyers, each motivated in part by how the law could be used to vanquish the Jim Crow didactic that was the underpinning of the American fabric. They remained lifelong friends, companions in the strain to make this a more perfect union. They embodied the spirit of the aspirational creed that “good lawyering should be a moral achievement for both the lawyer and the client.”²⁶ Their legacy gives us the fire and the fuel to learn, to teach, to practice, and to administer law “so well that the host of heaven and earth would pause to say, here lived great lawyers who did their job well.”²⁷

²⁵ *Supra*, note 23.

New occasions teach new duties; Time makes ancient good uncouth;

They must upward still, and onward, who would keep abreast of Truth.

²⁶ Georgia Professionalism, Part IX, GEORGIA BAR DIRECTORY AND HANDBOOK, H-155 (2012 – 2013). For an excellent account of the historical background of the Commission see *State Bar of Georgia Handbook*, 104 – 106 H (1993-94).

²⁷ RUSSELL G. PEARCE AND AMELIA J. UELMAN, *Religious Lawyering in a Liberal Democracy: A Challenge and an Invitation*, 55 Case W. Res. L. Rev. 127, 160 (2004).



Appendix

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<i>Jennifer Campbell Mock</i>	Member	2020
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<i>Kenneth L. Shigley</i>	Member	2020
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