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Cover Page Footnote

In September 2007, the city of Little Rock — and the entire country — commemorated a crisis of public school integration and race relations that occurred fifty years ago at Central High School in Little Rock, Arkansas. The following is one of six essays which are products of the Ben J. Altheimer Symposium on the 50th Anniversary of the Central High Crisis, held at the University of Arkansas at Little Rock Bowen School of Law on September 20 and 21, 2007. Symposium speakers and participants included nationally-renowned civil rights activists, members of the local judiciary, and local leaders involved both fifty years ago and today in working toward equality between all races and ethnicities.

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COMMENTS MADE AT THE BEN J. ALTHEIMER SYMPOSIUM ON THE 50TH ANNIVERSARY OF THE CENTRAL HIGH CRISIS HELD AT THE UALR WILLIAM H. BOWEN SCHOOL OF LAW

*John W. Walker**

I had the fortune of being a student in college in 1957. That was the year of the so-called "Little Rock Crisis." Before then I had the good fortune of meeting Wiley Branton, who induced me and several other students along with George Howard, who was a co-inducer, to participate in sit-in demonstrations with respect to buses, lunch counters, swimming pools, and other activities in Pine Bluff. So my orientation to what was happening was pretty close, and then when I finished college I had the privilege of being the second Associate Director of the Arkansas Council on Human Relations, a bi-racial organization then devoted to ameliorate the racial conditions that existed in the Little Rock community.

We're dealing today with the subject of the litigation strategy that underpinned the Little Rock school case. That has to begin way before 1957. In fact, it began when the NAACP, through Charles Houston and Thurgood Marshall and others, determined to approach the "separate but equal" concept at the graduate and professional school level, and by a carefully designed plan they were able to establish the principles that (1) separate and unequal educational opportunities did exist at the graduate level and (2) the Supreme Court should change those things that the Supreme Court did change. And it came, therefore, as no surprise to many people that the Supreme Court had to continue in *Brown* what it had started in the graduate schools, because it was clear that schools were unequal and that black children could not have equal opportunity without there being some different kind of plan.

Wiley Branton was perhaps the lead lawyer in the matter, but his impetus came from Thurgood Marshall. Wiley had been out of school at that time approximately two years when the Supreme Court case was argued. So he was on the ground floor as a new lawyer trying to help develop a litigation strategy by which to address Little Rock, Arkansas, school segregation. It is important to note that at that time there were hardly any black lawyers in the city, and the few who were had chosen not to participate in this particular

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matter as a priority. Wiley lived in Pine Bluff, Arkansas, and had to commute here in order to be involved.

The community of Little Rock was regarded as reasonably progressive. Black people got along well, and they got along well because they did not raise any issues and they took whatever it was. And as a consequence it was surprising that Daisy Bates had support from reputable legal authority when the school case was initiated in 1956 by a group of some thirty-six students and their parents, and it was called *John Aaron and others v. Cooper.*

Mr. Cooper, Dr. Cooper I think, was the president of the Little Rock School Board. The community was really surprised, and Virgil Blossom was even more surprised, because before that time he had encountered a rather docile community—whatever he did was acceptable and accepted. And because students were being fairly well treated in comparison to black students in the rest of the state, people here had a certain degree of pride. Dunbar High School was well recognized state-wide and nationally. Our students could do well, provided they went away from Little Rock, or provided they stayed here and taught. So there was a degree of pride in the community.

Well, in 1956 those thirty-six children and their parents set a different tone, and it had to be addressed. The case first went before a hostile federal judge. His name was John Miller, and he was from Fort Smith, Arkansas. John Miller took pride in being able to say privately to the members of the white bar, some of whom related to us his attitude, that he certainly would give us due process by affording us hearings or affording the students hearings, and then he would just go ahead and deny us equal protection of the laws. So you do what you want under the 14th Amendment—you give due process, you satisfy what *Brown v. Board of Education* says—and then you do as little as possible.

And that, indeed, was the strategy of the Little Rock School District—to do as little as possible for as long as possible and to delay desegregation for as long as possible. One of the last Symposium speakers indicated that the board made a number of tactical decisions, strategic decisions, and substantive decisions, with respect to the early planning after *Brown* for desegregation in the Little Rock School District. I would like to say that while the board did that, the board did not do it on its own—the board acted very clearly at the initiative of Virgil Blossom. Let there be no mistake that Mr. Blossom was the architect and the mover and the effectuator of all of the delay strategy. And his plan of course was to prolong desegregation for as long as possible, to be spread out over as few pupils as possible and to allow time for the schools in the district to re-segregate.

And the plan to begin with was not one for desegregation, or not one for integration, but was one of limited desegregation. For those of you who may be acquainted with Little Rock—and for those of you who do not know Little Rock but who may become acquainted with Little Rock while you are here—there are no people, hardly, in the Little Rock School District beyond

the point then known as South Hayes Street. South Hayes Street is now known as University Avenue, and it is in what is now the eastern part of the central part of the city. And Mr. Blossom's plan necessarily required that urban renewal and other city institutions along with the realty industry be able to put in place new schools that would allow ultimate segregation and perpetual segregation.

So schools were built where there were no people. Hall High School, for instance, was built just west of the South Hayes Street, later renamed University Avenue, and Forest Heights was built across the street from it a few blocks just east of South Hayes Street. And the idea was that schools would be fed from elementary schools looking into Pulaski Heights, Forest Heights, and Hall High School—you would have a pure upper class, virtually all white school system. And then Central High School was supposed to have been the school for the other people, meaning the poorer people white and black, provided that the poorer white people would stay—and it was anticipated that maybe the poorer white people would stay and maybe they would not. And it has been pretty clear that the poorer people have not stayed. The poor whites are not the ones who populate Central High School.

Now this is the context in which Wiley and the others had to operate. In 1956 when they began the case, the idea was to pull the community together. Daisy Bates was not a well-liked person, and not very many people in the black community wanted to have this action take place. So they had to educate the community and try to mobilize support. Well, one thing that helped, of course, in mobilizing the support was the opposition from Governor Faubus. And one thing that opposition does, especially such as the opposition now to Katherine Mitchell and the present Little Rock School Board, coming from powerful forces in the community, is that it causes coalescence of the community. So black persons coalesced then and had to support the Little Rock Nine and Daisy Bates. And hopefully they are coalescing now to support this present black board. Now when I say black board, it is a majority black board in Little Rock now—four out of seven—for the first time in Little Rock's history.

One of the problems that Wiley and the others had was that there was not a single person in the white community that they could rely upon for anything. There was no board member; you had at-large elections. There was no way that black people could have any kind of voice. They had to take what was given, and the courts were hostile. So how do you litigate within that context? It is very difficult, especially when you have a judge from Fort Smith, Arkansas, who is saying we will give them due process but deny them equal protection. But one of the things the *Brown* decision did was it said that these decisions had to be dealt with on a individual, community by community, school district by school district basis. And what that said was that desegregation would not be immediate, nor would it be effective, because it took into account the fact that our resources were limited—

and a lawyer's resources are limited—and that they could not be in many places at the same time.

So what did they do? Well, Thurgood helped get the decision. Wiley Branton argued the case in the Supreme Court in 1957 when it became *Cooper v. Aaron*. But from that point on little was done until 1965 because Wiley had to leave and did leave to head up the voter education project in 1963 in Atlanta, Georgia. Now what happened legally in 1957, you know and that has been told many times, the United States Supreme Court indicated that mob violence would not be a factor and could not be utilized to delay implementation of core decisions and enjoyment of constitutional rights. That was a pretty basic, fundamental principle. And as the previous Symposium speakers pointed out, there was no support on a moral basis for the *Brown* decision from the White House or in the highest levels of government.

But from 1957 until 2007, there has been a history of evasion in the school district. Federal judges locally have not supported the concept and we have had to rely upon the Supreme Court of the United States and the intermediary courts to try to see to it that what was started in 1956 was in some way or another implemented. We went to the Court of Appeals in the intervening years. I began work on this case, I guess it is the longest running case that I know of, but my involvement began with Wiley—he encouraged me to do this—in 1965 when we reopened the case.

In the case called *Clarg v. Board of Education*, Judge Young—who had very much difficulty in addressing the word, in using the term "negro"—wanted us to start a new case. And we did. So we ended *Cooper v. Aaron* in 1965 and it then became *Clarg v. Board of Education*. And just as an aside, to show you some of the problems you dealt with. Wiley was very fair and had a good relationship with the judge at that time, who was also from Pine Bluff, the late Judge Young. And Judge Young wanted to do the right thing, follow the law and the like—he was the one who succeeded Judge Miller, and ultimately Judge Davies. But the right thing was sort of hard because he just felt that "the niggra people are just ready for integration. We have to find a way to see to it that the public schools are preserved and also that these children get a good education. I know that these things aren't right Wiley."

And I recalled one of my earlier visits with him and Wiley, and he and Wiley had a good rapport. And he just kept referring to black people as niggras, and Wiley said, "Look, I want you to do one thing for me, because your judging has to depend on this and the public appearance of what you say is important to helping people understand how implementation will be." And he said, "you have to stop using the word niggra." And he said, "I don't say niggra. I say negra." Wiley said to him, "Look, I want to you to change. I want you to put your hand on your knee." And Judge Young said (touching his knee) "I'll do it. That's my knee." And he said, "Just think about

'grow'." And he said, "Grow?" And he says, "Judge just put it together: 'knee – grow.'" And he said, "Niggra. Niggra . . . ni . . . niggra. Wiley, I just can't say it."

Well, that was revealing because it revealed an attitude that was rooted in the past, that made it very difficult for Judge Young and others who wanted to do the right thing to make a break from their training and their teaching and to comply with the *Brown* decision and then the *Cooper v. Aaron* decision. That was part of the strategy: get them to change. And in the years in between he did change somewhat. But over the years we have had every evasionary technique put forth. And those practices continue.

The big thing that happened back then was that we had no voice. The thing that we do have now is that we do have a voice. But that voice is being repressed by the same forces that repressed black people in 1957. It is a misnomer to say that all the people in 1957 who were opposing the decision were poor and from out of the city and the like. They were from right here and they were some of the people who are participating in this celebration and who are being honored. It was they who drove those lower income people. That was the way they projected their radical activity and actions. But now they cannot hide anymore—they have to come on out front—and you will see that as you observe this 50th Anniversary of the Central High Crisis.