

Mississippi PostScript

By Pete Eikenberry © 2010

When I wrote my previous article on my experiences in Mississippi in 1966, I did it from memory. About a month ago, as I unpacked a box left over from Sue's and my last move in 1996, I discovered the transcript of my first jury trial which occurred in Mississippi Circuit Court on August 1, 1966. The discovery of the transcript of that trial led me to a) discovery on the internet of a chronology of the civil rights movement in Grenada, Mississippi in 1966, b) a United States Supreme Court case involving Marshall Perry, the judge that I tried the case before on August 1, 1966, and c) the fact that the misdemeanor case I had helped try on August 1, 1966, went to the Supreme Court of Mississippi. Therefore, I am revisiting my Mississippi experience tour of duty.

To refresh the reader on background, on July 2, 1966, a Saturday, I arrived in Jackson Mississippi. On July 3, a Sunday, I reported for work to Denny Ray, Executive Director of the Jackson office of the Lawyers Committee for Civil Rights Under Law. The following Sunday, July 10, I was eating breakfast with other volunteers in our apartment complex when the telephone rang. Denny asked me to travel immediately to Grenada, which was about 100 miles to the north on Route 51. On that Sunday there were approximately 250 black citizens of Grenada County, watching a group of civil rights activists picket the local jail. Several of the picketers' number were in jail for having had been arrested in earlier civil-rights activities.

The picketers had disbanded and were on their way back to their organizing center, the Bellflower Baptist Church, when the Mississippi State Highway Patrol arrived

to disperse the crowd. They did so with rifle butts, injuring a number of the onlookers. The previous evening a civil-rights lawyer, a law student, Ollie Rosengart and a U.S. Justice Department official had been shot at with a submachine gun, destroying the car but not injuring anyone near the same Bellflower Baptist Church. Thus, I found myself on that Sunday evening July 10, 1966, at Bellflower interviewing the black onlookers who had been beaten by the state highway patrolmen.

On June 15, 1966, preceding my arrival to Mississippi, the march from Memphis to Jackson of James Meredith, the first African-American student in the University of Mississippi Law School came to Grenada. That evening, Martin Luther King spoke to the assembled throng, black residents of Grenada County, and promised them that he would return. When the march left Grenada on June 16, several SCLC organizers were left behind. *Inter alia*, their actions resulted in young people sitting on the ground outside of the local movie theater on June 23. They had tried to purchase tickets and were refused. A spontaneous protest march in support of the students originated from the Bellflower Baptist Church and continued into downtown.

Jim Bulloch, a white SCLC staff member, came from the church to get the car keys from one of the leaders of the march and was arrested by Sheriff "Suggs" Ingram, and other officers. Bulloch was arrested for "intentionally disrupting and interfering with the normal and ordinary use for passage of vehicles and pedestrians on the main street of Grenada, and by gathering 50 persons and leading them through the middle of the streets and sidewalks so as to make it impossible for others to walk or drive. Justice of the Peace Ayers tried him the same day; after finding him guilty, Ayers fined Bulloch \$400 and

ordered him to serve 90 days in the county jail. He appealed to Judge Marshall Perry in the Circuit Court where he was entitled to a *de novo* trial. I was assigned to the case.

Mr. Bulloch was previously a design engineer employed by Bendix Corporation to design auto pilots for military aircraft. Denny Ray recruited Jess Brown, one of the six African-American lawyers in Mississippi, to try the case with me. Brown showed up at the Bellflower Church after traveling on the bus from Jackson. He had been a lawyer for Emmett Till when Mr. Till was taken from his jail cell and lynched and, thus, he took no chances. Jess only traveled by bus and he did not let anyone know when he was going or where.

Previously I wrote that Judge Perry had addressed the grand and petit panel at the beginning of the Circuit Court term when I was present, stating that when he was young he learned that “when you saw a snake you killed it by striking it on the head with a club.” I had taken notes and filed in court an affidavit on the Judge’s remarks. I had returned to Mississippi shortly thereafter to testify against Judge Perry in an injunction case. I never knew the results of the injunction case until reading *Johnson v. Mississippi, infra*.

At the trial of Mr. Bulloch, the judge ruled against our motions to include blacks and women on the jury panel and against recusing himself based on the bias he demonstrated in addressing the assembled jury pool at the beginning of the term. The judge stated that since Mr. Bulloch was white, it was not relevant as to whether there were blacks on the jury panel. He stated that he had not observed any blacks on the jury panel in the previous six years that he'd been sitting. He also said that that Grenada County followed the law in excluding women. Jess Brown handled the cross

examination of Sheriff Ingram and the other prosecution witnesses, and I handled the direct examination of our witnesses. All of our witnesses testified that Bulloch was not a part of the march downtown and that no one had even seen a white person participating in the march.

Nevertheless, the jury found Bulloch guilty after about 10 minutes, and Judge Perry (as had the justice of peace) fined Mr. Bulloch, \$400 plus court costs and remanded him to serve 90 days in jail. At the end of the day, Judge Perry also cited Mary Agnes Ingram, one of our witnesses, for perjury for testifying that she had never been convicted of a crime. On cross-examination, she had testified that she had paid four fines for liquor law violations and one fine for “running a disorderly house.” Shockingly, she was remanded to the custody of the Sheriff Suggs Ingram, with bail set at \$1,000. Thus, I left Mississippi on the evening of August 1, 1966, with my client, Bulloch, in jail and one of my witnesses in jail as well.

I found out last month that Bulloch's conviction was overturned by the Mississippi Supreme Court. On June 5, 1967, the Supreme Court of Mississippi reversed Bulloch's conviction and ordered him discharged finding that “the evidence is insufficient to warrant a conviction” without discussing Bulloch's constitutional challenges to the jury panel and the bias of the court as supported by my affidavit of his speech to the jury assembly at the beginning of the term.

In *Johnson v. Mississippi*, 403 U.S. 212 (1971) the Court reversed the conviction by Judge Perry of another civil rights litigant and remanded the matter for trial before another judge. The Court recited the proceedings involving Judge Perry as follows:

The alleged contempt occurred on January 23, 1967. It occurred after Judge Perry directed the bailiffs and deputies to keep all people entering the

courtroom from walking between the space reserved for jurors and county officers and the judge, while jurors were being called. A deputy attempted to route petitioner around the area in question whereupon, according to the orders adjudging petitioner in contempt, he said:

"What the Hell do you mean go around?"

" Said Johnson, defendant, then continued to stand and look around over the room, disrupting the court proceedings."

Judge Perry, however, did not take instant action on the alleged contempt but only had petitioner removed from the courtroom. The next day, January 24, he ordered that process issue against petitioner directing him to appear February 1, 1967, an action he later rescinded. On January 27, 1967, petitioner, an active civil rights worker, asked through his attorney that Judge Perry recuse himself, asserting:

"a. That Judge Perry is personally prejudiced against the defendant and against the civil rights organizations he represents.

"b. That Judge Perry is personally prejudiced against the lawyers' organization defending Mr. Johnson, namely the Lawyers' Committee For Civil Rights Under Law."

The motion was supported by two affidavits of lawyers that Judge Perry, through charges made to grand juries in his courtroom, revealed deep prejudice against civil rights workers and civil rights lawyers.

No hearing was ever granted on that motion.

When petitioner was removed from the courtroom on January 23, 1967, his lawyer, one Rowe, objected to Judge Perry's action. Judge Perry ordered Rowe arrested and charged with criminal contempt. On January 31, 1967, a federal court in Mississippi issued a temporary restraining order enjoining trial of the contempt charge against Rowe; and we are advised that that charge has never been further prosecuted.

On February 1, 1967, petitioner filed a petition for removal of the contempt proceedings in his case to the federal court. On November 14, 1968, that court remanded the case to Judge Perry's court. ...

On January 22, 1969, petitioner and others filed suit in the federal court to enjoin trials of either Negroes or women in the Circuit Court of Grenada County until such time as Negroes and women were not systematically excluded from juries. Judge Perry was named as a defendant. The federal court held a hearing on January 24, 1969, and on January 25, 1969, temporarily enjoined Judge Perry from discrimination "by reason of race, color, or sex" in jury selections.

Two days later, January 27, 1969, Judge Perry adjudged petitioner in contempt and sentenced him to four months and set bail at \$ 2,000 pending appeal. He denied petitioner's request for a hearing on the merits and for an opportunity to show why Judge Perry should recuse himself. On appeal the Supreme Court of Mississippi affirmed the contempt ...

The Court's opinion is a fair example of the perils of a civil rights litigant in the South in the late 1960's and reflects the important role of the U.S. Supreme Court in

attempting to keep the playing field as level as possible during substantial social movements.

I also found out recently from the Grenada write-up on the internet, that about 250 black students showed up for school in Grenada on September 12, 1966, after our suit had successfully integrated Grenada's schools. On that day, they were beaten by roving bands of whites with clubs, chains, bottles and pipes. Less than 150 children managed to reach the school and the rest were taken back to the Bellflower Church for first aid. The following day, 100 students assembled at the church to be driven to school and the cars were attacked by the mobs and 10 more students were injured.

Judge Clayton of the federal court ordered an injunction and 60 black kids were in school on September 16. Later on Saturday, September 17, the FBI arrested 13 whites on conspiracy charges for organizing the attack on the children the first day of school, including Justice of Peace Ayers who had tried Bulloch. On Sunday, September 19, Dr. King addressed a mass meeting of about 650 who then marched on to the square. This was three times the normal 200 or so in the nightly marches.

Throughout the rest of 1966, especially into November, there were continuous marches, demonstrations, arrests of students, school boycotts, arrests of organizers and injunctions from the federal court. Most of the students eventually managed to get into and stay in the school buildings after the Mississippi governor ordered troops to Grenada and the troopers protected the children. At the end of the school year, there had been more black students attending the formerly white schools in Grenada than in any other rural Mississippi county.

