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# FOREWORD: CELEBRATING THE LIFE AND LEGACY OF THURGOOD MARSHALL\*

G. Todd Butler\*\* and Jason Marsh\*\*\*

A child born to a black mother in a state like Mississippi—born to the dumbest, poorest sharecropper—by merely drawing its first breath in the democracy has exactly the same rights as a white baby born to the wealthiest person in the United States. It's not true, but I challenge anyone to say it is not a goal worth working for.<sup>1</sup>—Justice Thurgood Marshall

These profound words come from one of the greatest advocates this country has ever known. Justice Marshall's belief in ultimate human equality represents the spirit of his life and legacy. It has often been said that before he was a judge, Thurgood Marshall was a lawyer; this cannot be truer of any person to adorn the black robe of the United States Supreme Court. From courageously advocating desegregation as head of the NAACP's Legal Defense and Education Fund to serving as President Lyndon Johnson's Solicitor General, Marshall undoubtedly left his mark on the nation. For these reasons, on the one hundredth anniversary of his birth, our *Law Review* decided unanimously to place the jurisprudence of Justice Marshall at the core of our Symposium.

Although Symposium planning began nearly one year in advance, the final product, like most things requiring long-term planning, only vaguely resembled our initial vision. Early on, our *Law Review* contemplated a small, local tribute to Justice Marshall. Things quickly changed, however, as our idea escalated into something much larger in scope and reach. With the full support of our law school administration<sup>2</sup> and faculty,<sup>3</sup> as well as

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\* The Mississippi College *Law Review* hosted this Symposium on February 21, 2008 at the Telcom Center in Jackson, MS.

\*\* 2007-2008 Editor-in-Chief, Mississippi College *Law Review*. The author would like to thank the entire *Law Review* staff for their hard work in making this Symposium a reality.

\*\*\* 2007-2008 Managing Editor, Mississippi College *Law Review*. The author would like to recognize the hard work of our Editor-in-Chief, Todd Butler, and the rest of the *Law Review* for bringing this worthy event to Jackson. Thanks are also extended to his wife, Hope, for tolerating him over the past three years of law school.

1. Randall T. Shepard. *Legal Profession in Indiana More Diverse*. THE MERRILLVILLE POST-TRIBUNE. Feb. 17, 2006 at B-11.

2. In particular, the *Law Review* thanks Dean Jim Rosenblatt, Thorne Butler, Paulette Cook, Debbie Foley, Tiffany Paige, and Clara Stamps for their continual assistance.

3. The *Law Review* thanks Professor Gregg Kettles for his creative ideas in the early stages of our Symposium planning. In addition, Professors Challenger, Christy, Jackson, and Kupenda deserve special recognition for their unwavering support.

the Mississippi legal community,<sup>4</sup> we began planning a nationwide<sup>5</sup> tribute to Justice Marshall.

Our first order of business was garnering national figures interested in celebrating Justice Marshall's societal impact. Juan Williams, Senior Correspondent for National Public Radio, was a natural choice. Significantly, after conducting numerous interviews with Justice Marshall, Mr. Williams wrote a biography entitled, *Thurgood Marshall: American Revolutionary*. The Symposium provided Mr. Williams an excellent opportunity to share his personal encounters with the late Justice in a keynote address. Likewise, Armstrong Williams, a former confidential assistant to Justice Clarence Thomas, was pleased to participate in our event by serving as a panelist during our morning session. Even though Mr. Williams' political philosophy differs starkly from Justice Marshall's, he displayed his admiration for the nation's first African-American Supreme Court Justice.

After landing these political pundits, we turned our attention to the legal academy. Quick to commit to our Symposium was Professor Susan Bloch of the Georgetown University Law Center. Speaking from first-hand experience as a former clerk to Marshall, Professor Bloch lent special insight into both the man and the jurist. Bloch clerked for Justice Marshall during the 1976-1977 Term, and has written several law review publications on his jurisprudence. She is a graduate of the University of Michigan Law School and currently resides in Washington D.C., where she teaches Constitutional Law, Federal Courts, Communications Law, and a Supreme Court seminar.

Strong Mississippi ties led Professor Howard Ball back to the Magnolia state, where he formerly served as head of the Political Science Department at Mississippi State University. Since his departure, Professor Ball has taught and lectured at numerous colleges and universities across the country. Currently, Ball is Professor Emeritus at the University of Vermont, where he teaches Constitutional Law, Civil Liberties, Civil Rights, American Government, Judicial Process, and the U.S. Supreme Court. Professor Ball has written nearly two dozen books, including a biography entitled, *A Defiant Life: Thurgood Marshall and the Persistence of Racism in America*.

Mississippi connections also link our three remaining academic contributors. Professor Daria Roithmayr, a native of the Mississippi Gulf Coast, is an expert in the area of critical race theory and currently teaches at the University of Southern California Law School. Professor Roithmayr

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4. The *Law Review* thanks the following law firms and legal organizations for making this Symposium possible through their financial contributions: Alexander & Watson, P.A.; Adams and Reese LLP; Baker, Donelson, Bearman, Caldwell & Berkowitz, PC; Bradley Arant Rose & White LLP; Burr & Forman LLP; Butler, Snow, O'Mara, Stevens and Cannada, PLLC; Dowdy & Cockerham; Forman Perry Watkins Krutz & Tardy LLP; Heilman Kennedy Graham, P.A.; Hinds County Bar Association; Krebs, Farley & Pelleteri, PLLC; McGlinchey Stafford PLLC; Mississippi Bar Foundation; Mississippi Defense Lawyers Association; Phelps Dunbar LLP; Scott, Sullivan, Streetman & Fox, P.C.; Pigott Reeves Johnson; and Wise Carter Child & Caraway.

5. The C-SPAN network broadcasted the Symposium in March of 2008.

presented an excerpt from her book project in which she analogizes persistent racial inequality to persistent market monopoly. In addition, Dean L. Darnell Weeden—who received both his undergraduate and law degrees at the University of Mississippi—presented a paper on Justice Marshall’s public school integration philosophy. Weeden teaches Constitutional Law at the Thurgood Marshall School of Law in Houston. Finally, Professor Michelle Deardorff served as a panelist and spoke to Justice Marshall’s affirmative action views. Deardorff is an associate professor in the political science department at Jackson State University, focusing her scholarship on the constitutional protections surrounding gender, race, and religion.

Several local attorneys also joined our Symposium team, lending important substance to our afternoon breakout sessions. Magnolia Bar President Carlton Reeves served as moderator to our morning panel discussion, which attempted to predict Justice Marshall’s views on current legal issues. Later that afternoon, Wayne Drinkwater, Luther Munford, and Michael Wallace (all local attorneys) participated in a Supreme Court Law Clerk panel discussion, in which Mississippi College Law Professor Matt Steffey moderated. Drinkwater clerked with Chief Justice Warren Burger, Munford with Justice Blackmun, and Wallace with then-Associate Justice William Rehnquist, respectively. Each of the panelists spoke to their interaction with Justice Marshall during their time clerking on the nation’s highest court. Also contributing to the Symposium was Congressman Bennie Thompson who currently represents the Second District of Mississippi in the U.S. House of Representatives. Congressman Thompson led an afternoon small group session devoted to the discussion of Justice Marshall’s impact on Mississippi law.

The impact of this year’s Symposium, however, did not end with the conclusion of the day’s activities. This issue of our *Law Review* attempts to capture the event through several written contributions from our participants. More specifically, this edition features Professor Roithmayr’s book excerpt, as well as articles from Professor Ball and Dean Weeden. Furthermore, the contents of this publication display two works not presented at the Symposium: an article from Associate Dean Ronald Rychlak of the University of Mississippi School of Law on free expression cases during the civil rights movement and a commentary on Justice Marshall’s death penalty jurisprudence from Dr. Saby Ghoshray of Stamford, Connecticut. These works further illustrate Justice Marshall’s continued impact on contemporary legal discourse.

In conclusion, we reiterate the debt we owe to everyone who helped make this event possible. Words from Justice Marshall’s widow, Cissy Marshall, underscore the significance of the event to our law school community:

I would like to be there for this beautiful occasion, but deeply regret that my schedule will prevent me from doing so. However, I do know

Howard Ball and Juan Williams and am absolutely sure they will do a wonderful job of capturing my husband's image. I thank you again for the honor you are bestowing on my husband.<sup>6</sup>

It is our hope that we were able to do "Justice" to Thurgood Marshall's legacy.

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6. Letter from Cissy Marshall (January 16, 2008) (on file with the Mississippi College Law Review).