

## Tribute to Norman Amaker

### *Drew Days, III*

Mattie, Alicia, Alana and Arthur; Dean Appel, Faculty, Staff and Students of Loyola School of Law; Ladies and Gentlemen:

It may have struck some who received notice of this memorial celebration for our late departed friend, Professor Norman C. Amaker, as curious, if not inappropriate, that the Loyola University Chicago Law School had decided to schedule it for January 15, a national holiday set aside to pay tribute to Dr. Martin Luther King, Jr., the great civil rights leader and Nobel Laureate. In fact, nothing could have been more appropriate. At the most superficial level, it has to be acknowledged that today would have been not only Dr. King's seventy-second birthday but also Norman's sixty-sixth. More important, however, is the fact that woven into the complex fabric of Dr. King's life is the story of one Norman Amaker, a young, bright lawyer at the N.A.A.C.P. Legal Defense Fund in New York City. For while Dr. King was effectively and movingly—through his powerful sermons and speeches, as well as his campaign of acts of civil disobedience and non-violent protests—shaking the country to its moral core, Jack Greenberg, Constance Motley, Norman Amaker and other LDF lawyers were providing him with legal counsel and seeking, to the greatest extent possible, to enlist the aid of the federal judiciary—from trial courts up to the United States Supreme Court—in forcing America to make good on its rhetorical commitment to the principle of “Equal Justice Under Law.”

Picture, if you will, April, 1963, when Dr. King began a major campaign in Birmingham, Alabama for desegregated public facilities, fair hiring, and a biracial commission. There were marches, picketing and sit-ins by civil rights demonstrators. Images of the black protestors—men, women and children alike—being set upon by Police Chief Bull Connor's police dogs, beaten by police officers and dashed to the ground by powerful fire hoses, were flashed on television newscasts and spread on the front pages of newspapers around the world. Many were arrested on a variety of charges from parading without a permit to resisting arrest. Dr. King announced that he

intended, nevertheless, to march with his followers on Good Friday, April 12, and Easter Sunday, April 14. The City officials quickly obtained a state court injunction on April 11 forbidding King from marching without first obtaining a permit. Of course, even under the best of circumstances, it would have been difficult to obtain a permit in the short time before the scheduled march. King was served with the injunction shortly after 1:00 p.m. Thursday afternoon. But the City officials had no intention of granting such permission, in any event.

Dr. King was thus faced with a dilemma: if he marched, he opened himself up to being held in contempt for violating the state court injunction; if, however, he failed to march on Good Friday, he risked losing whatever momentum his efforts had generated in Birmingham to effect change, as well as the powerful moral and religious message marching on the day commemorating Christ's crucifixion and death would send to the Nation and the world. One historian of the Civil Rights Movement<sup>1</sup> recounts the following occurrence during that time:

Norman Amaker, an NAACP Lawyer from New York, briefed King and some two dozen movement leaders early on Good Friday morning, April 12. Crowded into the sitting room of King's Room 30, the only suite in the Gaston Motel, they heard Amaker say that the [state] injunction was probably unconstitutional, but that anyone who violated it would probably be punished regardless. Whatever King decided to do, Amaker said in closing, the NAACP's Legal Defense Fund would stand behind him in court.<sup>2</sup>

At that time Norman was only twenty-eight years old and not quite four years out of Columbia Law School! After Dr. King decided to March on Good Friday and was, as Norman predicted, arrested and jailed, another eminent historian reports:

Unbeknownst to King, movement attorney Norman Amaker tried to see him at the jail Friday evening. The jailers told Amaker he could meet with King only with guards present. Amaker had protested this denial of a private conversation and refused to accept a monitored one.<sup>3</sup>

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1. TAYLOR BRANCH, PARTING THE WATERS: AMERICA IN THE KING YEARS 1954-63, 728 (1988).

2. *Id.*

3. DAVID J. GARROW, BEARING THE CROSS: MARTIN LUTHER KING, JR. AND THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE 243 (1986).

Dr. King remained in jail for over a week during which he wrote his now famous “Letter from Birmingham Jail,”<sup>4</sup> a stinging rebuke to those white clergy in Birmingham who were calling for local blacks to withdraw from participating in further civil rights demonstrations, characterizing them as “unwise and untimely.”<sup>5</sup> As King wrote, “I guess it is easy for those who have never felt the stinging darts of segregation to say ‘Wait.’”<sup>6</sup>

Norman’s interaction with Dr. King tells, I think, a more profound story than only one about two black men, six years apart, both reared in a Baptist Church tradition—Norman at New Mt. Zion in Harlem; Martin King at Ebenezer in Atlanta—trying in their separate roles as lawyer and preacher to come to grips with the South’s tenacious refusal to forsake its system of official racial apartheid, despite the United States Supreme Court’s ruling in *Brown v. Board of Education*<sup>7</sup> and other cases declaring such practices unconstitutional. It is also a story about the way in which the legal process and direct action movements can interact to effect societal change. LDF lawyers, careful and well-trained as they were, saw one of their principal roles as that of making Dr. King and other civil rights leaders aware of the limits of the law and of ways in which at least some objectives of the Civil Rights Movement might, nevertheless, be achieved within a legal system that had for centuries often served to frustrate black yearnings for equality. Dr. King and his associates, in turn, through their direct action and civil disobedience, forced LDF and other civil rights lawyers themselves to confront the fundamentally unfair and racist nature of a host of laws and legal procedures that had previously gone unchallenged. They found themselves required every day, in situations like that in Birmingham, to “think outside the box” and to “push the envelope” by what seemed like an ineluctable wave of demonstrations, protests and sit-ins by black folk fighting for their rights no matter what the cost.

Birmingham was only one of several places where Dr. King and Norman Amaker combined forces. Let me give one other example. In early 1965 demonstrations began in Selma, Alabama protesting the systematic denial of the franchise to blacks. Dr. King and thousands of

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4. Martin Luther King, Jr., *I Have A Dream: Writings and Speeches that Changed the World* 84-100 (James M. Washington ed., 1986); see also <http://www.stanford.edu/group/King/frequentdocs/birmingham.pdf> (last visited Mar. 18, 2002).

5. Martin Luther King, Jr., *I Have A Dream: Writings and Speeches that Changed the World* 84 (James M. Washington ed., 1986).

6. *Id.* at 88.

7. *Brown v. Bd. of Educ. of Topeka*, 347 U.S. 483 (1954).

other demonstrators were arrested. This initial effort had proven largely unsuccessful after three months of protests. In the interim, Norman and several other LDF lawyers had represented more than 3,400 protestors there against criminal charges. Thereafter, John Lewis, then head of SNCC (the Student Non-Violent Coordinating Committee), and now a distinguished member of Congress from Georgia, decided to lead more than five hundred demonstrators across the Edmund Pettis Bridge, just outside Selma, on a fifty-mile march to Montgomery, the state capital, demanding the right to vote on a racially non-discriminatory basis. The group set out on a Sunday morning in early March only to be brutally attacked by state police and county sheriff's deputies. Among the seriously injured marchers was Lewis who suffered a fractured skull.

Dr. King, who had been in Atlanta when John Lewis began his march, decided that he would resume the journey, along with other protestors, to Montgomery. Norman and another LDF attorney were assigned the task of putting together the necessary papers to seek a federal court temporary restraining order barring Governor George Wallace and the county sheriff from interfering with the march. Although the request for the restraining order was denied, that legal filing set in motion a remarkable series of events: the involvement of the United States Justice Department; only a few days later President Lyndon Johnson addressed a joint session of Congress calling for the enactment of a national voting rights law;<sup>8</sup> a preliminary injunction was granted, giving Dr. King what he had sought earlier;<sup>9</sup> and the President nationalized the Alabama National Guard to ensure that Dr. King's march from Selma to Montgomery received tight security and was completed as originally planned without incident. In August, 1965, President Johnson signed the Voting Rights Act<sup>10</sup> into law.<sup>11</sup>

The obvious targets of the Civil Rights Movement were segregation in public schools, places of public accommodation and transportation and racially discriminatory denials of the right to vote. But it was (and still is in contemporary civil rights battles), as Norman clearly understood, fundamentally about the right to human dignity. That was what Rosa Parks' now famous story was all about. As you know, it was the refusal of that black tailor's assistant to obey an order to give up her

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8. Voting Rights Act, 42 U.S.C. §§ 1971-1973 (1994).

9. *Williams v. Wallace*, 240 F. Supp. 100, 109-10 (M.D. Ala. 1965).

10. 42 U.S.C. § 1971-1973.

11. This account of the Selma campaign is drawn in substantial part from JACK GREENBERG, *CRUSADERS IN THE COURTS: HOW A DEDICATED BAND OF LAWYERS FOUGHT FOR THE CIVIL RIGHTS REVOLUTION* 354-62 (1994).

seat on a municipal bus to a white man that sparked the Montgomery Bus Boycott in 1955. It was Dr. King's first test of leadership as a force for civil rights. As Mrs. Parks said about the incident, "I was thinking that the only way to let them know I felt that I was being mistreated was to do just what I did—resist the order."<sup>12</sup> It strikes me that one of Norman's clients who never enjoyed the fame that Rosa Parks gained had the same basic instinct as did she. In 1963, in an Alabama County courtroom the following occurred during the cross-examination of Norman's client by the state prosecutor:

Q What is your name, please?

A Miss Mary Hamilton

Q Mary, I believe -- you were arrested -- who were you arrested by?

A My name is Miss Hamilton. Please address me correctly.

Q Who were you arrested by, Mary?

A I will not answer a question ----

By Attorney Amaker: The witness's name is Miss Hamilton.

---- your question until I am addressed correctly.

THE COURT: Answer the question.

THE WITNESS: I will not answer them, unless I am addressed correctly.

THE COURT: You are in contempt of court ----

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THE COURT: You are in contempt of this court, and you are sentenced to five days in jail and a fifty dollar fine.<sup>13</sup>

Norman understood what had gone on. He and his LDF colleagues, therefore, sought to have Miss Hamilton's contempt citation reversed on appeal in the Alabama state court system.<sup>14</sup> Meeting with no success there, they then petitioned the United States Supreme Court to hear the case. In the LDF brief which Norman co-authored, they wrote as follows:

Of course a racial caste status can be imposed in ways other than physical separation . . . . The crux of the matter is status, not spatial separation.

Petitioner's reaction to being called "Mary" in a courtroom where, if white, she would have been called "Miss Hamilton," was not a thin-skinned sensitivity. She was responding to one of the most distinct indicia of the racial caste system. This is the refusal of whites to

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12. GARROW, *supra* note 3, at 12; *see also* DAVID L. LEWIS, KING: A BIOGRAPHY 46-50 (2d ed. 1978).

13. *Ex parte* Hamilton, 156 So. 2d 926 (Ala. 1963), *rev'd*, 376 U.S. 650 (1964).

14. *Id.*

address Negroes with titles of respect such as "Miss," or "Mrs." or "Mr." and to refer to them as "boy" or "girl."<sup>15</sup>

The Supreme Court granted review and summarily reversed Miss Hamilton's conviction.<sup>16</sup>

Yes, one can imagine the headiness Norman must have felt finding himself close to the center of the events in Birmingham and Selma and elsewhere that were to reshape American society profoundly. But, it also needs to be acknowledged that Norman's career at the Legal Defense Fund also entailed his handling, as did other lawyers on the staff, untold numbers of cases that were generated by the success of Dr. King's efforts and of the Civil Rights Movement generally. Dr. King's march on Washington in 1963 prodded the President and Congress to enact the 1964 Civil Rights Act,<sup>17</sup> the most comprehensive such legislation since Reconstruction, outlawing racial discrimination in places of public accommodations, public schools, federal funding and private employment, among other areas. And I have already mentioned the genesis of the 1965 Voting Rights Act.<sup>18</sup> Someone had to ensure that those new rights on paper became realities on the ground. As a consequence, as computerized data base lists of Norman's cases attest, he was fully occupied during the balance of his tenure at LDF litigating school desegregation, public accommodations and voting, jury and employment discrimination cases from Georgia to Texas.<sup>19</sup>

I owe Norman a personal debt of gratitude for the kindnesses he showed me when I joined the Legal Defense Fund staff in 1969. On my first day on the job, Norman invited me into his office, closed the door, put his feet on the desk and proceeded to share with me words of wisdom about law, lawyering and civil rights that I have always appreciated. And there were many more words of wisdom to come over

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15. *Petition for Certiorari*, at 9 (on file with author); *Hamilton v. Alabama*, 376 U.S. 650 (1964).

16. *Hamilton*, 376 U.S. 650.

17. Civil Rights Act of 1964, 42 U.S.C. §§ 2000a-2000h-6. (1994, Supp. I 1995, Supp. II 1996, Supp. III 1997, Supp. IV 1998, Supp. V 1999).

18. Voting Rights Act, 42 U.S.C. §§ 1971-1973 (1994).

19. See, e.g., *Maxwell v. S. Christian Leadership Conference*, 414 F.2d 1065 (5th Cir. 1969); *Daniel v. Paul*, 395 F.2d 118 (8th Cir. 1968); *Billingsley v. Clayton*, 359 F.2d 13 (5th Cir. 1966); *Maxwell v. Bishop*, 257 F. Supp. 710 (E.D. Ark. 1966), *aff'd*, 398 F.2d 138 (8th Cir. 1968), *cert granted on issues 2 and 3 and placed on summary calendar*, 89 S. Ct. 488 (1968), *vacated by* 398 U.S. 262 (1970); *Walker v. City of Birmingham*, 181 So. 2d 493 (Ala. 1966); *James v. State*, 177 So. 2d 924, (Ala. 1965); *Lee v. City of Birmingham*, 172 So. 2d 541 (Ala. 1965); *Webster v. City of Birmingham*, 171 So. 2d 107 (Ala. 1965); *Shuttlesworth v. City of Birmingham*, 180 So. 2d 114, (Ala. Ct. App. 1965), *rev'd*, 206 So. 2d 348 (Ala. 1967), *rev'd*, 394 U.S. 147 (1969); *Allen v. State*, 170 So. 2d 423 (Ala. Ct. App. 1964); *Carter v. City of Birmingham*, 171 So. 2d 124 (Ala. Ct. App. 1964); *Clemons v. City of Birmingham*, 171 So. 2d 455 (Ala. Ct. App. 1964).

the course of our friendship. But I also am indebted to him as an African-American and we all owe him, as American citizens, for what he did to make this country a better place. Those of us who worked with him at LDF and at the Neighborhood Legal Services Program in the District of Columbia and his law school colleagues and many students have all been truly fortunate to have had Norman pass our way during his rich and productive life.