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Session IV: A Conversation with Judge Horace Ward: Dr. King's Lawyer in Georgia

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Judge Horace Ward

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**NORTHWESTERN LAW JOURNAL OF LAW AND SOCIAL POLICY
EIGHTH ANNUAL SYMPOSIUM**

**MARTIN LUTHER KING'S LAWYERS: FROM
MONTGOMERY TO THE MARCH ON
WASHINGTON TO MEMPHIS: A
SYMPOSIUM COMMEMORATING THE
CONTRIBUTIONS OF DR. MARTIN LUTHER
KING'S LAWYERS**

TRANSCRIPT OF PROCEEDINGS held at Northwestern University School of Law, Thorne Auditorium, 375 East Chicago Avenue, Chicago, Illinois, on the 31st day of October, A.D. 2014, at 11:45 a.m.

MR. LEN RUBINOWITZ, Professor and Faculty Advisor to the Journal of Law and Social Policy; JUDGE HORACE WARD, Northern District of Georgia; HOST: MS. DESTINY PEERY, Assistant Professor, Northwestern Law. MR. BERNARD KLEINA, Civil Rights Activist; Professional Photographer

REPORTED BY: PATRICIA ANN LAMBROS, C.S.R. No. 84-1790.

PROFESSOR RUBINOWITZ: We're going to invite Judge Ward and Professor Destiny Peery onto the stage. Would you give them your microphones?

As they're coming up, let me just say Professor Peery is a graduate of Northwestern Law School [sic] and a Ph.D. in Social Psychology from Northwestern University. And incredibly, fortunately for us, she has just joined our faculty. And she will be having a conversation with Judge Ward, who is an extremely distinguished graduate of Northwestern Law School [sic].

**SESSION IV: A CONVERSATION WITH JUDGE HORACE WARD: DR.
KING'S LAWYER IN GEORGIA**

PROFESSOR PEERY: Welcome. I'm again Professor Destiny Peery. And I'm here today to host a conversation with one of Northwestern's very distinguished alums, the Honorable Judge Horace Ward. And I'll give a brief introduction, but we have the man here, so part of the reason we're here is for him to tell his story in his own words.

So I'll just say by way of introduction that Judge Ward is a member of the class of 1949 out of Morehouse. And part of what we'll be talking about is his time at Morehouse where he overlapped with Dr. King. He also earned a Master's degree in 1950 from Atlanta University, now known as Clark Atlanta University.

And what he's probably most well-known for, and what, for example, there is a book that's largely written about, is his experience with the University of Georgia Law

School [sic], his attempts to get into the law school, and the litigation that ensued after that and how that set up a series of events that led ultimately to the desegregation of the University of Georgia. And we'll talk a little bit about that as well.

But he eventually landed at Northwestern, in part, because of his struggles with the University of Georgia's law school admissions process. And he is a member of the class of 1959 and recently celebrated his 55-year class reunion.

After graduating from Northwestern, he returned to Atlanta and joined a firm there and practiced law. He served as a Georgia state senator for nine years; and in 1979, was appointed by Jimmy Carter to the federal bench. And he became the first African American judge out of Georgia on the federal bench.

So in addition to his many accomplishments and recognitions since then, he was recently this year awarded an honorary degree from the University of Georgia, and so, we'll talk a little bit about your reactions and experience with that as well.

So welcome, Judge Ward.

JUDGE WARD: Thank you, ma'am.

PROFESSOR PEERY: So I figure we could start with Morehouse and your experience at Morehouse, and particularly, given the context of this particular talk, what you knew of Martin Luther King, your interactions with him there. Do you want to tell us a little bit about that?

JUDGE WARD: Yes, ma'am. Well, I attended Morehouse College in Atlanta and finished in 1949. Martin Luther King, Jr., was a schoolmate of mine, but he was one year ahead of me. He finished Morehouse—I finished in '49, he finished in '48.

Yes, I knew him on the campus, but I never had any classes with him. I was a history and political science major, and he was majoring in religion and minoring in sociology.

He had made a good lawyer, but he was never going to be a lawyer because he came from a family of preachers. His granddaddy was a preacher, his daddy was a preacher, and he was going to be a preacher. So I knew him pretty well. Yes, ma'am.

PROFESSOR PEERY: And what was the energy like at Morehouse at that time? Was there a buzz around Martin Luther King at that time?

JUDGE WARD: Was there a what?

PROFESSOR PEERY: A buzz? Did people recognize his charisma at that early stage?

JUDGE WARD: No. Well, no. They didn't know—he didn't give any indication that he was going to be the preeminent civil rights leader of our time.

He was a good speaker. And he appeared each year in the Webb oratorical contest there in the auditorium at Morehouse College. He was a good speaker, but he never came in first. He was always second. But when he finished Morehouse, he went on off to the seminary up in Pennsylvania, and later on, went to one of the universities in Boston to get his Ph.D.

So I came back to Atlanta. I saw him from time to time. I knew him before he married Coretta Scott King. And I got to know Martin Luther King pretty well. At the college, they didn't call him Martin Luther King. They called him M.L.

Go ahead.

PROFESSOR PEERY: So we'll come back to your later experiences with Martin Luther King, but one of the reasons why we also wanted you to speak was because you're an alum of this law school, and we wanted to talk a little bit about your own journey in the law and your own journey kind of parallel to M.L.K.'s journey and the Civil Rights Movement.

So can you tell us a little bit about why you decided to go to law school in general?

JUDGE WARD: Yes. Well, I grew up in a small town in Georgia, in west Georgia. We called it the red hills of Georgia. And I had never been to a courthouse while I was in LaGrange. That's the name of the town.

But sometime while I was in high school, a junior or a senior in high school, a lawyer from Atlanta came down, came down and spoke. It was A.T. Walden, Colonel A. T. Walden. And he was a very outstanding lawyer. He had finished Atlanta University and gone to the University of Michigan, finished the University of Michigan, 1911 and 1912, and returned back to Georgia to practice law.

So I decided that if Colonel Walden, as we called him, could make it that early, then maybe I could become a lawyer. My heroes in LaGrange, Georgia, other than my parents, were teachers and preachers. And that's kind of how I got to Morehouse. Some of the teachers recommended that I go to Morehouse.

Okay, ma'am. That's about that.

PROFESSOR PEERY: And why did you decide initially that you wanted to go to the University of Georgia Law School [sic]?

JUDGE WARD: Well, I had already finished Morehouse College with a Bachelor's degree and Atlanta University with a Master's degree, so I was looking around for a law school.

And I decided, I said, "Well, I'll apply to the University of Georgia because I planned to return to Georgia to practice law, and it should be beneficial to study with students that you're going to later on practice law with."

And so, I wrote to the University of Georgia, I didn't put down my race, and asked them to send me an application, and they did. And there was a professor at Atlanta University, Dr. William Madison Boyd, who was the head of the Political Science Department, but he also was a president, state president of the NAACP in Georgia, so he was looking for a candidate to apply to the University of Georgia.

So I told him that I was considering it. So he said, "Well, if you do, you let me know. And I will do everything I can to help you." So that's how I got started. I applied over there in 1950, '50. And what they did in those days, in the southern states, in the southeastern states, particularly, if a black person applied to one of the graduate schools or professional schools, they would give you out-of-state aid to go to a northern school,

go to Washington, D.C., out-of-state aid. And they offered me out-of-state aid. And I turned that down. Maybe I ought to sue them today because that would have saved me a lot of money. But I couldn't maintain my status as an applicant to the University of Georgia if I had accepted that out-of-state aid money.

So when I turned down out-of-state aid, then they sent my application to the Board of Regents. The Regents are the governing body of all the state schools in Georgia. And first, they took nine months. And we couldn't get any answers. So after nine months, the registrar of the University of Georgia just wrote me and said, "Mr. Ward, your application has been considered and is hereby denied." But they didn't give any reasons.

So we tried for two years to get it through. They added a lot of different qualifications, including getting two alumnus to sign your application—and I didn't know anybody from the University of Georgia—and getting a Superior Court judge in your county to verify it. So my lawyers then, my first lawyer was Colonel A. T. Walden, the guy I spoke about earlier. He said, "Let's leave that alone. And let's file a lawsuit in the federal courts."

So that is what happened. A.T. Walden was my lawyer. As a matter of fact, Thurgood Marshall also signed the pleadings, and Bob Carter. And Thurgood Marshall actually came to Atlanta and argued motions before Judge Hooper. And after almost seven years of trying to get into the University of Georgia, my case was dismissed by Judge Hooper in the Northern District of Georgia without reaching the merits.

See, I came to law school up here in 1956. And the case was tried in December of 1956. So they used that as part of the reason to say I would have to make a new application.

So to make a long story short out of it, I should be one of the best trained lawyers in Georgia. I spent seven years trying to get into one law school, and three years trying to get out of this law school.

Go ahead, ma'am.

PROFESSOR PEERY: So when you initially applied, did you anticipate at all or did you have any reason to think that what would come of it is several years of litigation?

JUDGE WARD: No, I didn't. When I applied, I applied down there—applied to the University of Georgia in Athens in 1950. But that same year, earlier, like in June I think of 1950, the Supreme Court of the United States ruled that Texas had to admit Heman Sweatt to its law school. Heman Sweatt had applied to the law school out there. And they set up a little separate law school for him downtown.

And the Supreme Court of the United States said that's not adequate. You're going to have to either build a law school for him or admit him to the University of Texas. So both the university officials and myself were operating under some misconceptions. I thought that I would be admitted to the University of Georgia without having to go to court.

The University of Georgia officials, they said I was not a serious student to go to law school. And they said I was just a chosen target to get rid of segregation in the south. So they both were wrong. So I tried for all those years. And then, I came on back up here.

PROFESSOR PEERY: When you were deciding or when you and your lawyers were deciding whether to file a lawsuit or not, did you have any hesitations or concerns?

JUDGE WARD: Say what?

PROFESSOR PEERY: Did you have any concerns about the aftermath or what could happen if you filed the lawsuit?

JUDGE WARD: No, I didn't. I was still in Atlanta when the lawsuit was filed. And then, I got my first job. My first job was teaching at Arkansas A&M College in Pine Bluff for one year. And then, I returned to Atlanta. And then, I got a job teaching at a junior college in Mobile. And while I was there, they invited me to come up to the University of Georgia for an interview.

And I flew into Atlanta. And Dr. Boyd drove me up to Athens, Georgia, to meet with a committee of three, the law school dean and a couple of others, a professor of law and another professor from the university.

So while I was there, I asked the dean, I said, "Do y'all interview all of the students?" He said, "No, Mr. Ward, we don't, but we should." He said, "We noticed that these letters that you have written to the university have been well written," and said, "Did you write them?"

I said, "I did. I wrote them with assistance, with help from others."

And he said, "With help from whom?"

I said, "With help from attorney Walden in Atlanta and Dr. Boyd in Atlanta."

And he said, "Where did they go to school?"

I said, "They went to the University of Michigan."

He said, "Why didn't you go?"

I said, "Well, I wanted to go to the University of Georgia."

But they did something unusual. The dean and that committee apparently felt like I was just jiving, and that I wasn't going to be qualified to go to law school.

So they asked me, said, "Mr. Ward, we would like to have you"—he said, "You'll notice in the bulletin from the law school that it says that a lawyer must be well versed in the English language, both in writing and speaking, so we'd like for you to sit here and write us a small statement as to why you chose the University of Georgia." And he gave me a blue book like you used to use in college to take exams. And I took a piece of carbon paper because I wanted to have a copy myself.

So I wrote a little statement why I chose the University of Georgia, that I was a citizen of Georgia, and I thought it would be wise to practice law in the state where or to study law in the state where I was going to practice.

So then, the committee met after I left. And they wrote me a letter, wrote a letter, said my application to the university had been denied. And then, it was appealed from that committee to the president of the university. I've forgotten his name. He was a lawyer there in Georgia who, among other things, he had finished at Harvard Law School. He was the president of—well, he was the chancellor by that time.

First, it went to the president. And the President Aderhold affirmed the decision of the committee. Then it went to the chancellor. And the chancellor affirmed the—

Caldwell, his name was, Chancellor Caldwell, he affirmed it. So thereafter, that's when we decided that we weren't going to get any place and decided to file a lawsuit.

PROFESSOR PEERY: And how did you ultimately learn about Northwestern? You said your lawyers had ties to the University of Michigan, so how did you end up at Northwestern?

JUDGE WARD: Well, I was married then. And we had a young son. When I went to Mobile, Alabama, to teach, I taught down there for three years. And I met a lady, Ruth, Ruth LeFlore Johnson. And I married her down in Mobile. And then, we came on up to Chicago in 1956.

Well, I checked around. And I applied to Northwestern, and I applied to the University of Chicago, and the University of Denver. And I believe I might have applied to Columbia. I didn't get admitted to the University of Chicago, but I got admitted to the University of Denver, Northwestern. So I said, well, I'd better go to Northwestern. I don't know anything about going to Denver.

I had never been in Chicago beforehand. So one reason I came to Northwestern, it's a big city, so I figured I was going to have to work in the summer and things like that. And I figured my wife would get a job. So that's kind of how I settled on Northwestern.

PROFESSOR PEERY: And can you tell us a little bit about your experience while you were a student here, what your experience was like as a student here? Did you enjoy law school?

JUDGE WARD: Yeah, I did. Somebody said, "Horace, you're going up to Northwestern. Are you afraid that you won't pass, you won't succeed?"

I said, "No." I said, "If they're going to teach the courses up there," I said, "I'm going to study, and I'm pretty sure I'm going to pass." I said, "One thing I'm worried about, I'm from Georgia. I'm afraid they won't understand the kind of English that I speak."

So I came up here. And I had a lot of fun. I didn't live on the north side. I lived in the University of Chicago area out on Drexel Avenue, right off of Cottage Grove. And fortunately, my wife was able to get a job at the University of Chicago Laboratory School, the private school out there. And I got a job working in the library over there in the old building. So I had some good fun, had a lot of fun up here.

When I came to Northwestern, there were only two black students in the student body. There was Horace Ward and Michael Walls. Walls had to withdraw. And there was only one female, Renee Pritikin.

And I had some outstanding professors. The dean of the law school taught contracts. He was Dean Havighurst. He taught contracts. And later on, a dean came in. He came in from one of the other schools, Minnesota or Wisconsin—Richie, James Richie from Virginia. He was a Virginia gentleman. So those were my deans. And the outstanding professors then was Owen Rawls, who taught torts; Inbau, Professor Inbau, who taught criminal law; Professor Reese, who taught civil procedure and stuff like that.

So as it happened, I didn't make the Order of the Coif, but I got a good enough average to finish. Now, I got a little unusual degree. All the law people finishing law

school now get a J.D. degree. When I finished law school in 1959, the law schools in the United States granted L.L.B. degrees, Bachelor of Laws.

But since I already had a Master's degree, Northwestern had a program that if you had a Master's degree, they would give you a J.D., so I got a J.D. degree upon my graduation from Northwestern. Later on, everybody, everybody was given a J.D. degree.

So the Northwestern experience, I stayed up here three years in law school. And then, I worked one year for the government, Social Security Administration, before I went back to Atlanta.

PROFESSOR PEERY: And speaking of going back to Atlanta, so after your one year in the Social Security Administration, you returned to Atlanta to practice.

JUDGE WARD: Right.

PROFESSOR PEERY: In the firm that actually had some of the attorneys that had worked with you on your own case when you were litigating against the University of Georgia.

And as a newly minted lawyer, you were involved in the case that was just referred to in the last panel where Dr. King was arrested for a sit-in, then was held for violating probation, and sent to the prison.

What was your involvement with that case and what was your firm's involvement with that case?

JUDGE WARD: Well, when I came back to Atlanta, a famous civil rights lawyer and an outstanding practitioner, Donald L. Hollowell—Donald L. Hollowell, he had gone to law school in Chicago, but he went to Loyola. He invited me to come back to join his law office. He had just one lawyer. And then, I was his second lawyer.

So I came back in 1960. In 1960, they were having sit-in movements in the South. The students, college students, would go into these drug stores and cafeterias. And they would sit in.

They had a law, known as they had passed it in Georgia, the anti-trespass law. In other words, if anybody went into a business, and if they asked you to leave, then if you refused to leave, then they could have the police, and they could have you arrested. They didn't talk about race. They would say that everybody, black or white, or what have you, if you didn't leave.

So what happened in Georgia, Martin Luther King had moved back from Montgomery where they had started the Montgomery Improvement Society [sic]. And he was heading the SCLC, but he had moved back to Atlanta where he was co-pastor with his father at Ebenezer Baptist Church.

So he went in with the students and sat in at Rich's Department Store downtown. And they arrested him and about several other students, 30 or 40 other students around, not all of them at Rich's. And they took them to the Fulton County Jail.

So while he was in jail, the Mayor of Atlanta, William Hartsfield, worked behind the scenes with the prosecutors. He got everybody, all of the students released, but they did not release Martin Luther King because they charged him with violation of his probation.

What had happened, two or three weeks before then, Martin Luther King had driven a lady, a white lady, from his house back to her house over in DeKalb County. I've forgotten her name, but she is the woman that wrote, "Strange Fruit." She wrote a lot of books.

And the police stopped him. We think they stopped him because he was a black man, driving with a white woman, sitting in the front seat with him. They didn't arrest him, but they gave him a ticket because he had come from Alabama, but he did not have a valid Georgia license plate.

And he went before Judge Oscar Mitchell out in DeKalb County. And he had a lawyer, another lawyer. And he pled guilty because he was guilty. And the judge sentenced him to what came to be a twelve-month sentence, broken down in two different phases. And that was why. And then, when the students got out of jail, Martin Luther King was held for probation violation and taken back to DeKalb County. And while he was in DeKalb County, Hollowell and I, Don Hollowell and I, went out to represent him. And we represented him before Judge Oscar Mitchell.

Rich's was a big department store in downtown Atlanta. They decided to drop the charges, but Oscar Mitchell didn't. He said, "No. You violated your probation." So he then sentenced him to four months in state custody and four months for a traffic violation.

So Martin Luther King, this is the first time he had ever gone to jail, but he went to jail in DeKalb County. And Hollowell and I had prepared a writ of habeas corpus because the judge wouldn't grant him bond. So we went out there a couple of days later to present our writ.

And the judge said, "You'd better talk to the sheriff." And we talked to the sheriff. And the sheriff said, "Martin Luther King is no longer here in DeKalb County." They had taken him by car all the way, about 250 or 275 miles, from DeKalb County to Reidsville, the state penitentiary. And so, everybody was afraid that something was going to happen to him down there.

And interestingly enough, this was the fall of 1960. John F. Kennedy was running for president. John F. Kennedy called Ms. King. And he expressed his best wishes and hoped that everything was going to happen to get her husband out of jail. The former First Lady of the United States, Eleanor Roosevelt, called Mayor Hartsfield and said, "Do what you can to see if you can get King out."

So we tried to get Oscar Mitchell, Judge Mitchell, to grant bond. He said, "I don't have to do that because he's on a probation violation." You would now, but you didn't then.

So Bobby Kennedy, the brother of the who would later become president, Bobby, Robert Kennedy, he called Oscar Mitchell and said that, "This is just a misdemeanor." He said, "Why can't the man have bond?" So Oscar Mitchell granted bond. Well, another reason he granted bond is the Governor of Georgia, Governor Vandiver, had some of his aides to call Oscar Mitchell.

So Dr. King got out of jail, came back. He spent about a week in jail in DeKalb County, and also, down here to Reidsville, the state penitentiary. And it is thought that Kennedy call might have helped J.F.K. to get elected president. I don't know.

So that's why it was a DeKalb County case.

PROFESSOR PEERY: So we're running a little short on time. And there is much more that we could talk about with Judge Ward.

And I would recommend, you know, if you're interested in his story with the desegregation of the University of Georgia, to check out this book. There is also one out on the table so you can get the full title of that.

But as we're wont to do when we have distinguished alums and prominent senior attorneys in our presence, we would like to ask what advice you would give to law students or young attorneys who want to do good work, good public work in their careers, and what you've learned over the course of your career.

JUDGE WARD: Well, I would say to them that, first, you need to get the best legal education you can. Study hard. And after that, choose a law firm or public service work and make a commitment that the law, whereas we all go into the law to make a living, that's true, but you ought to give some of your time to the public service. That would be my advice to them.

PROFESSOR PEERY: Great. Well, thank you, Judge Ward.

(Applause.)

PROFESSOR RUBINOWITZ: We're going to let you go for lunch in a few minutes, but I want to invite up to the stage Bernie Kleina. Bernie is a civil rights activist and photographer. He is, as far as we know, the only photographer who has ever taken color photos of Martin Luther King and his movements. Those photos are now at the Smithsonian at the African American History Museum [sic].

And you're going to have a chance, when you get your lunch and bring it back in here, to watch and see a number of those photos. So I'd ask Bernie to come up for a couple of minutes and introduce the slide show that you're going to have a chance to watch. And then, we'll adjourn for lunch. And I ask you to bring your lunch back in, and we'll start again at 1:00.

Bernie?

MR. KLEINA: Len, thank you very much.

It's a thrill to be here with all of you, and especially some of the speakers that we just heard. I'm honored to be part of this symposium. The photos or the video that we're going to look at is just a small glimpse of the Chicago Freedom Movement, but it I think still says a lot about what occurred in Chicago, especially in 1965 and 1966.

In addition to the images of the Chicago Freedom Movement, I've included some images which expand on Dr. King's dream, and really, our dream as well, and some of the obstacles that he and we encounter.

It's difficult for me, and I think for you as well, to realize that the images that you'll be seeing occurred almost 50 years ago. Some of us, I think we could say it seems like yesterday. And others would say it does seem like 50 years ago.

I want to just give a quote that Dr. King gave when I was photographing him in Soldier Field in Chicago in 1966. He said, "Our power is not in violence. Our power is in our unity, the force of our souls, and the determination of our bodies. This is a force that

no army can overcome, for there is nothing more powerful in all the world than the surge of unarmed truth. Non-violence does not mean doing nothing. It does not mean passively accepting evil. It means standing up so strongly with your body and soul that you cannot stoop to the low places of violence and hatred. I'm still convinced non-violence is a powerful and just weapon. It cuts without wounding. It's a sword that heals."

And finally, in the short video that we'll be looking at, there are a few pictures of my nephew, Nathan. I don't know how he gets into all my shows and exhibits, but he does. And I mean I think he's a very handsome kid. But for me, he is a reminder that we have to keep working for a more just and compassionate and hopeful America.

And just a few weeks ago, he said to me, he really said to my wife and myself, he said, "When Bernie gets angry, there is no stopping him."

Nathan is ten now. I am angry. I'm still angry, probably will be forever, that we haven't come as far as we ought to have come in all of these years. So now, just watch the video if you like.

PROFESSOR RUBINOWITZ: So we'll adjourn. The lunches, box lunches, are outside in the lobby. Grab your lunch. Come on back. The video is going to run and rerun. It's about nine and a half minutes. And we will reconvene officially at 1:00.

(WHEREUPON, a recess was had.)