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Todd Taylor

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EXORCISING THE GHOSTS OF A SHAMEFUL PAST: THE THIRD TRIAL AND CONVICTION OF BYRON DE LA BECKWITH

TODD TAYLOR*

GHOSTS OF MISSISSIPPI: THE MURDER OF MEDGAR EVERS, THE TRIALS OF BYRON DE LA BECKWITH, AND THE HAUNTING OF THE NEW SOUTH. BY MARYANNE VOLLERS. Boston: Little, Brown and Company. 1995. Pp. 411.

After three trials and thirty-one years, Byron de la Beckwith was found guilty of murdering Medgar Evers, the legendary Mississippi civil rights leader.¹ Beckwith, who was seventy-three years old and suffering from poor health² when the jury announced its verdict, was sentenced to life in prison for the killing.³ Maryanne Vollers' *Ghosts of Mississippi* chronicles the social, political, and legal consequences of the Medgar Evers/Byron de la Beckwith saga, spanning seventy of the most chaotic and troubled years in Mississippi history.

Vollers opens her book with Beckwith in his jail cell awaiting his third trial as he entertains several friends and relatives with animated stories and racist jokes.⁴ Beckwith is shown to be a confident exhibitionist who thrives on both attention and animosity.⁵ Vollers then flashes back to Medgar Evers' formative years in a deeply segregated Mississippi.⁶ She documents his life from the son of a father who said he would kill himself and his family before he let any of them take food from a bread line,⁷ to the soldier who learned the meaning of racial

* Staff Writer, BOSTON COLLEGE THIRD WORLD LAW JOURNAL.

¹ MARYANNE VOLLERS, *GHOSTS OF MISSISSIPPI: THE MURDER OF MEDGAR EVERS, THE TRIALS OF BYRON DE LA BECKWITH, AND THE HAUNTING OF THE NEW SOUTH* 377 (1995). On June 12, 1963 at 12:30 a.m., Medgar Evers was shot and killed in front of his home. *Id.* at 126. Byron de la Beckwith was tried three times for the crime: the first two trials ended in mistrial; the last trial resulted in a guilty verdict. *Id.* at 201, 208, 377.

² *Id.* at 257. Beckwith's health began to fail during the 1980s. *Id.* He had surgery to replace a blocked renal artery, suffered from high blood pressure, and experienced memory loss. *Id.*

³ *Id.* at 378.

⁴ *Id.* at 3-7.

⁵ *Id.*

⁶ *Id.* at 8-73.

⁷ *Id.* at 16.

equality while fighting for his country in Europe,⁸ to the devoted husband of Myrlie and loving father of two sons and a daughter,⁹ and finally, to the slain Mississippi NAACP Field Secretary who became a martyr symbolizing racial inequality in the South and the nation as a whole.¹⁰ Scattered between these stories, Vollers tracks Beckwith's life from his parents' short and dysfunctional marriage in California,¹¹ through his unhappy childhood in Mississippi,¹² his glory days in the armed forces,¹³ his troubled marriages,¹⁴ and finally, to his increasingly militant brand of segregationism.¹⁵ Vollers details the day Evers was murdered¹⁶ and describes how the consequences of this single act spread far beyond the family and friends of those involved to significantly impact the NAACP, the Ku Klux Klan, and the Mississippi state political system.¹⁷ *Ghosts of Mississippi* recounts the factors that went into the "new political reality" which allowed the Evers case to be reopened nearly thirty years after the fact¹⁸ and the events that ultimately resulted in Beckwith's guilty verdict.¹⁹ Vollers closes her book with a brief reflection on the themes of the saga and an attempt to glean a higher meaning from the verdict.²⁰

Part I of this Review will describe Beckwith's three murder trials, comparing and contrasting the first two with the last one. Part II will explore the likelihood of a reversal based on alleged constitutional and statutory speedy trial violations. Part III ponders the political, legal, and social consequences of a reversal of the guilty verdict. Finally, the conclusion attempts to distill some meaning from the thirty-one year ordeal.

I. THE TRIALS

On June 15, 1963, Beckwith was arrested by federal officers and charged with violating the 1957 Civil Rights Act for "conspiring to injure, oppress, and intimidate Medgar Evers in the free exercise of

⁸ *Id.* at 31–32.

⁹ *Id.* at 38–48.

¹⁰ *Id.* at 301–03.

¹¹ *Id.* at 21–23.

¹² *Id.* at 24–27.

¹³ *Id.* at 28–30.

¹⁴ *Id.* at 28–30, 78–80.

¹⁵ *Id.* at 280–87.

¹⁶ *Id.* at 126–37.

¹⁷ *Id.* at 138–59.

¹⁸ *Id.* at 259–72.

¹⁹ *Id.* at 338–62.

²⁰ *Id.* at 363–86.

his Constitutional rights.²¹ These federal charges were deferred when the Federal Bureau of Investigation turned Beckwith over to the Mississippi authorities and state murder charges were filed.²² Beckwith was formally indicted for murder by the grand jury on what would have been Evers' 38th birthday.²³ Hinds County District Attorney Bill Waller announced that the state would seek the death penalty.²⁴

The opening statements in Beckwith's first trial began on January 31, 1964.²⁵ The jury²⁶ listened as the prosecution witnesses testified that the cause of Evers' death was hemorrhage due to gun-shot wounds²⁷ and that a rifle, which fired the type of bullet that killed Evers, was found not far from the murder scene.²⁸ The prosecution showed that the markings on this recovered rifle matched the markings on a rifle owned by Beckwith,²⁹ that the scope on the rifle found by police was recently acquired by Beckwith,³⁰ and that Beckwith's finger prints were found on this scope.³¹ Witnesses for the prosecution testified that Beckwith asked at least two people where Evers lived three days before the murder,³² that several people saw a car matching the description of Beckwith's car in Evers' neighborhood on and before the night of his murder,³³ and that Beckwith was an unabashed segregationist with

²¹ *Id.* at 151.

²² *Id.* at 152.

²³ *Id.* Beckwith was indicted on July 2, 1963.

²⁴ *Id.*

²⁵ *Id.* at 163.

²⁶ The jury was composed of two electricians, two business executives, an engineer, a plumber, a bakery manager, and assorted salesmen. *Id.* All of the jury members were male and all were white. *Id.*

²⁷ *Id.* at 168. Dr. Forrest Bratley was the pathologist who performed the autopsy on Evers. *Id.*

²⁸ *Id.* at 170. Detective O.M. Luke found the Enfield rifle "carefully concealed in a clump of vines" behind Joe's Drive In, a restaurant in the neighborhood. *Id.* He testified that the rifle had not been dropped but carefully placed upright in some honeysuckle more than a foot off the ground. *Id.*

²⁹ *Id.* at 172. Innes Thorton McIntyre III testified that he traded a registered 30.06 rifle with the same markings as the 30.06 found by the police in the honeysuckle behind Joe's Drive In to Beckwith. *Id.*

³⁰ *Id.* at 175. John Goza, owner of Duck's Tackle Shop, testified that he traded the Golden Hawk rifle scope with the same serial number as the one on the rifle found by the police to Beckwith one month before Evers was killed. *Id.* at 175-76.

³¹ *Id.* at 176-77. Ralph Hargrove, the captain in charge of the Identification Division of Jackson Police, found a finger print on the rifle's scope which "positively" matched Beckwith's prints. *Id.*

³² *Id.* at 178-79. Herbert Speight and Lee Swilley, two taxi drivers, testified that Beckwith asked them if they knew where Evers lived. *Id.*

³³ *Id.* at 181. Robert Pittman, the son of the owner of the grocery store by Joe's Drive In, said he saw a car matching Beckwith's on several occasions before the murder and then again on the night of the murder cruising the neighborhood really slowly. *Id.* Martha Jean O'Brian, a sixteen year-old carhop at Joe's Drive In, testified that she saw a car matching the description of Beckwith's

militant tendencies.³⁴ While it amounted to an extremely powerful circumstantial case, the prosecution was unable to place Beckwith at the scene on the night of the murder beyond a reasonable doubt and it could not conclusively put the murder weapon in Beckwith's hands when it was fired.³⁵

The defense, on the other hand, presented eyewitnesses who suggested that Evers may have been murdered by three men.³⁶ Others testified that Beckwith's car had not been parked in the neighborhood on the night of the murder.³⁷ The defense introduced expert testimony which suggested a legitimate explanation for the presence of Beckwith's fingerprints on the rifle found by police.³⁸ And finally, three alibi witnesses testified that Beckwith was 90 miles away from the murder scene when the crime was committed.³⁹ After five days, both sides rested.⁴⁰ The jury deliberated for 11 hours and took 20 ballots before announcing that they were hopelessly deadlocked and the judge declared a mistrial.⁴¹

The jury selection⁴² for Beckwith's second trial began on April 6, 1964,⁴³ nearly ten months after Evers was murdered. While both sides

car parked at Joe's Drive In on the night of the murder. *Id.* at 182. Barbara Ann Holder, an ex-carhop at Joe's Drive In, testified that she saw a car matching Beckwith's pull into Joe's parking lot, that a man matching Beckwith's height and weight got out and walked to the bathroom, and that the car was still there at 11:30. *Id.* at 182-83.

³⁴ *Id.* at 195-98. Several militant segregationist letters written by Beckwith were introduced into evidence. *Id.* One written to the National Rifle Association in Washington D.C., read: "Gentlemen: For the next fifteen years we here in Mississippi are going to have to do a lot of shooting to protect our wives, children and ourselves from bad niggers." *Id.* at 196.

³⁵ *Id.* at 183.

³⁶ *See id.* at 185. Willie Mae Patterson, a young white woman who lived near Evers, testified that she heard the shot, ran to her window, saw Evers on the ground, and then saw three men run in front of her house. *Id.*

³⁷ *Id.* at 186-87. Lee Cockrell, owner of Joe's Drive In, and Doris Sumrall and Ansie Lee Haven, both employees at Joe's Drive In, all testified that there was no car matching Beckwith's car's description in the parking lot on the night of the murder. *Id.*

³⁸ *Id.* at 187-88. C.D. Brooks, a former employee of the Alabama State Department of Toxicology and Criminal Investigation, and L.B. Gaynard, a former director of the Bureau of Identification for the Louisiana State Police, both testified that it is impossible to determine the age of a fingerprint. *Id.*

³⁹ *Id.* at 189. Roy Jones, owner of a Greenwood neon sign company, testified that he saw Beckwith in Greenwood at 11:45 p.m. on the night of the murder. *Id.* Hollis Creswell, a lieutenant on the Greenwood Police Department, and James Holley, Creswell's partner, both testified that they saw Beckwith in Greenwood at 1:05 a.m., half an hour after Evers was killed. *Id.* at 190-92.

⁴⁰ *Id.* at 201.

⁴¹ *Id.* Six of the jurors voted for acquittal, six voted for guilt. *Id.*

⁴² This jury was more educated than the first one. *Id.* at 205. There was a bookkeeper, a food broker, an IRS employee, and several businessmen and executives. *Id.* Seven had college degrees and two were actually born in the North. *Id.* However, all were male and all were white again. *Id.*

⁴³ *Id.* at 203.

presented essentially the same evidence the second time around, the defense introduced one devastating new alibi witness: James Hobby.⁴⁴ Hobby, who was the same height and weight as Beckwith, testified that he had been living in Jackson in June 1963, and that he owned a car that matched the description of Beckwith's car.⁴⁵ Hobby further testified that he parked it where the prosecution witnesses said they saw Beckwith's car on the night that Evers was murdered.⁴⁶ Using this new testimony to buttress the statements made by Beckwith's three alibi witnesses from the first trial, the defense closed its case by arguing that Beckwith was framed.⁴⁷

The jury deliberated for two days before it announced another deadlock, and the judge declared another mistrial.⁴⁸ District Attorney Bill Waller told interviewers that since he had presented the state's case as effectively as could be expected, he would not retry Beckwith without new evidence.⁴⁹ Beckwith slept at home that night.⁵⁰ To celebrate his release and their own widespread appeal, the Ku Klux Klan burned crosses in nearly half of the 82 counties in Mississippi on the night of the second jury's verdict.⁵¹ Waiting for a new lead, the Evers murder case remained open but unchanged until Jack Travis, the new Hinds County District Attorney, took office in March 1969 and passed the case into *nolle prosequi*.⁵²

The case against Byron de la Beckwith was brought back not because of any one event, but "by a confluence of many events in a slow tide of change."⁵³ While the real changes in Mississippi between 1964 and 1994 were subtle, the surface changes were dramatic.⁵⁴ In 1987, Miss Mississippi was a black woman.⁵⁵ In 1988, the city of Vicksburg

⁴⁴ *Id.* at 206.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.* at 207-08.

⁴⁸ *Id.* at 208. The jury split eight to four in favor of acquittal. *Id.*

⁴⁹ *Id.* at 212.

⁵⁰ *Id.* at 208. Beckwith was not technically a free man; because he was an accused killer and there is no statute of limitation on murder, the district attorney could recharge him at any time. *Id.*

⁵¹ *Id.* at 209.

⁵² *Id.* at 228. *Nolle prosequi* is a formal entry upon the record announcing that the prosecuting attorney in a criminal case will prosecute the case no further. BLACK'S LAW DICTIONARY 1048 (6th ed. 1990). However, because there is no statute of limitations on murder, Beckwith could be reindicted and reprocessed at any time. VOLLERS, *supra* note 1, at 228.

⁵³ VOLLERS, *supra* note 1, at 259.

⁵⁴ *Id.*

⁵⁵ *Id.* at 260.

elected a black mayor.⁵⁶ And by 1990, 80% of whites under thirty favored integration as opposed to fewer than 50% of whites over sixty.⁵⁷ “Now blacks and whites could at least eat lunch together, work side by side, and live in armistice, if not peace.”⁵⁸

The new political reality was reflected in Mississippi’s news media, particularly the Jackson *Clarion-Ledger*.⁵⁹ On October 1, 1989, the *Clarion-Ledger* printed a story based on leaked Sovereignty Commission papers which proved that the commission had done background checks of potential jurors for the defense in Beckwith’s second trial.⁶⁰ It ran the story under a banner headline on the front page: “State Checked Possible Jurors in Evers’ Slaying.”⁶¹ The story got people’s attention and by the end of October, the reopening of the Evers’ murder case had become a political cause; the Jackson City Council voted to urge the district attorney’s office to reopen the case and the County Board of Supervisors and the NAACP both pushed for a new prosecution of the crime.⁶² On October 31, 1989, Ed Peters, the Hinds County District Attorney, announced that he would call a grand jury to investigate the charges of jury tampering in the second Beckwith trial.⁶³ While the eighteen-member panel agreed that there was no evidence of illegal jury tampering, it did recommend that the district attorney look for another way to reopen the Beckwith trial.⁶⁴

Peters had serious misgivings about the Evers’ murder case.⁶⁵ One reason was that he did not think it could be reopened due to the speedy trial problems.⁶⁶ Moreover, most of the evidence was lost. When the grand jury recommended reopening the case, all the district attorney had to go on was part of an old police report.⁶⁷ However, Assistant

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* at 260. However, despite the cosmetic changes, “at its core Mississippi is still a segregated society with separate schools and churches and neighborhoods, just like most of the rest of America.” *Id.*

⁵⁹ *Id.* at 262. The *Clarion-Ledger*, which was once called the “Klan-Ledger,” had been inherited by a new generation of reporters and editors. *Id.*

⁶⁰ *Id.* at 264.

⁶¹ *Id.* The story reported that the Sovereignty Commission, a governmental entity created in 1956 to battle racial integration, had tried to subvert the efforts of another state agency, the district attorney’s office. At worst, the report pointed to possible jury tampering. *Id.*

⁶² *Id.* at 269.

⁶³ *Id.*

⁶⁴ *Id.* at 270.

⁶⁵ *Id.* at 271.

⁶⁶ *Id.*

⁶⁷ *Id.* The murder weapon was missing, all of the physical evidence was missing, and most of the court records were missing. *Id.*

District Attorney Bobby DeLaughter took a special interest in the case and the possibility of reopening it,⁶⁸ and by October 1990, the prosecution had amassed an impressive stack of evidence.⁶⁹ Another grand jury was convened in December 1990 and it voted to indict Beckwith.⁷⁰ He was arrested on December 17, 1990.⁷¹

While much of the same evidence was readmitted by both the prosecution and the defense,⁷² there were several differences between Beckwith's first two trials and his third. First, the jury in the third trial was not composed of only white men.⁷³ Second, the prosecution located four new witnesses that testified that they heard Beckwith brag or indirectly admit to killing Medgar Evers.⁷⁴ Third, the defense suffered a huge procedural setback when the court ruled that James Hobby could not take the stand in Beckwith's defense.⁷⁵ Finally, the defense did not call Beckwith to testify. His attorneys wanted his testimony on the record, but because they feared his unpredictability on

⁶⁸ *Id.* at 268–72.

⁶⁹ *Id.* at 285. The prosecution had the transcript of the first trial, a large part of the police report, the photos from the crime scene and some autopsy photos, the murder weapon, the fingerprint files, a surprising number of living witnesses from the first two trials, and some new witnesses. *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at 286.

⁷² In fact, several witnesses from the first two trials were either dead or missing, and as a result, their testimony was read from the transcript of the first trial on the stand by actors. *Id.* at 343–44. The defense and the prosecution both presented testimony to the jury in this way. *Id.* at 343–44, 364.

⁷³ *Id.* at 337. The jury was composed of eight African Americans and four whites. *Id.* Only four of the jurors were old enough to remember Medgar Evers, and they were all black. *Id.* From a socioeconomic point of view, the jury was largely working-class. *Id.* There were factory workers, truck drivers, a cook, a maid, a secretary, a white co-manager of a Wendy's restaurant, and a black minister. *Id.*

⁷⁴ Mary Ann Adams testified that Beckwith was introduced to her as "Byron de la Beckwith, the man who shot Medgar Evers." *Id.* at 356. Dan Prince, who rented an apartment from Beckwith in 1986, stated that while he and Beckwith were talking about Evers' murder, Beckwith said that he had been tried twice for "killing that nigger." *Id.* at 356–57. He testified that Beckwith then said, "I had a job to do and I did it and I didn't suffer any more than your wife if she was going to have a baby." *Id.* Peggy Morgan, who rode in a car with Beckwith on the way to visit a mutual friend in prison, testified that Beckwith said he killed Evers, and that he said he was not scared to kill again. *Id.* at 357–58. Delmar Dennis, an FBI Ku Klux Klan informant, testified that Beckwith said, "Killing that nigger did me no more physical harm than your wives have to have when they're having a baby for you." *Id.* at 359. Mark Reiley, a prison guard who met Beckwith working as a prison guard in Louisiana, testified that Beckwith shouted at an African-American nurse, "If I could get rid of an uppity nigger like Medgar Evers, I would have no problem with a no-account nigger like you!" *Id.* at 362.

⁷⁵ *Id.* at 369. Hobby was going to testify that it was his white Valiant with the large aerial at Joe's Drive In on the night of Evers' murder, not Beckwith's. *Id.* However, because DeLaughter claimed the defense never gave him written notification that Hobby was going to testify, the judge ruled that Hobby could not testify. *Id.*

the stand, they wanted the court to limit his testimony to the transcript from the first trial.⁷⁶ The judge ruled that Beckwith would have to take the stand in order to enter his testimony, but that he could refer to the transcript of the first trial if he wished.⁷⁷ The defense decided not to call their client and rested their case.⁷⁸ On February 5, 1994, the jury announced their decision: "We find the defendant guilty"⁷⁹ At age seventy-three, Beckwith was sentenced to life in prison.⁸⁰

II. WHAT DID THE STATE AND THE EVERS FAMILY REALLY WIN?

While the state got a murder conviction and the Evers family received long overdue justice, is a reversal of the jury's guilty verdict possible or even likely on appeal?

Prior to the commencement of the third trial's proceedings, Beckwith's attorneys filed a motion to dismiss the case due to a denial of their client's constitutional and statutory right to a speedy trial.⁸¹ In response to the trial court's denial of their motion, the defense sought an interlocutory appeal from the Supreme Court of Mississippi.⁸² On December 16, 1992, the court announced that "while Beckwith's indictment, arrest and anticipated trial may raise serious and troubling constitutional questions, he clearly has no constitutional or statutory right to an interlocutory appeal."⁸³ In its four-to-three decision, the court wrote: "The resolution of a speedy trial claim necessitates a careful assessment of the particular facts of the case . . . [and] most speedy trial claims, therefore, are best considered only after the relevant facts have been developed at trial."⁸⁴ The Supreme Court of Mississippi cited three reasons for reserving judgment: preserving the "re-

⁷⁶ *Id.* at 370-71. Defense attorneys argued that while Beckwith was alive and present in the courtroom physically, due to his age and inability to remember the events of 1963 and 1964, he was "in every sense of the Mississippi rules of evidence, unavailable to testify." *Id.* at 370.

⁷⁷ *Id.* at 371.

⁷⁸ *Id.*

⁷⁹ *Id.* at 377.

⁸⁰ *Id.* at 378. While Beckwith would ordinarily be eligible for parole in ten years, he may be released earlier due to the time he has already served. Christina Cheakalos, *30 Years After Evers Died, Jury Finds Beckwith Guilty*, ATLANTA J. & CONST., Feb. 6, 1994, at A1, available in LEXIS, News Library, ATLJNL File.

⁸¹ VOLLERS, *supra* note 1, at 305. Beckwith filed a motion to dismiss citing the Sixth Amendment and Mississippi Code Statute 99-17-1. *De La Beckwith v. State*, 615 So.2d 1134, 1136 (Miss. 1992).

⁸² *De La Beckwith*, 615 So.2d at 1136.

⁸³ *Id.*

⁸⁴ *Id.* at 1138.

spect due trial judges by minimizing appellate court interference with the numerous decisions they must make in the prejudgment stages of litigation," reducing the "ability of litigants to harass opponents and clog the courts through a succession of costly and time-consuming appeals," and ensuring the "efficient administration of justice."⁸⁵ However, as a result of the jury's guilty verdict on February 5, 1994, Beckwith is currently appealing the trial court's ruling on his constitutional and statutory speedy trial claims.

A. *Beckwith's Constitutional Speedy Trial Claim*

One of the primary purposes of the Sixth Amendment right to a speedy trial is to "guard against inordinate delay between [the] public charge and [the initiation of the] trial, which to a defense on the merits, may seriously interfere with the defendant's liberty, whether free on bail or not"⁸⁶ In determining whether Beckwith was denied his constitutional right to a speedy trial, the Supreme Court of Mississippi will analyze his case using the four factors established by the United States Supreme Court in *Barker v. Wingo*.⁸⁷ These factors are: length of delay, reason for delay, assertion of right, and prejudice.⁸⁸ The Court has explicitly held that because no one factor is dispositive, the totality of the circumstances in each case must be considered.⁸⁹

1. Length of Delay

The relevant time for a constitutional speedy trial claim begins on the date of the arrest and ends when the defendant's trial starts.⁹⁰ The United States Supreme Court has held that this factor's importance increases as the length of the delay increases.⁹¹ In Beckwith's case, 1,118 days elapsed between his arrest and the start of his trial.⁹² Under Mississippi case law, this delay is sufficient to trigger the *Barker* analysis.⁹³ In *Smith v. State*, the Supreme Court of Mississippi held that "any

⁸⁵ *Id.* at 1140.

⁸⁶ *Perry v. State*, 637 So.2d 871, 876 (Miss. 1994).

⁸⁷ 407 U.S. 514, 530 (1972).

⁸⁸ *Id.*

⁸⁹ *Noe v. State*, 616 So.2d 298, 300 (Miss. 1993).

⁹⁰ *Doggett v. United States*, 505 U.S. 647, 651-52 (1992).

⁹¹ *Id.* at 652.

⁹² VOLLERS, *supra* note 1, at 286, 328. Beckwith was arrested on December 17, 1990 and his trial began on January 18, 1994. *Id.* There was a 37-month delay.

⁹³ See also *McGee v. State*, 657 So.2d 799, 802 (Miss. 1995) (574 days sufficient to trigger *Barker*

delay of eight months or longer is presumptively prejudicial.”⁹⁴ Clearly, the delay suffered by Beckwith is long enough to become “presumptively prejudicial.”⁹⁵ However, the United States Supreme Court held that presumptive prejudice alone cannot carry a Sixth Amendment claim without regard to the other *Barker* criteria.⁹⁶ Thus, the Supreme Court of Mississippi will probably conclude that while Beckwith’s 1,118-day delay does not demonstrate a constitutional violation in and of itself, it is longer than any on record in Mississippi and, for this reason, weighs heavily in favor of the defense and against the state.

2. Reason For Delay

In determining the reason for the delay in Beckwith’s trial, the Supreme Court of Mississippi will consider the unique chronology of the case.⁹⁷ Thus, it is useful to construct a timeline for Beckwith’s third trial. On December 17, 1990, Beckwith was arrested in Tennessee, and for the next ten months, he fought against his extradition to Mississippi.⁹⁸ On October 3, 1991, he lost his extradition battle and was transported to Jackson where he was arraigned the following day.⁹⁹ The next month, November 1991, the judge set a trial date for three months later, February 1992, and denied his request for bail.¹⁰⁰ At a pretrial hearing on February 24, 1992, Beckwith was denied bail again and the trial judge postponed the trial date another three months to June 1992.¹⁰¹ On August 3, 1992, Beckwith’s attorneys moved for dismissal alleging the denial of their client’s constitutional and statutory rights to a speedy trial.¹⁰² The trial judge denied the motion and set a new trial date for the following month, September 21, 1992.¹⁰³ The defense appealed the trial court’s decision to the Supreme Court of Mississippi,¹⁰⁴ which ordered both parties to submit new briefs on the issue, scheduled oral arguments for October 15, 1992, and stayed all

analysis); *State v. Magnusen*, 646 So.2d 1275, 1280 (Miss. 1994) (449 days sufficient to trigger *Barker* analysis).

⁹⁴ 550 So.2d 406, 408 (Miss. 1989).

⁹⁵ *See id.*

⁹⁶ *Doggett v. United States*, 505 U.S. 647, 652 (1992).

⁹⁷ *See Noe v. State*, 616 So.2d 298, 301 (Miss. 1993).

⁹⁸ VOLLERS, *supra* note 1, at 286, 295.

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 296–98.

¹⁰¹ *Id.* at 300–01.

¹⁰² *Id.* at 304–06.

¹⁰³ *Id.* at 312.

¹⁰⁴ *Id.* at 314; *De La Beckwith v. State*, 615 So.2d 1134 (Miss. 1992).

circuit court proceedings until the speedy trial matter was decided.¹⁰⁵ On December 16, 1992, the Supreme Court of Mississippi held, in a four-to-three decision, that the speedy trial issue could not be heard until after a ruling by the trial court on the merits.¹⁰⁶ The court also ruled that unless the state could demonstrate that Beckwith was a danger to the community, he should be granted bail.¹⁰⁷ On December 23, 1992, Beckwith made bail,¹⁰⁸ but it was not until October 4, 1993, nearly fourteen months after the trial court proceedings were stayed, that the United States Supreme Court denied review of Beckwith's speedy trial claim and allowed the trial to move forward.¹⁰⁹ A new trial date was set for January 18, 1994, and the opening statements began on that day.¹¹⁰

The Supreme Court of Mississippi has consistently held that when the defendant has not caused the delay and the state does not show good cause for the delay, blame will fall on the prosecution.¹¹¹ However, the state has long recognized that "if the defendant caused the delay, he will not be allowed to complain."¹¹² In Beckwith's case, both the ten-month delay between his arrest in Tennessee and his arraignment in Mississippi¹¹³ and the fourteen-month delay resulting from the Supreme Court of Mississippi's stay on all trial proceedings¹¹⁴ were the direct result of *his* actions: the former was due to his fight against the Mississippi extradition order and the latter resulted from his motion to dismiss for the denial of his right to a speedy trial. Therefore, when determining the reason for this combined 24-month delay, the Supreme Court of Mississippi will probably rule in favor of the state and against the defense.¹¹⁵

However, the state will still have to explain the ten-month delay between Beckwith's arraignment and the staying of the trial court

¹⁰⁵ VOLLERS, *supra* note 1, at 314-15.

¹⁰⁶ *Id.* at 321-22.

¹⁰⁷ *Id.* at 322.

¹⁰⁸ *Id.* A Jewish lawyer who believed Beckwith's rights were being violated wrote a check for his bail. *Id.*

¹⁰⁹ *Id.* at 328.

¹¹⁰ *Id.*

¹¹¹ *Jenkins v. State*, 607 So.2d 1137, 1139 (Miss. 1992).

¹¹² *Perry v. State*, 419 So.2d 194, 199 (Miss. 1982).

¹¹³ Beckwith was arrested on December 17, 1990, and his arraignment was on October 4, 1991. VOLLERS, *supra* note 1, at 286, 295.

¹¹⁴ *Id.* at 314. The Mississippi Supreme Court stayed all trial proceedings on August 24, 1992, and the United States Supreme Court denied review of the appeal on October 4, 1993. *Id.* at 314, 328.

¹¹⁵ *See Noe*, 616 So.2d at 301.

proceedings¹¹⁶ and the four-month period between the Supreme Court's denial of certiorari and the start of Beckwith's third trial.¹¹⁷ While Vollers does not explicitly report the reasons for these delays,¹¹⁸ neither does she suggest that they were intended to hinder Beckwith's defense.¹¹⁹ In *McGhee v. State*, the Supreme Court of Mississippi held that because "justice . . . flows slower as dockets become more congested," a delay is considered the "normal and usual operation of the court" when neither side requests any continuances, the defendant cannot prove that the state gained any tactical advantage from the delay, and there is no indication that the delay was intentional on the part of the state.¹²⁰ The court considers this type of delay "neutral" and weighs it lightly against the state and for the defendant.¹²¹ Therefore, unless Beckwith's attorneys can prove that the state intentionally delayed the trial in order to gain a tactical advantage, this factor will probably only weigh lightly in favor of Beckwith.

3. Assertion of Right

The Supreme Court of Mississippi has repeatedly held that "[a] defendant has no duty to bring himself to trial."¹²² However, the court has also repeatedly held that if a defendant asserts his right to a speedy trial late in the process, the late filing may weigh against the defendant's claim.¹²³ In *Jasso v. State*, the defendants filed a motion to dismiss for violation of their constitutional rights to a speedy trial 187 days before their trial began.¹²⁴ However, a 125-day continuance granted to the defense during this 187-day period reduced the actual delay suffered by the defendants to 62 days.¹²⁵ The court held that even this

¹¹⁶ Beckwith was arraigned on October 4, 1991, and the trial court proceedings were stayed on August 14, 1992. VOLLERS, *supra* note 1, at 295, 314.

¹¹⁷ The Supreme Court denied review of the speedy trial issue on October 4, 1993, and Beckwith's trial did not begin until January 18, 1994. *Id.* at 328.

¹¹⁸ On February 24, 1992, the judge postponed the trial three months to June 1992, and on August 3, 1992, the judge postponed the trial one month to September 21, 1992. *Id.* at 301-13.

¹¹⁹ *See id.*

¹²⁰ 657 So.2d 799, 802-04 (Miss. 1995).

¹²¹ *Id.* at 803.

¹²² *Giles v. State*, 650 So.2d 846, 851 (Miss. 1995).

¹²³ *See Vickery v. State*, 535 So.2d 1371, 1377 (Miss. 1988).

¹²⁴ 655 So.2d 30, 34 (Miss. 1995). The defendants were arrested on December 2, 1989, they filed their motions for dismissal on April 23, 1991, and their trial began on October 17, 1991. *Id.* at 33-34.

¹²⁵ *Id.* at 34.

two-month delay was sufficiently lengthy to weigh against the state and in favor of the defendant.¹²⁶

In Beckwith's case, his attorneys moved for dismissal 533 days before his trial actually began.¹²⁷ However, like the defendants in *Jasso*, Beckwith's actual delay was reduced 406 days due to the stay on the trial proceedings which resulted from his motion for dismissal.¹²⁸ Thus, the actual delay suffered by Beckwith after he asserted his right was 127 days. Because this period is more than twice the length which the court in *Jasso* weighed in favor of the defendants, the Supreme Court of Mississippi will probably conclude that this factor weighs in favor of Beckwith and against the state.

4. Prejudice

When determining whether the trial's delay prejudiced Beckwith beyond the level of presumptive prejudice established by the "length of delay" factor, the Supreme Court of Mississippi will ask whether the delay interfered with his liberty and whether it actually hindered the effective presentation of his case.¹²⁹ These two questions will be considered in light of the three interests which the right to a speedy trial is intended to protect: preventing oppressive pretrial incarceration, minimizing the anxiety and concern of the accused, and limiting the possibility that the defense will be impaired.¹³⁰ Of these, the most serious is the last, because the inability of a defendant to adequately prepare his case skews the fairness of the entire system.¹³¹ Because every criminal defendant will either be incarcerated pending trial or be on bail subject to substantial restriction on his liberty, these three interests are compromised to some extent in every case.¹³² Thus, this factor will only weigh in favor of the defendant if the delay he suffers from causes inordinate prejudice.¹³³ Although the United States Supreme Court held that it is not necessary for a defendant to demonstrate particular-

¹²⁶ *Id.* See also *State v. Magnusen*, 646 So.2d 1275, 1283 (Miss. 1994) (while the bulk of delay after defendant's assertion of right to speedy trial was attributable to defendant, court held analysis slightly favored defendant).

¹²⁷ VOLLERS, *supra* note 1, at 304-12. Beckwith's motion was filed on August 3, 1992, and his trial began on January 18, 1994. *Id.* at 304, 328.

¹²⁸ *Id.* at 315, 328.

¹²⁹ *Magnusen*, 646 So.2d at 1284.

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Perry v. State*, 637 So.2d 871, 876 (Miss. 1994).

¹³³ See *id.*

ized prejudice, the Supreme Court of Mississippi has stated that it will "not allow speculative harm to tip the scales in [a defendant's] favor."¹³⁴

Beckwith's attorneys will probably argue that the trial's delay resulted in oppressive pretrial incarceration and extraordinary anxiety for their client. They will point out that as a result of the delay, Beckwith spent a year and a half in jail before he was even convicted of a crime.¹³⁵ They will probably argue that the trial court unjustly denied bail on two separate occasions even though it ultimately determined that Beckwith posed no danger to the public.¹³⁶ The defense will probably argue that the delay kept a 73 year-old grandfather from enjoying his golden years with his family and ailing wife, drained his financial reserves, and curtailed his associations. For these reasons the defense will urge the Supreme Court of Mississippi to conclude that the delay resulted in needlessly oppressive pretrial incarceration and anxiety for Beckwith.

In *Vickery v. State*, the court held that the defendant suffered oppressive pretrial incarceration and extraordinary anxiety as a direct result of the trial's delay.¹³⁷ The defendant in *Vickery* was severely beaten by another inmate and hospitalized during the delay.¹³⁸ While in the hospital, the defendant endured two rape attempts and suffered a nervous breakdown.¹³⁹ The court concluded that this was the type of prejudice the speedy trial right was intended to protect against, and therefore, it held that the delay violated the defendant's right to a speedy trial.¹⁴⁰

Unlike the defendant in *Vickery*, Beckwith was provided with a private cell with its own shower, a cot, a black-and-white television, a bookcase, a reading light, a desk and chair, and several boxes of paper,

¹³⁴ *Noe v. State*, 616 So.2d 298, 302 (Miss. 1993).

¹³⁵ Cheakalos, *supra* note 80, at A1.

¹³⁶ See VOLLERS, *supra* note 1, at 322.

¹³⁷ 535 So.2d 1371, 1377 (Miss. 1988).

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.* In *State v. Magnusen*, the defendant was unable to prove oppressive pretrial incarceration. 646 So.2d 1275, 1285 (Miss. 1994). Since he was single, his family life was not disrupted. *Id.* Since he was unemployed, his financial resources were not drained. *Id.* And since he was allowed visitation, his associations were not curtailed. *Id.* The defendant was unable to prove that he suffered from an extraordinary level of anxiety as a result of the delay. *Id.* Finally, the defendant did not even argue that the delay prevented him from calling any witness or recalling the events at issue. *Id.* The court held that while the defendant demonstrated presumptive prejudice due to the length of the delay, he did not prove actual prejudice and this factor weighed against him and for the state. *Id.*

pens, vitamins, letters, notepads, and envelopes during his delay.¹⁴¹ His meals were brought to him; he was allowed liberal visitation with family and friends in his cell; and due to his outspoken views on segregation, he was kept separated from all of the other prisoners for his own safety.¹⁴² Beckwith was not assaulted by other inmates and he certainly did not suffer a nervous breakdown as a result of the trial's delay. Since Beckwith's anxiety level and pretrial incarceration were nowhere near as oppressive as those deemed prejudicial in *Vickery*,¹⁴³ the Supreme Court of Mississippi will probably decide that any harm suffered by Beckwith in these two interests is too "speculative" to tip the scales in his favor, and thus, it will probably hold that these two interests were not violated by the delay.¹⁴⁴

However, since limiting the possibility that the defense will be impaired is the most important interest that the right to a speedy trial protects,¹⁴⁵ Beckwith's attorneys will probably argue that the trial delay seriously prejudiced their ability to present his defense. They will point out that as a result of the delay, only one of his three original lawyers was still living by the start of the trial and he was 73 years old and unable to assist in his defense. Since several of the defense witnesses that testified in the second trial have trouble remembering the events or are missing or dead, and since there is no transcript of the second trial, the defense will argue that the delay has reduced their ability to adequately defend Beckwith. Most importantly, however, the defense will argue that due to the delay, Beckwith cannot remember enough about the first two trials to adequately defend himself.¹⁴⁶

In *Magnusen*, the Supreme Court of Mississippi wrote:

If witnesses die or disappear during a delay, the prejudice is obvious. There is also prejudice if defense witnesses are unable to recall accurately events of the distant past. Loss of memory, however, is not always reflected in the record because what has been forgotten can rarely be shown.¹⁴⁷

¹⁴¹ VOLLERS, *supra* note 1, at 3.

¹⁴² *Id.*

¹⁴³ 535 So.2d 1371, 1377 (Miss. 1988).

¹⁴⁴ See also *Noe v. State*, 616 So.2d 298, 302 (Miss. 1993).

¹⁴⁵ *State v. Magnusen*, 646 So.2d 1275, 1284 (Miss. 1994).

¹⁴⁶ VOLLERS, *supra* note 1, at 370-71. Beckwith's attorneys claimed that their client could not remember more than half of what happened in his first two trials. *Id.*

¹⁴⁷ 646 So.2d at 1284.

Citing *Magnusen*, the defense will argue that the state should have retried Beckwith between 1964 and 1969 when the indictment was open and on the books, his lawyers were alive and well, memories were fresh, and witnesses were available.¹⁴⁸ The defense will probably argue that if the defendant's witnesses cannot testify or they can no longer remember the events at issue, "the prejudice is obvious" and the state has clearly gained a tactical advantage.¹⁴⁹ While the state's arguments¹⁵⁰ convinced the trial court that Beckwith had not been prejudiced, it is unclear how the Supreme Court of Mississippi will view the question. If the court follows what it seems to say in *Magnusen*, it may find that the delay prejudiced Beckwith's ability to defend himself, and, thus, it may weigh this factor in favor of Beckwith and against the state.

5. Conclusion of Constitutional Analysis

In sum, it is clear that the first *Barker* factor, the length of delay, weighs strongly in favor of Beckwith. The second factor, the reason for delay, will probably weigh lightly in favor of Beckwith due to its "neutral" characterization. The third factor, the assertion of right, will probably weigh in favor of Beckwith due to the lengthy delay he endured after his motion to dismiss was filed. How the Supreme Court of Mississippi will rule on the fourth factor, prejudice, is not as clear as the previous three. If it follows the trial court's reasoning, it will side with the state. However, if it follows what it seemed to say in *Magnusen*, it may weigh the factor in Beckwith's favor. Needless to say, if the court rules that the delay prejudiced Beckwith, his constitutional right to a speedy trial will have been violated and his verdict will be reversed. Thus, whether or not Beckwith spends the rest of his life in prison

¹⁴⁸ VOLLERS, *supra* note 1, at 208, 228. Beckwith's second trial ended in a deadlocked jury on April 17, 1964, and the case passed into *nolle prosequi* in March 1969. *Id.* at 228. Since many of the defense witnesses have died or are no longer available to testify due the long delay between trials, and since the memories of the witnesses that are available to testify may have become clouded due to the 30-year delay, the defense will argue on appeal that Beckwith's case was clearly prejudiced.

¹⁴⁹ *Magnusen*, 646 So.2d at 1284.

¹⁵⁰ The state argued that there is no statute of limitations on murder; that a murder case that has been dismissed may be retried at anytime in good faith; and that since the law in Mississippi between 1964 and 1969 placed the burden of demanding a trial on the defendant, Beckwith should have called for a trial to clear his name if he was burdened by the open case. However, he did not. VOLLERS, *supra* note 1, at 320.

depends on how the Supreme Court of Mississippi rules on the prejudice factor of the *Barker* analysis.¹⁵¹

B. *Statutory Right to Speedy Trial*

Regardless of how the Supreme Court of Mississippi rules on the constitutional issue, Beckwith also has a statutory speedy trial claim to appeal. The Mississippi speedy trial statute states:

Unless good cause can be shown, and a continuance duly granted by the court, all offenses for which indictments are presented to the court shall be tried no later than two hundred seventy (270) days after the accused has been arraigned.¹⁵²

Beckwith was arraigned on October 4, 1991, and his trial began on January 18, 1994.¹⁵³ This is a statutory delay of 847 days, clearly more than the 270 allowed under the statute. However, the fourteen-month delay resulting from the Supreme Court of Mississippi's stay on all trial proceedings¹⁵⁴ was the direct result of Beckwith's motion for dismissal for denial of a speedy trial, and, thus, must be tolled against the defendant.¹⁵⁵ Therefore, the actual delay between Beckwith's arraignment and his trial was 441 days.¹⁵⁶ However, this is still in excess of the statutory limit. The Supreme Court of Mississippi has held that where the facts show that the defendant's trial did not commence within 270 days of his arraignment, the state bears the burden of establishing that there was good cause for delay.¹⁵⁷ In *McGhee*, the Supreme Court of Mississippi announced that congested trial dockets and the preempting of a trial by another case both constitute "good cause" for a trial's delay.¹⁵⁸ Thus, if the state can positively demonstrate that the backlog of cases actually caused the delay suffered by Beckwith, it would fall within the definition of

¹⁵¹ It should be noted that even if the court finds that Beckwith was not sufficiently prejudiced to weigh this factor in his favor, because the previous three *Barker* factors will be weighed in his favor, it is conceivable that he could win his appeal anyway.

¹⁵² Miss. Code Ann. 99-17-1 (1994).

¹⁵³ VOLLERS, *supra* note 1, at 295, 328.

¹⁵⁴ *Id.* at 314-15. The Mississippi Supreme Court stayed all trial proceedings on August 24, 1992, and the United States Supreme Court denied review of the appeal on October 4, 1993. *Id.* at 314-15, 328.

¹⁵⁵ *Perry v. State*, 607 So.2d 1137, 1139 (Miss. 1992).

¹⁵⁶ VOLLERS, *supra* note 1, at 314-15, 328. The trial was stayed for 406 days as a result of the defense's motion to dismiss. *Id.*

¹⁵⁷ *See McGhee v. State*, 657 So.2d 799, 804 (Miss. 1995).

¹⁵⁸ *Id.* at 803.

“good cause” under the statute and the defense’s motion would be rejected.¹⁵⁹ However, if the state cannot positively demonstrate a “good cause” for the 441 day delay suffered by Beckwith, the state would be in violation of the statute.¹⁶⁰ In such a situation, Beckwith’s case would be remanded to the trial court to determine whether the violation prejudiced the defendant’s ability to defend against the charge and whether the state deliberately engaged in oppressive conduct.¹⁶¹ If the trial court determines prejudice is present from the delay, the court shall dismiss the entire proceeding with prejudice.¹⁶² If not, the remedy is to dismiss the case “without prejudice to reindictment.”¹⁶³ Without knowing what kind of evidence the state will present to demonstrate “good cause” for the delay, it is nearly impossible to predict how the Supreme Court of Mississippi will rule on the statutory issue. What is clear is that the burden is on the state to “positively demonstrate” good cause. If it fails, the case will be remanded and Beckwith’s conviction could be reversed.

III. THE FUTURE OF RACE RELATIONS IN MISSISSIPPI

What will happen to race relations in Mississippi if the symbol of the state’s racist past is allowed to go free because his guilty verdict is reversed on appeal?

During the trial, the Jackson *Clarion-Ledger* reported the widespread dissatisfaction voiced by many citizens with respect to Beckwith’s three-year trial.¹⁶⁴ The newspaper noted how difficult it was to find a white person in Jackson who thought it was a good idea to retry Beckwith and that almost everyone, African American and white, could think of at least one thing to complain about the trial.¹⁶⁵ Some complained that the trial was costing too much or that it was unfair to try a sick old man.¹⁶⁶ Others believed that it was useless, and possibly harmful, to dredge up unpleasant memories, and that in any event, the trial was an exercise in futility since the state would never be able to convict a white man of killing a black man.¹⁶⁷ Still others cynically

¹⁵⁹ *See id.*

¹⁶⁰ *See id.*

¹⁶¹ *Jasso v. State*, 655 So.2d 30, 35 (Miss. 1995).

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ VOLLERS, *supra* note 1, at 329–30.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

viewed the trial as nothing more than a political maneuver designed to further the careers of the lawyers involved.¹⁶⁸

Yet, despite these complaints, many people favored the trial for its symbolic impact.¹⁶⁹ Neil McMillen, a race-relations professor at the University of Southern Mississippi, said, "Beckwith's trial and conviction means that Mississippi has begun the process of coming to terms with our own shameful past."¹⁷⁰ John Salter, a close friend of Medgar Evers in Jackson and now a professor of history at the University of North Dakota, believed that the verdict would "open the door to Mississippi getting on with its life," and that "it will conclude an era."¹⁷¹ Dennis Dahmer, the son of Vernon Dahmer,¹⁷² feels as if the climate in Mississippi has shifted "180 degrees" from where it was in the 1960s.¹⁷³ He believes that the state sincerely wants to project a new image and wants to move forward.¹⁷⁴ Clearly, for many in Mississippi, the third trial of Byron de la Beckwith and the jury's guilty verdict became "a form of community exorcism: an act of cleansing, of rubbing out the relics of a shameful era."¹⁷⁵

However, others within Mississippi are less optimistic about the future of race relations. For example, Mary Coleman, a professor of political science at Jackson State University, believes that while "the most violent and vile aspects of Mississippi's racist culture are past," she fears the "more subtle forms of racial hatred won't ever disappear."¹⁷⁶ Indeed, a major blow to Mississippi's efforts to distance itself from its racist past occurred on November 5, 1991, when Ray Mabus, the young and progressive incumbent Democratic governor, was defeated by an unknown conservative businessman from Vicksburg named Kirk Fordice.¹⁷⁷ Fordice was a 57-year-old Republican whose strong

¹⁶⁸ *Id.*

¹⁶⁹ *Id.* at 330.

¹⁷⁰ Michael Doreman, *State of Redemption; Conviction May Revive Mississippi's Image*, NEWS-DAY, NASSAU & SUFFOLK EDITION, Feb. 6, 1994, at 5, available in LEXIS, News Library, NEWSDY File.

¹⁷¹ *Id.*

¹⁷² Vernon Dahmer, a civil rights leader in Hattiesburg, was killed when a gang of Ku Klux Klan White Knights firebombed his home. VOLLERS, *supra* note 1, at 224.

¹⁷³ Peter Scott and Andy Miller, *A Beginning: Racist Killing Reopened; New Probes Spark Hopes for Justice*, ATLANTA J. & CONST., Nov. 3, 1991, at A16, available in LEXIS, News Library, ATLJNL File.

¹⁷⁴ *Id.*

¹⁷⁵ VOLLERS, *supra* note 1, at 330.

¹⁷⁶ Doreman, *supra* note 170.

¹⁷⁷ VOLLERS, *supra* note 1, at 298.

opposition to big government, affirmative action, and welfare are considered by many to be the new code words for keeping blacks down.¹⁷⁸

Thus, the question remains: given these two opposing views of the future of race relations in Mississippi, what will happen if Beckwith's conviction is overturned? Will racial tensions in Jackson erupt with the kind of violence and destruction witnessed in Los Angeles following the acquittals of the police officers who were videotaped beating Rodney King in 1992?¹⁷⁹ T.H. Poole Sr., President of the Florida State Conference of the NAACP, and Earl T. Shinhoster, Southeast Regional Director of the NAACP, in a joint statement said, "[T]hose who died in the struggle at the hands of the racists must be vindicated. History demands that justice be done."¹⁸⁰ If justice is not done in the courtroom, will people practice their own brand in the streets? Or will calmness and reason be able to restrain the frustration that thousands will undoubtedly experience if Beckwith is set free? Clearly, no one can know the answers to these questions until the Supreme Court of Mississippi either affirms or reverses Beckwith's guilty verdict. However, it is equally clear that Beckwith is not the only one awaiting the court's decision: the entire state of Mississippi is being put on trial.¹⁸¹

IV. CONCLUSION

One of the central questions running through Vollers' book is: "Is it ever too late to do the right thing?" The Medgar Evers/Byron de la Beckwith saga is the story of a state asking and reasking itself this question over and over. Vollers writes:

Whether you call the trial of Byron de la Beckwith a miracle or a travesty, it is hard to argue against the symmetry of the event. The story of Medgar Evers had come full circle. There was a balancing of the books. People who were hoping to hear the word "guilty" describe a peculiar physical sensation when the verdict was read. For a moment the components of the universe seemed to click into place, like an engine that suddenly catches and comes to life. For an instant the world took

¹⁷⁸ *Id.*

¹⁷⁹ During the riots in Los Angeles, 58 people were killed, 12,111 people were arrested, and property damage was estimated to be over \$717 million. *After the Riots: Of 58 Riot Deaths, 50 Have Been Ruled Homicides*, N.Y. TIMES, May 17, 1992, at A26. Violence was reported in Atlanta, Las Vegas, San Francisco, Miami, and Seattle. *Id.*

¹⁸⁰ Scott and Miller, *supra* note 173.

¹⁸¹ See Doreman, *supra* note 170.

on a clarity and logic. The cops, the prosecutors, and the state itself, awash as they were in public and private sins, achieved a brief and shining moment of grace.¹⁸²

In a state like Mississippi, where public and private action has always meant so much more than words, perhaps symbolism takes on a greater importance. Not even the supporters of the third Beckwith trial and its verdict believe that sending a 73-year-old racist to jail for life will solve the problems of race in Mississippi. However, what the guilty verdict does illustrate is that good things can be accomplished and that society can atone for its crimes and move forward. Perhaps Velma Willis, an 83 year-old retired black teacher, summed up the future of race relations in Mississippi best when she said, "I won't forget the past. We shouldn't forget it. But I wouldn't want to live anywhere else. Mississippi has changed. Our children have a bright future."¹⁸³ Maybe the third trial of Byron de la Beckwith, more than anything else, demonstrates that even in Mississippi, justice, no matter how late, can and will be served.

¹⁸² VOLLERS, *supra* note 1, at 385–86.

¹⁸³ Mark Mayfield, *Mississippi Looks to Future; Takes Pride in "How Far We've Come"; Barriers to Racial Unity "Crumble"*, USA TODAY, Feb. 9, 1990, at 2A.





