



Court Historical Society NEWSLETTER *Eastern District of Tennessee*



July 2021

The Scottsboro Boys

“Enshrined in legal and racial history of the South”

By Jack Wheeler

Retired member of the Knoxville law firm of Hodges, Doughty & Carson and original President of the Court Historical Society, established in 1993.

Recently some old materials stored at Hodges, Doughty & Carson were identified as mine and sent to my house for disposition. One box contained records from the most prominent and interesting case in which I was ever privileged to participate.



Jack Wheeler

The case was *Street v. NBC*, tried before **U.S. District Judge Charles G. Neese** in the Winchester Division of the Eastern District of Tennessee in July 1977. I had been practicing for nine years by then and had tried many jury cases as sole counsel for the defendant. This was my partner **Bob Campbell's** case, and I was second chair at my own request.

The case was filed against NBC by **Victoria Price Street** of Flintville,

Tennessee, one of two women who claimed to have been raped in March 1931 by nine black boys on a freight train traveling from Chattanooga to Memphis. The alleged rapes were said to have occurred as the train traveled west through Northern Alabama near Scottsboro. Thus, the boys, who ranged from 13 to 20 years old, came to be known as the “Scottsboro Boys” and to this day are enshrined in the legal and racial history of the South as such.

Their criminal trials, the dubious convictions and death sentences made their way to the U.S. Supreme Court three times in the 1930s. *Street v. NBC* was a spinoff case resulting from a “docudrama” movie shown by NBC many years later. The case gave me my only U.S. Supreme Court appearance of record, another story for another time.

Dan Carter, a native South Carolinian, became interested in the 1930s “Scottsboro” story, particularly the monumental power struggle that erupted between the young and poor NAACP organization and the stronger and better funded Communist Party in the United States to gain control of the defense of the

“Scottsboro Boys” as means of gaining financial and political support among blacks and liberals.

Dan’s Ph.D. dissertation at the University of North Carolina at Chapel Hill was an outstanding study of the case and was published as a book, “SCOTTSBORO, a tragedy of the American South,” by the LSU Press. The book won multiple awards, and Dan’s description of one of the trials before Alabama state court **Judge James Horton** at Scottsboro caught the attention of a successful maker of documentary films and docudramas for television.

The result was the making of a film called “Judge Horton and the Scottsboro Boys,” the rights to which were purchased by NBC for two showings. The first showing in April 1976 came to the attention of **Victoria Price** (by now **Victoria Street**), who was offended at the way in which she had been portrayed. She engaged a lawyer who sued on her behalf claiming defamation and invasion of privacy. NBC’s agreement with the film maker included defense in case of a suit resulting from showing the film, and the insurer chose my older partner, Bob Campbell, as primary defense counsel.

Judge Neese ruled in favor of NBC, and the Sixth Circuit Court of Appeals affirmed, though on a different basis than Judge Neese’s ruling. The U.S. Supreme Court granted certiorari, but a stipulation to dismiss the writ was eventually filed following a settlement, and the case was dismissed.

There were several reasons I wanted to be involved in the case. My undergraduate degree is in journalism so I had some interest

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Attorney Jack Wheeler, left, representing NBC, and author Dan Carter are shown outside the federal courthouse in Winchester in 1977.

The Scottsboro Boys

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in and familiarity with the law of defamation and invasion of privacy. I had grown up within the jurisdiction of the Winchester Division of the court and felt that I had some understanding of attitudes that would prevail there. Besides, it promised to be a very interesting case to prepare and try, so I shamelessly asked Bob to let me “sit second chair” to which he agreed.

My intent in beginning this story was simply to relate [at editor Don Ferguson’s request] two or three short accounts of incidents that happened in the course of trial preparation or trial itself. One of the best experiences was a trip Dan Carter and I made to New York to confer with various people who had been associated with the trial before Judge Horton or one or more of the other criminal trials in the 1930s.

We met with **Elias Schwartzbart** at his home, a wonderful apartment just off Central Park with a concert grand piano in the living room. He was on the phone with a client in Tel Aviv when we arrived. He had been a young lawyer who assisted **Samuel Leibowitz** (lead defense counsel after the first trial) in the trial and did some dangerous investigative work in preparation of proof that certain testimony of a prosecution witness was impossible. Meeting him was both a privilege and a pleasure. I never met a more pleasant or courteous man.

We met with **Clarence (Willie) Norris**, then the last survivor of the nine original defendants, in the office of the NAACP and in the presence of an NAACP official. Both were pleasant and courteous. The NAACP man said almost nothing and did not interfere in our conversation with Willie in any way. Willie was neatly dressed, well groomed, obviously intelligent and articulate. Willie had eventually made his way to New York and retired as a municipal employee.

Dan was astounded by Willie’s accurate recall of pertinent facts from the time of arrest to the various trials to related details of the ensuing 45-plus years. In October 1977 Willie was given a full and unconditional pardon by **Alabama Governor George Wallace**.

Following these meetings and a third, which was of little interest and no benefit, Dan and I rented a car and set out for Bucks County, Pennsylvania, for a visit we had scheduled with **Hollace Ransdell**, who, as a young woman working for the ACLU, had been sent to Huntsville and northern Alabama to investigate the backgrounds of the two claimed rape victims. She was bright and interesting but not able to offer a lot of help beyond confirming things we already knew.

We overstayed our time and were pressed to get to the Philadelphia airport for scheduled flights. Dan was driving, and when I asked if he thought we’d make it on time, he merely grinned as he put the car through a powered skid around a sharp curve and said, “Yes, but



Willie Norris in 1977

I may use some driving tricks I learned from a guy my mom wanted me not to ride with in high school.” I couldn’t resist asking who that was. The answer, “**Cale Yarbrough**.” (For those who don’t know, Cale went into the Racing Hall of Fame several years ago.)

I put Dan on the witness stand, having warned him that plaintiff’s counsel would probably try to insinuate that he was a communist sympathizer by asking if he was a communist.

He told me what his answer would be and I hoped the question would come. It did. Dan smiled sweetly and said, “No sir. I’m a Methodist and a Democrat.” The jurors, some of whom were likely both Methodists and Democrats, howled.

My memories of this case remind me that it isn’t always bad to be second chair. Bob Campbell never met Elias Schwartzbart, Willie Norris or Hollace Ransdell.

[We asked Jack Wheeler to write this article for the Court Historical Society Newsletter when he contacted us for help in choosing a repository for the trial records that he mentions in the first paragraph. Your editor contacted the Scottsboro Public Library, which enthusiastically agreed to accept them for preservation, and they are now are in the possession of the library.–EDITOR.]

[Dan Carter now lives in Brevard, North Carolina, and is retired from the History Department of the University of South Carolina.–EDITOR]

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