

EQUAL JUSTICE

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Constance Baker Motley

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FARRAR, STRAUS AND GIROUX
New York

On June 25, 1962, the court of appeals rendered its fateful decision reversing Judge Mize's finding that race was not involved in the decision

to exclude Meredith from Ole Miss and upholding Meredith's right to attend the university.¹³ It was Judgment Day in Mississippi. All this time Meredith had been taking courses at Jackson State. The long delay in court proceedings had been helpful only to the state, which realized that Meredith was nearing graduation. His graduation would have mooted the case. Meredith had, in fact, completed enough courses to graduate but by not paying the graduation fee of \$4.50, he had avoided graduation.

A day after the opinion was handed down, Judge Ben Cameron of the Fifth Circuit, who was from Mississippi and had always ruled against blacks in civil rights cases, issued an unprecedented order vacating the opinion and mandate of the panel of three judges who had heard and decided the case. The panel's mandate had not yet reached the district court. The mandate under the rules would issue within twenty-one days thereafter. Judge Cameron was absolutely powerless to enter any such order, particularly since he had not been a member of the panel. In so doing, Cameron, a thoroughbred segregationist, put everyone on notice that he was determined to do whatever he could, legal or illegal, to frustrate the attempt of Meredith to break the color line at Ole Miss. Although the Mississippi legislators' interposition statute called on state officials to resist implementing *Brown* by all lawful means, it certainly was not binding on a sitting federal judge. So it was Cameron, a sitting federal appeals court judge and not Governor Ross Barnett of Mississippi, who was the first openly to defy the United States in that case.

When Judge Cameron made his ominous move, Meredith wrote me a letter in which he said that he thought it in his best interests to give up the fight and let someone else become the plaintiff. His letter read as follows:

Dear Mrs. Motley:

After long study and careful analysis of the facts and possibilities, I have made a decision as to my future course of action regarding my further education. It was perhaps the hardest decision that I ever reached, especially since most of the items of consideration were merely possibilities. Nevertheless, I have concluded and the results are as follows.

I will not attempt to obtain an undergraduate degree from the University of Mississippi. However, I will immediately begin to seek entrance into the School of Law at that institution.

I will relate to you the considerations leading to this decision out of courtesy for you and your staff, as well as for the secondary purpose of supporting the request that I am herewith making that you consider giving

me legal assistance in the event that I am again discriminated against by the University of Mississippi.

First, I will start with the most basic element, the individual. It would be a wonderful thing if, in these civil rights cases, we could deal with things, rather than people. Of course, I am human after all and I suffer all of the human wants and needs. I am a very prideful individual. This fact causes me to always try to push forward trying to get ahead or to at least catch up with my peers. Consequently, I have been unable to sufficiently convince myself that I could benefit by remaining in undergraduate school, especially in view of the excessive amount of doubt surrounding even the probability of my present pursuit. Equally important, I feel that there is a broad principle involved—to wit: how many rights and privileges should an individual be willing to give up in order to obtain another right or privilege—is it not possible to reach a balance in reverse. That is, could one not actually give up more trying to get one benefit than the benefit, even if obtained, is worth.

Further, I feel a responsibility to be an example in more than just one sense (fearlessness). I have watched my classmates graduate. It is generally accepted among my colleagues that I rate very high among them in intellectual capabilities. I need to sustain that belief. Also, if I am capable, am I not hurting myself and my people by not developing my capabilities at least at a normal rate.

It is very easy for a person who already had a Doctor's degree or a Law degree to tell someone who does not have one "you can wait" or "you still got plenty time"—it is another thing to be down looking up and hoping and telling yourself and family that there is no need to hurry. Additionally, I must confess that it was not just by chance that I happened to be in Oklahoma when my former classmates were receiving their degrees in Mississippi. I couldn't stomach the idea. Especially, when all indications, including national examinations, indicated that I was probably better prepared for a degree than any of them.

The next consideration is my family. Technically, my family is giving up much more in this fight than I am. I am never able to forget (or want to forget) that my wife could have had her a twenty or thirty thousand dollar home and I could be trading my new cadillac off every year for another one, had I not decided to come to Mississippi to fight white folk. These luxuries were given up; however, there is a certain minimal level below which I am determined that we shall not fall. When I came here in 1960, I had my business arranged so that I would be able to go to school

for five years without any difficulty. At this point, I can see my way clear for only three years with some adjustments being made.

Of course, the main consideration was the total fight and my place in it. I am still very much determined to do all I can to see Mississippi changed. I believe in plans and programs, and latitude. This new procedure will strengthen my position and give me much more working room.

I have considered the effect of my decision on the total fight relative to Mississippi, the south, and the nation as a whole. I am convinced that the end result will be greatest from this present course of action, rather than from the possible alternatives.

Of course, there are many more considerations involved other than those mentioned and they have been weighed. My belief is that a good soldier is one who is always around to fight. You know the tour of duty in Korea is still only one year, even though the war has been over for nine years. It is not that every soldier wants to leave the area of battle, instead, through years of experience it has been found that it is psychologically more suitable to take the soldier away for a rest and then bring him back to continue the fight.

As you know, I have completed five quarters of work and will complete my fourth Summer term at Jackson State College, since I applied for admission to the University. I have more than 270 quarter hours accumulated at Jackson State College (only 192 hours are required for graduation). I seriously question the reasonableness of my continued study at the undergraduate level. I am very familiar with the requirements for graduation at the University of Mississippi, and in the event that they were lenient with me, the earliest that I could possibly graduate would be the second summer term of 1963. In the event they should choose not to be nice, it would mean going into the 1963-64 school year as an undergraduate. As patient as I am, this possibility frightens me.

My plans are as follows: I plan to make application for admission to the School of Law at the University of Mississippi. (I am sending for my application form today.) As I see it, I am completely eligible and qualified for admission. Of course, I am very sensitive to the fact that I am eligible and qualified for admission now, and it is hell to go through with not going to the undergraduate school knowing the general effects that would have on the whole fight, but as I said, we are human. And I am determined not to stretch myself out so far until I won't be able to retreat and regroup, and continue the fight. Further, there are two basic elements that we are dealing with in this fight. They are the Mississippi White man and the

Mississippi Negro. I think I know them both fairly well, and strange as it may seem, the Negro is the bigger problem. There are two things that he respects in another Negro, success and a higher education. He neither respects nor sympathizes with anything else.

In keeping with my broad plans, I will be completely free to pursue my entrance into the School of Law and to enter any time that I am permitted for the next nine years.

Meanwhile, during the waiting or delaying period, if there is one, I will pursue graduate work in another school. This way I feel that I can do justice to my country, my state, my people, my family and to myself. I know that this reflects probably an excessive amount of self pride. Yet, is it not also a fact that if I were not a prideful individual, I would bow my head and sell my body and soul as the other million Negroes in my state of Mississippi are doing.

Please consider this matter in an impersonal and objective manner. Taking all factors and considering them as a whole. My decision has been reached after thorough consideration of all the facts and possibilities known to me. There is no appeal from this decision.

Yours truly,

J H MEREDITH



Stunned, I asked Meredith to come to New York to discuss the matter.