

**BARBARA PHILLIPS**

### **How I Became a Civil Rights Lawyer**

Our family Sunday drives usually included going west from Memphis across the Mississippi River bridge into the cotton fields of Arkansas and sometimes on the way home stopping near the Memphis airport to watch the planes take off and land while imagining who those people were and where they were going. We didn't know many people who had been on airplanes. And there were no Black pilots or flight attendants in those days. Blacks just handled baggage. Our Sunday drives never went past the "Welcome to Mississippi" sign with the big, fluffy cotton bolls—we knew that greeting wasn't for us. We laughed about that, but it wasn't really funny to us. When my father taught summer school at Tuskegee Institute in Alabama, we also ate and went to the bathroom right before leaving Memphis and always made sure there was broad daylight to offer what protection it could as we drove across Mississippi to get there.

When I was in elementary school, we lived right across the street from beautiful Riverside Park with its deep woods, picnic areas, and lake. But we weren't allowed to go there. I think *The Ten Commandments* was the only movie my mother took us to see. Not because we couldn't afford it, but because she refused to allow us to submit to the degradation of climbing up into the balcony. Being a devout Episcopalian, she made an exception for God. I think we went to the zoo once. Same reason—we were allowed to go only on Thursdays. And there was the back of the bus. We had to say the "Pledge of Allegiance" every morning in our segregated, inferior schools where our books were what came over after the white kids moved on to newer books. We recited it even though we all knew the line about "with liberty and justice for all" was a joke on us. We boycotted downtown Memphis businesses for seemingly endless years because Blacks were employed only to clean up and run the elevators. When the public library desegregated, I was always the only Black child in there. My parents insisted that we claim our full citizenship at every opportunity, so they drove me past the "Black library" to the new "white" one downtown.

Our usual dinner table conversation included discussions about understanding the world in which we lived. My parents had to explain the "why" of the world that was Memphis and to teach us strategies to maintain our dignity. In the face of that daily assault upon our spirit, they taught us that every external constraint upon our lives—everything that the government and its legal system and white folk and their "customs" used to

teach us “our place,” to make us believe in “our place,” and keep us in “our place”—was wrong. This was growing up Black in Memphis, Tennessee, beginning around 1954 when I was five years old. I lived in Memphis with my family until I went to Macalester College in St. Paul, Minnesota. That was my first plane ride. It was 1967, and I was eighteen years old. I was raised as and remain quite “southern,” but I never lived in Memphis again.

We were a “race family” from Virginia—my mother born Mary Ellen Russell in the 1920s to James Arthur and Elizabeth Holt Russell, who had a farm on a small mountain outside Pulaski, Virginia, on land originally owned by James Arthur’s family—proud, independent, landowning Black folk. Granddaddy was a member of the Knights of Pythias, a venerable Black self-help fraternity, and founder of the county’s NAACP. My father, Charles Willis Phillips III, was a professor at LeMoyne College and was born in the 1920s to Charles W. Phillips II and Dolly Robinson Phillips in Randolph, Virginia. My grandfather managed a tobacco farm owned by a wealthy white couple and endeared himself to my grandmother’s family by managing all the paperwork and bureaucracy necessary to get the Confederate soldier pension to which Parker Robinson was entitled. My mother went “home” to Pulaski from Virginia State College, where my father was a student and later a professor, to give birth to me at the Pulaski County Hospital. There, she insisted that I be placed in the nursery along with all the other babies—thus I became the first Black baby to grace that hallowed place. You see, I cannot tell my family story—even about my own birth—without talking about race in America and its consequences to those of us who are Black.

I do not recall how it is that I became one of four Black kids to desegregate R. J. Reynolds High School in Winston-Salem, North Carolina,<sup>1</sup> under a “Freedom of Choice” plan. But there I was in the fall of 1965, the only Black student among a thousand white kids in the eleventh grade. (One of us was a senior, and two were in tenth grade.) I know part of the decision was compelled by my parents’ realization that the neighborhood Black school to which I should have gone had only one microscope in the chemistry laboratory. Only two white students would eat lunch with me the entire year. I often started the day with white students lingering around the school’s entrance greeting me with “monkey sounds” as I walked into

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<sup>1</sup> We lived there for two years, 1964–66, while my father taught at Winston-Salem State College, after which we returned to Memphis.

the building. I was consistently on the honor roll. I was expected to, and I expected myself to, represent the race.

I began keeping a journal on June 4, 1963, and have kept it going sporadically up to the present. With all that was going on with Black folk during my years in high school, our family dinner conversations about racial justice and my mother being the volunteer secretary for the campaign of the first Blacks to run for public office, my own efforts at school desegregation—my journal into which I made almost daily entries—is a testament to the impressive self-centeredness of one Black teenager. There are pages upon pages of drivel about boys, parties, girlfriends who walked me home from school, pajama parties and who did and didn't get invited, Fred Sengstacke's Thunderbird with the fabulous round windows in back, who asked me to write in his yearbook, who wrote "the sweetest thing" in my yearbook, the ever-changing drama of crushes and boyfriends-of-the-moment, who danced with whom—especially slow drag—and to what song. Pages and pages—four books covering the high school years—of mind-numbing teenage inner life. All of it dramatic and frivolous. It's a testament to how middle-class Black families in the South were able to shield the daily lives of their children from interacting with white folk and to enable their children to live "normally" in a segregated world. Once in a blue moon, I actually wrote something beyond the world that revolved around me—the assassination of President Kennedy merited a brief note, and upon hearing President Johnson speak at my sister's graduation from Howard University in 1965, I commented that it was "thrilling" to hear the refrain "We Shall Overcome" several times.

In 1967 I became one of what I recall to be about ten Black students at Macalester College in St. Paul, Minnesota. I did not see Macalester College until the day I showed up to move into a dorm—part of the 1967 small wave of Black youth carefully selected to break racial barriers in higher education. When I went to bed in the dorm that first night, I was so looking forward to the morning when the housekeepers would show up. I thought they would be Black. They weren't. You cannot imagine my shock and disappointment. I didn't know white women did that kind of work.

Pauletta Hawkins, a dynamic Black senior, took me under her wing, and we began working at school and in the community to support Martin Luther King's Poor People's Campaign. Somewhere along the way we came to the attention of Harvey Rice, president of Macalester College, who summoned us to his home there on campus to explain to us that we "should be grateful to be here."

Just as I was to return home for spring break 1968 during my freshman year, Dr. King was assassinated in Memphis. It was dark when I stepped off the plane, and my father picked me up at the airport without my mother accompanying him as usual. As we left the airport, I understood why she had stayed home. Instead of returning to the Memphis I knew, I was now in a world of military occupation and danger. There were uniformed, armed men in military vehicles patrolling the streets. It was a surreal experience enhanced by the night. To my total surprise, my father decided we should participate in the march downtown supporting the strike of the sanitary technicians (called “garbagemen” when I was growing up). That morning we picked up our “I am a man” signs and fell in with the marchers. I was in a foreign country. The street was lined on both sides by uniformed soldiers standing almost shoulder to shoulder with bayonets mounted on their rifles. I could have reached out and touched one. It was horrifying. We took our signs home, and my father and I never talked about that march.

Upon returning to school after that break, we Black students aligned ourselves with the Black power movement and shattered the biracial Student Action for Human Rights—a liberal, race-relations student group—to form the Black Liberation Affairs Committee. Along with Black college students across the country, we were forging new identities that challenged the assimilationist dreams of our parents’ generation and the integrationist vision of the more conservative civil rights movement.

The next year Arthur S. Flemming rode into town as the new president of the college. He did not seem to feel that Black students should be “grateful.” Instead, he believed in social justice and, dangerously, in action. No conversation was done until there was an answer to his piercing question, “So what are we going to do now?”—with the emphasis on “now.” Yes, public education needed to be improved so that more Black high school graduates would be prepared to attend a college like Macalester, but, he would ask, “What are we going to do now?” Other Black and white students and I dove into the adventure with him and created the Expanded Educational Opportunities Program that in fall 1969 brought to campus a bunch of Black kids, one Puerto Rican, and one Native American from neighborhoods Macalester had never ventured into before. To the eternal dismay of one of the white administrators, President Flemming noticed that some of those students didn’t have winter coats, hats, and gloves appropriate for Minnesota winters and instructed the administrator to provide funds to purchase them. When the administrator challenged that

such expenditures were not appropriate, Dr. Flemming replied, “Well, we wouldn’t send a football player out there without a helmet!” A “Black House” came into being and was the launching pad for subsequent race/ethnic-based housing and cultural centers. Students were in the streets opposing the war in Vietnam. “In loco parentis” bit the dust, and dorms had men and women living on the same floor. We were all wearing naturals and reveling in being Young, Gifted, and Black. And my mother seriously counseled my brother to go to Canada when his number in the draft lottery came up as 4. The Vietnam War was upon us, and we were cheering for Muhammad Ali, whose principled opposition to the war and insistence upon changing his name were unprecedented assertions of race pride in popular culture by a Black sports figure.

When my senior year arrived and I was looking for an independent study project for the month of January 1971, I read an article in *Ebony* magazine about change afoot in southwest Mississippi where Charles Evers had been elected mayor of Fayette. My response was to pursue an oral history project in Fayette. I was inspired, in part, by an encounter with Mrs. Fannie Lou Hamer during my freshman year. Mrs. Hamer spoke at one of the dreaded mandatory convocations. There before me stood this short, dark, oh-so-country-looking Black woman emanating power. She talked about the civil rights movement, the Freedom Democratic Party, the 1968 Democratic National Convention. In those early days at Macalester, her words sustained my own sense of self in this overwhelmingly white environment and stayed with me as I attempted to make myself relevant to the world in which I lived. Here was an opportunity to learn firsthand something about her world in Mississippi.

My parents thought I was crazy, but drove me to Fayette, Mississippi, to stay in the home of a lovely, gracious Black woman stalwart of the movement who had shotguns leaning up against some of her windows. My parents pretended not to notice. I spent my time being sporadically helpful at city hall, tagging along with community folk trying to make changes, and learning about Natchez and Port Gibson—two other places within the orbit of Charles Evers. I was spending time with ordinary people doing extraordinary things. Later that year, when Charles Evers ran for governor of Mississippi and one hundred Blacks—including Mrs. Hamer—ran for local office, the white folk decided to purge the voting rolls so that thousands would have to re-register in order to vote in the fall 1971 elections. With the help of the newly formed, student-based Minnesota Public Interest Group, I organized two hundred students to go with me to Mississippi

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during spring break. We fanned out wherever people would have us. Going to graduate school in history went out the window, much to the dismay of Dr. Boyd C. Shafer, chair of the History Department to whom I was a research assistant, and to the bewilderment of my parents. I wanted to be a community organizer!

During the summer of 1971, after graduating from college, I got myself to the Industrial Areas Foundation as part of a cohort of new organizers. After completing the summer's training, I went down to Mississippi to volunteer in the Evers campaign for governor. Of course, Charles Evers did not become governor of Mississippi. But it was a great adventure; it was a response to Dr. Flemming's question, "What do we do now?" A record number of Black candidates won local offices in 1971.

Though there wasn't much love between Charles Evers and Mrs. Hamer, she was very generous with me. During travel into the Delta on behalf of the campaign and until I left for law school in 1973, I would make my way to her small home where a pot of green beans seemed to always be cooking on the stove. I carry with me the memory of one particular afternoon when she really wanted me to understand the significance of the phrase "know where you are." It was absolutely critical in advancing social justice to "know where you are." She explained that some people never evaluated the impact of the work they were doing, but just kept doing it. Wrong! To be effective, one had to periodically lift one's head out of the trenches, pause and actually reassess the political landscape in which one was laboring and whether the work being done was what was needed to move forward. What moved a community forward three months ago or last year might not be effective today. And she insisted that we as a people could never get where we wanted to go by means that were antithetical to movement values. Principles mattered. Expediency would never get you to the Promised Land. When I first heard Mrs. Hamer speak at Macalester College, I never dreamed I'd be so privileged as to sit at her kitchen table.

During the 1971 campaign, I met a man of extraordinary integrity and commitment, Henry Kirksey, who made his living—such as it was—as a printer, but who mostly persevered in realizing the unfinished agenda of the civil rights movement of which he was an integral part. Prior to becoming a printer, he was known for his amazing skill at restoring bodies to presentable condition for open casket funerals. It seemed that no damage was beyond his magic to repair. At that moment, his passions included advocating for improbable things like a state compulsory school

attendance law and being the cartographer whose exhibits became critical to victories in voting rights cases. The cartography skills came from his service during World War II. Much later, Mr. Kirksey (and I never called him anything other than Mr. Kirksey—to his face and elsewhere) became a member of the Mississippi state legislature and set the gold standard for any elected official in the realm of integrity, commitment, and clarity of purpose. After the campaign, I labored with him in trying to rally support for compulsory school attendance—for the princely weekly salary of fifty dollars.

Eventually, in 1972, I landed a staff position with the Black Economic Research Center (BERC), founded by Black economist Dr. Robert S. Browne. Jesse Morris was the director of the Mississippi office, and I was the one “directed.” The Mississippi office of BERC morphed into an office of the Emergency Land Fund, also founded by Dr. Browne, and we joined offices in Alabama and Georgia in attempts to stem the flood of land loss among Black farmers. We shared office space in a Gallatin Street warehouse with the Delta Ministry and with the Republic of New Afrika. I can still remember how, on some mornings, I had to dodge through our shared common space to avoid New Afrika’s would-be soldiers as they practiced their military drills using brooms in place of rifles. The Lawyers’ Committee for Civil Rights Under Law was over there on Farish Street, the Head Start program was the hub of community self-determination, the ACLU was a social/activist hub, the Loyalist Democratic Party was busy kicking the Freedom Democratic Party to death, and I probably personally knew every white Republican in the state—they were what passed for progressive in Mississippi.

Claiborne County in southwest Mississippi elected the largest number of Black candidates to countywide offices including that of assessor and tax collector in the 1971 elections. In a joint project of the Delta Ministry and the Emergency Land Fund, I was dispatched to provide assistance to Evan Doss, the newly elected officeholder, and James Miller, his gifted, committed, strategic-thinking, community-organizing deputy and best friend. The first thing we discovered was that Blacks living in brick-oven, three-bedroom homes built on concrete slabs were paying higher property taxes than the white folk living in the antebellum mansions which local lore has it General Grant declared to be “too beautiful to burn.” So we went about changing that. Of course, the white folk weren’t having it, and the still white-controlled county board of supervisors refused to accept the

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new tax rolls prepared by the new Black assessor and tax collector. Worse, Black folk started believing that Evan Doss did not know what he was doing.

A major challenge faced by all the newly elected Black officials was the conundrum of delivering change to a Black community that wanted change but that, because of lack of political experience, was susceptible to the disruption tactics of whites who obstructed Black officials by claiming, “They don’t know what they’re doing.” In Mississippi I met some of the most courageous Black folk I’d ever know; I also met Black folk who actually believed themselves and other Black folk to be inferior to whites. I had encountered the iceberg tip of this phenomenon during the months of the campaign, but living in the Port Gibson community immersed me in a rural Black community unlike anything I’d experienced growing up. Here was a community where in recent living memory, Black folk got off the sidewalks to let a white person pass; where the Black community was still split between those who had supported the boycott of downtown businesses for discriminatory employment practices and those whose loyalty/fear of whites and belief in their “place” compelled their opposition to the community activists; where white folk could do anything to Black folk with impunity. While folk like Mrs. Hamer, who seemed to have no basis for hope that she could change her world, went on to risk their lives to do just that, others succumbed to belief in their own inferiority. I had not met people like this growing up. At least I didn’t know it. But here in Port Gibson I developed a much deeper understanding of white supremacy and the harm it visits upon Black folk and their ability to participate fully in democracy. A devastating legacy of slavery, lynching, and segregation was the belief among some Black folk that there is such a thing as “white folk’s business” with which Black folk should not be involved and are not capable of mastering. And Assessor Evan Doss was running into that dark place in the minds of some Black folk in Claiborne County.

To counter the white folk’s campaign of misinformation and obstruction, we asked the Lawyers’ Committee for Civil Rights Under Law to file a lawsuit on behalf of Evan Doss. We knew nothing about the law. What we knew is that we needed some formidable entity to stand up for Doss, and that if the Lawyers’ Committee stood up for Evan Doss, the Black folk would believe he **MUST** be right. We saw a lawsuit as a community organizing tool regardless of whether it was legally frivolous. We learned that lawyers don’t think that way. The Lawyers’ Committee declined our pleas. I was furious. I was so furious that these so-called lawyers understood



nothing about being in service to the community that I decided to go to law school and show them how to do it. I vowed to join the staff of the Lawyers' Committee as soon as I knew how to be a civil rights lawyer. Ironically, my political science professor, Duncan Baird at Macalester College, had stopped me one day on the stairs of Old Main and suggested that I consider going to law school. I laughed and replied with the certainty that only youth possesses, "Why would I want to do that? I'm going to be one of the community organizers making change happen!" Ahhh, youth!

I was accepted at Northwestern University to commence law school in the fall of 1973, and off I went in my little yellow Toyota Corolla. During my three years, I often wondered what it would be like to walk into a classroom and experience my law professor's presumption of my competence—as was the common experience of white students. Even after I became a member of the *Journal of Criminal Law and Criminology* (the first Black student to do so), I experienced that presumption only twice—with Black professors Ronald Kennedy and Joyce Hughes. This was also the first year the law school accepted a significant number of female students. We gathered in the women's lounge to encourage each other, and I believed we were all feminists. By my third year, when half the incoming class was female, feminism was a relic of the past. The conversation in the women's lounge was now all about how to be like the boys.

During the summer after my first year in law school, I returned to Mississippi to work in Claiborne County again. I also volunteered with the Mississippi Council on Human Relations led by the strategic, smart, courageous, and bold Michael Raff to actually do something with its recently released report on the total exclusion of Blacks from employment with state agencies in any position above menial. This was in 1974, and there were no Blacks in clerical or professional positions at any state agency. We decided to document the experience of an applicant qualified for any position that required a college degree. I went out, bought a decent dress and shoes, and went off to apply for positions at the offices of about ten state agencies including the secretary of state and the attorney general. There was quite a fluster when I showed up at these places, résumé in hand, and announced my desire to be employed. I caused such a stir at the Office of the Secretary of State that Heber Ladner, the secretary himself, conducted my interview. As he went down a long list of duties and inquired as to whether I could do those things, and I assured him I could, he finally got to "Well, do you take shorthand?" I allowed as to how that was one thing I could not do. The relief on his face was palpable, and he began to return

to normal coloring as he exclaimed with great exuberance, “Well, EVERYBODY here takes shorthand!” And he most graciously and with much apparent relief concluded the interview.

This adventure brought me back to the Lawyers’ Committee for Civil Rights Under Law. We commenced the administrative process with the Equal Employment Opportunity Commission and progressed to class actions filed in federal district court. One of those cases landed in the courtroom of the infamous federal district court judge Harold Cox, and discovery finally got under way by the time I was a staff attorney in the Office of the Solicitor General of the State of Minnesota. Judge Cox had reached impressive heights of racist conduct by this time, resulting in the Lawyers’ Committee filing a massive and extensively documented motion to recuse on the basis of racial bias. Among the supporting evidence were a transcript from a hearing during which the Grand Dragon of the Ku Klux Klan was on the witness stand and Judge Cox complimented him for his “fine organization.” Another exhibit referenced Judge Cox subsequently receiving the “Man of the Year” award from the Klan. Judge Cox’s court reporter was remarkable. He always recorded exactly what Judge Cox said. This proved significant. Judge Cox used the term “nigras”—and that’s what got recorded. He didn’t hesitate to refer routinely to Robert Rubin, counsel to the Mississippi Civil Liberties Union, as “that Jew lawyer.” And that got recorded. There was the “Happy Slaves” mural in his courtroom over which a curtain was ultimately placed at the instigation of Frank Parker’s (chief counsel of the Lawyers’ Committee) objection to the Fifth Circuit Court of Appeals. And there was so much more. The voluminous record of racist behavior was overwhelming, but it wasn’t sufficient for the Fifth Circuit to spare all succeeding plaintiffs asserting their right to be free from racial bias and discrimination from the indignity and injustice of appearing before Harold Cox. When I eventually joined the Lawyers’ Committee in 1976 after waging a full-court press to get the staff position, I had to appear before Judge Cox representing plaintiffs asserting rights to full citizenship. It was always a bizarre experience. He took great pride in being regularly reversed by the Fifth Circuit, remarking jovially that the Fifth Circuit “has a big ole bat down there and I know they’re going to send this back!”

After graduating from law school in 1976, I joined the staff of the Office of the Solicitor General of the Minnesota Attorney General. I did so on the advice I received at a National Lawyers’ Guild Conference from Bob Howard, a civil rights lawyer in Chicago who would become my husband

twenty-nine years later. He told me first to learn how to “find my way to the courtroom” before “practicing” on people who were most in need of excellent lawyers. I commenced the job with the idea that I would spend two years learning how to “find my way to the courtroom” and then go to Mississippi as a staff attorney with the Lawyers’ Committee and teach that institution about lawyering in service to the community. I was still pissed about the Claiborne County thing. Fate smiled upon me. During a meandering conversation with a friend in Jackson, Mississippi, I learned that a staff attorney at the Lawyers’ Committee was planning to leave. I pursued the position with everything I had. Weeks passed. Well, I was not the first choice for the position, but I was the second. They were waiting to hear whether the offer to Candidate #1 was accepted. I called the next week; they were waiting to hear. I called every week for at least a month. Enough was enough. I called around and found out the name and phone number of Candidate #1 and a little something about him. I called him and explained that he was in my way, that it was obvious to me that he really didn’t want this job or he would have accepted it by now, and that I really did want this job, so please call Frank Parker and get out of my way. And that’s how I became a staff attorney at the Lawyers’ Committee for Civil Rights Under Law in the summer of 1978.

## **JACK DRAKE**

### **From Gardendale, Alabama**

My evolution from a boy growing up in an Alabama town with two stores and two service stations to an antiwar activist and civil rights lawyer took place over a critical six-year period in Alabama’s history. Except for a two-year period when my family lived in Pensacola, Florida, my childhood years were all spent in Gardendale, a small town seven miles north of Birmingham. My grade school and junior high education was in the Jefferson County schools in Gardendale, but I was able to attend Phillips High School in Birmingham, where I was elected student body president of my senior year.

I decided to become a lawyer at age eight or nine because I loved the television show *Perry Mason*. When I told my parents and grandparents that I wanted to be a lawyer, they were very supportive. None of them had graduated high school, so a college education and professional degree were exactly what they wanted for their children and grandchildren.