

Sandra Adickes: Upholding Diversity  
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In the summer of 1964, when I went to Mississippi as a volunteer teacher in a Freedom School, I had had no experience with a legal system, and did not anticipate any contact with the law while I was there. However, one evening in Palmers' Crossing, a suburb of Hattiesburg, I encountered a representative of Mississippi's legal system in Constable Wilmer Kitchens, a man much hated for his treatment of men and sexual harassment of women in the black community. I was accompanying a group of Freedom School students and college student volunteers to a Freedom School to hear a record album I had brought with me of black poets reading their own poetry. It was a beautiful evening; the ninety degree heat had abated as the sun began to set in the pink and purple sky, and we were anticipating a pleasant experience. Then we heard the crunch of car wheels on the road, and Constable Kitchens, his rifle in plain sight, was beside us. He stopped his car and called me over. His concern was the racial composition of the group: one of the volunteers, a Yale student, was black. He asked me. "Are you fucking them Niggers?"

I responded as he knew a white lady should: "No one, " I told him, " has ever used such language to me here. You have a dirty mouth and should be ashamed of using such language." Without a word, Kitchens drove away, and I rejoined the group. The Yale student who provoked Kitchens was Danny Parker, who is today known as Judge Barrington D. Parker of the Second District Appeals Court.

The six-week Freedom School session was a wonderful teaching experience for me, and a wonderful learning experience for my students, who were provided with a curriculum built around their own heritage and experience. They read books by black authors; they wrote essays, engaged in debates, acted in plays, and published a newsletter. Toward the end of the summer, some of the students decided to implement the newly passed Civil Rights Bill, and agreed they would go to the Hattiesburg library to ask for library cards. They asked me to accompany them; I agreed, and after classes on August 14<sup>th</sup>, six students and I took the bus to downtown Hattiesburg. Our appearance drew attention. Five girls and I wore denim skirts and blue denim shirts; the one boy wore a blue shirt blue denim jeans. As it was a very bright and hot day, I wore wraparound sunglasses.

The facts are known: the students' requests for library cards were denied; the police were summoned, and the library was closed "for inventory." The students and I went to have lunch at the Kress store; there I was denied service on the grounds that the wait staff had to serve "the colored," but not the whites that came in with them. Then we left the store, and I was arrested on a charge of vagrancy. In this, my second encounter with Mississippi's legal system, curiosity arose about my personal life. As we drove to the Hattiesburg jail, an officer addressed me as "You with the Liberace sunglasses," and asked me in language that was slightly less gross than Constable Kitchens' what I did and with whom I did it in my after hours. An hour after my arrest, members of the SNCC staff came to post bail of \$100 (which I later repaid), and I was released.

During the following week, while my students and I were having class under the trees outside the Baptist church that housed the Freedom School, a car drove up, parked, and a couple got out and came to meet me. They were Eleanor Jackson Piel,

who was on a week's volunteer service with the National Lawyer's Guild, and her husband, Gerard Piel, the publisher of *Scientific American* magazine, who was volunteering to serve as his wife's driver. Eleanor explained that she would act to have the charges against me and other volunteers who had been arrested when they led their students to get library cards, moved to federal court. Eleanor took statements from the six students I had accompanied and me. Before leaving Mississippi, Eleanor filed the removal papers in the office of the clerk of the federal court. (In May, 1968, Eleanor argued successfully for removal in the Fifth Circuit Court of Appeals. The charge was later dropped.)

Back in New York, I returned to teaching, trying to make my classes as rewarding to my students as my Palmers' Crossing classes were to those students. Meanwhile, Eleanor, who described herself as having "a lot in her soul" about the wrongs I had experienced, was searching for a legal remedy for them. She decided that a New York school teacher and a New York based corporation made a perfect law suit, and filed a complaint against Kress because the refusal to serve me violated my rights under the equal protection clause of the Fourteenth Amendment. A second cause of action, that my arrest for vagrancy was the product of a conspiracy between Kress employees and the police, was dismissed before trial on a motion for summary judgment

Reversal of the decision could be obtained only in the Supreme Court. Eleanor wanted to file a petition of certiorari. I was reluctant to go forward. The euphoria of the early sixties had been dispelled by events in the latter part of the decade: the assassination of Martin Luther King and Robert Kennedy within weeks of each other, urban uprisings, and a deepening involvement in the Vietnam war. The directed verdict and the denial of the appeal seemed an inevitable outcome in the circumstances: a solo practitioner representing a female school teacher arrested when she asked for service in the company of six African-American students opposing a prestigious law firm, I was therefore not hopeful that we would prevail in the Supreme Court, and I was concerned for court costs in the event of a negative decision.

However, Eleanor was a strong advocate for me even though I was not a strong advocate for myself. Eleanor was, as she described herself, "ferocious" in her determination to find a way to go forward. She turned to a friend who was interested in cases like mine, and he agreed to underwrite \$1000 if we lost, Eleanor asked the American Civil Liberties Union for assistance in mounting the petition for certiorari, and an ACLU lawyer, Melvin Wulf, provided Eleanor with invaluable assistance, as well as funds for printing costs.

Eleanor argued the case before the Supreme Court on November 12, 1969. Understandably nervous that morning, Eleanor decided to do some last-minute research in the Court's library. I was in the Court when the case was argued, and I remember the throb of excitement on the bench when Eleanor cited Judge Wisdom's opinion in *United States v. the City of Jackson*: "We again take judicial notice that the state of Mississippi has a steel-hard, inflexible, undeviating official policy in its laws. It is rooted in custom. The Jackson police add muscle, bone, and sinew to the signs." The citation moved Justice Marshall to ask Eleanor where he could find the citation in her brief. When Eleanor responded that the citation was not in her brief because she had found it just that morning, Marshall sent his clerk to get the decision, and repeated the words I have also found memorable: "muscle, bone, and sinew."

The decision that came in June, 1970 gave Eleanor more than she had anticipated, for not only did the decision reverse the directed verdict on the Fourteenth Amendment, but also reversed the summary judgment on conspiracy. Eleanor believes that the Burger Court "stretched itself" with respect to the case; that the Court had become caught up in the spirit of progress born in the seventies and sought to reach a judgment that protected the rights of the individual.

The success of the civil rights movement brought progress in diversity, as evidenced by changes in Mississippi. Justice in Mississippi was advancing through a combination of integrated juries and a new generation of district attorneys committed to redressing past wrongs. Byron de la Beckwith had been tried twice in 1964 for the June 1963 murder of NAACP leader Medgar Evers. Two all-white juries had acquitted him, but in 1998, Assistant District Attorney Bobby DeLaughter reopened the case, and with new evidence and new witnesses, obtained a conviction from a jury consisting of four whites and eight blacks. De la Beckwith was sentenced to life in prison, where he died in June 2001.

In January 1996, two carloads of Ku Klux Klansmen had driven to the home of Hattiesburg's leading activist, Vernon Dahmer, and firebombed his house. Dahmer fired a shotgun against his attackers to allow his wife and children to escape, but he died the next day from smoke inhalation. Forrest County District Attorney James K. Dukes brought Sam Bowers, the Klan's Imperial Wizard, to trial four times for planning Dahmer's murder, but failed to get a conviction. In 1998, Forrest County District Attorney Bob Helfrich became convinced that prosecution of Sam Bowers must begin again for the crime, on the grounds that "it was a sore on our past that needed to be cleansed." In his prosecution of Bowers, Helfrich had the benefit of access to FBI files and the testimony of four FBI agents who returned to Hattiesburg to testify. The jurors, male and female, white and black, convicted Bowers, who was sentenced to life in Parchman Prison. Until De la Beckwith's death, Bowers was one cell away from him.

That diversity is thriving in Mississippi is evident in the changes in the lives of the people of Hattiesburg. While she was alive, I regularly called Mrs. Addie Mae Jackson, the woman with whom I had boarded in 1964. In one conversation during the 80s, she said, "Used to be only the white man got the job. Now, if you got the skill, you get the job. Not even Reagan can make that go away." When I last visited in 2004, Hattiesburg had gone through a period of growth, with new and expanded businesses, more job opportunities, and new homes. The library where my student had been denied library cards, had been replaced by a large, elegant building with an integrated staff, The police force, the public schools, and the University of Southern Mississippi were integrated. My Freedom Schools students had gone on to higher education and established careers.

As strong an advocate for diversity as ever, Eleanor remains in legal practice, maintaining her zest for what has been termed her "patchwork caseload." Her clients have included Nobel Prize winner Linus Pauling, a Vassar professor denied tenure, and most challenging of all, the Death Row Brothers, for whom Eleanor worked for five years to save these men from execution for a murder they did not commit.

Eleanor views my case as a "watershed case." However, we agree that the Supreme Court as it now stands would not reverse our summary judgment, for the Court now clearly values the corporation over the individual, which leads to the diminishing of diversity. The success of my case has made me feel a stake in subsequent decisions;

thus, I was greatly disappointed by a recent ruling that invalidated programs to promote diversity in the schools of Seattle and Louisville, Kentucky. The current Court's spirit is in keeping with a drive to marginalize minority populations. Studies of the impact in high schools of high stakes testing have revealed increased dropout rates. Moreover, the studies have revealed that disaggregation of student scores by race does not lead to greater equity, but in fact it hurts the most vulnerable youth: the poor, the English language learners, and African American and Latino children at risk of being pushed out of schools just so school ratings can show "measurable improvement."

Diversity has many wily, wealthy, and powerful opponents who have been instrumental in transforming our country in the past seven years. However, the good news is that a yearning for a shift in our country's direction is palpable and widespread. The increase of interest in the fall elections is one sign. Another sign I have witnessed is the organization of young people who are working to extend the goals of the 1960's civil rights struggle to other marginalized people. Along with other veterans of the civil rights movement, I have participated in panel discussions sponsored by the Ella Baker Tour. We address students in undergraduate and graduate schools around the country who want our advice and support for their efforts to challenge negative attitudes and practices against people of color, as well as gays, lesbians, bi- and transsexuals. Responses from the groups we have addressed have been most enthusiastic, and I am delighted to be of use to a new generation. The movement to end isolation and expand diversity has many supporters—certainly lawyers with Eleanor Piel's ferocity.