

SS021.mp3

David Yellin- In spite of what you may have heard, this is tape 2, this is tape 2 of Walter Bailey. Ask that again would you Joan.

Joan Beifuss- Okay didn't the SCLC staff have a lawyer who traveled with them?

Walter Bailey- Well, yes.

Bill Thomas- Was it not Chauncey Eskridge.

Walter Bailey- Eskridge. Yeah, he I understand does travel with SCLC wherever they go, however, he wasn't there at the time me and (Muffled), and if he had been the leader of the defense would have represented Dr. King on the injunction hearing. Jut like there is one of the staff member in Washington advising them on the lead defense in relation to the poor peoples camping out.

Bill Thomas- You did say earlier and they want to get this on record that it would have been natural for your firm to represent king because you are on a retainer.

Walter Bailey- Yeah, by the legal defense fund. That Dr. King looks to for representation.

Bill Thomas- You were here.

Walter Bailey- We were here, so there was no use sending anybody from New York.

David Yellin- So there never was a question to how much you were going to get paid or any of these little gruesome details that you...

Walter Bailey- No, no, no. They could pretty much just order us. Which is what they did.

Bill Thomas- This would not have applied to the other (muffled).

Walter Bailey- No, no no, Bert? Did it and didn't get a nickel for it. He did it purely gratuitously.

David Yellin- He never made anything about it?

Walter Bailey- Never sent a bill, never one of them.

David Yellin- Out of the country now. I don't know what he is hunting will boar at the bottom of the sea or something. Well after you left Dr. King's room did you go down to the court to get the injunction? Or to...

Walter Bailey- We went down to court that afternoon and had a meeting with Judge Bailey Brown who of course was the one who issued the injunction. Who is undoubtedly out of Lucius Birch's law firm.

David Yellin- Yes.

Walter Bailey- So we had a meeting with him in

David Yellin- chambers with the city attorneys. It was generally understood that something could be worked out where sufficient guidelines could be structured where the march could be allowed.

Joan Beifuss- What kind of guidelines were they talking about? Only a certain amount of people marching oppressed down the street, or that time of thing.

Walter Bailey- With adequate supervision or martially.

David Yellin- It was agreed including the city lawyers?

Walter Bailey- Well they didn't want to put themselves on the spot by agreeing, they wanted to be sort of compelled by the court, and they went cow tow.

David Yellin- I see.

Joan Beifuss- The legal thing about outsiders coming in and marching would that have held up?

Walter Bailey- I doubt it very seriously because you can't leave out what is known as indispensable part, in order to obtain diversity of jurisdiction and that is exactly what the city did. They left out the local leaders so they could go in federal court. In order to obtain, in order for the federal court to have diversity of jurisdiction.

David Yellin- So in a sense it was kind of an illegal bill.

Walter Bailey- Yeah , yeah but we winked at it because we wanted to be in federal court too as opposed to one of the local state courts. (Laughs)

David Yellin- I see. Yeah that is a good place to wink.

Walter Bailey- Yeah everybody was happy after (muffled). (Laughs)

David Yellin- I could have told you that Dr. Bailey Brown is a great Gilbert and Sullivan enthusiast, always had then on a radio show. Get a son for him. But that is a little bit of incidental information for history. Well now that night you spent a long time and what was the main problem there at night?

Walter Bailey- Well we were looking for, mainly we placed emphasis or accentuated defense. We were concerned on how we could defeat the injunction in the event that we could not as reasonable men sit and agree. So the whole legal research effort was directed towards defeating the injunction.

David Yellin- And did you feel you had a good case.

Walter Bailey- I felt we had a very good case.

David Yellin- Then what happened the very next day?

Walter Bailey- The next day we..

David Yellin- Of course you went home then around 3 and then you got up.

Walter Bailey- Went home, then we got up.

David Yellin- Early? 6, 7, 8?

Walter Bailey- No.

David Yellin- Again I am trying to get a picture you didn't sleep very much that next day either.

Walter Bailey- No, no I didn't. I got up pretty early though. Incidentally I made a couple suggestions in relationship to defeating the injunction, and intercepted by lawyers.

David Yellin- You were the youngest lawyer there.

Walter Bailey- Yeah, and I suggested, I came up with this notion about not being, about the fact that the city couldn't leave out the responsible parties to defeat diversity. That was the bearing that we pretty much proceeded on in our defense. Now the next morning, we met over at the federal court and we had the hearing on the injunction. Jim Lawson and this young fellow from the SCLC, I don't recall his name right off hand. Young?

Joan Beifuss- Andrew Young.

David Yellin- Andrew Young.

Walter Bailey- Andy Young represented SCLC and Jim Lawson also represented SCLC. And he set up a spokesman, in addition to SCLC, as a spokesman for COME, which is the community on the move for equality. So the next day we had the federal court proceeding and everyone understood the judge would allow the march but under reasonable conditions. And that was the end of my feeling of attitude.

David Yellin- Could you say that when Martin Luther King announced sort of publicly and semi-privately that he was going to march, he wasn't bragging, he almost had legal advice that it would be allowed.

Walter Bailey- Well, no. He would not. He wasn't sure. We never assured him that the march would be allowed on a legal basis.

David Yellin- I see. You acted as lawyers didn't you, you didn't tell...

He felt, his whole approach was that my conscious moves me to march and I am going to march. I think that I am doing the right thing and I will go to jail if necessary if that is the consequences.

David Yellin- So this was more in line with his philosophy rather than your legal...

Walter Bailey- That's right it wasn't a matter of strategy, he didn't do it, we gave him no assurance, as a matter of fact we never mentioned the possibility of the court lifting the injunction of allowing the march, with reasonable conditions. His whole attitude was that this is what I feel I must do and I am going to do it and these lawyers will just have to get me out of jail.

David Yellin- Ok so then the next morning you met then at the court?

Walter Bailey- The next morning we met at the court and had the injunction hearing, we didn't see Dr. King that day at all. We were tied up in court all that day.

Joan Beifuss- Now was Chauncey Eskridge here then?

Walter Bailey- He came in about 10 I guess and sat at council's table with us. Of course Jim Lawson testified at the injunction hearing and so did Andy Young. The court was imminently impressed with Andy Young.

David Yellin- Now on a situation like this the testimony and so on, are there any sources that have transcripts of this?

Walter Bailey- Yes, yes, there is a federal court reporter...

David Yellin- Now how can those be gotten?

Walter Bailey- Well, I suggest that you speak with the judge.

Walter Bailey- With Judge Brown?

Walter Bailey- You can probably would have to pay a fee for a court reporter to type up a transcript but it can be obtained in that fashion.

David Yellin- It's legal to obtain it?

Walter Bailey- As a matter of fact, either one of us lawyers ...

Walter Bailey- Could order it and we could pay you for it?

Walter Bailey- Yeah.

David Yellin- Because we think for the records, for the archives, this...

Walter Bailey- But I suggest you do it directly.

David Yellin- Yes sir, fine.

Walter Bailey- I am sure Bailey Brown will be happy to...

Bill Thomas- What is that some thing, 10 cents a page or?

Walter Bailey- Oh no, it runs about 89 cents a page.

David Yellin- How much?

Walter Bailey- About 89 cents per page.

David Yellin- Maybe we won't do it. Maybe we will ask...

Joan Beifuss- We need a legal defense fund.

Bill Thomas- That was a long hearing wasn't it.

Walter Bailey- No, no it was relatively short in view of the length of ordinary court proceedings. It's just a day, so it won't be that expensive.

David Yellin- Fine, ok. SO you stayed in court most of the day?

Walter Bailey- We stayed in court all day?

David Yellin- And that took you all day and did what until what hour?

Walter Bailey- I guess until about 3.

David Yellin- And then what did you do?

Walter Bailey- Then we...

Bill Thomas- Now this is on Thursday April 4th?

David Yellin- April 4th.

Walter Bailey- Then we met with the court, we met with the court in chambers at 4 o'clock I believe it was.

David Yellin- 4 o'clock.

Walter Bailey- Yes, if I can recall if I don't have my events..

Joan Beifuss- Is this still all of you, all 6 of you?

Walter Bailey- Yes.

David Yellin- All 6 stayed with it all, you all wanted to be there, nobody wanted to leave?

Walter Bailey- Yeah.

David Yellin- Wouldn't you stay that that is it? Now why were all 6 of you there, because you wanted to be not because you were needed?

Walter Bailey- Well, I think Lucius Birch felt that this was the type of representation that Dr. King needed, I mean...

Joan Beifuss- Who were the city lawyers do you know?

Walter Bailey- Do what?

Joan Beifuss- Who were the city lawyers?

Walter Bailey- Yes, Joe Canale, and Gianatti. Him and the staff and a couple other guys, the names may come to me in a moment, I can't think of them right away.

David Yellin- Any transcript their names would be..

Walter Bailey- Oh yes, yes, yes. As a matter of fact I have forgotten the name of the leading city lawyer. I mean the guy who carried the law for the city.

David Yellin- Ok, then you met with the judge at 4 o'clock.

Walter Bailey- As a matter of fact, the judge made some comment too, he made a comment to the effect, do all you lawyers have to come in?

David Yellin- Yes, I would think so.

Walter Bailey- (Laughs) He was talking about all the city lawyers and all the...

David Yellin- You met in his chambers.

Bill Thomas- Of course all the lawyers said, yeah.

David Yellin- Ok and now how long, do you mind my asking what happened in that meeting.

Walter Bailey- It of course spelled out the guidelines for the march. Of course then they went ahead and told us what the court had ordered for the draft.

David Yellin- Now to be clear.

Walter Bailey- Not to make any announcements to the press.

David Yellin- They were about to lift the injunction if certain restrictions were agreed to.

Walter Bailey- Well, technically the injunction wasn't to be lifted, it was to be modified to allow the march under reasonable conditions. If you lift the injunction you can just dissolve it.

Joan Beifuss- What were some of the conditions?

Walter Bailey- I think it was 5 arrests and so much faces in some of the marches, and the SCLC was to marshal the march and conduct the march, nobody by SCLC.

Joan Beifuss- Not of the (Muffled)

Walter Bailey- SCLC had that responsibility because they, under the optimism of being expertise and professional at that task.

David Yellin- But if they thought it necessary to deputize certain people they could do it.

Walter Bailey- I don't mean the personnel necessarily had to...I mean they were supervisors.

David Yellin- Therefore the COME people could be involved in it.

Walter Bailey- Yes that is right.

Bill Thomas- Why was the request made not to notify the press?

Walter Bailey- The court suggested that nothing that was said in the meeting need to be released to the press.

David Yellin- Would that mean that they were going to release it?

Walter Bailey- Well, I think the court had, well after the court gave the order, or issued the order allowing the march on certain conditions, then the order was to be filed that next morning.

David Yellin- And it was only when it was filed that the press could get hold of it.

Walter Bailey- That's right. I may be off on my sequences of my events.

David Yellin- But you are pretty certain that it was not to be released before that night.

Walter Bailey- Yeah I am positive of that, it was not to be released until the court, until it could be filed.

David Yellin- And it couldn't be filed that day because it was closed.

Walter Bailey- Not only that the court had to have time to draft it. I think we drafted it and then submitted it to the court. Lawyer of course did the drafting.

David Yellin- Did you draft it?

Walter Bailey- No I didn't personally.

David Yellin- I mean who did then?

Walter Bailey- I don't recall that to be honest.

David Yellin- Would that have been a combination of the city and your group?

Walter Bailey- We would have to agree that this is what the court ruled.

David Yellin- I see the two of you both sides.

Walter Bailey- And have a provision on every order where it says okay and the lawyer signs from both sides where it says okay.

David Yellin- So that at 4 o'clock or so, and this is where you say you may be off on the timing, somewhere late that afternoon the court said you guys go and draw it and give it to me and if I think it is ok we will file it. So it, this then took place after, did that mean that whoever would have been drafting it was at work from 4 till 6 or so.

Walter Bailey- Sometime between, I think it was made from court's lawyer to be signed. The court may have done this on their own though, I am not exactly sure whether at this point it is my own recollection or my own knowledge of how these things are done here.

Bill Thomas- Well will this be reflected in the transcript?

Walter Bailey- Yeah. You have all that history in the transcript.

David Yellin- Alright now, therefore, can you recall then what you did and where you were when you heard the news of Dr. King?

Walter Bailey- Well after we left the injunction hearing, incidentally the whole theme of the defense was you allow the march for two reasons. Number 1 you allow it because it was a catharsis for the emotions of the negro, of the black people in the community at this stage in the ball game. The march will go on, there will be a march and that testimony was very emphatically brought out during the course of that hearing. That hearing had a lot of history in it in terms of what would happen and Dr. King's philosophy and all...

David Yellin- Therefore, that is why Andrew Young was there.

Walter Bailey- Oh yeah, Andrew Young.

Bill Thomas- What part of this of would Frank Holloman disagreed?

Walter Bailey- No, no. The police officers, Birch conducted the proceeding more or less from the defense point of view. The question was, I mean the questions were all cross examinations pretty much. Would you rather have Dr. King leading a march down main street, Ratt Brown and some of his supporters.

David Yellin- That is kind of loading it isn't it?

(Laughs)

Walter Bailey- Everybody said, well we would rather not have a march, but if there must be a march we would rather have it led by Dr, King. And they understood That there would be a march because the local people had not been enjoying it. And of course, Jim Lawson and everybody testified that there would be a march. It was just a question of...

Bill Thomas- They would march.

Walter Bailey- Yeah, yeah. So if you join Dr. King and SCLC people who were professional at this and could pretty much insure a peaceful march, then it's going to be led by some other element in the community. That was the whole theme of that injunction hearing from the defense point of view. Lucius Birch introduced an article in the court for the hearing and I wouldn't purchase or suggest that it be used, Introduced a article that was in one of the national magazines, I believe it was either Life or Look when Dr. King was talking about non-violence must be put to the test now and see if it can...

David Yellin- I think it was Look.

Walter Bailey- Was it Look?

David Yellin- Right about that time.

Walter Bailey- Well he introduced that article in as also corroborating the defense's point of view of Dr. King's attitude at marches in terms of being peaceful. And John Spencer also testified at my suggestion, using that attitude in the black community that there was such. There will be march. Now who will lead the march. Again we got to that question. So of course the answer was Dr. King. And they will stay safe.

David Yellin- Let me just throw a little thing extra. Was there any talk among you lawyers, that suppose this had been in front of Judge Boyd, or something of this kind?

Walter Bailey- When did you use Judge Boyd as the all time, but we did throw another name into the purpose of discussion.

David Yellin- And there might have been a difference?

Walter Bailey- Well we sort of, we weren't necessarily under the impression that there may be a difference as much as we were under the impression that we better go ahead and let Bailey Brown make a frown determination of it, whoever gets it. We can more predict what course Judge Bailey Brown would follow.

David Yellin- Ok then what happened to you?

Walter Bailey- Well that afternoon after the wimpy hearing, I went to Piccadilly's and ate dinner. Then I went by and stopped by the liquor store, to get myself a half pint of scotch and that's when I heard over the radio that Dr. King had been shot, in the liquor store and I was just shocked.

Bill Thomas- What was the reaction in the store?

Walter Bailey- One person in the store, store keeper there, and his reaction was one of bewilderment.

David Yellin- Was he a negro?

Walter Bailey- He was in a state of quandary too I guess. I was just (muffled) at that point. I just couldn't believe it, it was incredible.

Bill Thomas- So as soon as you got home...

Walter Bailey- No I went to my office and I turned on my radio and tried to keep up with the news in terms of the developments in relationship to his recovery.

Joan Beifuss- Was anyone else in your office?

Walter Bailey- Yes, Irving Softly was in my office, I believe that was all Irving Softly, only two there.

David Yellin- Then you found out.

Walter Bailey- I heard the news reports that he was wounded very seriously. I was hoping that the word very seriously mean that there would be great potential as far as recovery. I was soon thinking ahead in relationship to his recovery. Well how long will it be until he gets back out there and (Muffled) That was my thinking. I guess I was laboring among my own illusion. Not thinking of reality.

David Yellin- Because here you were part of this thing and suddenly now it was taken away from you.

Walter Bailey- And Birch felt the same way because he expressed that very same thing that you pointed out here the next morning.

David Yellin- Then did you do anything?

Walter Bailey- I got a call from Jack Greenberg who is head of the legal defense fund out of New York. He called me and he asked me, he wanted to know what the status of Dr. King's health was at the time. When he called, which was about 8 o'clock if I can remember. And I believe Irving Sawkey came to me and said I just heard he was dead. I think this is when the staff doctors came out and made an announcement that he was dead. And in that connection I literally cried.

David Yellin- Did you?

Walter Bailey- I was overcome, I didn't even cry when my own grandfather passed, but I literally cried. On the phone I was talking to Jack Greenberg when he told me he was dead and then I turned up the radio and I heard that he was dead. I just couldn't believe it, it was incredible. I was really in a quandary at that point you know. It sounds utterly impossible, but of course it had happened.

David Yellin- It was more than a death in a sense it was a upheaval of a whole society.

Walter Bailey- I had flashbacks of the humility at which he extended his hand to shake his hand, and how he said oh yes when he met Lucius, and how we sat on his bed and he sat directly in the chair across from us. Also, I had seen him on the first

march because after the first march I just recalled this, when he was staying up and the Rivermont Hotel. I went up there with Otis Higgs, and to talk with A.W. and a young short fellow had been the forefront of the labor movement.

David Yellin- Champa?

Walter Bailey- The one leading, involving the hospital situation.

David Yellin- Oh Lacy Epps.

Walter Bailey- Epps, I got to talk to Epps too and then that first march to hand out financial arrangements on the representation of those people. Dr. King was up there. He was in another room though, and he was lying on the bed with a suit on talking on the phone.

David Yellin- Fully dressed you mean, jacket and..

Walter Bailey- Yeah, lying on his bad and he had his head to a receiver.

David Yellin- This was after the march was broken up.

Walter Bailey- Yes, the first march. I remember that picture very well.

David Yellin- Well this can take us to back again to the 28th. That is the mini riot, disorder so on. That is when you represented some of his...

Walter Bailey- Oh here is another thing. When Dr. King was shot, well after I had gotten partially over the tremendous grief that I experienced. I went home and I call from Reverend (undeterminable) from the office informing me that two white law students who I believe one was from Tulane and the other from University of North Carolina. We had at that time I think 6 or 8 law students here, working on the opus of the law student civil rights research council, over which my brother directs. They were here to conduct an investigation into this whole business of police brutality. Two of the law students, well they were staying down here at the Linden Lodge. They were the two first, they were the two persons who were first arrested in connection with Dr. King's assassination which I thought was quite ironical.

Bill Thomas- We talked to Mrs. Smith and she mentioned that she couldn't remember their names. Do you remember their names?

Walter Bailey- I have their names at my office.

David Yellin- Can we call you on that?

Walter Bailey- Yeah.

David Yellin- And Irving Saulky.

Walter Bailey- Yeah, he talked to them and then he called me. So then I immediately left my home and to go out to a police station to get them out. When I got down

there I talked to the captain at the desk and informed him that he had the wrong two men and he had better exert his energy in a more constructive channel.

David Yellin- You did it that politely of course.

Walter Bailey- Yes, but I didn't use that terminology. Anyway...

David Yellin- Just to refresh me, on what basis did they arrest these two?

Walter Bailey- Well I was about to get to that. He told me that he saw that somebody, now I asked him I said, what are you, these guys are law students and I told them what organization and where they were from. He knew nothing of what they were here for and that they were just staying in the garage. He said well, we know who they are and we understand that, but I tell you what you do, nothing is going to happen we just want to finish checking things out and as soon as we do we are going to release them. Then he went on to say, I said something like, why did you arrest them anyway? He said, well somebody said that he saw one of them changing clothes behind some bushes I believe he said.

Joan Beifuss- Did you talk to them yourself?

Walter Bailey- No, I did not at that time. Number one, the main reason being, there were a group of press photographers in the corridor, and I remember experiencing the reverend when he was talking Reverend Blackburn in jail one of the press photographers opened the door rapidly and took a picture and got a few of them, a lawyer conferring with their client. So I didn't want them to get that kind of adverse exposure. So that's why I didn't confer with them or ask the police officer if I could confer...

David Yellin- But how could you be sure that they would do this, the police?

Walter Bailey- Well being, I have established a pretty good repore in dealing with because I have to come in contact with them..

David Yellin- Which captain was this do you recall?

Walter Bailey- Not by name, but I know him when I see him. He assured me that they would be released after they finished checking things out. And he did. And I told him to see that they get to the hotel safely.

Bill Thomas- You remember, what the situation was at the police station.

Walter Bailey- Yes I most certainly do, it had a very dramatic impression on me. When I got to the police station there was a guy, one detective, who knew me by name, because when I walked out he said, hey Bailey. I said hi, and go on by. He was standing right there in front of the door with a shotgun, or a sub machine gun or whatever you are and a helmet on. I went by him, and after I got by him and got into the first corridor of the police station, from the first floor, the lobby floor. I saw a squadron of police officers in the line proceeding out, going out the side door there

to get into cars I would imagine. (Muffled) So they were running out to get in the car and they had gas masks, and other items of destruction.

Bill Thomas- Things felt tense then?

Walter Bailey- Yeah, very tense, very tense.

David Yellin- This was what about 8 or 9 o'clock or something?

Walter Bailey- Yeah, yeah.

David Yellin- Did you have any trouble getting through the city?

Walter Bailey- Not at all, as a matter of fact I met Holloman in the hall, was that the same night? I believe it was. I am not sure I believe it was though. I met Holloman but I can't recall exactly when I met him though, I am not exactly sure of that. I do recall having met him at one given time or another he told me, he said, hi. I said, hi. He said, we walked I guess about 25 feet and he turned and he said, oh yes, if you are having any problem in relation to the curfew and just let me know if my men don't treat you right, you just let me know. And then I didn't say anything. I didn't respond, I just turned and walked away.

David Yellin- They call you Bailey?

Walter Bailey- Yes.

David Yellin- Does anybody call you Mr. Bailey?

Walter Bailey- Holloman has.

David Yellin- So this Bailey thing is like you might call me Yellin or something?

Walter Bailey- Well, I think it was more or less an age factor. Because I know a lot of my clients call me Bailey. Really I am not fond of that.

David Yellin- Why don't they call you Walter?

Walter Bailey- I don't know maybe that is a compromise.

(Laughs)

David Yellin- So we will call you Walter Bailey.

Walter Bailey- I guess that, you know they were a resident in court, they do call me Mr. Bailey. Holloman has called me Mr. Bailey on several occasions.

David Yellin- Is your brother an attorney. He is in the process of taking the California Bar. He graduated from Yale law school about a year ago. He is running this mistrial? Organization.

Bill Thomas- Where is the headquarters for that?

Walter Bailey- New York.

Bill Thomas- That's where, it was under there (muffled)

Walter Bailey- As a matter of fact we had one fellow in our office this summer from Berkeley. See what the organization does is they assign law students throughout the country.

David Yellin- I had a cousin whom I have never met was down here about 3 years ago, about 4 years ago, the first summer we came and I didn't know it. Of course, must be a brilliant kid because he was on that Columbia thing, of the 5 people who were in Columbia school. His dean was selected, he went to teach. His dean was elected and when he couldn't go down he sent him down. But he was located in Memphis and we never knew it that first summer it was the Philadelphia thing and so on. It was quite a summer. Well do you think there is anything we want to know about any of the violence, any of the cases of people arrested on the.

Bill Thomas- I don't know unless something really stands out.

Walter Bailey- And I think something does stand out to me and that is, I don't want to pass t his. During my representation of the people after the King assassination, when they first held the two court proceedings. The first city court proceeding after the King's assassination, I had the occasion to represent about three persons directly and about six indirectly. By indirectly I mean I just happened to be out at the courthouse and I was asked to represent them. And I started taking the attitude that of course we would only represent people only on a basis that (Muffled from loud sound)

Bill Thomas- The train is passing for history.

David Yellin- Yes a train, it is one of those large vehicles that go on a track.

Walter Bailey- And I was just heart bite to learn of the people who had been beaten by police officers. And I started to notice that almost everybody who had been arrested had some marks about the person. Macing or hit them, bandage around the head, just there was blood on his shirt or something of the sort where he was in jail over night and brought up the next day. And one of the things that was glaringly apparent to me was the fact that I saw no police officers bandaged who had arrested those persons. Which indicated that it was a one way sort of thing. Contrary and contradictory to some of the things that some of the other people have said.

Bill Thomas- Has there been any talk among the attorneys of the fact that the policemen during this time did not wear name plates?

Walter Bailey- Well, the explanation as I understand it from Holloman, is because they could use it.

David Yellin- That is a beautiful one.

Walter Bailey- They didn't want to get themselves stuck with them if they had they badges they nobody could use them as a weapon and gouge police officers with them.

David Yellin- Of course somebody said that they are about guns. You said something the other night too, that I think should be repeated, and maybe if possible explained. You said you knew of a law firm where a junior member brought in a case to defend a looter and one of the senior partners told...

Walter Bailey- One of the partners told him he couldn't represent him. But I don't know the name of the law firm now.

David Yellin- Also, I think, but this did happen.

Walter Bailey- It did, it did occur.

David Yellin- It happened not because...

David Yellin- Tell hwy it did happen, I don't want to say, you say it.

Walter Bailey- It happened solely because most of the law firms here, as a matter of fact I dare say 95% of the prefer very inextricably identified, inextricably interwoven with the status quo if you can find that in Memphis. Of course then they don't want to get themselves involved in anything of controversy that would appear to have any opposition to the status quo.

David Yellin- And I think at the same time, Walter, if you don't mind, tell a little about the lawyers here.

Walter Bailey- The lawyers here are extraordinarily conservative, and they are not civil liberties conscious as such. As a matter of fact, I knew the moment there was a civil outbreak that our firm would be right in the thick of the thick and other lawyers wouldn't be handling those matters and it turned out to be proven true. Most lawyers, most lawyers want to be nice guys and they want to keep themselves identified as a nice guy and a part of the status quo. Some status or some membership (muffled) some Memphis country club, or some other club. He wants to be the typical country club type lawyer and conduct a practice with reasonable discomfort and maximum comfort, comfort. Pleasure-pain type.

Joan Beifuss- Are there many negro lawyers?

Walter Bailey- About 12.

Joan Beifuss- Out of how many lawyers?

Walter Bailey- 800.

Joan Beifuss- Geez.

David Yellin- Let's see in your firm 3? 3?

Walter Bailey- 4.

David Yellin- 4. 4 negros.

David Yellin- 4 negros, yes.

Joan Beifuss- You all better spread out a little.

David Yellin- And the other 8 where are they?

Walter Bailey- Two are (muffled) and George Brown. Lockard, and Swearingear?, and then Patterson and Truehall. Al Murphy one of the later lawyers.

Bill Thomas- And the Bar association what is your relationship there?

Walter Bailey- Well I am a member of the Bar association, although I haven't paid my 68' dues.

David Yellin- Watch that.

Walter Bailey- The reason being I just, I guess I just deliberately haven't paid them, which I guess I should get out if I take that attitude about it but I just take a nonchalant attitude about it.

David Yellin- Are Mr. Willis and Mr. Sugarman members?

Walter Bailey- No.

David Yellin- And they didn't mind you joining?

Walter Bailey- No.

David Yellin- Why did you join?

Walter Bailey- Well I joined because, stupid question.

David Yellin- You don't have to answer it but you better.

Walter Bailey- I joined because I thought that maybe I should hold a membership in the local Bar Association because I wanted to be very professional in my approach to my legal problems. I thought that as a matter culls one should be a maybe of one's Bar Association. After I became a member, I wrote the president about a year ago, I forget his name, whoever was president back then, I couldn't recall if I dared try to. I wrote him and suggested to him that lawyers should use more professionalism towards negros, in court. They should address the head of class at least with Mrs. And Miss, and not just John Mary Suzabeth.

David Yellin- Do they still do that?

Walter Bailey- Yeah.

David Yellin- Lawyers did do that?

Walter Bailey- Yeah lawyers still do that on a large percentage except young lawyers. Young lawyers have pretty much gotten away from it. And if a negro attorney represents a client they pretty much address, we say better do it to my client because I will call attention to or embarrass the lawyer and express my resentment and come across pretty forcibly in my protest. So I don't have that problem really. As a matter of fact I have one of the most conservative members of the Bar lawsuit that I was involved in for the last 10 days from Wednesday of last week addressed my client, and I knew what a habitual alcoholic, throughout he proceeding which I knew he begrudgingly did.

David Yellin- What is your, and you understand, we don't mean to be embarrassing or anything, what is your relationship with the negro community as a lawyer first off. Are you looked on with suspicion, are you considered kind of above. Somehow the question has some validity but I didn't frame it right.

Walter Bailey- Well, I would dare say that my relationship with the negro community in my role as a lawyer is pretty much analogous with your relationship to the Memphis community as a doctor.

David Yellin- I mean are you given special distinction, I mean because you are a lawyer.

Walter Bailey- Well among lay people.

David Yellin- That's what I meant among...What is.....

Walter Bailey- At times I am embarrassed because people want to make a big thing about it.

David Yellin- I mean you are looked on with kind of special...

Walter Bailey- Which I resent, I detest..

David Yellin- You not only went to college but you went beyond college which is kind of (muffled).

Walter Bailey- I think that is beside the point though, I don't think that anyone deserves special recognition as such to the point where he is almost reverent.

Joan Beifuss- Let me ask you something about the small number of negro lawyers. Can negroes in Memphis than get proper legal representation if a number of law firms are not interested in these cases?

Walter Bailey- What do you mean when you say proper representation?

Joan Beifuss- Well, if there are some people...

Walter Bailey- You mean first class representation?

Joan Beifuss- Yeah.

Walter Bailey- In terms of the lawyers ability to master the subject matter and influence and persuade a jury to win a verdict, a favorable verdict.

Joan Beifuss- Do they get a fair shake in the court system?

Walter Bailey- Well, it would help to be on the part of the judges and juries because these are the people that hold the power of determining the outcome of the lawsuit.

Joan Beifuss- You don't think the way a lawyer presents the case determines a great deal of it.

Walter Bailey- Yes, the individual lawyer but I thought you...the white lawyers...well no lawyer...well I guess a lawyer does play a factor in terms of the outcome in the lawsuit the opponent does, in the matter in which he presents his side of the law suit.

David Yellin- Not only in law suits but in criminal cases.

Walter Bailey- I am glad you mentioned criminal cases I had a, maybe I shouldn't say that, I had a guy who was tried with rape about a month ago about 2 and a half months ago. And there were two eye witness identifications, two girls identified him. Maybe I shouldn't tell this, I will have bad luck next time I have one.

David Yellin- We won't tell anybody.

Walter Bailey- I am just talking about maybe not bragging about it, so I don't have misfortune in my next case.

David Yellin- Now you can't turn back you know that. I mean you have all the ingredients, rape and victory. (Laughs)

Walter Bailey- But anyway they had two prosecutor who were very good. I think they are the best team of prosecutors in Shelby County, which of course enhances my victory. (Laughs)

Bill Thomas- Keep going further and further.

David Yellin- To be continued next week.

Walter Bailey- But anyway in spite of the eye witness identification there was two persons (muffled) I got my man acquitted which was extraordinary for having two people...

David Yellin- Identify him.

Walter Bailey- Identify him, and being the man who raped them I don't think you can get that identification in there.

David Yellin- They were the principles in the...How did you do it?

Walter Bailey- Well on detail. I went out and got 6 statements and what have you. And I am going to have (muffled).

David Yellin- I see, well I think the Carey Jones point, obviously you 12 lawyers can't handle all the negro cases. It is just a matter of numbers. There were several hundred thousand people potentially involved, just as if there were 12 white lawyers. So what does a negro do, he gets a white lawyer. I think what Joan is saying is do you think the white lawyers try as hard by and large?

Walter Bailey- I think lawyers do because most lawyers are like me, at least I know the better lawyers are like me. In this respect, we take our business very personal basis in terms of, when I try a lawsuit my reputation is an issue. In terms of my ability, just like an artist when he paints a picture I want to ratify myself that I have been successful. I don't care who the person is I am representing, I mean the person can be a secondary, it's my ego I am satisfying with a victory.

David Yellin- So nobody likes to lose in that case?

Walter Bailey- That's right, that's right.

David Yellin- Even your prejudice of losing my sometimes overcome other prejudices.

Walter Bailey- That's right and that is pretty much the rule with most lawyers. I mean the better lawyers, who are highly egotistical.

Joan Beifuss- Now in your integrated law firm, if I came to your law firm would I be assigned a white lawyer rather than you or is this..

Walter Bailey- Well it would depend on..

Joan Beifuss- Depending on what Kind of case.

David Yellin- For a case of rape you would be handled by him.

Walter Bailey- Yeah.

David Yellin- I mean if you rape.

Walter Bailey- No, no, no. I will admit that sometime we subconsciously do it, but problems day to day.

David Yellin- Which is not the best analogy you have ever made but we will excuse you.

(Laughs)

David Yellin- I suppose that is so. I guess that would be innocent...Because first of all the relationship between lawyer and client might be easier you feel, initially.

Walter Bailey- But I have plenty of white clients as a matter of fact (muffled) got shot a couple weeks ago.

David Yellin- Would a white client ever come to you in let's say a law case? Have you had a white client by choice?

Walter Bailey- I, unfortunately my reputation hasn't been of the type, because a short time with that practice and then now I have a practice of my own.

David Yellin- So it is not fair to say, Russell Sugarman?

Walter Bailey- He has and I have represented people that he did not represent that come to him.

Joan Beifuss- Are you involved at all in that new legal defense deal that has been set up, free legal aid?

Walter Bailey- Oh no, no. No, by choice too.

David Yellin- This has not within the purview of our..

Walter Bailey- Well I think I do enough to charity anyways, I want very little charity work.

David Yellin- Walter, as a lawyer, as a person, as everything all the way down the line, including as a negro. Do you think that the police brutality part of it has any possibility of being made better?

Walter Bailey- I think Gregory has a book out, Count me in. And he sort of tried, he makes his own humble effort to psychoanalyze the motivation of the police officer who would inflict brutality on a negro. His position is that this is the only acceptable way that this officer has to assert his masculinity. I was talking, and that pretty much sums up my own thesis in explanation of police brutality. That, well my explanation is, and I am going to get to your question in a second., My explanation is that the this whole business of police brutality has its origin in the Freudian Deathwish Instinct. As a result of the aggression, the natural instinctive aggression, when they got from Washington, that the natural state of man is to be disgusted. And one natural state is for him to inhibit his destructive tendencies, and impulses and instincts. TO kept hem regulated and to supplement that energy that destructive energy in a constructive fashion. My explanation is that the police officer as a result of this deathwish destructive energy being sociably vented on negros, this is why they do it. But as long as the community sanctions it.

David Yellin- You mean it has been through the ages sanctioned and encouraged.

Walter Bailey- That's right.

David Yellin- And tolerated.

Walter Bailey- And he doesn't have to inhibit that but if he had to he would,. He could do it with very little....

David Yellin- And he had to act on naturally. By your definition a civilized man is an un-natural man.

Walter Bailey- That's right, I mean take a man in his raw naked state.

Joan Beifuss- Of course that is not true of women you understand?

David Yellin- That's the way I would rather make them.

Walter Bailey- (Laughs)

David Yellin- Well then to my question, do you think then particularly in Memphis is there anything being done in the right way towards getting policemen to act un-naturally?

Walter Bailey- I don't think so. I don't think that there is enough. Now Holloman makes some sort of gesture in that direction but I don't think, he doesn't do it as a surgeon would approach the problem of a disease or some other task that we would be confronted with.

David Yellin- Do you think it is his to do?

Walter Bailey- I think it is. I think if he would start, but this is the way the game is going to be played, I think it takes a certain toughness, and I think he would have to just say this is the way it is going to be and if you don't like it give me your badge now.

David Yellin- Do you think it is within...

Walter Bailey- It really just terrifies me, I am really terror-stricken whenever I see a police officer, I mean when I hear about a police officer, I am appalled about them shooting somebody while they are running. He may have been suspected of stealing, narcotics jumps out and runs and this guy shoots him, and takes his life for that, I mean that is just, it has no place in this kind of society. I think we should strive to get away from that. Holloman could break that up with one announcement. That that's not how we are going to do it today.

David Yellin- You think he could get away with it in this community? If he would say I don't care what the person is taking don't shoot them?

Walter Bailey- That's right unless you feel grave bodily injury yourself. Now if it comes to that point where a guy or a person has a gun and he aims it at you or makes an effort to turn and aim it at you, I can see that. I have never owned or carried a gun in my life and don't intend to own one. But I could see an officer, maybe under the law I could bring myself around to saying well maybe justified

under that set of facts, turning and shooting in that situation. But just when a guy is free I can't see that and I think it is horrible. But again, I don't think it is necessarily a black-white relationship, where police officers shoots and kills somebody or whoops somebody. I think it is because it is socially acceptable this is the matter in which he can let out his anger and frustration without being criticized.

David Yellin- Maybe that is somewhat what the gun law is somewhat about, I don't know. Of course you can't, the fight about that maybe bears you out. The people instinctively don't want this pleasure, this realization of what you called a deathwish to be taken away from them. They want it around so they can satisfy it when necessary. Anything else ladies and gentlemen.

Bill Thomas- No I think it has been just fine.

Joan Beifuss- I don't have anything.

Walter Bailey- Can you think of anything?

Walter Bailey- No, I hope I have been of some help.

Joan Beifuss- Way helpful.

David Yellin- You have done nobly, you have won another case. (Laughs) (Tape Cuts)