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DEDICATION

GEORGE BUNDY SMITH – A GOOD LAWYER

*John D. Feerick**

As I have noted elsewhere, if I were asked to pick one moment in the legal history of the country where what ought to be came together with what is, it would be the unanimous decision of nine white men in *Brown v. Board of Education* dismantling the segregation of white and black children in public education. This was a watershed moment in the history of law. As Judge Robert Carter of the United States District Court for the Southern District of New York has written, this decision will “always stand at the highest pinnacle of American judicial expression because in guaranteeing equality to all persons in our society as a fundamental tenet of our basic law, it espouses the loftiest values.” Benjamin Cardozo, the legendary chief judge of New York, described the chief worth of the judiciary as “making audible the ideals that might otherwise be silenced . . . [and] giving them continuity of life and of expression.”

Unlike most lawyers, George Bundy Smith understood the importance of that decision in a very personal way. Dean William Michael Treanor of Fordham Law School has said of Judge Smith that he is “someone whose life story and whose profound and inspirational commitment to the cause of racial justice are inextricably linked with the legacy of Brown.” Born in New Orleans, Louisiana, Judge Smith moved with his family at an early age to the District of Columbia where he attended its public schools and experienced first hand the effects of segregation. He spoke of that experience in a graduation speech at Fordham Law School in May, 2004, stating:

I still remember with extreme distaste being unable to make the left turn at the corner where we lived in Washington,

* Professor and former Dean of Fordham Law School (1982-2002).

D.C., and walk the one block to the white junior high school. But instead having to make a right turn and go a much farther distance to the school reserved for African Americans. The schools were separated into Division I and Division II schools with Division I being white schools and Division II being black schools. Other parts of that City were also segregated including libraries, restaurants, movies and even churches.

Upon his graduation from Yale Law School in 1962, Judge Smith joined the legal staff of the NAACP Legal Defense and Educational Fund; he became a passionate participant in the struggle for civil rights, including being arrested at a sit-in at a whites-only lunch counter. In 1964, he began what would become a forty-year journey in the courts of New York, culminating in his appointment to the Court of Appeals in 1992 where he currently serves with great distinction. His preparation for the Court was truly enormous. In addition to his experiences as a practicing lawyer and his many involvements in community endeavors, he served as a law secretary in the civil court, the Supreme Court, and the Appellate Division, followed by service as a judge in all of these courts, including service in the Family Court and the Criminal Court.

This is only part of the story, however. A student of learning, Judge Smith pursued and earned a master's degree in political science and then a Ph.D. in Government from New York University. He also authored publications in the law and began to give back in another way through teaching. It was in connection with his teaching as an adjunct professor at Fordham Law School that we met. He joined the faculty in 1981, on the recommendation of then Dean Joseph M. McLaughlin, to teach a course in New York Criminal Procedure. He has enjoyed from that time to now a sterling reputation as a member of the Fordham faculty. Students speak reverently of his humility and gentle and soft-spoken nature. They describe him as an "exceptional and very thoughtful teacher." They also describe his knowledge of the subject as encyclopedic and say that they would never think about being unprepared for his class. He expects students to always be prepared and does not hesitate to call on them throughout each class. Through his mastery of the Socratic method, he involves all of his students in the discussion and reasoning behind court decisions, focusing them as well on the practical effects of rules and what the parties involved in a matter should do (i.e., prosecutors, defense lawyers and judges).

As for his humor, one distinguished graduate of the School and former student said of the Judge that “you could easily miss it if you were not listening carefully because he is so soft-spoken and does not laugh at his own stories.” However, she added, if you are listening, there is so much that speaks to life in his stories and asides.

Judge Smith is in the latter part of his term as the 101st Associate Judge on the New York Court of Appeals. His term as a jurist has been distinguished by his keen understanding of the society around us and by his addressing of issues in a scholarly and thoughtful way. He obviously feels deeply about the challenges faced by minorities, especially lawyers of a minority background. At the same time, he is proud of the progress that has been made since the legal foundation for segregation was destroyed by the *Brown* decision. He has observed, however, that “we have miles to go before we can be satisfied with the state of race relations in our country. . . . I have said over and over again that when I walk into the courtroom at the Court of Appeals in Albany with my colleagues, I do not expect to see an African American or Latino lawyer waiting to argue a case. Occasionally, it does happen. But it is rare.”

Despite the long road still to be traveled, the country owes lawyers like George Bundy Smith a huge debt for beginning the journey. In his Fordham graduation remarks, Judge Smith spoke of the difference between a lawyer and a good lawyer. He said that good lawyers recognize that “law is a privilege, a responsibility and a trust.” They work to change things in the legal landscape that ought to be changed, they do their work in a way that inspires trust in the legal system, and they use their responsibility and trust to build upon and shape our democracy. He closed his remarks by emphasizing the importance of deeds and then expressed the hope that the members of the class would be able to look back twenty-five or fifty years from now and see that they were, indeed, good lawyers.

Nearly forty-three years ago Judge Smith was a member of a graduating class. Consider how he has spent his time as a lawyer. He has been a civil rights lawyer, a founder and leader of minority bar associations, a leader of major bar associations, a teacher of law, a scholar in the law, and a judge in lower and higher state courts. He has written on a wide range of legal subjects and served in important positions in his church and community. He also has

given considerable time to school committees and boards. His impact has been deep and his good deeds are countless in number. In everything, he has been an exemplar of the legal profession at its very best. He has met the test of being a good lawyer and has done so at the highest level of excellence.