

2007

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### Recommended Citation

Cornett Lewers, *A Tribute to Hon. George Bundy Smith -- A Remarkable Jurist and a Remarkable Man*, 34 Fordham Urb. L.J. 1165 (2007).

Available at: <https://ir.lawnet.fordham.edu/ulj/vol34/iss3/13>

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# A Tribute to Hon. George Bundy Smith -- A Remarkable Jurist and a Remarkable Man

## **Cover Page Footnote**

Cornett Lewers is Senior Counsel and Director of Corporate Compliance Programs for ITT Corporation. I would like to thank Nadine C. Johnson, President of the MBBA, and Lancelot Hewitt for their assistance in writing this tribute.

## **A TRIBUTE TO HON. GEORGE BUNDY SMITH**

### **A REMARKABLE JURIST AND A REMARKABLE MAN**

*Cornett Lewers\**

Good Evening Dean Treanor, Chief Judge Kaye, Judge Wesley, Judge Fisher, Congressman Rangel, President Alcott, Ms. Granum, distinguished jurors, ladies and gentlemen, and Judge George Bundy Smith and Mrs. Smith.

Thank you Dean Treanor for allowing me, on behalf of the Metropolitan Black Bar Association (“MBBA”) and the Metropolitan Black Bar Scholarship Fund (“MBBASF”), to participate in this evening’s tribute to the Honorable Judge George Bundy Smith.

I and numerous others have had the privilege and honor to come to know Judge Smith as a result of our service on the Board of Directors of the MBBA and the MBBASF.

As many of you know, Judge Smith was a founding member of the MBBA, which was created in 1984 as a result of the merger of the Harlem Lawyers Association and the Bedford Stuyvesant Lawyers Association. Judge Smith served as President of the Harlem Lawyers Association and was the first Chair of the MBBA, serving from 1984-88.

Judge Smith has also served on the Board of the MBBASF since 1983. The MBBASF has for many years awarded scholarships to many talented law students each year.

What is even more remarkable is that despite his busy schedule, Judge Smith has been and continues to be an active Board member for both organizations. During my more than ten years as Chair of the MBBA, Judge Smith not only regularly attended and participated in the often lively debates during the monthly MBBA Board meetings, but frequently attended many of the events and functions sponsored by both organizations. I frequently reached out to him for his advice and counsel on numerous matters pertaining to the MBBA. It was Judge Smith who encouraged all of us to begin our building fund with the hopes one day of having a permanent

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home for the Association. It is Judge Smith who regularly challenged us to do more and to be the best that we could be.

The impact of his mere presence at our meetings and events cannot be underestimated. In preparation for these evening remarks, I contacted numerous present and former Board members. I received one e-mail which I would like to share because the experience and message are consistently echoed by many others and capture my sentiments quite succinctly. It reads:

The Metropolitan Black Bar Association was one of the first bar associations [that] I decided to become a member of upon my graduation from law school in the late 1980's. I was looking for a bar association that would not only provide an assortment of programs, committees, and resources to its members, but one that made significant contributions to the community from which it sprang. Before joining the MBBA, I became aware that its Board of Directors included a number of judges who served in the various courts throughout the boroughs. Of course, Justice George Bundy Smith was mentioned as one such member.

Not knowing much about how the MBBA operated then, I assumed that the judges were members of the Board of Directors in name only. I was pleasantly surprised and virtually frozen in awe, however, when, as a newly-elected Board member, I attended a Board meeting at which Justice George Bundy Smith, Associate Justice of the New York State Court of Appeals, the highest court in the State of New York, walked in. For me, it was one of those moments one can never forget and can always recall with little prompting.

This was the same Justice Smith whose name appeared in law school casebooks, and in the state reporters. This was the same Justice Smith who wrote both majority and minority opinions on some of the most compelling cases in the history of the state, and he was here to participate in a monthly MBBA Board meeting!

My mind raced as I contemplated what I would say to him if he said something to me. I felt that I needed to say something profound, something witty, or somehow engaging. I was in complete and utter turmoil inside my own head. I searched for the faces of others in the room to discern whether they were as panicked internally as I was.

Strangely, no one else was. Justice Smith was greeted warmly, and many welcomed him by his first name as he took a seat. Though he did not seek nor require undue attention, Justice

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Smith had a quiet majesty about him that was undeniable and impossible to ignore.

I immediately realized that this awe-inspiring individual was a brilliant jurist who, among other things, had not allowed himself to become overwhelmed by the trappings of his professional station in life and had sought to distance himself from others who were perhaps just out of law school or not part of the judiciary. On the contrary, Justice Smith insisted on a continued participation in the bar association he had helped found so many years previous.

Justice Smith's presence at that meeting, and many others to follow through the years, eliminated any and all excuses I might have had as to how to budget one's time. We eventually exchanged "good evenings" that night and went about furthering the business of the MBBA.

Justice Smith has been a steadying force within the MBBA for the many years I have been a Board member. He is a person I have admired greatly since I first had the opportunity to meet him. I wish Justice Smith and his family the very best in the coming years.

This e-mail was sent to me by Mr. Lancelot Hewitt, presently a member of the Board of Directors of the MBBA.

In addition, the MBBA has had many Board members who have aspired to ascend to the bench and in fact ultimately succeeded in becoming a judge. In my discussions with many such individuals, it is clear that Judge Smith has and continues to serve a special role as an example to them and has had a profound impact on their development as members of the judiciary.

I believe Judge Smith is actually more active in the MBBASF, which has a smaller Board and a purpose that I believe gives the Judge a great deal of pleasure—the opportunity to assist someone in need of financial assistance so that they may continue their legal education. In fact, most of the MBBASF Board meetings were regularly held at his office in lower Manhattan. Each year, when we spent hours reviewing the numerous applications and interviewing final scholarship applicants, Judge Smith was always careful to ensure that his schedule allowed him to be present. He was indeed an active participant and we could always rely on his probing questions, insightful comments regarding applicant qualifications, and persuasive arguments for a particular candidate.

Judge Smith has been, and continues to be, honored by almost every bar association in New York. The sheer number and diver-

sity of the organizations and individuals who heap praise upon him is extraordinary. When Judge Smith sought reappointment, it became abundantly clear that there is widespread bipartisan support, and it became equally evident that Judge Smith is an individual with an impeccable personal reputation who is revered and respected by both the legal profession and community at large.

And the reason why Judge Smith is honored is because of his excellent judicial temperament and exemplary service. Judge Smith has shown this time and time again with well-reasoned and seasoned wisdom in his decisions. He is without a doubt a trail-blazer for our legal community, demonstrating the best of what is possible in a judge of any color. And although Judge Smith is known and revered for his dedication, commitment, hard work, and brilliance, he is also known for his incredible humility in the face of it all.

Of all of his notable accomplishments, I believe it would be Judge Smith's wish that he be remembered for his early participation in the civil rights struggle. Judge Smith became active in the civil rights movement in part as a result of the Supreme Court decision in 1955 declaring that segregated schools in America were unconstitutional.<sup>1</sup>

It was during the civil rights struggle that on May 24, 1961, Judge Smith and four other students left the safety of Yale and boarded a bus to Montgomery, Alabama. Alabama at that time was under martial law and protected by the National Guard.<sup>2</sup> After conferring with Martin Luther King, Jr., Ralph Abernathy, and Wyatt Tee Walker about strategy the next day, prior to boarding their bus, the group went to the station's lunch counter for coffee.<sup>3</sup> Before they got their coffee they were promptly arrested, jailed, tried, and convicted for breach of the peace and unlawful assembly.<sup>4</sup> The conviction was affirmed by the Alabama Court of Appeals, and the Supreme Court of Alabama refused to hear the case.<sup>5</sup> The United States Supreme Court granted certiorari, and reversed the conviction by a vote of 7-0.<sup>6</sup>

After law school, Judge Smith continued to be active in civil rights and worked as a staff attorney for the NAACP. At the

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1. *Brown v. Board of Education*, 349 U.S. 294 (1955).

2. *Abernathy v. State*, 42 Ala. App. 149, 150 (Ala. Ct. App. 1962).

3. *Id.* at 151-52.

4. *Id.* at 150-52.

5. *Abernathy v. Alabama*, 380 U.S. 447, 447 (1965) (per curium).

6. *Id.*

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NAACP, he worked on all kinds of civil rights cases, including trials for sit-ins, school desegregation, and appeals.

I submit that these experiences influenced Judge Smith to be unafraid to express his views about what the law is or how it should be interpreted. He has consistently recognized that the law is a living, breathing instrument that serves the people, and not cold, rigid, and intractable parchment. Judge Smith clearly recognizes that the essence of the law is its application, not in parsing words and phrases. His faith in the law is grounded in his belief and experience in advocating for the equality of opportunity and civil rights for all people.

For those of us who have been members of the MBBA and MB-BASF, we are privileged and deeply in debt for the rare opportunity to associate and interact with Judge Smith all of these years, and for the opportunity to observe his demeanor, hear his words of wisdom, and most importantly obtain a first hand glimpse of a remarkable jurist and man.

For me and many others, these encounters have been cherished opportunities that have left an indelible mark upon our legal careers. Judge Smith is truly a gentleman, a scholar, and clearly an independent thinker, as evidenced by the many opinions he has authored. His success is founded on one tenet, which is that throughout his life he has been, and continues to be, known as a person who always gives one hundred percent all of the time. I sincerely believe and I know that others felt that the New York State Court of Appeals was notably diminished by Judge Smith's absence, but I hope that it will be many years before the MBBA or the MBBASF suffers such a grievous loss.