

# ASCA 2010 Opening – Bickel

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## SUMMARY KEYWORDS

people, happened, demonstrations, involved, alabama, hear, day, terms, students, question, north carolina, years

First Transcriber: Wesley Wright – October 2020

Unknown Woman (???)

0:01

And now we're going to have some dialogue- Bob Bickel's going to talk to us a little bit and then we're going to allow these gentlemen to talk about their experience. Mr. Bickel, given that your article in our first journal put *Dixon* into the legal context for Student Conduct administrators, do you have any reactions that you want to share with our ASCA Audience?

Bob Bickel

0:33

It was an honor. That my inaugural article spoke about the *Dixon* case. A case that has occupied my thought through every day in higher education. The importance of the 50th anniversary of *Dixon*, the path breaking advocacy of Fred Gray, and the historic role of college and university students in the direct action campaign for civil rights in the 1950s and 1960s, that is *Dixon's* legacy and why it belongs to you. I was a first year student, when St. John Dixon, James McFadden, and six fellow students were expelled from Alabama State College. As a teacher, I now take a group of my students every summer to Nashville, Birmingham, Montgomery, and Selma to meet dozens of movement veterans like the men beside me, because reading about them is not enough. This is a story that must be theirs to pass on to you in the first person. And my students tell me that meeting and hearing the story for them- from them, is personally and professionally life changing. To those of you who are here for the first time, I can assure you that hearing that first person story has deepened the heart and strengthen the resolve of the true mission of this organization for all of those who are your mentors. For you, it is simply the luckiest time in your life that this is your first meeting.

[Laughter]

2:27

Before he represented the student plaintiffs, I- this is something that not only Karen has told you, but Fred has told you and I simply underscore it but have to say it. Before he represented these two student plaintiffs, Fred Gray had already represented Rosa Parks, and then Aurelia Browder. Following his victory in the Montgomery Bus Boycott case, he had also successfully argued *Gomillion vs. Lightfoot* in the Fifth Circuit Court of Appeals and the United States Supreme Court. The important thing is that these cases, he gave a lifetime of quintessential civil rights advocacy. And the quintessential civil rights lawyer of this nation sits before you tonight,

and you have met him and he now belongs to you. It's his special connection that Don Dureing sees, and that Karen Boyd sees, and that Karen Boyd is carrying on in her research. It is his special connection with students that is the reason he accepted this invitation. You must understand how important you are to him. His special connection with students is your history.

3:52

What he and these men did then, defines where you now stand and defines the reason for your existence and role in higher education. And what they did defines the direction in which you will go, individually and collectively. Inspired by the Montgomery Bus Boycott, those hundreds of students throughout the South, as Mr. Gray says, challenged the operation and maintenance of white only lunch counters, libraries, bus station waiting rooms, segregated theaters, and all other places of public accommodation. On too many occasions, those students who participated in these peaceful demonstrations for racial equality, were harassed and beaten by angry whites and then subjected to criminal charges that they – not those who would assault them – were guilty of Southern law called breach of peace. What has not been properly emphasized is that many of these students also subjected themselves to political retaliation in the form of summary expulsion from their college or university. Despite fundamental principles of free speech, association, and protest, politically motivated descriptions of these demonstrations as disruptive of the university's business or contrary to its image were used to justify expulsion under an unsupported view of the university standing in loco parentis. And so we thank – and I just get the honor of being that person – we thank you, St. John Dixon and James McFadden and all of your colleagues for remembering that at our renewed mission as ASCA must always retain the fundamental reasons for your presence in the movement, embodied in John Lewis's awakening question from Rabbi Hillel: "If not us, then who? If not now, then when?" It was inevitable that the movement would include students. Dr. King and Fred Gray were themselves in their 20s when they described the mandate of the Constitution more eloquently than most lawyers could today. And think of those now legendary students: Diane Nash, John Lewis, or Bernard Lafayette, Bob Moses, Gabe Pettus(???), Catherine Burke, Rick Patten who you met here two years ago, and St. John Dixon and James McFadden, and countless others who exercised what Dr. King described as "the Constitution's conferral of the right to protest for rights". To Fred Gray, the politically-motivated de facto demand placed upon President H. Council Trenholm by Alabama Governor James Patterson, that he expel John Dixon, Bernard Lee, Marzette Watts, Edward English Jones, Joseph Peterson, and Elroy Emery from Alabama State College had to be challenged in federal court. It fit his vision of the scope of the fight against segregation and the fulfillment of the principle of equality defined in *Brown vs. Board of Education*. As we know, Judge Johnson ruled for the University at the trial level while he had been a part of the three judge panel that decided two-to-one for the plaintiffs in *Browder vs. Gale*, and would author some of the most important decisions advancing the rights of the movement. Judge Johnson was not entirely supportive of direct action protest absent judicial intervention of initio. So, perhaps it is no surprise that he would agree with the students cause but disagree with their action. But Judge Johnson would himself later say about the Voting Rights March, when describing his decision in *Williams vs. Wallace*, "If I had been a Black person, I might have been there. I think those people demonstrated something about democracy."

7:57

On appeal, the Court of Appeals for the Fifth Circuit ruled in favor of John Dixon and their- and colleagues. The singular issue Fred Gray and the NAACP legal defense fund lawyers placed

before the court was whether due process requires notice and some opportunity for hearing before students at a tax supported colleges are expelled. Judge Reeves and Judge Wisdom held that it did. Professor Charles Allen Wright would later call *Dixon* 'a special constitutional case in higher education' because it protected essential student speech and academic freedom. The *Dixon* case had a direct impact on the integrity of the university process governing Student Conduct. First and foremost, *Dixon* was a case involving the politically-motivated expulsion of public university students based on the nature of their cause: the protest against segregation. When Southern resistance to *Brown vs. Board of Education* mandate was met by student pressure through the Student Nonviolent Coordinating Committee and its offices and legions of students throughout the southern universities in this country; that mandate convinced Southern governors and other public officials who supported Southern resistance to believe that the Civil Rights Movement could be impeded by sanctioning students who participated in protest activities. To protect the essence of the civil rights struggle, such attempts to expel these students had to be subject to a process that prevented political secrecy and summary repeal of the students good standing. This was a concern of the highest order about university ethics. And that remains the most important part of *Dixon's* legacy, and why remembering its context will continue to define this organization's most important role in student life. What these men and their advocates sought and what becomes our future is that we would provide an environment – a student conduct environment – in which, as Mr. Gray challenges us, 'Students are encouraged to be heard and not be silent on issues of social justice, and to be expected to live up to the aspirations of civic responsibility by expecting their university to make these aspirations a part of its curriculum and a part of student life.'

10:29

Thank you, gentlemen.