50 Years of Brown

JUDGE ROBERT L. CARTER

BIOGRAPHICAL STATEMENT

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Robert L. Carter, a native of Careyville, Florida, received his A.B. from Lincoln University, LL.B. from Howard University Law School, both historically Black institutions, and LL.M. from Columbia University Law School. Married with two sons, he has had a stellar career as a United States District Court Judge in the Southern District of New Yo rk for 31 years. Prior to his appointment to the Bench, he was a partner in the law firm of Poletti, Freidin, Prashker, Feldman & Gartner; Special Assistant to the United States Attorney for the Southern District of New York; and Director of Veterans Affairs at the American Veterans Committee. Over the years, he has served as a member of the professorate at the City University School of Law and authored innumerable articles published in periodicals such as the *Harvard Civil Liberties Law Review, University of Pennsylvania Law Review, Journal of Supreme Court History,* and *New York City Law Review.*

During his years of service at the NAACP Legal Defense and Educational Fund, Inc., Ro b ertCarter won 21 of 22 cases brought before the United States Supreme Court. He was a leading member of the legal team that conceived, litigated and won *Brown v. Board of Education.*

Judge Carter is a member of the American Bar Association and the Association of the Bar of the City of New York. He has served on a variety of august bodies over the years, including the New York State Subcommittee on Legal Representation for the Indigent, the New York State Special Commission on Attica, Mayor's Judiciary Committee, and the Executive, Judiciary, Admissions, Grievances, Bill of Rights and Court Conduct Committees of the Association of the Bar of the City of New York. He was a founder and co-chair of the National Conference of Black Lawyers.

Judge Carter's array of civic affairs activities includes service as president of the National Committee Against Discrimination in Housing, and board member of the American Civil Liberties Union, Phelps Stokes Fund, and Alvin Ailey Dance Theatre. He has also served as a member of the Committee on Board of Visitors, Columbia University Law School. He has received many awards, including the Ralph E. Shikes Fellow, Harvard University Law School; Meiklejohn Lecturer, Brown University; Alumni Award for Distinguished Post-Graduate Achievement, Howard University; and 1990 Distinguished Jurist in Residence, Indiana University School of Law.

50 Years of *Brown*

On May 17, 2004, *Brown v. Board of Education I*[1] will be 50 years old. The White House and various national and local institutions, public and private, plan to mark the occasion with some form of commemoration. The basic purpose of the *Brown* litigation in 1954 was to secure equal educational opportunity for Black children as guaranteed by the 14th Amendment to the Constitution of the United States. The decision held that segregated education was inherently unequal and denied Black children their constitutional right to equal educational opportunity. The separate but equal doctrine, pursuant to which segregation mandated by law had been accorded constitutional sanction, was overruled. It would appear that the objective of the litigation had been achieved.

Unfortunately, whatever prospect existed for the minor litigants involved to secure immediate vindication of the constitutional right the court said was theirs was frustrated by *Brown II*,[2] decided roughly a year later, ordering a corrective with all deliberate speed. Those defendants, such as Topeka, which had planned forthright to abandon its permissive segregation of its secondary schools, decided to postpone immediate action. Instead of helping states where dual school systems existed, it encouraged and emboldened those opposed to change. Over time, demographic factors, racial housing patterns, and school site selection policies have resulted in severe racial concentration in inner-city schools throughout the urban North and more recently in the urban South. Today, there are probably more children in segregated schools, which should be defined as 90 to 100 percent Black or White, than was the case when the *Brown* litigation was begun. Moreover, the Black schools are as inferior in educational quality as those causing the litigation's initiation. It is clear that the promise of *Brown*, equal educational opportunity for Black children, is not yet fulfilled.

Since the statutes or overt policies of federal, state, or municipal governments requiring segregation no longer exist, and the face of the United States is so different from what it was at the time the decision was rendered, many of those reading this manuscript—who never saw the "White" and "Colored" signs on fountains, toilets, or waiting rooms of bus terminals and train stations, were never turned away from the main dining room in a railroad station and told to go to the back door if they wanted to eat, were never told to give up their seat on a bus so a White person could sit, were never required to move to a railroad car reserved for Black passengers on an interstate trip from New York, Boston, Chicago, or some other Northern point of origin to a Southern state—may find the significance of enforced racial segregation difficult to comprehend. Its purpose was to reduce the newly freed Black slaves to, or as near to, the former slave status as possible.

This era of legal segregation was inaugurated by the 1876 presidential election in which neither Samuel Tilden,

the candidate of the Democratic Party, nor Rutherford B. Hayes, the nominee of the Republican Party, had enough electoral votes for election.[3] The choice had to be made by the House of Representatives with the usual results. Black rights were sacrificed for White interests. The politicians made a deal: Hayes was named president, and, in exchange, former slave owners were given the freedom to decide how to handle former slaves.[4] Reconstruction was ended. The former slave owners embarked on a comprehensive campaign to reduce the new freedmen as close to their former slave status as possible. They knew any spark of initiative or enterprise in the exercise of the freedmen's new rights had to be suppressed. They knew the history of the Civil War would have to be rewritten. Perhaps most importantly, they knew that to make the South's victory complete, the North would have to embrace and justify its own White supremacist past in the post-Civil War legal regime.

With these goals in mind, a systematic campaign of violence, including lynchings, burnings, and dismemberment by White hoodlums, often with the active participation of much of the White community and always with its passive acquiescence, was undertaken throughout the former Confederate states, robbing Blacks of their prosperity and privileges.[5] Entire towns such as Wilmington, North Carolina, were burned, and Blacks not murdered fled into the woods, reduced to poverty with nothing but the clothes on their backs. At the beginning of the 20th century, Tulsa, Oklahoma, which had become the most prosperous Black town in the country, had some 45 blocks of commercial property destroyed, and Blacks who survived were reduced to penury.[6] Despite the 15th Amendment, Blacks were kept from exercising the right to vote by requirements not applicable to Whites and by fear and terror caused by physical intimidation from the Ku Klux Klan and other vigilantes' cross burnings and menacing activities.

Simultaneously, propaganda of lies and fabrication about Blacks was sold successfully to the North—Blacks were inferior to Whites, had only feeble intellectual capability, and were close to being savages. Slavery exposed them to civilization. The Black man was capable, under his White master's firm hand, of performing hard physical labor but had to be kept under firm control and discipline to keep from running amok. He did not want, and would not know what to do with, freedom. The myth of the loyal slave who tried to keep the plantation afloat while the master fought in the war was broadcast as fact and accepted as such by most Americans.[7]

Northern Whites took sole credit for bringing freedom to former slaves. The truth was that roughly 180,000 slaves and free Blacks fought in the Union Army in the Civil War to secure their freedom.[8] For a short period after the war ended, White and Black veterans observed memorials together. Upon reunion of North and South, Black participation was no longer wanted. Soon the memory of the role of Blacks as Civil War soldiers was elided from public memory—studiously kept out of history writings and school curricula about the period. As late as World War II, Blacks' fighting capability was considered suspect by U.S. military brass, including General Dwight D. Eisenhower, who strenuously disapproved of President Harry Truman's order to desegregate the U.S. Army. I was pleased to learn at a recent meeting with a group of West Point cadets that their instructors

had taught them that Blacks fought on the side of the Union Army to help secure their freedom. While the Army should be lauded for its updated curriculum, its efforts are unfortunately the exception rather than the norm.[9]

The 13th, 14th, and 15th Amendments (the Civil War Amendments) were designed to secure full equality for newly freed slaves and to strike from them all the vestiges of their former slave status. Unfortunately, the U.S. Supreme Court has had a very poor record of giving force and effect to these amendments. Instead of interpreting the 14th Amendment expansively, it has narrowed its reach. The privileges and immunities clause has been rendered useless surplusage, and in no decision on any Civil War Amendments or civil rights laws seeking enforcement has the court sought to define the attributes and vestiges of slavery in giving full effect to the reach of these provisions. Indeed, until 1938, the 14th Amendment was of little benefit to Blacks; instead, the Supreme Court used the provision to protect corporations from state regulation.

In the *Civil Rights Cases,*[10] the court held that only state racially discriminatory action was within the reach of federal government intervention. In justifying his decision Justice Bradley said:

> *(W)hen a man has emerged from slavery and by the act of beneficent legislation has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes on the rank of a mere citizen, and ceases to be the special favorite of the laws, and when his rights as a citizen, or a man, are to be protected in the ordinary modes by which other men's rights are protected. There were thousands of free colored people in this country before the abolition of slavery, enjoying all the essential rights of life, liberty, and property the same as white citizens; yet not one, at that time, thought it was an invasion of their personal status as freemen because they were not admitted to all the privileges enjoyed by white people or because they were subjected to discriminations in the enjoyment of accommodations in inns, public conveyances, and places of amusement.*

It is doubtful that Justice Bradley ever spoke to Black freedmen, and he certainly did not know, and had no basis for discerning, their thoughts. He confidently assumed that because he, a White man, did not feel that Black freedmen were entitled to enjoy all the privileges open to him, that Black freedmen felt the same. More importantly, however, his reasoning was flawed because it failed to deal with the issue that he was supposedly resolving. Even if he were correct, he was referring to a status existing before enactment of the 14th Amendment, and he never took up the question before him—whether the amendment was intended to change the way things were before it became part of fundamental law.

In *Plessy v. Ferguson,*[11] decided in 1896, the Supreme Court introduced the separate but equal doctrine into its

jurisprudence, which validated state-enforced racial segregation. The court held that enforced racial segregation (seating on a railroad carrier was involved) was consistent with the equal protection clause of the 14th Amendment as long as the segregated facility to which Blacks were consigned was substantially equal to that provided for Whites. In justifying his decision, Justice Brown said, "We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it." These two seminal decisions, *Plessy* and the *Civil Rights Cases,* in all their malevolent glory, represented the crowning victory in the South's campaign to erase whatever avenues of progress the Civil War effort gave to Blacks.

Dissenting voices were few but vigorous. Justice Harlan, a dissenter in *Plessy*, understood that the separation of Blacks from the general population had been markedly diffe rent than that of any other group. The Black child today who sits in an all-Black school may be a 14th- or 15th-generation American. Blacks were first treated as slaves and subsequently as second-class citizens, worthy of only what is second best: back - b reaking labor or low-paying, dead-end jobs that White men either despised or no longer desired, the tenements White men had worn out, the schools White men had abandoned. Of all the ethnic groups who populate this country, only A f ricans were depri ved of their cultural h e ritage and posteri t y. They we re taught they had no wort hwhile cultural background and that everything of value was of European origin. Only Africans were forbidden to marry, only for Africans was it a crime to be taught to read and write, and only the children of Africans were taken from their parents and bought and sold.

White ethnic groups coming to this country possessed a cultural heritage they sought to preserve, often choosing separation as a means for keeping that heritage alive. In contrast, separation for Blacks has signified oppression. Second- and third- generation descendants of European immigrants could readily surmount barriers of prejudice and enter the mainstream of American life. On the other hand, Blacks, even those who are 14th- and 15th-generation Americans, are denied access to opportunities because of the color of their skin. From this perspective of American history, an all- or virtually all-Black school, unlike a predominantly Irish, Italian, or Jewish school, is viewed as second class, a connotation traditionally attached to any institution that Whites reserve for Blacks.

In the firm conviction that education is the key to upward mobility for Blacks in this society, I have been involved in the effort to secure equal educational opportunity for Blacks for some six decades. Upon joining the legal staff of the National Association for the Advancement of Colored People (NAACP) in 1944, I modernized the legal strategy o riginally conceived by Charles Houston to secure admission of Blacks to the graduate and professional schools of state universities in those states wh e re segregation was enforced, either as mandated or permitted by state law, and I conceptualized the legal strategy for the elimination of segregation at the grade- and secondary-school levels that culminated in the May 17, 1954, decision being memorialized in these

pages. For 24 years, I was directly involved in the litigation process, including persuading the Supreme Court on May 17, 1954, to hold that segregated education was inherently unequal. For the subsequent 49 years up to the present, I have been involved in organizational activities as a member of the NAACP legal staff until my resignation in 1968, and thereafter writing and speaking on the subject as a private attorney and serving since 1972 as a federal judge. It would not be amiss to say that the effort to secure equal educational opportunity for Black children of all ethnic and cultural backgrounds has been one of my life's missions.

In 1954, the NAACP legal staff regarded themselves as social engineers, using the law to effect social change. We believed that outlawing segregation in the nation's public elementary and secondary schools would mandate equal educational opportunity for Black children, and that the court's outlawing of school segregation would place other forms of government-imposed racial segregation at risk. As I look back on that period, I recall how confident we were that if we succeeded in persuading the court to adopt our views, Blacks would inherit equal opportunity. What naiveté. But we were naive because of a firm trust in our system, in our laws, in our Constitution. During the period when segregation had been given respectability because of the Court's 1896 holding in *Plessy v. Ferguson,* our railings against the dual school system elicited this response from White authorities and White moderates who voiced sympathetic interest in our cause: "But it is the law." Indeed, many Blacks opposed open defiance for the same reason. Surely, it seemed to us, that once segregation became unlawful, White authorities would adhere to that command of the law as zealously as they had enforced contrary legal regulations. Now, in my judgment, we had more confidence in the system than it deserved, or perhaps it would be more just to say that we placed more faith in the system than we had a right to.

Unhappily, if *Brown* is to be measured as to its effect on segregation in the nation's primary and secondary schools, it must be deemed a failure. There are more segregated schools and unequal facilities for Black children today than was true before 1954. If *Brown* is measured as to its impact on Blacks' status in society, it must be deemed ineffectual. Blacks remain as subjugated and subordinated to Whites as was true before *Brown*. Considerable gains have been made, but the economic gap between Blacks and Whites remains wide. Measured in terms of income, wealth, poverty, and unemployment, the wide economic disparities between the two groups has not lessened appreciably since *Brown* and, in light of our current economic malaise, may have widened. In 2001 and 2002, Blacks were twice as likely to be unemployed as Whites.[12] In 2000, the median family income for Whites was $52,604, while it was $32,443 for Blacks and $33,943 for Latinos.[13] In 1969, the median Black family income in the United States was 61 percent of that of Whites; by 2001, it had only risen to 62 percent.[14] In 2001, 7.8 percent of non-Hispanic White Americans were classified as living in poverty as compared with 22.7 percent of Blacks.[15]

These disparities exist despite the fact that, after *Brown,* the educational gap between the two groups has closed. Black males and females, through the 1980s, had completed 12.1 years of education, only a half-year less than Whites. There is virtually no difference between the two groups in terms of illiteracy today. Yet, in 1980, in families

headed by high school graduates, 48 percent of Blacks had incomes under $15,000 compared with 26 percent of Whites. In families headed by one who had completed four years of college, 9 percent of Blacks earned more than $50,000 compared with 21 percent of Whites. Those figures recently have begun to change.

Brown has succeeded only in outlawing formalized or mandated governmental public racial discrimination in all aspects of American life. Pursuant to agitation from relevant groups, the same has happened or is at risk of happening with regard to ethnic, gender-based, and lifestyle discrimination. This is only a small plus.

The failure of *Brown* to have the desired impact is because of the depth and pervasiveness of racism in this country. Let me give an example. Some years ago, a Harvard University professor, then a visiting professor at the University of California, undertook a study of attitudes. He told a group of teachers that certain of their students were bright and certain others were not so bright. These were arbitrary designations designed to measure the teachers' reactions. The teachers accepted the designations as reality and proceeded thereafter to give the bright group their full attention, wasting little time with those designated not so bright. Some years later, two professors decided to try this approach in multiracial classrooms in the Illinois public school system. They told the teachers, who were White, that some of the White students were gifted, some of the Black students were gifted, and some in both groups were slow learners. White students in both groups received better treatment and far more attention than either Black group. But the designated gifted Black students were treated the worst, criticized constantly and dealt with more harshly than the others. The depressing fact was that White teachers involved reacted uniformly, and some were young. The attitudes captured so starkly in this study are further reflected by recent studies that show Black children are almost three times as likely to be labeled as mentally retarded than their White counterparts, condemning those Black students to a lifetime of segregated classrooms and stigmatization.[16] Even in the instance where the Black student has actual special education needs, too often these needs are neglected with watered-down curricula.[17] It should not be surprising to anyone that of the Black children labeled as mentally retarded, males are grossly disproportionately represented.[18]

The basic insight these studies afford as to the real nature of the race problem in this country was not perceived in 1954 and indeed is not perceived today. In 1954, we lawyers felt that racial segregation was the basic evil, and *Brown* was so welcome because it seemed to have rid us of that problem in one easy stroke. However, what makes the race problem seem so intractable is that the evil of White supremacy must be conquered before the race problem that plagues us can be resolved. *Brown* made the real problem more visible.

Much is made of the brutal suppression of Blacks in the South under slavery and Jim Crow, but the North's history of racial relations shows deep and constant antipathy toward Blacks since this nation's inception. One poignant example is the New York City Draft Riots of 1863. Bitterness over the new conscription laws, which were forcing poor Whites to fight for the liberation of slaves, sent mobs of angry Irish immigrants searching for Black people to kill and

neighborhoods to destroy. In all, more than 100 Blacks were murdered during the bloody riots, houses and businesses were looted and burned, and a Black children's orphanage was razed to the ground. Another example is Charles Sumner, the great abolitionist who represented the plaintiffs in the first case against school segregation, *Roberts v. City of Boston*. Upon laying eyes on a group of slaves, Sumner said: "For the first time I saw slaves and my worst preconception of their appearance and ignorance did not fall as low as their actual stupidity. They appear to be nothing more than moving masses of flesh, unendowed with anything of intelligence above the brutes. I have now an idea of the blight upon that part of our country in which they live."

White supremacy and superiority and Black subordination and inferiority have long been accepted as givens by this society, even among those who considered themselves enlightened enough to be against slavery. It is difficult for the average White person to see Blacks as anything other than barely literate and poor, despite daily evidence of well-educated, well-to-do middle-class Blacks. It is difficult for them to credit any major achievement to Blacks and which could only have occurred through White help. This attitude can be traced back to the sanitized view of slavery and suppression of the fact that slavery caused the Civil War and that runaway slaves and free Blacks fought with the Union Army to end slavery.

Black inferiority is a fact of life in America and before *Brown* was accepted as a theoretical truth by both groups. *Brown* altered the psychological pattern of race relations. By mandating equality for Blacks as constitutionally guaranteed, at least in all the reaches of public life, *Brown* revolutionized race relations in this country. Heretofore, being Black had been a mark of oppression, a curse. After *Brown*, being a Negro went out of style. Negroes became Black or Afro-American. Since they were now equal to Whites under law, they could accept their blackness, their physical differences from Whites, without hurt or shame; black became beautiful. Blacks were able to free themselves of the heavy burden. They could feel better about themselves.

The sedateness and ritualistic protocol that used to mark racial encounters has been replaced with rudeness, cacophony, and open disdain. Fear and unease on the part of Whites have always existed because, as Louis Harris indicates in *The Anguish of Change,*[19] Blacks and Whites do not like each other as groups, and this antipathy has become more visible since *Brown*. Moreover, as the American historian Edmund S. Morgan has put it, Whites cannot forgive Blacks for the bad treatment they accorded them. And Blacks still cannot let go the resentment they have always felt. Scratch a Black skin and you will uncover anti-White feelings, and the deeper you probe, the more you expose the vehemence of these sentiments. This resentment manifests itself in many ways. One is that Blacks have no faith in White institutions or that any White-controlled instrumentality will continually support their drive for equal rights. For example, military authorities have learned through experience that Black soldiers are disaffected and unwilling to fight unless they are given equal opportunity to become high-ranking officers in the military hierarchy.[20] Interpreting this phenomenon as being simply a refusal to fight under White officers or Black soldiers seeking segregation in the armed forces would be a superficial and serious misreading. Rather, it is a refusal of

Black soldiers to accept an inferior status in the armed services. Just as Whites, Blacks must be able to become top commanders in the armed services.

The lessons learned in the military context apply with equal force to all facets of American life, yet these important lessons do not appear to be widely known or understood. Many states have instituted cutbacks in affirmative action programs in education, and in the past five years, minority enrollment in the nation's colleges and universities has decreased. The percentage of all-Black high school graduates who enrolled in college within a year of graduation decreased from 62.1 percent in 1998 to 58.2 percent in 2000.[21] This trend is disheartening to say the least. By limiting access to the education that leads to leadership roles, the government diminishes public confidence in the fairness and integrity of its own institutions.[22] With the veil lifted off the resilient and persistent evil of White supremacy, government failures to increase access to such obvious avenues of greater achievement, such as higher education for Blacks and other minorities, significantly impede any serious expectation that our society will some day evolve into a democratic classless society, free of racial strife.

Despite *Brown's* undeniable failure in providing an education and opportunities to Black children equivalent to that of Whites, *Brown* succeeded in transforming Blacks' perception of themselves and their role in this country's institutions. *Brown* helped Blacks move away from a tacit acceptance of the White majority's definition of Blacks' role in society to the more expansive concept of true equality embodied in our Constitution. By changing the legal landscape, *Brown* also set the example that Blacks and other minority groups could use the organs and institutions of government to demand and ensure for themselves that those concepts of equality that Americans profess so earnestly to the rest of the world are filled with substance and action in their own country. In the 2000 presidential election, Blacks refused to be pandered to by candidate George W. Bush or be grateful for his attempts to court their votes.[23] Rather than be seduced by his charm or reassured by his words, they demanded specifics and substance from Bush, rejecting as meaningless the slogans and platitudes of traditional White authority. As citizens of this country, Blacks now expect to be courted and demand that this interest be substantial. This shift in expectations, despite the many failures of *Brown*, is its lasting legacy and one that I hope will ultimately achieve the goals of *Brown's* egalitarian vision.

NOTES

1. *Brown v. Board of Education,* 347 U.S. 483 (1954).
2. *Brown v Board of Education,* 349 U.S. 294 (1955).
3. David W. Blight, *Race and Reunion* 136-39 (2001).
4. *Id.*
5. *See, e.g., id.* at 108-22.
6. *See, e.g., Tulsa panel seeks truth from 1921 race riot,* CNN.com, (Aug. 3, 1999), at http://www.cnn.com/US/9908/03/tulsa.riots.probe.
7. See Blight, supra note 3, at 279-88.
8. *Id.* at 193.
9. The history of the Civil War taught in many of our schools not only suppresses the fact that Blacks fought in the Union Army but also provides the Confederacy, as David Brion Davis has stated, with an "ideological victory." This has required that

> (T)he role of slavery in America's history be . . . removed as a cause of the war. The reconciliation of North and South required national repudiation of Reconstruction as 'a disastrous mistake;' a wide-ranging white acceptance of 'Negro inferiority' and of white supremacy in the South; and a distorted view of slavery as an unfo rtunate but benign institution that was damaging for whites morally but helped civilize and Christianize 'African savages.'

David Brion Davis, *Free at Last; The Enduring Legacy of the South's Civil War Victory,* N.Y. Times, Aug. 26, 2001, ` 4, at 1.

10. *Civil Rights Cases,* 109 U.S. 3 (1883).
11. *Plessy v. Ferguson,* 163 U.S. 537 (1896).
12. The Bureau of Labor Statistics, U.S. Department of Labor, Unemployed Persons by Martial Status, Race, Age, and Sex, *available at* http://www.bls.gov/cps/cpsaat24.pdf.
13. United States Census Bureau, U.S. Department of Commerce, American FactFinder, (2002), *available at* http://factfinder.census.gov.
14. *Vital Signs: Statistics that Measure the Status of Racial Inequality,* 37 J. Blacks Higher Educ. (Autumn 2002), *available at* http://www.jbhe.com/vital/37_index.html. (Citing United States Census data).
15. *Id.*
16. *Harvard Studies Find Inappropriate Special Education Placements Continue to Segregate and Limit Education Opportunities for Minority Students Nationwide,* HGSE News, Mar. 2, 2001, *available at* http://www.gse.harvard.edu/news/features/speced03022001.html.
17. *Id.*
18. *Id.*
19. Louis Harris, *The Anguish of Change* (W.W. Norton 1973).
20. Brief of Lt. Gen. Julius W. Becton, Jr., et al., as Amicus Curiae for Respondents, *Grutter v. Bollinger* (No. 02-241), *available at* http://supreme.lp.findlaw.com/supreme_court/briefs/02-241/02-241.mer.ami.military.pdf.
21. *Vital Signs: Statistics that Measure the Status of Racial Inequality,* 36 J. Blacks Higher Educ. (Summer 2002), *available at* http://www.jbhe.com/vital/36_index.html.
22. *See* Brief of Lt. Gen. Julius W. Becton Jr., et al., *supra* note 8, at 9.
23. Alison Mitchell, *The 2000 Campaign: The Texas Governor; Response Polite As Bush Courts The NAACP,* N.Y. Times, July 11, 2000, at A1.