

**Robert Wiggins, Jr.**

KIMBERLY HILL: And I am at the law offices with Mr. Robert Wiggins. This is Kimberly Hill interviewing for the Southern Oral History Program. Thank you for meeting today sir.

ROBERT WIGGINS: Thank you for coming.

KH: We are going to talk about his memories of Birmingham and economic justice and civil rights since the 1960s. So sir, could you tell me about when you first got interested in practicing law?

RW: Yeah, I was, of course I was born in 1949, so I grew up in the segregated South. Through various jobs and things I got to know people in the communities I lived in, in the black community even though the schools were still separate. I had a newspaper route, for example. All my customers were black. I later had a milk route as a milkman. I was in Orangeburg, South Carolina, and again all my customers were black, and I had to go door to door collecting for milk or newspapers and got to know a lot of people. It began to bother me; and then the Birmingham campaign -- the Children's Crusade -- was here in '63, which got so much publicity. I was fourteen years old at the time. That had a big affect on me, as did the Selma marches and that type of thing. So I decided when I was in undergraduate school at Clemson in South Carolina that I would like to go to law school and do civil rights litigation. I later came to Alabama, went to the University of Alabama.

I set up my own practice in 1974 in Birmingham and began to take on class actions against the steel industry and the pipe industry here in Birmingham, which was the biggest part of the economy at the time. My very first case was against American Cast Iron Pipe Company, which is an old line pipe company here along with several others. In fact at the time it was the world's largest pipe plant under one roof. Probably still is. Even though it was employee-owned, it had fallen into the hands of the management of the company in the '40s, during the Second World War. Somehow management had gotten control over it. It had all the typical problems that the steel industry had at the time: segregated departments, segregated jobs, a lot of tests that were used to keep the change from happening. So we had a class action that had been begun by U.W. Clemons and Oscar Adams. When I got out of law school, I took over that case and then began to do other litigation against other steel companies: Continental Can, U.S. Steel, Clough, and U.S. Pipe and Foundry.

What happened was that the earlier generation of lawyers that were like Oscar Adams, who was old enough to be my father, really began to go onto the bench in the middle to late '70s. Then Judge

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Clemons went on the bench in 1980. But he began to be nominated in '79, and so there was a need for a new generation of lawyers to pick up and carry on the cases that had been begun as soon as the Civil Rights Act had passed in 1964. For example the case against American Cast Iron Pipe that Judge Clemons and Judge Adams had begun in 1960, 1965. A lot of other cases they had begun were still going on in the middle '70s because they had pioneered the early decisions establishing exactly how the courts would handle a lot of these issues in the employment arena. Although some of those cases began to be settled in the middle '70s, a lot of them took until the '80s to get finished having begun in middle '60s.

KH: Was it [unusual] for them to take over [twenty years to be completed?]

RW: It turned out that they -- it turned out to be very time consuming both in the trial courts and with a lot of appeals because the law was still developing. Just as quick as the old Fifth Circuit Court of Appeals would get something established, the Supreme Court might revisit it and change it a little bit, and it would have to be redone in various ways. Plus there was a lot of monitoring that had to go on. It wasn't enough just to have an injunction entered. You had to get it enforced over the years. And then you had the back pay phase of the cases and that took a long time.

KH: Were those conditions peculiar to civil rights cases?

RW: They were peculiar in the employment arena. Now the schools, there were long running cases, too, but for different reasons. They would have orders entered almost every fall when school would start, but the next year you'd have to have new orders to get teacher transfers and student transfers, a lot of resistance in the meantime. So those went on because the students were constantly changing. The schools were changing. Those went on for those reasons. In the employment arena you didn't have as much changeover. People tended to stay with the steel industry jobs throughout their whole careers. But in order to get the opportunity for people to move up in what was known then as their rightful place, which meant the places they should've been in the absence of racial discrimination, the courts decided that people would have to wait on vacancies to occur, retirements, deaths, promotions, whatever would cause a job to go open. So the change was much slower in happening. The court didn't take the approach that they were just going to reshuffle everything as they did with schools, moving the students from school to school, district to district, sometimes through bussing but most often through just changing the boundaries in schools. So it was a more time consuming process to get remedies and change to happen with the jobs. In the process

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the law kept changing. The companies became more and more inventive in how to hide what they were doing in their efforts to maintain these segregated patterns. So the employment cases did tend to go on; twenty years was not unusual. Even now the cases can take ten to twelve years.

KH: Did you learn about this process of pioneering civil rights lawyers and the technicalities of civil rights cases in law school?

RW: Yeah, I learned some in law school. There were no courses or anything at all and I think there are now. When I was in law school, there were no courses that focused on employment or schools or civil rights in general. You mainly learned by just watching the older lawyers and the cases they were handling. So the schools didn't have very much of a role in it. They would train you to take the bar exam, that's about all.

KH: So which lawyers did you watch to get experience?

RW: Well, the ones right here in Birmingham. The Adams, Baker and Clemons firm was the leading firm, and there were three lawyers, Oscar Adams, Jim Baker and U.W. Clemons. But like I said they all three began to phase out in the middle to late '70s: two of them going on the bench and one of them becoming the city attorney, attorney for the city of Birmingham. Demetrius Newton also had a lot of cases at the time. He's now a state legislator. But it was that generation of lawyers that were active when I first began and then began to phase out. It was a great thing that we began to have judges who had handled civil rights cases on the bench, made a difference.

KH: Even on the Supreme Court.

RW: Even on the Supreme Court. Made a huge difference with Thurgood Marshall obviously. But so few cases reached the Supreme Court that it was tremendously important that we get, that we finally got some civil rights lawyers on the trial court bench. Oscar Adams went on the Alabama Supreme Court. Judge Clemons on the federal district court; Judge Thompson in Montgomery was on the federal district court. When I first began practicing, we had no one on the federal bench except folks that had been representing corporations. Some had represented school boards and government defendants, but none had ever represented plaintiffs, particularly in the civil rights cases. So that made a big difference. Unfortunately it was like dropping a pebble in a lake because there were so many other judges that were still more traditional.

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KH: Let's step back a bit. Can you remember why you found the big events in the '60s like the Children's Crusade so effective?

RW: Well, TV had a huge impact in getting people to actually see it and deal with it. When I was younger, before all that began to become better known, the standard thing that people were taught about black kids was that everybody was happy with the way the South was. It was outside agitators that were unhappy and causing problems. That was obviously untrue. As I got older, I saw that was very untrue. As I began to meet black people who could speak for themselves and not be interpreted through the white community. I learned directly firsthand that people were not passive or happy as people had been represented, and it was not a matter of outside agitators. There were no outside agitators whatsoever in my hometown. I grew up in a town of 10,000 people in South Carolina. There was one black school in the whole county, and the county was a very large county. Children would be bussed from as far away as Clemson or Central -- this was Pickens County -- all the way to my hometown in Easley, which is like thirty miles, and they'd go right past all the white schools getting bussed to the black school. Until the middle and early '60s I wasn't thinking a lot of thought about that. There was just the life we'd been born into.

But really the 1963 Birmingham campaign began to integrate a lot of these buildings right here we're in. Right here on this corner was where most of the department stores were that that campaign was about. The old Loveman's building was back directly across the street. Newberry's is gone now but it was on this corner. This was the Kress Department store. Then the Pizitz department store was a block down. Then you've got W.T. Grant was right there on that corner. So this corner had four major retail department stores. Two of them national and two of them local. A lot of the -- well, not a lot. Just about the entire Birmingham set of issues were about better jobs and better customer relations and dignity and treatment here in these department stores. The final settlement in 1963 largely was about integrating the department stores both from an employment standpoint and from a retail standpoint. But certainly when the dogs and the fire hoses began to come out, it was very obvious. It couldn't be ignored. You really, it would be very hard to ignore it.

KH: Why do you think that you decided to respond by choosing a law route rather than maybe direct protesting or some people just kind of stayed out of it altogether?

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RW: Yeah, probably it was my age. By the time I got out of high school, we had had one black student in my high school, finally, in my senior year. It was a black woman, really a girl; we were all sixteen or seventeen years old. I mean I watched her, how hard it was for her to come into an all white high school although our high school didn't have anything overt. There were a lot of subvert, subversive, that's not the right word. But under the table griping and grumbling, and people were polite to her face but not behind her back. The college I went to had recently been integrated in like '66 I think, a year or two before I got there. Harvey Gantt who later became the mayor of Charlotte was the first black student there. He went into the architecture program. But by the time I got there, a year or two later, it was still very few black students. Football team, basketball team, baseball teams they were all white.

Of course the Vietnam War also had become a huge issue in the late '60s. That took a lot of people's attention, not just white students but black students too. It really had become the focus of Martin Luther King's position and work there at the end before he was assassinated. I became active in some of the Vietnam protests in '68, '69, and then when I came to law school, I began to organize tenants. I was active down in the black belt area here in Birmingham over in Tuscaloosa with the national tenant organization trying to bring fair housing, not just from the standpoint of getting in to public housing but also fair rents and fixing the places up and making them livable and everything else. I did that throughout law school. For the first several years I was out of law school I did partly tenant organizing and partly litigation. But in sort of the late '70s litigation took over my entire attention just because the cases demanded it.

But my first, my very first law suit I filed was for the tenants over in the Central City Housing Project, which is in downtown Birmingham who were having an interstate highway come through and knock this housing down that had been there for since 1935 or '36. They weren't going to replace it. So we organized a protest with the city council and trying to get the state highway department to move that highway. We eventually in combination with those marches and things brought a lawsuit, but it was the political pressure really that won. In 1978 the city finally agreed to move the highway rather than move the housing. They saved, we saved the housing, which couldn't be replaced. There was no more public housing. But when that campaign ended, by then like I said the other lawyers that had been doing this



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were, had begun to go on the bench and things. So there was a much bigger demand to take over some of those cases, and that's what I've done ever since.

KH: So was that lawsuit successful?

RW: It was, but it was successful because in the end the tenants speaking for themselves and organizing themselves politically got a new mayor. David Vann came in. When we started out George Seibels was the mayor and David Vann who had negotiated the 1963 agreement from the Birmingham Children's Campaign to integrate all these stores. He had become mayor, and then Richard Arrington became mayor in '79. Through a combination of voting, people exercising voting rights and the tenants themselves, getting themselves organized politically that's really what brought the pressure to bear, and it was settled locally, was not settled in the court. The case in court had to also be settled, but that was a byproduct.

But also in the, by the '70s the ability to organize people and get public attention to civil rights issues had waned a great deal. It wasn't like it was in the '60s when it was fresh in the media, and the issues were more stark. You could get media attention to them better. After Martin Luther King was assassinated the Southern Christian Leadership Conference was unable to move things forward like they had been. So the organizations began to, they just couldn't get the traction they had in the '70s. By the late '70s and by 1980 when Reagan was elected, it had become a totally different thing. The federal government had switched sides when Reagan came in. In fact they actually would switch sides in a lawsuit. Cases that the United States had brought for black people, they switched sides and began to promote the rights of what they called white victims of affirmative action. We sat here and watched throughout the '80s the federal government became one of the defendants instead of one of the plaintiffs. They couldn't, they weren't of any help at all. So in starting in the 1980s a lot of the work had to do with just protecting gains in the courts from being taken back. That has remained true. It's less true in the last five or six years than it was in the '80s, but it's still, there's still a lot of protecting gains instead of advancing them in the courts.

KH: So did your work transition to protecting gains?

RW: A lot of it did. A lot of it, a lot of the fights were over protecting affirmative action programs in the '80s and in the early '90s. But we still brought new cases, but we had to, we had to begin

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to find different ways besides direct affirmative action. Goals and quotas were under such attack. Goals and quotas are good from the plaintiff lawyer standpoint because it's out there. You can see it. You can watch it and you can enforce it. When you go to some other form of remedy such as restructuring interview procedures or putting in revised tests with public employment a lot of state statutes require tests. Getting those tests to be fair is much more difficult, much more time consuming to go that route, but we had to do it. We had to begin to come up with substitute remedies. That's another thing that prolonged how long cases would take. The remedies that were available just were more narrow.

KH: So you'd say up until the '80s the federal government was more like an ally in civil rights litigation.

RW: Yes, but not only an ally. They brought a lot of the cases.

KH: Was that, could you say the same for local or state?

RW: No. No. In fact Alabama, racial discrimination is not illegal under Alabama law even today. It never was back in those days. Even today, Alabama does not have a civil rights law. One of the few states if not the only state, maybe Mississippi. I'm not sure. But any civil rights work that's done in Alabama has to be done through federal law. There are no state laws. They passed an age discrimination act about ten or twelve years ago. They still never passed a race discrimination act or sex discrimination.

KH: So there hasn't been any significant transition in political thought at the state level.

RW: Not at the state level.

KH: Local level, would you say?

RW: Well, voting rights have made a huge impact in the urban areas. In 1979, Richard Arrington was elected the first black mayor of Birmingham. That immediately transformed that case. The case had been brought in 1974 by the United States and some private plaintiffs against the city fire departments and other departments of city and county government. He stepped in and got those cases settled.

KH: Was that an integration case?

RW: Those were employment cases.

KH: Oh okay.

RW: The fire fighters. The police officers. It was a comprehensive case against all departments of the city of Birmingham and Jefferson County. So it, the work that had been done in the '70s on voting

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rights had begun to pay dividends in other areas like employment rights by once you could get people who understood the issue elected. But then about the same time that you began, that voting rights began to make a difference at the local level, the Reagan administration came in at the national level. That slowed things down tremendously. So there were gains, one step forward, two steps back and slow progress that way.

KH: How did things progress with your steel industry lawsuits?

RW: They began to, remedies began to be put in by the court of appeals. We couldn't get anything done in the local federal courts. Everything had to be appealed, but the court of appeals in New Orleans, the old Fifth Circuit of Appeals had been through all the school cases from *Brown versus Board of Education* up implementing those school decrees and had seen every trick in the book to avoid doing anything. So they were very suspicious and very alert to what the companies were doing when these cases began to be brought against, in the employment area. So they, I mean they had been trained themselves for ten or fifteen years in the school cases. So they jumped right on the employment cases and ordered some good remedies beginning in about the middle '70s. But there is still a lot of resistance. You get something on paper, but getting it in fact, in actuality is a whole different thing.

KH: How far could you pursue enforcement laws? Was that something that you could also, you also worked on in this office?

RW: Yes. The enforcement of, we first had to prove that racial discrimination--it may sound odd to say that about cases begun in the middle '60s, but you'd have to prove racial discrimination. But these companies would actually deny it and litigate it, and you'd have to prove the obvious. They became more and more sophisticated in hiding what they were doing using neutral rules. Things that looked fair on their face but in fact perpetuated old patterns.

KH: Can you give an example?

RW: Well, yeah. A common one was departmental seniority system. They'd have a rule that said well, the first people that are allowed to apply for a job are people already in the department. Then if no one in the department wants the job, then we'll open it for plantwide bidding. Well, it didn't take a lot of digging to figure out the departments were segregated. Everybody in the department was segregated so if you say--let's take the maintenance department. Say which is traditionally white in most plants. If you say



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those people can bid on those jobs first, then they're going to take the better jobs and just leave the worst jobs for new hires or people from other departments. So the rule looks fair in its face. You can say well, the department first, plant second. But it wasn't fair. I mean it gave a priority to those who got there first.

Tests are an example. Employers began to put in pencil and paper tests they had never used before. People think, well, okay. A test is fair, but in fact tests aren't fair. It very quickly became obvious that they were testing for things that had nothing to do with the job. It just would, they would tell you who was good at taking a test, but not who was good at doing the job. I mean there were all kinds of things. They used arrest, some companies began to use arrest and convictions. There were just all sorts of things that were put in that would be made to look neutral, fair on their face, but in operation they weren't fair.

KH: You managed to get the companies to drop these tests.

RW: Well, we got, we managed to get the courts to order them dropped. Which the biggest step forward in my opinion in litigating racial discrimination issues and sexual discrimination issues was getting the courts to recognize the principle that something had to be fair not only in intent but in effect. The things that were neutral on their face if they had the effect of discriminating even if it was not intentional had to change. Once the courts began to deal with effects, because you can prove the effect of something. It's very difficult to prove what's in someone's mind, the intent of something. At least it's difficult to prove it to the satisfaction of a judge. See these were non-jury cases. You had to prove these things to a single judge until the early '90s. Congress changed the law in 1991. So a lot of these cases now can be brought to juries, but you couldn't do that back in those days. Proving something to the satisfaction of a judge. Of course the biggest issue is which judge. You could put the same set of facts in front of two different judges and get two different answers depending on their background and their biases and everything else. So and that was one of the hardest things I had to learn to deal with was that a lot of my clients with the best cases got the worst results. A lot of my clients with the worst cases got the best results because they had a better judge. Had a judge willing to do something. One set of clients had a judge willing to do something; another set of clients would have one that didn't want to do anything ever. It was very difficult to take. We were taught in law school, and really we were taught growing up that things are basically fair in the courts. Well, they really aren't. A lot of weird things happen in courts. [Laughter]

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KH: Let's talk some about the new cases that you also brought in the '80s. How were they different from the ones in the '70s?

RW: They really are not different. I'm still doing the same thing today as I was doing the first day I filed a civil rights case. The same issue, it's remarkable how similar the issues are. I'm litigating a case right now over against a steel company in Arkansas, and I'm arguing the same cases, the same principles that we were arguing in the middle '70s. This is a company that didn't even start until 1990. I mean didn't even exist. You'd think with a clean slate like that, the chance to hire a whole new workforce from scratch in 1990, they could get it right. But no, they haven't gotten it right at all. They're doing the same thing that we were litigating in the '70s, and that is putting in rules and things that look fair on their face, but when you dig a little bit, they're operating in a discriminatory manner.

KH: In those cases do you think that there's less intent to be discriminatory?

RW: Well, I believe that people are stupid, that if my clients can see the effect, the managers can see the effect, and they know, they know what they're doing. They'll protest and claim that they, its' all unintentional, but some of these things look, are too obvious sometimes to, courts have begun to recognize that sometimes you can infer intent from the effect of people's decisions. No matter what they say about their intent, the old saying you can judge people by their acts more than their words.

KH: How has your work on civil rights cases influenced your lecturing?

RW: My what?

KH: I saw in your CV that you also lecture at Miles—

RW: I did.

KH: Or you did until—

RW: I did until it became too hard to do both. Yeah, I taught at Miles in the late '70s, early '80s. Miles was and is a night law school and a traditionally black college. I enjoyed that a great deal, and some of my old students are very good lawyers out practicing now, have been for twenty years. It became too difficult to work all day and go out and teach at night. So after several years, I had to give the teaching part of it up. But the great thing about teaching at Miles was that you had students that were interested in civil rights to a more, more than, not everybody but not even the majority, but you still had a significant number of students that really were interested in these issues. That was a great thing, very satisfying to teach and

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interact with people who have an interest in these type of cases. So Ralph Cooke who now is practicing here in Birmingham was the dean. He later became an Alabama Supreme Court justice and now is back practicing law again. He was sort of the spearhead to get the school started and as far as the law school goes. Richard Arrington taught out there but not law school. He was a biology professor. Judge Clemon went there as an undergraduate student. Miles fell on hard times in the '80s, but it's gotten back on track now.

KH: I've never been to Miles.

RW: It's out near U.S. Steel out in Fairfield.

KH: When you were litigating these cases did you get to interact much with the employees of the steel industry?

RW: Oh yeah. For example once a month for fifteen years we would meet at the Sixteenth Street Baptist Church for two or three hours on a Sunday afternoon with the ACIPCO workers. We'd have six or seven hundred men there at every meeting. They were all men by the way. There were no women in the steel industry at the time. Again we began to change some in the middle, late, middle to late '70s, early '80s you began to have a trickle into the plant of women, but the workers were extremely involved in those cases. The leadership body, the Committee for—in fact you ought to interview some of the Committee for Equal Job Opportunity at the ACIPCO plant. They could tell you a lot about their own lawsuit. I can get you some names and numbers.

KH: Great thank you.

RW: They brought that case in July of 1965. The Civil Rights act became effective July 2<sup>nd</sup>, 1965. They brought that case that month. The Committee for Equal Job Opportunity was a group of about fifteen men who provided the leadership to the class of about eight or nine hundred men, black men. Like I say we met once a month, the whole body, once a month, and the leadership body, the fifteen men would meet several times a month. We'd, we had to go over every aspect of various court decrees, court issues, getting ready for hearings, monitoring things that were going on, and that went on all the way into the middle '80s. That case finally came to an end about '85 or '86. By then the leadership had begun to retire, and some had begun to die even and having never really gotten what they started, but they got it for the next generation.

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KH: That's a lot of determination.

RW: Oh yeah. Tremendous. Now they not only would meet. They not only were active with their lawyers, but when in 1980 in 1975 when the case took a turn for the worse all of a sudden, a judge had gotten reversed four times by the court of appeals and then had done it again. They actually set up pickets at the federal courthouse for about two months. They supported the case financially. Back in those days it's strange to think back on it, but a lot of those jobs are paying a dollar-eighty or a dollar-ninety an hour. Two dollars an hour was considered very good wages. So you see these cases in this day and age with millions of dollars are won in this case or millions are won in that case, what was won monetarily sounds small, but compared to what people were making at the time, it's a lot of money. But the most important thing was always getting the system changed so that people could get the better jobs because the job and the better wage was how you were going to support your family. A one time back pay check is not as important, it doesn't have near the effect as changing the system does so that people can move up, not just now but from now on.

KH: Could you tell if these men were also involved in other civil rights organizations simultaneously?

RW: Yep. They were. Davis, I think I'm probably going to have a hard time putting you in touch with Davis Jordan. Davis Jordan, because he's moved since, but Davis Jordan was very active politically. He was one of the four named plaintiffs in the ACIPCO case. But all of the, all the leaders were very active in their own communities. I think Davis is the only one who is active beyond Birmingham. But all of them were providing a lot of leadership locally. These were all blue-collar workers, but extremely intelligent men. They were, it made my job a lot easier that I had people that were both interested and that understood and just brought a real lot of smarts to the case watching what went on around them and knowing when something wasn't what it made to appear, to appear to be. They were, they were really the salt of the earth.

KH: Were they college educated?

RW: No. I can't remember even one that was college educated.

KH: I'm just guessing they made real effort to learn and follow all the particularities of their case for all those years.

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RW: These decisions that were being issued in the case, they were very complicated decisions. They understood them. The minute they came out and read, they understood them because they had lived it. When the court described something, they knew exactly what was being described because they had lived it. But I'll, some of them, a lot of those men are still around and I can put you in touch with some of them.

KH: Okay, thank you. I know that the steel industry started to decline. So what industries have you been working with mostly now?

RW: I spent ten years working with the trans -- Alabama Transportation Department employees, civil engineers. The transportation department, used to be called the highway department, does all the civil engineering for building roads, bridges, that type of thing. But they never had a black civil engineer when the case began. They had, partly that was from using school desegregation, I mean, school segregation as a roadblock, but they would require for a long time that you have a civil engineering degree from an accredited college. Well, the black schools were not accredited. The white students, the black students were not getting into Auburn or Alabama, which were accredited. But by the late '70s or early '80s that had begun to change. With some of the school cases they began to have a younger generation of black civil engineering students go to Alabama and Auburn. So the old accreditation rule began to fall apart.

KH: Excuse me just a minute.

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RW: So the old rule that you had to have a degree from an accredited civil engineering program began not to work anymore. So they put in a new test, a licensing test, which tested everything but civil engineering. It was an extremely hard test. The black students that had begun to graduate from the University of Alabama and Auburn were not doing well on that test. A few got their foot in the door. Right in 1982 there was a little window of about six months where before the state caught on that there was this new generation of black civil engineers about to graduate. A couple of them did graduate and got in. Then in 1983 they put this test in. So we brought this case in 1984 challenging all that, and that case is just now coming to an end. There was a lot of progress made. A lot of, there are a good many black civil engineers in the highway department now, but they fought it tooth and nail. That took up I'd say seventy-five percent of my time for at least ten [years], from 1992 to 2002, 2003. Because what happened was while we got court orders put into effect in 1994, we got a new governor late that year. He began to fight everything, even the consent decrees that had been filed. So we spent from 1994 to the year 2003 having the state held in contempt of court and fined to try to get them to comply with the court orders. Every time we'd get one hole in the dike plugged here another one would spring. So that's a good example of why it takes so long. First you've got to prove that discrimination existed, and then you've got to get the court to enter an order, and then with the state of Alabama you've got to spend years enforcing the order.

The big problem with governments that you don't have as much or near, you rarely have really with corporations, is changeover. The politicians, they change and you get a new governor every four years just about. He brings in his people and they want to, they think well, that other crowd that left office, they didn't know what they were doing. We're going to do it this way, and they start resisting and trying to change everything you just had gotten put into place. So you really have starting and stopping. You get some progress, and then about the time you get something that's working, here comes a new administration. Then you fight it all over again. With governments that's a problem, especially in Alabama. Alabama has what one of the federal judges eventually named as the punt syndrome, which means they punt everything to federal court. They don't want to make hard decisions. They want the federal courts to rule on all these things.

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KH: I've also noticed that there's a lot of controversy over the Alabama state constitution but you mentioned there is no racial discrimination law in the constitution. What other problems do you think exist with it?

RW: With Alabama? Well, Alabama has a penchant for doing things backwards. We had all the years of George Wallace. We had, which eventually we had the federal courts running the prisons, the mental hospitals, the schools, they were just about running every state institution. They weren't, they wouldn't do anything without a court order. Then they'd fight and violate the court order every chance they got. We don't have George Wallace in office anymore. Haven't had him in twenty years, but also racial issues haven't had the prominence or the attention with the new administrations as they had in the '60s and '70s. So instead of trying to do something to undo the effects that were inherited from the Wallace years, the new administration had been more intent on getting new businesses in the state, recruiting Mercedes plants and Hyundai plants and all kind of car plants. The traditional industry that was always in Alabama hasn't gotten much attention by the new administrations. In fact part, the most discouraging part of that case against the transportation department was even when we got a younger Democratic governor who professed to the court to be interested in bringing the case to conclusion and getting things done right, within a year or two stopped, has lost all interest, didn't do anything. That was early '90s. The biggest, but let me say this, the biggest change I've seen in Alabama has been because of voter drives. In those areas where you can get black people elected, it makes all the difference. Just like with the jury trial, anybody that does jury work will tell you that if you can get just one black person on the jury, it makes the white people act differently and think differently.

KH: Do you have any ideas why?

RW: I think it makes them more honest. Doesn't make them completely honest, but to have a different perspective in the room makes a big difference. I've seen it with politics, and I've seen it on juries. Those are the two things I've seen most obvious that even though you don't have, even though black people may not make up a majority, just having one black voice, having a different black experience makes a big difference.

KH: What are the major differences that have come to Birmingham from having Richard Arrington as mayor and more black elected officials?

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RW: Well, for example we had a lot of police brutality problems in the '70s when we had the police department run by white police chiefs. It's made a huge difference having in the '80s and '90s some of the police, the black police officers who began to get hired in the '70s move up, made a huge difference. We don't have the type of police brutality problems we used to have. That's just one example. I'd have to sit here and think, I mean there's all kinds of things that have happened. The discouraging part is nothing is ever won permanently. It is really a question of fits and starts. You make progress and you fall back. You make more progress; you fall back. Constant struggle. It doesn't ever just get solved. A lot of people think it does. That's one thing you have trouble with on juries. Once civil rights cases begin, a lot of civil rights cases began to go in front of juries in the early '90s, it was surprising how many jurors thought the racial discrimination was a thing of the past. [laughing] That was a '60s problem. We began to learn that you've got to prove some things that are very obvious and very basic, and you can't assume that people understand these things or have ever even thought of that. So—

KH: There are a lot of people who would say the civil rights movement ended or maybe even succeeded after '68.

RW: Oh yeah. Well, I had this happen even with cases today. People will say about the issues that we bring up, for example this case over in Arkansas against this steel company that I was telling you about. A lot of people saying "Well, that was all solved in the '60s. Why are you bringing this up now?" You just have to go back and prove these same things are still happening. The most telling thing to me is when I first began handling these types of cases in 1974, I got out of law school, people then thought it was a problem of the past. They thought "oh yeah, it's like you say, in 1965, '66, '67 we solved all those problems." But now, and I can remember judges thinking that way, other lawyers thinking that way, that all this is just a matter of a few isolated problems left and clean those up and we're all done. But now most of the people say these are problems that only existed in the '70s or only existed in the '80s. I think back and say wait a minute. You were telling me this didn't exist then. [Laughter]

KH: Well, even though it's been a constant struggle when you look back, do you look on civil rights movement as progress or any especially high or low points?

RW: Well, there has been tremendous progress. But when we first brought the case against the transportation department, there was one black civil engineer. He had got in accidentally. They had eight

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hundred civil engineers in a state that's about thirty percent black, and for that to be the case in the middle of the 1980s when everybody thought all racial discrimination problems were a thing of the past, was shocking. But even when you would bring out the question well, how did this happen, you'd get the response well, apparently black people just don't want to be civil engineers. [laughter] We quickly proved that wasn't the case. So I guess there's been progress, but it's not ever won permanently. It's just, it's not anything that you ever just said, okay, the job is done or it's half--. It's not even half done. It's something that's constantly can be taken away and people fall back.

KH: What steps would you say are most pressing for Birmingham to make in the future to ensure civil rights for its citizens?

RW: I'd say it would make a tremendous difference if the Alabama courts and the cities and the counties would begin to play their part and pass laws and put resources into civil rights, race, age well not age, but race and sex discrimination especially. Because the federal government has cut back so drastically on the resources they put into it that right now virtually all of it falls on private lawyers. The Justice Department is doing very little. The Equal Employment Opportunity Commission is just totally spread too thin. The state government does nothing, literally. They don't have a single lawyer assigned to civil rights. Local government doesn't have any laws on the books. Of course the way the Alabama is set up, even the smallest local law has to be passed by the state legislature. The city can enact ordinances, but they don't have much effect. Any real law has to go through the state legislature. So I would, I think that biggest thing that could happen would be for the state courts to begin to do their part and the state government to begin to do its part to enforce civil rights and not rely solely on the federal government.

KH: What are your goals for your work in the future?

RW: I'm still doing, like I said a little while ago, the same thing I was doing when I first began. I don't see that changing. I wish it would, I really do wish it would change. I a lot of times think I would really like to do something new, something different, but it hasn't seemed to ever change or go away.

KH: As long as the same needs is there you've got to do the same—

RW: Yeah, and I enjoy it. I enjoy the work, but it is discouraging that the work is always there. I'm often, I'm asked a lot of times well, where do you get your cases from? I said, there's never been a

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want for clients or cases. There's hundreds of people wanting representation and having problems. It just doesn't ever seem to stop.

KH: Do you think that level of economic opportunity in Birmingham has gotten better?

RW: Oh yeah. There's been tremendous change. There's been tremendous, but there's still a lot, there's still a lot to be done.

KH: What lessons could be learned about your career that you want to make sure are remembered?

RW: Hmm, that's a hard question. I guess it'd be that for people, for the tradition of people being able to do something about their lives and their jobs and their communities and make a difference, to make sure that that's not forgotten, that each generation learns from the full past generations that you can do something. You can make a difference if you just get in there and work at it. I have kids, I even have grandkids now believe it or not. I've got six grandkids. They learn some of the highlights of the civil rights movement. But they don't, they see it more as history, like to them it's not nearer than the civil war was, about that far back in their minds.

KH: Did they watch the *Eyes on the Prize*?

RW: Yeah. Yeah. But still to them, of course I was this way too. When I was fourteen or fifteen years old, the Second World War seemed like a hundred years ago. I look back on it it was only twenty years before. That's the way my kids are now, my grandkids are now. They look at the '60s like "oh man that was a long time ago." The '70s or '80s, a long time ago. So it is, I think a lot of the younger generation doesn't realize that these things, that they can still make a difference. They can still get involved. There's still a place for them to get involved. We have a hard time getting young lawyers to commit to do civil rights work.

KH: That's because they assume it's all taken care of.

RW: I think there's a lot of that. Plus there's just a lot of other opportunities out there now that are competing for people's attention.

KH: If civil rights had more of a media presence now than it does, do you think that would make a difference in lawyers wanting to get involved?



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RW: Yes. I think there are a lot of people of goodwill who just don't have any exposure. When you try a case to the jury nowadays, you can make some progress, but you've got to educate them from the ground up about what's going on. The media just chases after things that, just like this thing with the Duke Lacrosse team right now. It's just the latest example of just chasing after sensationalism. They won't spend any real time on issues that really would make a difference. Not that the Duke thing's not important, but I think I see it happening again where it's just going to get a disproportionate amount of attention, going to block out a lot of other things.

KH: Those are all the questions I had, but if there's anything I haven't asked that you'd like to, you'd like to say.

RW: No, I can't—I don't know. It's hard to think back. I think I've covered everything I would want to say. It's hard to explain. There's so much in the litigation that's so dry and so time consuming. I sometimes look at what I've spent my time on and what it yields, and I think "my Lord, that's a huge amount of work for a small amount of gain." I reach the point where I think no one's really going to be interested in that except another lawyer.

KH: But the results are interesting.

RW: The results are interesting. They are interesting when you sit back and you can see where you started and where you ended up. But the biggest thing for me was having role models that had done it and could show it could be done. I hope that the next generation will pickup and carry on because there's a tremendous amount of things that need to be done.

KH: You've done your part to be a mentor to other lawyers.

RW: That's been my main goal. When I started practicing, civil rights lawyers were mainly one and two-man firms. But the problems with that is a case that's going to take ten or twelve years of your attention. You'll starve. You'll go out of business. It's a long before you'll get that case over with. The Legal Defense, the NAACP Legal Defense Fund had been able to fund some of the early cases. But they began to have less, it's a big country, spread very thin. So what I wanted to do was not just to handle cases myself but try to provide a place for other lawyers that could come in and get started. We now have forty lawyers. It's taken thirty years. But we are able to provide a place for young lawyers to start and not starve while they're building their practice. We now have lawyers in their twenties, thirties, forties, and I'm

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proud of that. The only thing is it hasn't happened very many times. Most of these civil rights lawyers are still in one or two-man firms, three or four-man firms. They have tremendous resource problems. They have to do a lot of other things just to pay the rent, and they, it leaves them with not enough time to handle the bigger cases, class action cases. So there's only right now there's probably five or six law firms in the United States that are handling class actions on any regular basis. That's way too few.

KH: With your big caseload, how did you manage to build a firm like this?

RW: Sticking with it. Recruiting lawyers, out trying to find lawyers that are interested in it. That's the biggest thing to find people that have a real strong interest and then putting money aside as far as investing and getting younger lawyers started. You take a case like this that takes so many years to bring to an end, you've got to have somebody that's got an older case that's coming to an end. So you sort of build these, you get these peaks and valleys where you, this case is getting over with while in the middle of that case this other case has started. In the middle of that case another one has started, and so they began to bridge each other. You can support each other that way so when I was making nothing on a case, the next lawyer he might be finishing a case. He spreads what he makes on that case or she makes on that case to me or if I'm ending a case, I can spread what I make to them. Through cooperation like that we've been able to get people to come into the practice.

KH: Do the other lawyers in the firm do employment cases as well?

RW: Yeah. Ninety percent of this firm does civil rights work. There are several lawyers that do consumer class actions, but this firm was built from race and sex class actions, discrimination class actions has always been the heart and the soul of the firm.

KH: Well, thank you very much for your time.

RW: Okay

END OF INTERVIEW

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