

TRANSCRIPT: JACK DRAKE

Interviewee: Jack Drake
Interviewer: Kimberly Hill
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START OF CD

Kimberly Hill: This is Kim Hill, on June 19, 2007, and I'm talking with Mr. Jack Drake in his law office. Thank you for having me here, Mr. Drake.

Jack Drake: I'm glad you're here.

KH: Let's start by talking about your childhood. Did you grow up in Alabama?

JD: I did, I grew up in oh, a sort of wide place in the road called Gardendale, which is now a pretty big suburb north of Birmingham.

KH: And, what careers did your parents have?

JD: My mother was a file clerk and my father was a machinist. Neither one of them graduated from high school. Fairly typical story of somebody whose parents, you know, came to adulthood after World War II.

KH: Why would you describe it that way?

JD: Well, I just think there were an awful lot of people who came out of the, sort of the World War II era, who did not have an education but had some skill and wanted their children to go to college. So that's--. I'm the child.

KH: And when did you get interested in studying law?

JD: When I got a television and Perry Mason was on there.

KH: [Laughter]

JD: I mean that had more to do with it than anything, really. I just thought it was exciting and interesting, and as I got older I realized lawyers were able to choose some change and had access to power, so that made it more interesting.

KH: You graduated from the law school in '69. What school did you go to for college?

JD: I went to Alabama undergraduate and Alabama law school.

KH: What do you remember about civil rights activities that were going on during that time?

JD: Well, I was--. I was in high school—a senior in high school—when the marches were taking place here in 1963. And I worked downtown at a bookstore, and I went to high school about three blocks from where you and I are sitting. I walked to the bookstore to go to work, and several times I encountered people being arrested, and, you know, saw marches and demonstrations. When there were acts of violence, certainly I was aware of that through the news and so forth. So, I remember being scared about all of that. I think that was true of most people, white or black, who lived here. Those were difficult times, and there were--. You know there were a lot of acts of violence, and people were--. Most people were afraid of what was going on.

KH: When you were in law school, did you ever think that the work you were doing might have something to do with civil rights eventually?

JD: Yeah, by that time I did. I was still in undergraduate school when the Selma march happened, but that certainly had a big impact on me. Then when I got into law

school in 1966 and started reading constitutional cases and having law professors from other parts of the country, I became interested in being a civil rights lawyer. And that--. That desire was enhanced by the anti-war movement. I mean for me the two were about the, had about the same impact on me. The anti-war movement and the civil rights movement were going on in my life at the same time, from '66 to '72 or so. So I was heavily involved in all sorts of things when I was in law school.

KH: What things in particular?

JD: Well, anti-war demonstrations and civil rights demonstrations, marches. And then I began to help register people to vote in voter registration drives funded by the Voter Education Project out of Atlanta. And I got involved with the national Democratic Party, which was an alternative party to the regular Democratic Party. It was called the N.D.P.A., the National Democratic Party of Alabama. And I helped run William McKinley Branch's campaign for Congress. He was later elected the first black probate judge in the Deep South, and I was involved in that. So, I was involved in a lot of electoral politics that centered around race and registering black folks to vote, and then began to practice law. I went to work for the Selma Interreligious Project, which worked primarily in the black belt with various black groups like the Freedom Quilting Bee in Alberta, Alabama—people think it's Gee's Bend but it's actually Alberta, which is ten miles away--eight miles away--or so. Began to file all kinds of constitutional litigation involving conditions in prisons and jails, to desegregate jury commissions. We used to have jury commissions county by county that decided who served on juries, and those were all white. We filed law suits to require single member districts in city and county elections, so that blacks would have an opportunity to be elected and serve. Just almost

every kind of constitutional case you could think of. And I'd file cases on behalf of the mentally ill and the mentally retarded to reform the big hospitals in Alabama.

KH: Did you know Martha Jane Patton during the time?

JD: I did. She and I both worked at the Selma Project together. [Interruption]
And then she went to law school after that, and I know her today.

KH: I interviewed her last summer.

JD: Yeah. She's a good person.

KH: Yes, she is. So did working with the Selma Interreligious Project help you figure out what you wanted to focus on in your own practice?

JD: Yeah, it sort of allowed me the freedom to do that, because I was being paid a salary and I sort of--. I was given the freedom to figure out what I could do to help. I mean, there were some things that I was asked specifically to do like incorporate daycare centers, and provide general legal advice to some of the established groups in the black belt. But really what we ended up doing, in hindsight, was helping to empower people who later ran their counties. The people that we were helping ultimately became probate judges and county commissioners and sheriffs and things of that sort, which was a good thing.

KH: You mean the people who were involved in the lawsuits that you were bringing?

JD: No, more or less the people that we were helping in the black belt—.

KH: Okay.

JD: Like people at the Freedom Quilting Bee, or a daycare center, or somebody that we would get a grant for and hire to register people to vote, and then that person later

runs for county commission, that kind of thing.

KH: Okay. So you were basically helping local activists—

JD: Yeah, yeah.

KH: --who went into politics.

JD: Let me check on that, will you.

KH: All right.

JD: Let me check on that meeting. [Pause]

KH: So what kind of cases do you focus on?

JD: Now?

KH: Yeah, now. In your practice.

JD: My practice now is plaintiffs' class actions on a nation-wide basis, mass torts, and an occasional kind of individualized case, but primarily mass torts and class actions.

KH: Okay.

JD: We punish the wicked.

KH: [Laughter] Are these usually—? These are companies?

JD: Banks and insurance companies and credit card companies, folks like that.

KH: Are there any companies in particular that you had to go against more than once?

JD: Well, Exxon. I mean, I'll just tell you I have cases now against Exxon, American Express, banks, whoever we find doing something we think is wrong. We do securities work too, so we're involved in the HealthSouth lawsuit, which is a big case here in Birmingham.

KH: I don't know about that one.

JD: Well it's a typical kind of securities fraud case where the company is misstating its assets and misstating its earnings.

KH: Okay.

JD: So it damaged the value of the stock, and the stock went down to a nickel a share at one time.

KH: Could you describe the work that you've done with unions in the past?

JD: Well, I represented the United Mine Workers international union in Alabama. [Pause] I represented the international union of the United Mine Workers for a few years in the 1970s, and then I represented the local rubber workers union in Tuscaloosa. I represented the firefighters in Tuscaloosa. For many years I represented the Alabama Education Association all over the place and also in many occasions in the Alabama Supreme Court. And I've done work for the Laborers International Union and others on a kind of ad hoc basis depending on what the issue was. I don't represent any unions today, but my law firm does.

KH: Okay.

JD: Let me go do that [attend a meeting], and I'll come back as soon as I can.

KH: Okay.

[Recorder is turned off and then back on]

KH: Now, was there one case in particular that you'd like to talk about regarding the unions you used to represent?

JD: Some of the mine worker stuff was interesting, and it involved some interesting points about union law, but I don't know that it's anything that I, you know,

have this real strong memory about.

KH: Well, you could share what stood out to you.

JD: Well, most of the time when I was representing the mine workers, I was going to court to try to keep the judge from issuing an injunction over an illegal strike. The mine workers would strike—at that time, at the drop of a hat—illegally, I mean in violation of the contract. That's what I spent most of my time on.

KH: Were those cases successful most of the time?

JD: No, you almost always lost them. You were just trying to do damage control, you know, to keep them from having to pay damages to the company. It was a breach of a contract, so theoretically at least you were liable for whatever damage the illegal stoppage caused.

KH: How often do you remember being involved in a case like that?

JD: Oh, I'd say maybe the most that it ever happened in any one year would be eight or nine in a year, something like that.

KH: With the same mine workers?

JD: Well, you had different local unions and different mine sites. You might have a small strip pit somewhere, and one of the miners would get mad about something and just put a sign up in the windshield of his truck saying "On Strike" and park the truck in the entranceway to the mine, and nobody would go to work. That's the way it happened.

KH: Were you ever involved with the city workers when they were on strike?

JD: The city? No.

KH: Okay. I'm going to be talking with some people from Laborers

International this afternoon.

JD: No, I was not involved in that.

KH: Okay.

JD: Don't know who was either. It could have been somebody who is one of my partners, but I wasn't practicing law at that time.

KH: I was just wondering. Were you ever involved in any union planning meetings when you were working with them?

JD: No.

KH: Okay. In general, what would you say the issues were that these unions were trying to achieve?

JD: Generally they were trying to get the best monetary package and benefit package for their members, and to protect their members from arbitrariness by employers, whether it was a disciplinary action or firing or whatever.

KH: What makes those union cases different from other cases that you represent?

JD: I don't know. The union cases were much more routine than the constitutional litigation and the civil rights stuff that I did, and far less significant in my memory. It certainly didn't change people's lives the way a lot of things I did, did.

KH: That's good to know. So why do you say that civil rights didn't seem to have much in common with labor?

JD: I didn't see anything being done on the part of labor unions to assist in the civil rights movement. Now, that may have happened, but I don't know about it. I mean, I just never saw it. I suppose one reason I didn't see it is I came along as a lawyer maybe after things in that area were over. I don't know. I just don't know that history, and I

never saw unions or union officials involved in the civil rights movement at any level in Alabama. I never saw that, and as I said before that doesn't mean it didn't happen. I never saw it.

KH: I was talking with someone from the Aerospace Workers Union yesterday, and he felt that they did have a lot in common, but, especially in Birmingham, the union leaders weren't doing enough to be involved in the community. He was talking about from when he started in '81 to now. It's been a decline. So, seems like you're basically saying the same thing. He thinks they ought to have something in common but they don't, basically because of negligence.

JD: Well, yeah, I understand what his point was. In their defense, I would say in the last twenty-five years, if you talk about 1980 to now, unions in Alabama have been fighting to survive. It's probably taken all their energy and money and everything else. Because you had--. You know, in 1970 there were 25,000 people working for US Steel in Jefferson County, and today there are 2,300 or 2,500 or something. And the mine workers had twelve or thirteen thousand people and today they probably have no more than 3,000. Those are just two. A lot of the heavy industry in Birmingham went out of business—closed up shop. The industries that seem to have survived, for the most part, and done well have been laborers. U.F.C.W. was doing well for awhile, but they've lost a lot of members too. Their big union store was Bruno's, and Bruno's has been in and out of bankruptcy twice.

KH: Basically because of the corporate chains that have moved in.

JD: Yeah.

KH: Let's talk about some of your other cases. What gives them potential to

change people's lives?

JD: You mean the ones I do now?

KH: Yeah.

JD: Well, for the most part what I do now is all about--. It's just about companies that engage in fraudulent activity, and we try to recover some of the money for the people. I just settled a case with Exxon for seven and a half million dollars. It'll go back--. Most of that will go back to the class of royalty owners we say Exxon improperly paid. So, I mean that's the kind of thing--. We're in the business of recovering money for people.

KH: Has there been a point in your career that you thought was an especially high achievement?

JD: I think the mental health litigation, the Wyatt v. Stickney case, had a profound effect on mental health care in this country; on the way mental institutions were run and how they are accountable to the legal system. Also, in conjunction with Wyatt v. Stickney there's one called Lynch v. Baxley where the commitment statute was declared unconstitutional—the civil commitment statute. That emptied out mental health institutions. There were people there who shouldn't have been there. So those cases had--. You know, I'm proud of those.

KH: Could you repeat the name of that second one?

JD: Lynch v. Baxley. I'm proud of the change in the structure of government cases that I did. I mean like the city of Tuscaloosa when it went to mayor-council system, you know, you had black city council members who were able to get fire stations built in their districts, and red lights put up, and stop signs put up. I just thought of

another one. I sued the city of Tuscaloosa—I mean the county of Tuscaloosa—for not hiring black people. They only had like, three or four black employees in the whole county when we sued them. Now, about 35 percent of the sheriff's department is black, and every department has black employees. I'm happy the way that turned out.

KH: Have you worked much with city politics in Birmingham?

JD: I give them money, the people that are running. That's about all. My firm occasionally represents the city, just on an ad hoc basis, primarily doing their appellate work, you know. Very interested, because I think the city of Birmingham is under a leadership crisis right now.

KH: Why is that?

JD: I think the mayor [Mayor Bernard Kincaid] is incompetent, that's the first thing. And the city council, as a result of really his inability to deal with them, I think they're pretty unruly themselves. I mean, we need a mayor that can make decisions, and has some vision for the city, and the current guy doesn't. He's been a caretaker for eight years, and it's been a disaster for the city.

KH: What things has he failed to take care of?

JD: He really, he has no vision for what the city ought to be, and hasn't provided the leadership, for example in the area of public transportation. The schools are a horrible mess. The city's not growing, its tax base is dwindling, the city's perpetually almost broke. It just has enormous problems.

KH: Yeah, I've heard that from other people too. What ways in particular would you say that this city has changed in the time that you've been here?

JD: You mean since I've been an adult? Because I used to live in Tuscaloosa.

KH: I guess since you left Tuscaloosa.

JD: Well, that would be the last eleven years, and the two big changes have been, we went from a strong leader as mayor in Richard Arrington to Bernard Kincaid who can't make a decision about whether to have a meeting or not, and that's been a disaster. The other big change in the city, I think, is the fact that people are moving back into the city center to live. I think that's very helpful. And I think that the formation of the cultural alliance was a really good thing, which is an umbrella organization to provide support for the various arts groups in the city.

KH: Okay. Yeah, I noticed that you're on the board of trustees for the art museum.

JD: Yeah, I am. The whole private effort to do things, like develop the three big parks—Red Mountain Park, Ruffner Mountain, and the railroad reservation—those are good things too. I mean, there are some good things happening, but mostly they've happened outside the government.

KH: I noticed that you're heavily involved in community organizations.

JD: Well, in several, yeah.

KH: Why is that so important to you?

JD: Well, I think it's important to try to contribute to the city or county or state where you live. That's one way of doing it.

KH: That must be kind of a challenge though, considering how much you have to do here.

JD: Yeah, it is. I'm going to a luncheon meeting at noon at the museum, but you know those things are important.

KH: What personal goals do you have for your work at this law firm?

JD: I want the law firm to continue to grow and be successful and be run in a very business-like sort of way. It's become a big business and it has to be managed and run like one. [background noise from mic interference]

KH: What ways would you say that your law firm has helped make the city better?

JD: Well, we've supported many of the things that I've been talking about. We've supported them financially, we've supported them by having people who work here involved in many things around in the city, particularly things having to do with the arts. [Interruption] And we have represented the city, and helped get it out of some big messes.

KH: Are there any other goals that you hope to achieve eventually?

JD: [Laughs] You mean for the law firm?

KH: Yeah, for the law firm.

JD: Other than what I've said, I don't think of any.

KH: Okay. I was wondering if you ever considered yourself a civil rights activist.

JD: Well, I don't think there's any question that at one time I was.

KH: But you don't think you are now?

JD: No, I mean that kind of terminology seems outdated to me. I think I'm an activist in the sense that I speak out about things that I care about, and I support with my time and money organizations that fight for human rights. But to say that somebody's a civil rights activist in 2007 seems a little bit outdated to me.

KH: I like to ask everybody that question, and it seems like most of them are kind of surprised. They never thought of themselves as an activist.

JD: Yeah.

KH: Do you think that discrimination—like, racial, or economic, or otherwise—has had-- Does it play a factor in cases that you handle now?

JD: Yes. I think that black people, low income people, Latinos, people of color are singled out for exploitation by businesses in the United States on a daily basis.

KH: Is that less so than in the past?

JD: It may be less so, but it's no less prevalent when you look at the entire economy. I mean, it goes on, whether you're talking about sub prime lenders, or loan companies, payday loans, you name it. Redlining, you have all that stuff going on today.

KH: Could you explain that term, "redlining?"

JD: Redlining historically is where financial institutions would in effect draw a red line around an area and they didn't lend money into that area. But today it becomes more, we'll lend money in that area but at a higher interest rate.

KH: Okay. I asked you if there are any high points in your career, but can you think of any low points in your legal career?

JD: Oh, I've lost a lot of lawsuits that, you know, I was deeply disappointed. I was involved in a big political lawsuit over who would be elected chief justice back in '94 I think it was, and we lost that. It was a disappointment. And I tried a murder case in 1993 that I lost that was a big disappointment. There were individual cases, but I always got up the next morning and went to work.

KH: Are there any lessons that you would hope future lawyers, or just people

hearing about your life, would learn from you?

JD: I hope people would never lose sight of the fact that one person can make a huge difference in the city or area in which they live, for good or for bad. I think people--. One person can bring about a lot of positive change in an area, or a state, and then you can have a Robert Chambliss who blows up people's houses in the middle of the night, and gets away with it. And because he got away with it, other people thought that they could commit acts of violence and get away with it, and did. So I think, you know, you can pick out one person here, one person there, who made a big difference one way or the other, and people should remember that.

KH: That's good. Those are all the questions that I have.

JD: Okay.

KH: Would you like to add anything else?

JD: No.

KH: Okay, thank you very much.

END OF INTERVIEW

Transcriber: Deborah Mitchum

Date: July 9, 2007