

2015

## Grandpa

Charles Walker

Follow this and additional works at: <http://scholarship.law.berkeley.edu/bjalp>

 Part of the [Law Commons](#)

---

### Recommended Citation

Charles Walker, *Grandpa*, 16 BERKELEY J. AFR.-AM. L. & POL'Y 323 (2015).  
Available at: <http://scholarship.law.berkeley.edu/bjalp/vol16/iss2/29>

### Link to publisher version (DOI)

<http://dx.doi.org/https://doi.org/10.15779/Z382S6X>

This Article is brought to you for free and open access by the Berkeley Journal of African-American Law & Policy at Berkeley Law Scholarship Repository. It has been accepted for inclusion in Berkeley Journal of African-American Law & Policy by an authorized administrator of Berkeley Law Scholarship Repository. For more information, please contact [jcera@law.berkeley.edu](mailto:jcera@law.berkeley.edu).

## GRANDPA

CHARLES WALKER

“I know you are asking today, how long will it take . . . ?  
How long? Not long, because no lie can live forever . . . .”

*Rev. Dr. Martin Luther King, March 25, 1965*

At the end of the 50 mile, five day march from Selma to Montgomery,<sup>1</sup> in a crescendo at the conclusion of his triumphant speech on March 25, 1965, Dr. King posed these rhetorical questions; The march dramatized the need for immediate Federal intervention to pass a law mandating an end to African American disenfranchisement.

King’s demand, and that of the 25,000 marchers who completed the march, and the 8,000 who began the march, was unequivocal.

*How long? Not long, because no lie can live forever.”*

*How long? Not long, because “you shall reap what you sow.”*

*How long? Not long:*

*Truth forever on the scaffold,*

*Wrong forever on the throne . . . .*

*How long? Not long, because “the arc of the moral universe is long, but it bends toward justice . . . .”<sup>2</sup>*

---

<sup>1</sup> The Selma to Montgomery March, memorialized as “Bloody Sunday” was one of three marches. The first march occurred on March 7 to protest the death of Jimmie Lee Jackson, a civil rights protester shot by an Alabama state trooper. This march resulted in the violent confrontation by Alabama police who attacked protesters as they attempted to cross the Edmund Pettus Bridge to begin their march to Montgomery, the state’s capital. In response to the violent clash the protesters marched two days later on March 9. The protesters led by Dr. King crossed the bridge, but to avoid another violent clash King, much to the chagrin of the protesters, had the marchers pray for the troopers and led them back across the bridge. That evening a White minister, Rev. James Reeb, was beaten to death for participating in that march. The third and final march occurred on March 21-25, when the 8000 protesters who marched from Selma to Montgomery were joined by approximately 17,000 for their triumphant entry to Montgomery. After the March, Viola Liuzzo, a protester, White housewife, and mother of five children, was murdered while transporting protesters back to Selma.

<sup>2</sup> Martin Luther King, Jr., Address at Montgomery, Alabama (Mar. 25, 1965), [http://mlk-kpp01.stanford.edu/index.php/encyclopedia/documentsentry/doc\\_address\\_at\\_the\\_conclusion\\_of\\_selma\\_march/](http://mlk-kpp01.stanford.edu/index.php/encyclopedia/documentsentry/doc_address_at_the_conclusion_of_selma_march/) (last visited 9/28/2014).

## Grandpa

It is a fitting irony that the state of Alabama is both the birthplace and now the gravesite of the 1965 Voting Rights Act (VRA). As a result of the *Shelby County v. Holder* decision, Section 4(b) of the VRA, has now been interred alongside the bodies of Jimmie Lee Jackson,<sup>3</sup> Rev. James Reeb,<sup>4</sup> and Viola Liuzzo.<sup>5</sup> Their brutal murders prior, during, and following the march from Selma to Montgomery, the state's capital, inspired its enactment.<sup>6</sup>

Now, 48 years later, the heart of the VRA – the formula that has been used to identify the nation's nine greatest enemies to the enfranchisement of people of color and language minorities – has been torn from its chest.

Unfortunately, because of the *Shelby County v. Holder* decision, the

---

<sup>3</sup> Jimmie Lee Jackson was a Deacon and a veteran who, after four attempts, was unable to register to vote. On February 18, 1965, he participated in a march organized at night. After leaving the church he, his mother, and 82-year-old grandfather were chased and beaten. When Jackson came to the aid of his mother he was thrown against a cigarette machine and twice shot in the abdomen. He died eight days later on February 26, 1965, at the Good Samaritan Hospital in Selma. His death inspired the protest and the first attempted march from Selma to Montgomery, the state's capital, to demand voting rights. [http://mlk-kpp01.stanford.edu/index.php/encyclopedia/encyclopedia/enc\\_selma\\_to\\_montgomery\\_march/](http://mlk-kpp01.stanford.edu/index.php/encyclopedia/encyclopedia/enc_selma_to_montgomery_march/)

<sup>4</sup> James Reeb was an ordained minister with the Universalist Unitarian Church. He was also a member of the Southern Christian Leadership Conference (SCLC) when he and members of the church interrupted their national conference to fly from Boston to Alabama to march for civil rights. The March was in response to the "Bloody Sunday" assault upon the 600 marchers by state troopers. Rev. Reeb and two other Unitarian ministers, "after eating dinner at an integrated restaurant March 9, . . . were attacked and beaten by white men armed with clubs." [He was 38.] Following his death, an additional 17,000 people arrived to support the 8,000 protesters who began the march in Selma. *Id.*

<sup>5</sup> Viola Fauver Gregg Liuzzo was a member of the Unitarian Universalist faith, a civil rights activist, married, and a mother of five on March 25, 1965. She was among the participants at the Selma to Montgomery march. Following the march, she volunteered to transport other civil rights workers back to Selma to their colleges and homes. As they were driving along Route 80, a car with four Klansmen including an FBI informant attempted to force them off the road. The Klansmen then pulled up alongside Liuzzo's car and shot directly at her, hitting her twice in the head, killing her instantly. Her car veered into a ditch and crashed into a fence. She died at the age of 39. Dictionary of Unitarian and Universalist Biography, Viola Liuzzo, <http://uudb.org/articles/violaliuzzo.html>.

<sup>6</sup> As better stated by Justice Ginsburg in her dissenting opinion,

The reason for the Court's silence is apparent, for as applied to Shelby County, the VRA's preclearance requirement is hardly contestable. Alabama is home to Selma, site of the "Bloody Sunday" beatings of civil-rights demonstrators that served as the catalyst for the VRA's enactment. Following those events, Martin Luther King, Jr., led a march from Selma to Montgomery, Alabama's capital, where he called for the passage of the VRA. If the act passed, he foresaw, progress could be made even in Alabama, but there had to be a steadfast national commitment to see the task through to completion.

*Shelby Cnty. v. Holder*, 133 S.Ct. 2612, 2645 (2013) (Ginsberg, J., dissenting).

**TOURO LAW JOURNAL OF RACE, GENDER, & ETHNICITY &  
BERKELEY JOURNAL OF AFRICAN-AMERICAN LAW & POLICY**

cancer cells of bigotry, after 48 years of being in remission, have been revived. On June 25, 2013, the cells metastasized, re-entering America's bloodstream with breakneck speed, devouring the antibodies, veins, and membranes of freedom that protected African Americans in Alabama from harassment, intimidation, disparate treatment and disenfranchisement in their path.

The Supreme Court has returned the body of the VRA to Congress with a "Do not Resuscitate Order." Section 5's power to enforce the voting rights of racial and language minorities is gasping for air because the radiation treatment of reauthorization has been indefinitely suspended.

The decision is disturbing to say the least. During sobering times like these I would usually call my late father for some of his wisdom.<sup>7</sup> So I called upon my dad in Heaven to help me with this essay. The conversation went something like this:

Me           Dad, I'm sorry.  
Dad           Sorry for what?  
Me           For the recent Supreme Court Decision, *Shelby County v. Holder*, that all but wiped out the Voting Rights Act of 1965.  
Dad           How so?  
Me           The Supreme Court knocked out a major portion of the Act, which as you know was the product of the sacrifices of your generation and before.  
Dad           But why are you apologizing? You didn't write the opinion.  
Me           True. Shamefully, though, the Chief Justice, a member of my generation, did.  
              He and four of his fellow Republican justices saw that in the last six years there was a major sea change in the number of Black folks registering, voting and participating in elections in a number of the southern states.  
Dad           That's good news, right?  
Me           It's good news that after 40 years of enforcing these anti-voter discrimination laws, Black folks are finally able to register and vote. The bad news is that the Supreme Court is sending a thumbs up to the southern states that the fight to end voter

---

<sup>7</sup> My father, Charles E. Walker, Sr., was born August 1, 1919, in Arkansas, and served in a segregated Air Force from 1944 until it was integrated in 1948 via President Truman's Executive Order 9981. Exec. Order No. 9981, 13 F.R. 4313 (July 26, 1948), *superseded by* Exec. Order No. 11051, 27 F.R. 9683 (Sept. 27, 1962). He served for 23 years before retiring in 1967 as a Lieutenant Colonel of the state's first African American "Base Executive." He was a musician with a Master's degree in Aeronautic Engineering, and then taught college, worked for Northrop, and retired in 1983 before he passed away on December 29, 2000.

## *Grandpa*

discrimination is over and that the federal government's oversight and interference with the way they run their elections is no longer necessary.<sup>8</sup>

Dad

So what does that mean?

Me

The Supreme Court ordered Congress to nix the formula identifying the southern states most responsible for historically preventing Blacks from voting. Because Black people voted in record numbers, the Court said the formula is now out-dated and continued reliance upon it is unconstitutional.

Dad

Is it true that Black people voted in record numbers?

Me

Yes, African Americans, for the first time in U.S. history, out voted Whites in five out of the six of southern states covered under section 5 of the VRA.

Dad

(chuckling) Really!

Me

In the 1960s in Dallas County, Alabama, for instance, where Black folks comprised 57% (15,000 people) of the population, less than 1% (130) of the age eligible Black voters were ever registered to vote. Fewer than that even voted. Today, approximately 66.2% of the registered Black folks voted compared to only 64.1% of the White people. And while we only comprised 12.5% of the eligible voters, we were 13.4% of the people who voted.

Dad

OK, so what about this *Shelby* decision?

Me

Major step backwards, Dad. Remember that march Martin Luther King had for voting rights and 3 civil rights volunteers were murdered and...

Dad

Yeah, that was in Mississippi. They shot those three college students who were registering blacks to vote.

Me

No, Dad. You're talking about Goodman, Chaney and Schwerner; that was the year before in June 1964, the year before the Voting Rights Act. But I'm talking about a year later on March 7, 1965, "Bloody Sunday," and the march from Selma

---

<sup>8</sup> Justice Ginsburg was spot on with her denunciation of the majority's opinion, stating Congress approached the 2006 reauthorization of the VRA with great care and seriousness. The same cannot be said of the Court's opinion today. The Court makes no genuine attempt to engage with the massive legislative record that Congress assembled. Instead, it relies on increases in voter registration and turnout as if that were the whole story.

*Shelby Cnty.*, 133 S. Ct. at 2644 (Ginsberg, J., dissenting).

Justice Roberts put justice on trial by striking section 4(b) of the Voting Rights Act, removing from Congress the authority to enforce its own act--the same authority and Act and provisions that the Court had resoundingly affirmed as an appropriate means for Congress to meet its charge to enforce equal voting rights under the Fifteenth Amendment. See *South Carolina v. Katzenbach*, 383 U.S. 301 (1966), *abrogated by* *Shelby Cnty.*, 133 S.Ct. 2612.

TOURO LAW JOURNAL OF RACE, GENDER, & ETHNICITY &  
BERKELEY JOURNAL OF AFRICAN-AMERICAN LAW & POLICY

to Montgomery when three other civil rights and voting rights protesters – Jimmie Lee Jackson, Rev. James Reeb, and a White woman from Detroit, Viola Liuzzo – were killed. Their violent deaths led to the passage of the 1965 Voting Rights Act that the Supreme Court just gutted.

Dad What a mess. So what were you saying that the Supreme Court did?

Me Essentially, they nullified that part of the VRA that identified the states that have been the biggest violators of the voting rights of Black citizens and sent it back for a new formula. (To my surprise, Grandpa, Dad's father and a staunch Republican, was also there. He took over the conversation.)

Grandpa A new formula?

Me Hey, Grandpa. It's been a long time! Well, they are referring to a new formula to determine which states should be subject to the VRA.

Grandpa Which states?

Me Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia.  
(Silence)

Grandpa, you still there?

Dad Actually he ran down to Martin Luther King's place to tell him what you said.

Grandpa Chucky, we got some company. The Jacksons-Jimmie Lee and his parents, and Grandfather Cager Lee, Dr. King and Coretta Scott King, Viola Liuzzo and her family, Rev. James Reeb, James Chaney, Andrew Goodman, and Michael Schwerner, a bunch of Freedom Riders, along with some of their friends, and several thousand people who say that they too crossed the Edmund Pettus Bridge enroute to Montgomery. We got you on speaker phone—will you please tell these folks what you just told me.

Me Good day everyone. I was simply calling my father and grandfather to commiserate about a ruling made down here recently by the U.S. Supreme Court that invalidated a large part of the VRA that renders the Act ineffective . . .

(An audible gasp accompanied by sounds of disbelief)

. . . until Congress passes a new formula to determine which states are out of compliance with the VRA. Most of the original confederate states have horrific records of voter suppression from 1870 to the present. They've replaced poll taxes, grandfather clauses, hangmen's nooses and literacy tests with

## *Grandpa*

photo ID requirements, laws limiting, and in some instances terminating, early registration and voting, redistricting plans, and more gerrymandering.

As soon as the Court issued its decision, Texas and North Carolina immediately implemented laws that would never have passed muster previously but are now laws in those states. And now that the cuffs are off, states are like buyers on Black Friday after Thanksgiving -- breaking down the doors to disenfranchise Blacks, Asians, Hispanics and others with the Republican controlled Supreme Court leading the way.

(Group grumbles as they leave)

Grandpa OK, Chucky. But let me ask YOU a few questions.

Me Yes sir.

Grandpa Did you ever have to take a literacy test to vote? Pay a poll tax? Have KKK crosses burned on your lawn? Has your life been threatened because you wanted to vote?

Me NO sir.

Grandpa Ever been arrested like I was for walking down the wrong side of the street because you're Colored? Or worked in a mill like they did in North Carolina with White coworkers, but barred from looking out the same windows as White coworkers during cigarette breaks? Or had the state department of public utilities require manufacturers to make separate telephone booths? Or been required to use separate bathrooms, and if the Colored bathroom was broken you had to find a Colored restaurant or drive to the next town just to use a bathroom? Or been allowed to testify in court, but only after being sworn in on a separate Bible . . . .

Me I know those are painful memories that prove there has been progress, but this will take us backwards, Grandpa .

Grandpa Black people out voted White people recently and reelected an African American to his second term in office!!

Me It's progress, but not where we need to be.

Not 48 years after the passage of this Act. Not 59 years from declaring segregation unconstitutional. Not 80 years since they declared White primaries unconstitutional. Not 143 years since the passage and enactment of the Fifteenth Amendment, Grandpa, and when they had to have military districts in these same southern states to force them to add these amendments to their state constitutions. And, certainly not 150 years since the civil war and the Emancipation Proclamation.

Grandpa Listen. Be patient, Grandson. Remember Dr. King said, "you

- know the arc of the moral universe is long, but it bends toward justice . . . .”
- Me Yes. But with the Supreme Court’s evisceration of section 4(b) Dr. King’s question, “How long?” will continue to go unanswered. How long will it be before the Supreme Court shares Congress’s goals of fulfilling the mandates of the Fourteenth and Fifteenth Amendments?; How long must America wait before enfranchisement of ALL people is a reality?; How long will it be before discrimination-free elections dominate America’s political landscapes?; and How long will the Supreme Court continue its adulterous flirtations with State’s Rights before it honors its marriage vows to the Fifteenth Amendment and the people it was designed to serve and protect?
- Grandpa Dr. King did leave YOU with an answer. He said, “Not long.” And I agree with him.
- Me And what makes you so certain?
- Grandpa Because a lie can’t live forever.

## Epilogue

The likelihood is slim that this Congress will meet the challenge and design a formula that is all-inclusive, that does not specifically target only the covered states, but is objective enough to capture the past, present and future enemies who would disenfranchise racial and ethnic minorities and exclude them from the political process.

Who knows? It may or may not be in this Congress, or the next Congress, or by 2031, the original date of the reauthorization, or -- with the current Supreme Court justices -- , during our lifetime. There is one thing that is a constant—our resilience and resistance to disenfranchisement.

We were resilient and resistant to the 246 years of slavery and a U.S. Constitution that maintained and preserved it; we were resilient and resistant to disenfranchisement despite a Supreme Court decision that proclaimed that we were,

beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior,

## *Grandpa*

that they had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit.<sup>9</sup>

We were resilient and resistant to disenfranchisement after the 4-year war that claimed 620,000 lives, over 1.3% of the U.S. population, over the issue of whether the states would coexist with slavery; we were resilient and resistant to disenfranchisement: to the violence that has followed the enforcement of the Thirteenth, Fourteenth, and Fifteenth Amendments; to segregation; to the black codes; to forced integration; to racial profiling in crimes; and for the entire 394 years since our arrival to this country, we've been resilient and resistant to every act and attempt to disenfranchise us and prevent us from fully participating in the creation and governance of this country.

The answer to the query, "how long" is still too elusive and frustrating to me. I can only hope and pray that my Grandfather and Dr. King are both exceptionally correct. My deepest and most earnest prayer is that it's "not long" before we all can share their optimism.

---

<sup>9</sup> Dred Scott v. Sandford, 60 U.S. 393, 407 (1856), *superseded by* U.S. CONST. amends. XIII, XIV.