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Law and Local Activism: Uncovering the Civil Rights History of *Chambers v. Mississippi*

Emily Prifogle*

Countless academics have examined and discussed the importance of *Chambers v. Mississippi* in a multitude of areas including compulsory due process, admission of hearsay, third party guilt evidence, false confessions, racial evaluations of hearsay and witnesses, and morally reasonable verdicts. In contrast, this Comment attempts to excavate the account of a rural Mississippi community’s struggle for rights that underlies the U.S. Supreme Court decision in *Chambers*. On its face, the case has no link or reference to the civil rights movement. However, this Comment reveals that local civil rights activists took armed, direct economic action for equal rights in Woodville, Mississippi, and that activism characterized the events that precipitated the June 14, 1969, killing of Officer Aaron Liberty—Woodville’s black police officer. The article concludes by developing two interrelated claims: in the narrative—which takes place in the gap between secured rights and local realities—law is both everywhere and nowhere. National litigation influenced the terms of exchange between the local movement and white opposition, while micromobilizations of the law through local law enforcement continually operated to suppress civil rights activity. At the same time, there was an absence of legal protections for the black community, who in response mobilized an extralegal self-defense group to bolster the power of boycotts and protect black neighborhoods.

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INTRODUCTION

On a Saturday night in the summer of 1969, an altercation took place in Woodville, Mississippi, that left a police officer dead and the man eventually convicted of his murder severely wounded. Ultimately, the U.S. Supreme Court overturned that conviction in *Chambers v. Mississippi.* Justice Lewis Powell’s short opinion contained a concise and sanitized recitation of the facts: the incident began when police officers Liberty and Forman entered a bar and pool hall to execute an arrest warrant for C.C. Jackson. Upon confrontation with the warrant, Jackson refused and resisted arrest. Quickly, a crowd of twenty or twenty-five individuals prevented the officers from completing the arrest. Officer Forman radioed for backup while Officer Liberty took his riot gun from the patrol car. When the three additional backup officers arrived, they joined Forman in a second attempt to arrest Jackson. This time, the crowd repelled all four officers.
During the scuffle, five or six pistol shots were fired. Liberty, hit in the back, staggered as he turned toward the direction from which the shots came. He returned two shots from the riot gun: the first “wild and high,” the second “more deliberate.” The second shot filled Leon Chambers’s neck and head with buckshot. Leaving Chambers for dead in the alley, the four remaining officers rushed Liberty to the hospital. At the same time, James Williams, Berkeley Turner, and Gable McDonald found Chambers still alive in the alley and rushed him to the same hospital. Of the two gunshot victims, only Chambers made it to the hospital alive; Liberty died en route. Before dawn, the local sheriff had already placed guards at Chambers’s hospital door; he was charged with murder soon after.

While Chambers recovered in the hospital, McDonald confessed to shooting Liberty at least three times to close friends. He also gave a sworn confession for the shooting to Chambers’s attorneys. However, by October 1970, when Chambers was set for trial, McDonald had recanted his sworn confession. At trial, Mississippi’s rules of evidence prevented McDonald’s oral confessions from being presented to the jury because they were deemed inadmissible hearsay. In the end, the jury convicted Chambers of murder and sentenced him to life in prison.

The U.S. Supreme Court overturned the conviction, holding that Chambers had not received a fair trial. In its decision, the Court focused solely on whether Chambers should have been allowed to present McDonald’s oral confessions to the jury. Mississippi rules of evidence excluded these
types of confessions even though they would have made McDonald appear less credible at trial. However, the Court’s constitutional decision—grounded in the right to a fair trial—annulled Mississippi’s unfair evidence rules.

Justice Powell’s summary of the facts, though brief, has become familiar to many. Hundreds of attorneys have compared the details of their own cases to Chambers, seeking paths around hearsay rules and seemingly unfair trials, most often unsuccessfully. 24 Law students nationwide study this account in their Evidence courses. 25 Countless academics have examined and discussed the importance of Chambers to legal theories of compulsory due process, admission of hearsay, third party guilt evidence, false confessions, racial evaluations of hearsay and witnesses, and morally reasonable verdicts. 26 Yet the Court’s account of the circumstances surrounding Chambers’s conviction obscures as much as it reveals. Although the opinion does not include a single reference to any party’s race, the case was intimately tied to the struggle for racial equality in a rural Mississippi town.

This Comment uncovers the complicated local civil rights battle that underlies the Chambers decision. The recovered narrative reveals a campaign of local, armed, direct economic action against white oppression in Woodville, and this successful civil rights activity was the backdrop for the killing of Officer Liberty. Thus, the narrative that emerges is important for three reasons. First, it supports and enriches the growing literature on localized armed self-defense in the 1950s and 1960s South. 27 Second, it illuminates how the U.S.

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24. An April 22, 2011, Westlaw search for the citing history of Chambers produced, including dissents, 1900 federal cases citing to Chambers and over 2500 state cases doing the same. There were even six international cases discussing the decision. With regard to law review articles, Westlaw contained 901 law review articles citing to the opinion. For a more in-depth analysis of cases and literature referring to Chambers, see Stephan Landsman, Chambers v. Mississippi: A New Justice Meets An Old Style Southern Verdict, in EVIDENCE STORIES, 359, 380–81 n.35 (Richard Lempert ed., 2006).


27. By referring to the “South” in this paper, I refer to the geographic area with a distinct history and culture that informed the decisions of the communities discussed in this Comment. I do not
Supreme Court and the justice system more generally can erase civil and political dissent from the legal record. In pruning the facts down to the “essentials,” legal decision makers may intentionally or unintentionally sever legal controversies from the contexts in which they arose. Third, this narrative shows how civil rights activists who did not seek to use litigation as a social movement tactic nonetheless were compelled to interact with the law due to the local white mobilization of criminal law against blacks and the lack of police protection of black communities from Klan and extremist violence.

The narrative constructed in this Comment emphasizes individual agency “while also dramatizing the hidden history of policies and institutions . . . that continually shape and reshape the social landscape yet are often invisible.” Consequently, this project fits well with and builds upon exciting developments in the historiography of civil rights and sociolegal change. Part of an emerging body of literature, it looks beyond the national school desegregation litigation strategy that resulted in Brown v. Board of Education and beyond the textbook narrative of a national, unified civil rights movement. As a handful of academics have illustrated, we have much to gain from localized studies mean to suggest that racism was or is a purely southern phenomenon or to suggest that discrimination and subordination were not and are not issues affecting other regions of the country. Cf. Jacquelyn Dowd Hall, The Long Civil Rights Movement and the Political Uses of the Past, 91 J. AM. HIST. 1233, 1239 (2005).

28. Id. at 1262–63.
30. For an excellent summary of the master narrative in the context of a critique of it, see CHARLES M. PAYNE, I’VE GOT THE LIGHT OF FREEDOM: THE ORGANIZING TRADITION AND THE MISSISSIPPI FREEDOM STRUGGLE xiii–xiv (2d ed. 2007). Charles Payne refers to the civil “[m]aster [n]arrative” as so familiar that it is nearly “a form of civic religion.” Id. at xiii. Payne writes that this simplified master narrative of the civil rights movement began with oppressive race relations in the postwar South. The narrative continued as the Supreme Court decided Brown and inspired blacks and whites to protest against southern prejudice. Martin Luther King Jr. and a sympathetic federal administration helped frame discrimination as a moral issue for the country. Accordingly, after Americans understood it was wrong to discriminate, they helped pass the Civil Rights Acts. Id.

Thankfully, by the time King was assassinated, the country had largely changed because the civil rights movement had been a success for the entire country. Still, by the 1970s when things had improved so greatly for blacks, many nonetheless turned to Black Power and against American society. Id. at xiv.

Like Payne, Hall critiques the master narrative and suggests that the “truer story” is that of the “long civil rights movement.” Hall, supra note 27, at 1235. Hall argues that in this truer account, the movement took root in the liberal and radical milieu of the late 1930s, was intimately tied to the “rise and fall of the New Deal Order,” accelerated during World War II, stretched far beyond the South, was continuously and ferociously contested, and in the 1960s and 1970s inspired a “movement of movements” that “def[ies] any narrative of collapse.” Id. (internal citations omitted).

focusing on “rural communities, grassroots activism, and the organizing tradition” around local issues. Such studies, according to Crosby, show that “the most familiar narratives and the normative histories of the [civil rights] movement] typically over-emphasize major events, the ideology of nonviolence, the efficacy of moral suasion, the role of whites, and the activism of the federal government, while minimizing or obscuring local people and bottom-up perspectives.” Localized histories have revealed the importance of self-defense groups in rural southern organizing for civil rights. Moreover, this scholarship has provided an alternative to the traditional understanding that the Black Panthers ideology represented an “abrupt rupture” with prior civil rights activities. Indeed, these authors have found that self-defense actions were widespread across the South throughout the civil rights movement and integral to local organizing efforts. Threads of these conclusions are found woven through the narrative of Woodville’s local activism, which relied heavily on self-defense groups—members of which were intricately linked with the death of Officer Liberty.

For the activists in Woodville, litigation was not a favored strategy, although the law was intimately intertwined with their actions. Hence, this project adds an interesting data point to the study of litigation as a social movement tactic and the Court’s ability to effect change. For example, Gerald Rosenberg’s *Hollow Hope* suggests that the Court’s decision in *Brown*, due to constraints on the Court’s ability to effect change, did not have the mythical

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33. Id.; see also Payne, *supra* note 30, at xiv.
34. See, e.g., Payne, *supra* note 30, at xiv–xv; Strain, *supra* note 31; Wendt, *supra* note 31; Crosby, *supra* note 31; Hall, *supra* note 27. These accounts have also led to new explorations of closely connected issues of gender and class within the black community, geography and chronology, the role of outsiders and whites in grassroots organizing, the role of national civil rights organizations, the role of the federal government, the role of the labor movement, as well as the role of black churches in creating sustained and meaningful changes in local communities.
societal impact that is so central to the “master narrative.”\footnote{GERALD N. ROSENBERG, THE HOLLOW HOPE: CAN COURTS BRING ABOUT SOCIAL CHANGE? (2d ed. 2008).} Similarly, Michael Klarman’s work on Brown exposes a more complex narrative around the decision. It reveals in part how, rather than creating beneficial changes for blacks, the decision resulted in widespread backlash and “counterintuitive” contributions to the civil rights movement.\footnote{MICHAEL J. KLARMAN, BROWN V. BOARD OF EDUCATION AND THE CIVIL RIGHTS MOVEMENTS (2007).} And more recently, Risa Goluboff’s study of New Deal and NAACP labor litigation presents a new narrative of the origins of civil rights litigation, describing how the Brown decision marginalized labor litigation and obscured the harms experienced by many blacks before, during, and after the civil rights movement.\footnote{See generally RISA L. GOLUBOFF, THE LOST PROMISE OF CIVIL RIGHTS (2007).} Yet, in the recovered narrative of Woodville civil rights activism, these developments are largely in the background, only abstractly framing the localized concrete contestation over equal rights. Indeed, this perspective misses much of how the local movement interacted with the law.\footnote{See Kenneth W. Mack, Law and Local Knowledge in the History of the Civil Rights Movement, 125 HARV. L. REV. 1018, 1031–34 (2012) (reviewing TOMIKO BROWN-NAGIN, COURAGE TO DISSENT: ATLANTA AND THE LONG HISTORY OF THE CIVIL RIGHTS MOVEMENT (2011)).}

Similarly, at the local level, this project speaks to a body of literature on intracommunity conflicts over representation in movement goals. For example, Tomiko Brown-Nagin’s work highlights tensions within black communities through a localized study and finds that conflicts shaped by generational and class diversity affected represented interests within the movement.\footnote{See generally TOMIKO BROWN-NAGIN, COURAGE TO DISSENT: ATLANTA AND THE LONG HISTORY OF THE CIVIL RIGHTS MOVEMENT 9 (2011).} Partly in response to that concern, Brown-Nagin asks, “What would the story of the mid-twentieth-century struggle for civil rights look like if legal historians de-centered the U.S. Supreme Court, the national NAACP, and the NAACP LDF and instead considered the movement from the bottom up?”\footnote{Id. at 7.} The answer to that question, she argues, is only found when examining local communities—a crucial perspective, because it was local communities that

\footnote{Id. at 1031.}
experienced the gap between legal gains in civil rights and remedies on the
ground.43 That gap is where Woodville’s recovered narrative takes place.

Thus, the most potent contribution of this Comment is using the localized
history to examine the ways in which legal structures and institutions both did
and did not affect local activists in Woodville. National nonviolent and legal
strategies were either not useful or were unwanted tactics in the local
movement’s struggle for civil rights. However, local legal institutions,
structures, and actors—courts, ordinances, police—were constant sites of
contention and reaction as well as tools exploited by the town’s powerful
officials to suppress civil rights activism. And, even though law still framed
many sites of contention, it is also important to recognize the power of
economic leverage—separate from legal strategies or contests—that was
employed both by and against the activists and larger black community. The
struggle for civil rights in Woodville was not solely a legal struggle: not all
tactics for legal change must be legal in nature, and not all struggles for
equality are for legal rights.

Part I provides the localized context in which the Chambers
shooting took
place. Accordingly, this Part proceeds by broadly outlining the civil rights
movement in Mississippi, where most national organizations encountered
difficulties. Then, this Part describes life and civil rights activism in Woodville,
Mississippi, demonstrating that in addition to disenfranchisement and
segregation, local law enforcement and the justice system also posed significant
obstacles to activists and citizens who were struggling to achieve civil rights.
Thus, this portion of the Comment reveals the pragmatic necessity of self-
defense organizations and armed boycott enforcement.

Part II uses archival materials, including newspapers, court records, and
interviews to provide a more complete account of June 14, 1969, and the events
underlying the decision in Chambers. This fuller account reveals police
brutality and hasty police investigations, as well as crafty maneuvering by the
Deacons for Defense—an organized black self-defense group. Although
Woodville’s civil rights activists felt the influence of national litigation and
even attempted to mobilize a suit or two themselves, they most frequently
encountered law as a tool of oppression used by white officials. Accordingly,
Part II also presents an account of Chambers’s trial and subsequent appeal
process. An examination of the legal proceedings uncovers a justice system
operating on an unfair playing field.

Part III uses the recovered narrative to develop two interrelated claims. In
the narrative—which takes place in the gap between secured rights and on-the-
ground realities—law is both everywhere and nowhere. National litigation
influenced the terms of exchange between the local movement and white
opposition, while micromobilizations of the law, primarily through local law

43. Id. at 8.
enforcement, continually operated to suppress civil rights activity. At the same time, there was an absence of legal protections for the black community, which in response mobilized extralegal self-defense groups to bolster the power of boycotts and protests as well as to protect black neighborhoods.

I. CHAMBERS IN CONTEXT

The U.S. Supreme Court’s decision in Chambers offers not as much a window into localized civil rights activity, but rather a door. On its face, the Supreme Court decision does not expose its potential impact for blacks in southern courtrooms, nor does the opinion inform the reader of the struggle that sparked a black police officer’s death. Yet, by opening the door to facts behind the Supreme Court decision, one enters into a robust and dramatic narrative of civil rights activity. Walking through that door is an important endeavor because it illuminates connections between the local social movement activity and the law that are obscured by the appeals process. It also reconnects the facts examined by the Court with the context from which they arose. This Part first briefly looks to broad organizing activity in Mississippi before discussing the specific forms of subordination experienced by blacks in Woodville. Finally, the community’s local movement activity is detailed.

A. Civil Rights Organizing in Mississippi

After Brown, racial extremists in the South captured and focused the nation’s attention on Mississippi.44 And yet the national attention that resulted from civil rights fatalities, as well as the rallies and marches called in their wake, had little direct impact on life in rural communities like Woodville, Mississippi. Even into the late 1960s, Mississippi was a self-contained world, closed off to outsiders in travel, trade, news, and education.45 One journalist described the southwest corner of Mississippi where Woodville sits “as not only having missed the civil rights movement but the Industrial Revolution as

44. In 1955, Emmett Till, a black Chicago youth visiting family in Money, Mississippi, was murdered. The subsequent trial of his alleged murderers garnered much northern attention. See PAYNE, supra note 30, at 39–40 (“[t]he Till case attracted the most sustained notice outside [of Mississippi]”). In 1961, the freedom riders traveling across the South were viciously attacked on their way to Mississippi. Id. at 107–08; DITTMER, supra note 31, at 170–73 (describing a similar incident in 1963). In 1962, James Meredith’s integration of Ole Miss left two men, including a reporter, dead. Id. at 138–42. In 1963, Medgar Evers, the NAACP field secretary for Mississippi, was murdered outside his home as he returned from an organizing meeting. Id. at 165–67. On a single night in May 1964, crosses burned in sixty-four of Mississippi’s eighty-two counties. Id. at 215. That same year, gaining even more national attention, three civil rights activists—including two white northerners—were murdered. Id. at 247–49. In 1966, James Meredith was shot during his solo March Against Fear. PAYNE, supra note 30, at 376.
45. DITTMER, supra note 31, at 59.
Accordingly, the problems of the South and Mississippi were two-fold: part economic disparity and part societal oppression.47

Black veterans in particular felt the sting of both economic and social oppression. Needless to say, all blacks in Mississippi were acutely aware of the racial killings and lynchings that lay beneath the surface of daily life.48 Additionally, widespread economic reprisals against blacks engendered fear in many. Support for the NAACP or the Voters’ League could cost a job, a business, or a home. And yet, the over 85,000 black Mississippians who fought in World War II49 returned home to some of the worst labor conditions in the country.50 In addition to economic difficulties, veterans returned home to encounter whites who attempted to ensure that black veterans would neither expect nor demand even the limited respect they had enjoyed while in northern bases and abroad.51 Despite these consequences, it was veterans who spearheaded organizations for equal rights in the post-war era.52

Local legal systems both condoned and executed race-based social and economic oppression. Indeed, Mississippi’s legal system was the arbiter of Jim Crow for everything from legal determinations of one’s race for miscegenation laws to civil awards for libel when a newspaper misidentified a person as black.53 Throughout the 1950s and 1960s authorities frequently used crimes like disturbing the peace as a pretext to arrest and detain civil rights activists. District Attorneys would then drop the charges against key civil rights leaders after marches concluded. Other unconstitutional local laws enabled law

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47. See generally GOLUBOFF, supra note 39, at 16–80. Societal oppression refers to the types of subordination resulting from the use of state and social institutions such as the denial of the vote, inequality in education, and social conventions.

48. PAYNE, supra note 30, at 15.

49. DITTMER, supra note 31, at 17.

50. At the time, Mississippi was the only state with no worker’s compensation law and no labor department. Id. at 23.

51. Id. at 16–18 (discussing in part a race riot that broke out at a military base in Centreville, Mississippi—not far from Woodville—that was sparked by the Wilkinson county sheriff shooting a black private). See PAYNE, supra note 30, at 31; see also TYSON, supra note 36, at 26–48. Tyson recounts one striking story about a Georgia veteran who was murdered after a dispute with his landlord. One of his murderers explained “Up until George went in the army, he was a good nigger. . . . But when he came out, they thought they were as good as any white people.” Id. at 54.

Perhaps the most famous is example is that of Robert Williams, who was unable to acclimate himself to the racial traditions of Monroe, North Carolina, after service in World War II. Id. at 27; see also ROBERT F. WILLIAMS, NEGROES WITH GUNS (1962). Robert Williams and many black veterans across the South served as leaders in civil rights activities, and many of those leaders made use of their newfound and disciplined military skills in fighting for equal rights. See, e.g., TYSON, supra note 36, at 26–48.

52. See, e.g., TYSON, supra note 36.

53. See id. at 20–21. Sex crimes and interracial affairs drew particularly harsh sentences for black men, if they were not first lynched. Id. at 22.
enforcement to confiscate legally held and permitted guns from blacks.\textsuperscript{54} Simple traffic tickets could be used to remind the black community of the social hierarchy.\textsuperscript{55} Accordingly, the vast discretion vested in local law enforcement officers combined with many officers’ known participation in the Klan resulted in a blatantly corrupt justice system.

Thus, as a consequence of multifarious oppression, Mississippi was a difficult state for national civil rights organizations—most never made inroads there. Even organizations like the Student Nonviolent Coordinating Committee (SNCC), who were able to make footholds in the state, were still never able to enter the areas most strongly held by the Klan. Further, the leading civil rights umbrella organization that directed most organized civil rights activity in the state, the Council of Federated Organizations (COFO), collapsed by 1965 due to intramovement conflict and politics.\textsuperscript{56}

Moreover, when statewide and national organizations entered into rural Mississippi, they were forced to confront an internal strain within the movement. In part, the strain resulted from tension between a national ideological commitment to nonviolence and the local on-the-ground necessity for self-defense.\textsuperscript{57} The national organizations needed to appeal to northern sympathy through moral suasion for funding. Further exacerbating the strain over goals was a clear class divide within the black community.\textsuperscript{58} Additionally, as Professor Lance Hill puts it, the “black community had its share of traitors, rascals, and ordinary fools.”\textsuperscript{59} Thus, no single monolithic civil rights movement with unified goals existed. Rather, a diversity of interests vying for representation within local black communities gave rise to internal strains and conflict.

Further, the dispute within the movement over the strategy of self-defense was not minor.\textsuperscript{60} Despite the “cinematic” civil rights narrative depicting nonviolent black marchers,\textsuperscript{61} behind-the-scenes attacks from nightriders, Klansmen, and armed law enforcement necessitated self-protective uses of


\textsuperscript{55} See infra notes 153, 194 and accompanying text.

\textsuperscript{56} DITTMER, \textit{supra} note 31, at 343–46.

\textsuperscript{57} For a discussion in the context of Robert Williams’s self-defense actions and advocacy, see TYSON, supra note 36, at 262, 264, 290–91.

\textsuperscript{58} See, e.g., Derrick A. Bell, Jr., \textit{Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation}, 85 YALE L.J. 470 (1976) (examining the ways in which civil rights attorneys often had divergent interests from blacks impacted by NAACP litigation at the local level); cf. BROWN-NAGIN, supra note 41, at 7 (exploring multidimensional black interests and intragroup conflict); GOLUBOFF, supra note 39, at 237 (describing how labor and employment issues were not addressed in the NAACP legal strategy).

\textsuperscript{59} Hill, supra note 31, at 15.

\textsuperscript{60} See, e.g., STRAIN, supra note 31.

\textsuperscript{61} See TYSON, supra note 36, at 307.
force. 62 Reasons for preserving a nonviolent image were many: some were ideologically committed to the strategy; others preferred the strategy as the best for achieving civil rights on a national stage. 63 Still, even though civil rights organizations accepted armed defense from local groups, the protection was never publicized because it would have resulted in immediate losses in funding from northern whites. 64

Nevertheless, rural blacks participated in local movement activity on their own terms. SNCC leader Bob Moses observed during the 1960s that it was “not contradictory for a farmer to say he’s nonviolent and also pledge to shoot a marauder’s head off.” 65 SNCC organizers often joked about local farmers who would carry their “nonviolent Winchesters” to meetings. 66 Rural blacks in Woodville likewise participated in the civil rights movement on their own terms: the Deacons for Defense. A small self-defense organization, the Deacons first formed in Jonesboro, Louisiana, with the purpose of protecting civil rights activists from the Klan and other vigilantes. 67 Lance Hill 68 has argued that throughout the southeast Louisiana and southwest Mississippi region, the Deacons’ armed protective efforts were needed because of the combination of the Klan’s increasing stronghold in the area and the complete lack of official enforcement of civil rights legislation. 69

Although it began as an entirely secret association, the group became public in early 1965, and by 1966 there were over twenty chapters. 70 Unlike the NAACP and Voters’ Leagues that traditionally had a middle-class membership, working-class men formed the Deacons. 71 Deacons tended to be veterans, and most belonged to one or more fraternal clubs like the Masons or Elks. 72 The Deacons granted membership only to mature and reputable men in the community, screening out those with quick tempers. 73 Members’ military backgrounds and leadership experience from fraternal organizations made the Deacons a highly organized and disciplined armed self-defense group. Membership rolls were kept secret, save for a few public leaders, so that local law enforcement, the Klan, and the FBI were unable to accurately estimate the

62. See id.; HILL, supra note 31; WENDT, supra note 31; STRAIN, supra note 31.
63. The issue continued to be debated within SNCC throughout the 1960s, but only late in the decade did the organization decide to officially accept the help of armed self-defense groups. See HILL, supra note 31, at 18–19.
64. See id. at 21.
65. See, e.g., PAYNE, supra note 30, at 204.
66. Id. Rural blacks in Mississippi and throughout the South had long carried rifles for both hunting and protection. Id.
68. Id. Lance Hill has written one of the few histories of the Deacons to date, and his book, The Deacons for Defense, is the most authoritative source on the group.
69. Id. at 4.
70. Id. at 2. Chapters were primarily in Louisiana, but many were also in Mississippi.
71. Id. at 4, 14–15.
72. Id. at 13.
73. Id. at 50.
group’s size and capabilities. The membership was at its core only a small number of men who attended all meetings and patrols. However, many other men could be and were called upon when necessary.

In 1965, Natchez was the first town to form a Deacons chapter in Mississippi. The membership of the Natchez Deacons had the same composition as most other Deacons chapters: a small secret group of respectable, working-class family men. The chapter’s tasks primarily consisted of armed patrols of the black community. The openly armed group also provided escorts and guarded demonstrators. While the men were not afraid to brandish their guns, they rarely had to fire a shot to accomplish their goal of protection. In addition to involvement in their own communities, Natchez Deacons were instrumental in setting up other chapters throughout the state.

With the help of organizations like the Deacons, by the late 1960s, racial violence had lost its systematic nature in Mississippi, but still, violence characterized the period. By 1968 the “most intensive and comprehensive period of grass-roots organization and protest” in Mississippi was on the wane. And yet, despite much progress, many areas of the state experienced few of the changes that the civil rights movement had fought for and won. For example, SNCC failed to establish a stronghold in Amite County in southwest Mississippi—a county from which the organization had hoped to infiltrate surrounding areas in Klan country, including Woodville. As a result, counties like Wilkinson never experienced the influx of volunteers from national organizations or were the subjects of a national litigation campaign or publicized boycott. In towns like Woodville, the county seat of Wilkinson County, civil rights activism was coordinated entirely by largely independent local branches of the NAACP and Deacons for Defense.

74. Id. at 53.
75. Id. at 54.
76. Id. at 200.
77. Id. at 198.
78. Id.
79. Id. at 206. The chapter even provided protection to Martin Luther King, Jr. Id. To gather funding for patrol cars and ammunition, Natchez Deacon James Stokes went so far as to undertake a fundraising tour through the California cities of Los Angeles, San Mateo, Redwood City, San Francisco, and Oakland. Id. at 204. Later, “Reverend” Stokes would help form the Woodville chapter of the Deacons with forty Wilkinson County men. Id. at 210. He would also be actively involved in obtaining a third party confession for Chambers’s defense.
80. See DITTMER, supra note 31, at 426; see also WENDT, supra note 31, at 149.
81. DITTMER, supra note 31, at 423.
B. Woodville, Mississippi

The Wilkinson County Museum, a small but prominent building on the town square in Woodville, Mississippi, preserves the history of the area.\textsuperscript{82} That history provides context for understanding the deeply embedded discrimination against which blacks in Woodville fought in the 1960s and 1970s. Indeed, the town’s pride is rooted less in its early settlers who were members of the 1817 Constitutional Convention,\textsuperscript{83} and more in its links to the Confederacy. On the

\textsuperscript{82} The Wilkinson County African American Museum was nonoperational in March 2011.

\textsuperscript{83} MISS. EMP’T SEC. COMM’N, SMALLER COMMUNITIES PROGRAM: WILKINSON COUNTY, MISSISSIPPI, PART I ECONOMIC BASE REPORT 7 (1965).
courthouse lawn across from the museum sits the Jefferson Davis Oak—a “living monument” to the Confederate president.84 A quick drive from the town square down a country road sits Rosemont Plantation, Davis’s childhood home. To this day, guided tours of the home refer to Davis as an American president.

During the civil rights movement, community leaders used the community’s pride in its Confederate history as a tool of social oppression. For example, a renewed interest in the area’s antebellum history took hold in the 1960s and early 1970s, kicked off by the county’s celebration of the Civil War Centennial in 1962.85 Further, in the early 1970s, the Woodville Civic Club revived the Depression-era tradition of “Pilgrimage,” a festival celebrating antebellum life with tours of plantation homes guided by men and women in period dress.86

Woodville’s antebellum past is linked with a town thirty minutes north on the Mississippi River: Natchez. Woodville residents have long depended on Natchez for its access to the river, jobs, and commercial goods. Wilkinson County plantation owners also depended on Natchez for its slaves.87 In fact, Natchez was home to the second largest slave trading post in the nation; the fact that the area’s residents profited generously from both the slave trade and slave labor is reflected in the extravagant homes on show during Pilgrimage.88 Natchez’s antebellum elite held prominent and influential positions throughout

84. BUS. & PROF’L WOMEN’S CLUB OF WOODVILLE, WELCOME TO WOODVILLE, MISSISSIPPI: THE HOME OF YEAR ‘ROUND HOSPITALITY (n.d., c. 1960) (available at University of Mississippi, Archives and Special Collections, Eastland Collection, copy on file with author).

85. See, e.g., HISTORICAL COMM. OF THE WILKINSON CTY. CIVIL WAR CENTENNIAL COMMEMORATION, WILKINSON COUNTY: HISTORICAL FACTS AND LEGENDS PERTAINING TO THE COUNTY AND ITS COMMUNITIES, INSTITUTIONS AND EARLY SETTLERS (1962) (available at University of Mississippi, Archives and Special Collections, Eastland Collection, copy on file with author).


87. Indeed, even passersby noted the slave wealth of the area. For example, Frederick Law Olmsted, who would later plan Central Park in New York City, described the life of African Americans in Wilkinson County in 1860. KATHARINE M. JONES, THE PLANTATION SOUTH 380–89 (1957). In his book, A Journey through the Back Country, Olmsted wrote that “[t]he slaves generally of this district appear uncommonly well—doubtless, chiefly, because of the wealth of their owners has enabled them to select the best from the yearly exportations.” Id. at 382. Olmsted made other observations: most plantations in the area had hundreds of slaves with absentee owners living in New Orleans. Id. at 382, 386. Plantation owner Dick Hardaway Eggleston recorded the daily tasks given to his slaves at Learmont Plantation near Woodville. Id. at 245–55. In addition to picking cotton, hauling rails, clearing land, and logging, Eggleston’s slaves made arbors in the yard for his family’s “frolics” and otherwise beautified the plantation home. Id. at 245, 251.

the state as the city served as the heart of Mississippi’s plantation economy.\textsuperscript{89} In the context of this powerful history, celebrations of economic prosperity based on slavery and a war to maintain that system served in part as a thinly veiled message to blacks in Woodville about their status within the community.

\textbf{FIGURE 3: Mammy’s Cupboard Restaurant (2011)}

Originally opened in 1940, in Natchez, Mississippi, Mammy’s Cupboard Restaurant is still fondly thought of as a piece of nostalgia. However, during the civil rights movement in Natchez and surrounding areas, the restaurant likely stood as a not-so-veiled reminder of blacks’ status in the community. Today, the diner still draws a crowd. A patron who opens the door in Mammy’s dress, as seen in the photo above, is sure to meet a long line of patrons waiting to eat in the dining room that occupies the inside of Mammy’s dress, which is adorned with mammy figurines and pictures.

Despite a civil war, Reconstruction, and the passing of nearly one hundred years, not much had changed in Wilkinson County by the mid-1960s. Proudly announced in a local newspaper, an early 1980s Harvard study referred to Woodville as the town most resembling the antebellum South.\textsuperscript{90} In the post–World War II era, many local blacks remained at the mercy of white landowners. Samuel Hardin—a lifelong Woodville resident, civil rights activist, and Deacon for Defense member—recounted an example of such dependence. Not unlike many southern blacks, Hardin’s family took a loan from a white landowner with no written contract. When the landowner

\textsuperscript{89} Umoja, \textit{The Natchez Model}, supra note 31, at 273.

\textsuperscript{90} \textit{Woodville Charming Town}, \textit{NATCHEZ DEMOCRAT}, Feb. 28, 1981, at 46 (notes from primary source on file with author).
demanded full payment on the loan a year before it was due and in a higher than agreed upon sum, Hardin’s family farm was lost. 91 Similarly, widespread tenant farming that resembled slavery maintained a system of economic dependence on white landowners. 92 Again, Hardin remembers job prospects at the time: “Whatever job they had for you to do, you had to do it at they price and go along with it. That was it.” 93 Woodville’s blacks remained dependent on whites for economic security through agricultural and domestic labor.

Nevertheless, the town began to see the faint beginnings of civil rights activity in the mid-1950s. In response to Brown, Wilkinson County built a “separate but equal” school, as did many other school districts throughout the South. 94 This improved the quality of the existing segregated black schools such that it could ostensibly stand scrutiny under a “separate but equal” comparison to the white schools, although they were of course not equal in resources. Yet gains like better school facilities and lights for football fields may have come at the cost of sacrificing local activists. Sam O’Quinn was murdered for returning to Woodville to investigate reports of “mysterious killings” in the area. 95 It was rumored that Principal Willis, head of the separate-but-equal school, was able to gain more resources for the black school by acting as an informant for whites who had O’Quinn killed. 96

Other activists were likewise targeted for their involvement in civil rights activities throughout the 1950s. Reverend Dupree and his family were run out of Wilkinson County in the middle of the night as a result of the Reverend’s involvement as a leader in the NAACP. 97 Indeed, life for blacks in Woodville

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91. Interview by Plater Robinson with Sam Hardin, in Woodville, Miss. (n.d.).
92. See generally GOLUBOFF, supra note 39, at 144–47.
93. Interview with Sam Hardin in Woodville, Miss. (Mar. 21, 2011) (notes from primary source on file with author). Little of the activity of the Woodville Deacons has been recorded, and unfortunately few Deacons are in good health today. Even fewer are willing to discuss their participation in the organization. Thus, I have relied on information provided by Mr. Hardin throughout the paper. The information provided during the interview I conducted with him has been corroborated by past interviews he has given to Plater Robinson and Akinyele Omowale Umoja (as recorded in her articles). Other snippets of information have been corroborated by newspaper articles published around the time of the incident, including pieces written by Jack Nelson and John MacKenzie. See John P. MacKenzie, Confession Case Reverses Usual Roles, WASH. POST, Nov. 26, 1972, at A2; Jack Nelson, Supreme Court Rules Some Hearsay is OK, L.A. TIMES, Feb. 22, 1973, at 21.
95. Id. at 202–04. Moody writes of town knowledge that two black men were paid by whites to kill O’Quinn.
96. Id. at 203–04.
was cruelly oppressive, even as the town celebrated the one-hundred-year anniversary of the Civil War.98

Accordingly, it may be no surprise that in the decade preceding the 1969 shootout that led to Chambers, racial tensions slowly increased in Woodville and the surrounding area as the gap grew between national civil rights litigation and legislation and local realities. The Klan’s strongest stranglehold was on southwest Mississippi99—and Woodville was in the heart of it. Klan publications of the period issued a call to arms: “The time to fight is near and we either must fight as Americans or put on the Chains of Slavery under the Communist Negro and Kike stooges.”100 In the context of Civil War commemorations, the local Klan subverted the history of slavery to incite fears that blacks in the civil rights movement would soon figuratively or literally enslave whites in retaliation. Although disclaiming any endorsement of “mob violence,” the Klan, headquartered thirty miles north in Natchez, also purported that one of the top fifty reasons to join the organization was “[b]ecause it is the most effective way to fight organized crime in a community.”101 Thus, while it seemingly disclaimed the practice of lynching, the local Klan supported extralegal actions to control groups in the community that they perceived as criminal, including the NAACP. In fact, other Klan materials advocated the abolishment of the NAACP, demanded the reversal of the Supreme Court’s civil rights decisions, and expressed concerns about miscegenation and protection of the Southern Woman.102

The Klan’s horrifying reign of terror, animated by goals of racial extermination and destruction of the civil rights movement, was most intense during the summer of 1964, though it continued through 1968. Klan membership was widespread within law enforcement agencies. The most prominent Woodville example, perhaps, is Burthell McGraw, a known member of the local Klan and Woodville’s sheriff in the late 1960s.103 With this level of control over town affairs, the white extremists made it impossible for national organizations to even enter Wilkinson County. Anne Moody, a civil rights

98. See HISTORICAL COMM. OF THE WILKINSON CNTY. CIVIL WAR CENTENNIAL COMMEMORATION, supra note 85.
99. HILL, supra note 31, at 5.
100. KNIGHTS OF THE KU KLUX KLAN, UNITED KLANS OF AMERICA, INC., K.K.K. BRINGS REAL FACTS TO THE SURFACE (n.d.) (available at University of Mississippi, Archives and Special Collections, copy on file with author).
103. Interview with Sam Hardin, supra note 93; see also DITTMER, supra note 31, at 218. When policemen were also nightriders, it is understandable that black communities demanded black police officers be hired in the local police departments.
activist from the county, but working elsewhere in the state, later recalled that “n’lo organization was about to go to Wilkinson County. It was a little too tough for any of them.”104 Even Moody herself feared for her own safety as well as that of her family and did not return home to the county during the early years of the movement.105

Both Moody and the civil rights organizations had good reason to stay out of the Woodville area. In December 1963, local blacks Eli Jackson, Dennis Jones, and Lula Mae Anderson were found dead in their car on the side of the road. The victims were not known for civil rights activism—indeed few people were in 1963. Town officials said the group had died from inhaling the carbon monoxide in the car’s exhaust, but blacks who saw the bodies reported that Eli’s neck had been broken and the other two had been shot.106 White extremists had terrorized the local black community to such an extent that no one would speak to FBI investigators about the murders.107 A month later, Louis Allen was killed in Liberty, Mississippi, the night before he planned to flee the city. He had spoken out against a state senator whom Allen had seen murder an innocent farmhand.108 Then, in February 1964, a black man named Clifton Walker was murdered in his car on Poor House Road just outside of Woodville. Men fired buckshot at him from both sides.109 No one was ever charged with any of the five murders. Some of the victims were murdered for no apparent reason—several had no clear civil rights connections. The truth is that whites could and would murder blacks with impunity: the point was that there did not need to be a point.110

While five deaths in three months would not be repeated, murders continued in the area throughout the decade. In June 1966, Natchez Klan members murdered Ben Chester, who was never active in the civil rights movement. The Klan targeted Chester in hopes of luring Martin Luther King to the town for an assassination attempt. King never came to Natchez for Chester’s memorial.111 A year later, Wharlest Jackson died when a car bomb exploded as he drove home from work. He had just received a promotion to a position traditionally offered only to whites.112 The deaths of these men reinforce the observation that unprosecuted violence did not cease in the second

104. MOODY, supra note 94, at 301.
105. Id. at 323, 363.
106. Id. at 398–99.
107. See id.
110. Cf. PAYNE, supra note 30, at 15.
111. Id. at 397.
112. Id.
half of the decade in rural Mississippi; indeed, violence continued to be a tool
to enforce economic and social hierarchies.113

Even apart from these instances of extreme violence, daily life in
Woodville was oppressive. In Moody’s memoir, she recalls her relative’s
description of the plight of blacks: “[T]he whites in Woodville and how they
had set things up ma[de] it almost impossible for the Negro men to earn a
living.”114 The frustration was clear: “If these damn white folks ain’t shootin’
niggers’ brains out they are starvin’ them to death. A nigger can’t make it no
way he try in this fuckin’ place.”115 Likewise, Hardin recalled a similar
frustration: “There was so much we couldn’t do out there on the streets. People
didn’t want you to come out there half clean, you know not see ya in nothing
deacent.”116 Even subtle forms of subordination would have lasting effects: in
her seventies, Laura Hardin, Mr. Hardin’s wife, recalled the strong memories of
frustration resulting from being forced to enter through the back door of the
homes in which she worked.117 For blacks in Woodville, troubles persisted
through the early 1970s.118

In contrast to these memories, whit e town officials preserved a less
extreme, and perhaps filtered, yet no less true snapshot into life and social
hierarchy at the turn of the decade. The 1971 Woodville Planning Commission
Report reveals everything from the town’s demographics to the officials’ hopes
of bringing commerce and a strong workforce to the declining town.119 The
series of reports detail a town behind the times. The town’s decline was marked
by a 15 percent decrease in population. Still, the town’s population remained 70
percent black.120 Of the black population in Woodville, over 90 percent lived
outside of the city limits, which served as outer boundaries of nearly all public
services.121 Woodville’s sewage systems and water supplies were inadequate

113. Recently, national news media have covered the killing of James Anderson in Jackson,
Mississippi, suggesting that violence against blacks in Mississippi has not completely subsided, but has
changed in form. The complicated act of determining whether the murder was a hate crime reveals
continued complex race relations in the state (and nation) today. See, e.g., Kim Severson, Weighing
114. MOODY, supra note 94, at 226.
115. Id.
116. Interview with Sam Hardin, supra note 93.
117. Id.
118. See id. For example, in 1971, Mr. and Mrs. Hardin began constructing their home on a
country road outside of Woodville. Several other black families moved to the area at that time as well.
The first house on the street was burned before construction was finished. Afterwards, Mr. Hardin and
his friends stood guard each night at one another’s build sites to ensure that building materials were not
stolen and that the partially completed construction was not burned down. Id.
119. WOODVILLE-WILKINSON CNTY. PLANNING COMM’N, THE PLAN FOR THE FUTURE
DEVELOPMENT OF THE WOODVILLE AREA OF WILKINSON COUNTY (1971) [hereinafter THE 1971
PLAN].
120. Id. at 8.
121. WILKINSON CNTY. PLANNING COMM’N, ZONING ORDINANCE FOR THE TOWN OF
WOODVILLE III:15, 17 (1970) (notes from primary source on file with author).
for all citizens, but over one thousand poor blacks still had no indoor plumbing. Most lived in dilapidated shacks on unpaved streets with outdoor toilets and no heat. The Commission’s proposed solution to the town’s physical decline was to tear down the dilapidated housing near the city limits and rebuild elsewhere.

This desire to beautify the city limits reflected the Commission’s desire to attract commerce to the dying city. Aware of Woodville’s delayed shift from an agrarian to an industrial economy and the resulting rampant unemployment, the Report focused on potential employment opportunities. Many men would continue to work in the timber industry, either logging or in mills. The Commission saw great potential for African American women in domestic labor and the service industry. However, even with such possibilities only half of the approximately 6500 black adults were employed. The median annual family income for all Woodville citizens, blacks and whites combined, totaled about two-thirds of the Mississippi median and one-third of the national median.

Likewise, education in the area provided minimal prospects. The Commission included veiled references to the community’s white children fleeing public schools after integration in January 1970. Still, the Commission proudly proclaimed that the Wilkinson County Training School was “headed by one of the most renowned Negro educators and philosophers in the State.” The Commission failed to add that he was also valued among white officials for his willingness to compromise with them.

Throughout the civil rights movement, particularly in the 1950s, black teachers had a reputation for being particularly accommodationist: their
middle-class jobs were dependent on placating white school boards. Nonetheless, their willingness to compromise with white officials likely resulted in a better-resourced black education system in Woodville, and perhaps contributed to the area’s somewhat unusual history of black education. Throughout the 1950s the Sovereignty Commission monitored a series of complaints within the black community about various teachers and superintendents, including Superintendent Anselm Finch. Although Superintendent Finch was instrumental in creating Wilkinson County’s first black high school in 1959, increasing education opportunities for black students throughout the 1960s, Finch had a reputation for his accommodationist stance. His own writing reveals a personal ideological conflict based on pragmatic concerns and pressures felt by some black leaders. He spoke against those who demonstrated in opposition to the black education system and spoke in favor of collaborating with the white community to gain access to resources; and yet other writings imply a strongly felt connection to the civil rights movement. Nevertheless, a large rally held in 1966 in response to educational concerns identified school administrators as part of the problem. Thus, although the Wilkinson County black public schools experienced great gains throughout the 1960s that were unusual for Mississippi, the schools were often objects of protest rather than sites of civil rights organization or inspiration.

132. See, e.g., MOODY, supra note 94, at 203. But see BROWN-NAGIN, supra note 41 and the text of infra note 330 for a more nuanced account of the pragmatic reasons educators were “accommodationists.”

133. See MOODY, supra note 94, at 229–30. Anne Moody’s memoir implies that the same issues of teachers who were opposed to civil rights activities were present in Wilkinson County throughout the 1950s.

134. See, e.g., Letter from Wilkinson County Parents League to Gentleman (July 26, 1959), available at http://mdah.state.ms.us/arrec/digital_archives/sovcom/index.php (on file with the Mississippi State Sovereignty Commission Files, Mississippi Department of Archives & History, SCRID No. 2-110-0-4-1-1-1).


136. See id.; Anselm J. Finch, Address at the Annual Session of Mississippi State Federation of Colored Women’s Clubs: Changing with the Change (Oct. 29, 1965) (available at University of Mississippi, Archives and Special Collections, copy on file with author).

Still, the community would march on Finch’s behalf in 1967 as the sole black candidate for a school administrative position. The march protested “the Negro teachers [at the black schools] who did not favor Negroes running in the Democratic primaries.” Mississippi March by Negroes Halted, N.Y. TIMES, Sept. 5, 1967, at 31 (quoting James Jolliff, Jr., president of the Wilkinson County branch of the NAACP).

Likewise, voting rights were virtually nonexistent for African Americans. Although 70 percent of the county’s nearly 13,000[139] residents were black, only 300 black residents were registered to vote in 1966. By contrast, nearly 1700 whites were registered that year.[140] In 1961 the county registrar reported to the Mississippi State Sovereignty Commission that no black resident had attempted to register either that year or any year during his tenure, which had begun in the late 1950s. In response, the Department of Justice filed suit in 1963 against several Mississippi county registrars, including Wilkinson County’s, to gain access to their voter registration records.[141] Several Mississippi counties attempted to exploit a loophole that enabled them to evade inspection by federal agents.[142] Although the county lost the suit, the county registrar continued to report to the Mississippi State Sovereignty Commission that it was doing its best to evade the federal registrars and FBI investigators who routinely inquired into registration numbers.[143] Paradoxically, based on that information, the Mississippi State Sovereignty Commission observed in 1965 that blacks in Woodville could easily register if they so desired.[144]

By the late 1960s, however, apparently enough blacks were able to register in Wilkinson County to elect the area’s first black officials. The experience of James Jolliff, Jr., who was elected to the Wilkinson Board of Supervisors in 1967, exemplified blacks’ success and difficulties in electoral representation. In a pamphlet circulated to potential black candidates across the South, Jolliff said that he wanted to run for the office because of the influential administrative powers of the position.[145] He divulged that “[y]ou have to more or less run a racist campaign, in a way of speaking. You have to prove that you have done a lot for [the black community]. You’ve got to say you’ve done more to help Negroes than this white man has.”[146] Yet the significance of his win was evident: “For the first time since Reconstruction, a Negro would be a

139. The 1960 population was approximately 13,000 and the 1970 population was approximately 11,000. U.S. DEP’T OF COMMERCE, 1970 CENSUS OF POPULATION AND HOUSING: FINAL REPORT: MISSISSIPPI 26-12 tbl.3 (1971).
142. Id.
143. A.L. Hopkins, Investigation in Counties, supra note 140.
145. JULIAN BOND, BLACK CANDIDATES: SOUTHERN CAMPAIGN EXPERIENCES 14 (1969) (available at University of Mississippi, Archives and Special Collections, copy on file with author).
146. Id.
supervisor. This county has 8,000 Negroes and 2,000 whites, and a Negro has never even been dog-catcher in this county. The significance of his win is punctuated by the white community’s avid pursuit of a felony conviction Jolliff received in the course of his civil rights activism. The felony resulted in Jolliff’s removal from office, although he was eventually reinstated as Supervisor after the appeal and reversal of his conviction. Barriers to fair elections continued even into the 1970s.

Given this backdrop, it is no surprise that other local government institutions provided no aid to the black community in Woodville. For instance, Clay Tucker, founding member of the Woodville White Citizens’ Council and ardent informant for the Mississippi State Sovereignty Commission, occupied the position of district attorney for years. Not only was the judicial system filled with open racists, but law enforcement was likewise infiltrated. Traffic tickets were frequently used as a method of harassment. Hardin remembered decades later how awful an officer could make him feel by pulling him over. Social customs required Hardin to avert his eyes while being berated by the officer. When retelling the details of the event, Hardin paused to say, “I couldn’t hurt him by looking at him, you know?” Even after Woodville began to hire black police officers as concessions to boycott demands in the late 1960s, those officers were limited in their capacity. Black police officers were only permitted to arrest blacks, were not enabled to protect blacks from

147. *Id.* 148. *Id.* at 13; see also Memorandum from Erle Johnston, Jr., Dir., Miss. State Sovereignty Comm’n, to File (Sept. 12, 1967), available at http://mdah.state.ms.us/arrec/digital_archives/sovcom/index.php (on file with the Mississippi State Sovereignty Commission Files, Mississippi Department of Archives & History, SCRID No. 2-110-0-73-1-1-1).

149. BOND, supra note 145, at 13.

150. In 1973, there were several reports of whites entering voting booths with blacks, and refusing to count black votes while counting the votes of whites from neighboring towns. Eight candidates filed grievances, but to no avail. *Election Results Contested by Blacks*, WOODVILLE REPUBLICAN, Jan. 1, 1973 (notes from primary source on file with author).


This “segregation watchdog agency” carried out its surveillance by collaborating with local leaders of White Citizen’s Councils, town officials, private investigators, and black informants. KATAGIRI, supra, at 6, 208. Today, the Commission’s records of this surveillance are one of the few sources remaining to reconstruct the lost civil rights histories of rural Mississippi towns even though the information contained in the records was both selectively gathered and biased in presentation.

152. See DITTMER, supra note 31, at 252 (The Justice Department had issued warnings to stay clear of southwest Mississippi where “the police were the Klan”).

153. Interview with Sam Hardin, supra note 93.
white violence, and were largely hired for weekend duty when protests and pickets were most frequent. 154 In sum, African Americans in Woodville were systematically oppressed through violence, economic reprisals, government institutions, and social customs. Without the support of outside civil rights organizations, in the late 1960s Woodville’s black community turned to the nearby town of Natchez for inspiration and support. Slowly, the community would make gains through a series of boycotts of white merchants combined with guarded marches and the organization of a self-defense group.

C. Woodville’s Boycotts

Civil rights activities did not fully emerge in Woodville until the second half of the 1960s. There were a few signs of activity after World War II, but overt action was simply too dangerous to both lives and livelihoods. But after nearby Natchez began to achieve significant successes through boycotts, protest, and open resistance, civil rights activity became viable in nearby areas like Woodville. Leading up to the shooting in June 1969, Woodville had experienced almost three years of sustained boycotts. As a result of successful boycotts of white stores, white merchants were often on the brink of forced closure. An organized self-defense group routinely patrolled the area to protect the community from nightriders and guarded civil rights marchers and picketers.

This Section explores the details of Woodville’s civil rights activity. It first examines how the formation of the local movement was inspired and supported by a successful movement in Natchez, Mississippi. Then, this Section gathers evidence of the movement’s power and success. Finally, it discusses Woodville’s battle with school desegregation that took place before and after the shooting of Officer Liberty on June 14, 1969.

154. See infra at 188–190 and accompanying text.
Woodville continues to be small town to this day. Its old water tower marks the edge of the few remaining stores on main street, and is representative of the condition of the town: small, rural, traditional.

1. The Formation of a Local Movement

Charles Evers, brother to slain civil rights activist Medgar Evers, emerged as a strong political, business, and civil rights leader in the mid-1960s. Although he was active in the movement throughout the state, it was Evers’s leadership in Natchez that resulted in a model of successful activism that would be replicated throughout southwest Mississippi. The “Natchez Model” combined economic boycotts with paramilitary activities to gain concessions from the white power structure. This strategy worked well in places like

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155. Here, I use the terms “local movement” and “social movement” to refer to the groups and activities that became recognizable as an organized force in the Woodville community in the second half of the 1960s. I recognize that there is a vast literature, particularly in the fields of sociology and law and society, that debates what constitutes a social movement and examines the complexity of defining the concept. See, e.g., Michael McCann, Introduction, in LAW AND SOCIAL MOVEMENTS i, xiii–xiv (Michael McCann ed., 2006). This Comment does not take part in that debate, focusing instead on the specific actions the local community undertook with the goal of creating racial equality and the intersections of those actions with legal institutions.

156. Umoja, The Natchez Model, supra note 31, at 287–91. In his book, Hill argues that the Louisiana Deacons spread their model to Natchez after successfully organizing and winning concessions in Jonesboro and Bogalusa, Louisiana; thus, credit should go to the Deacons for the model that emerged with Charles Evers as leader in Natchez. See generally Hill, supra note 31.

Woodville, where large African American populations could wield significant economic power yet were prevented from utilizing that power due to Klan terror and violence.  

The strategy first called for economic boycotts of white merchants—these boycotts would characterize the local movement in the second half of the 1960s. Successful boycotts forced meaningful concessions to reasonable demands; however, they also often brought local businesses to the threshold of closure if not actual closure. However, to make such gains, demonstrations, picket lines, and planning meetings needed to be protected from the real threat of violent white supremacists. Further, for boycotts to force concessions, they needed to be nearly 100 percent effective. This required enforcement of the boycott within the black community. Natchez activists solved these problems by utilizing two groups of armed men. The first group, the Natchez Deacons for Defense, protected civil rights organizations, individual leaders, and the community. The second group, an “enforcer” squad, punished those in the black community who broke picket lines or otherwise broke the boycott. The squad used threats, violent rhetoric, public shaming, and isolation, as well as physical strength.

When put into action, the tactics of Natchez activists proved enormously successful. The Deacons’ ability to neutralize Klan terror and retaliate against violent acts bolstered their negotiating power. Eventually, Natchez activists gained concessions including the addition of six black police officers to the local force, representation on the school board, and desegregation of municipal facilities. Due to the success of the Natchez movement—unprecedented in the Klan strongholds in the southwest—other communities turned to Evers and the Deacons for inspiration, examples, and aid. In fact, the Natchez Deacons, Evers, and Evers’s enforcer squad became directly involved in movement activities in Wilkinson County.

With the help of Natchez Deacon James Stokes, Wilkinson County formed its own branch of the Deacons for Defense to protect and enforce the

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158. Interview with Charles Evers, in Jackson, Miss. (Mar. 24, 2011) (notes from primary source on file with author).
160. Id. at 275, 278.
161. Id. at 272, 284–85. Umoja suggests that there were two distinct groups of armed men tasked with different duties, one for protection and the other for enforcement. She does note that the local media and law enforcement officials thought that the Deacons performed both activities. Thus, the circumstances in Woodville seemed to blur lines distinguishing one group’s duties from another’s. Id. at 284–85.
162. Id. at 282.
163. Id. at 286.
164. Id. at 287–91.
165. Id. at 287; see also Interview with Charles Evers, supra note 158.
area’s civil rights activities. Natchez’s success provided both opportunity and resources to Woodville activists. In his capacity as the state spokesman for the Deacons, Reverend Stokes, as many called him, helped recruit around forty members for the Wilkinson County Deacons branch in 1965. The men who joined were members of the NAACP and fraternal organizations like the Masons. All were engaged in civil rights activity. Bilbo Ferguson became the chapter president, and Ed “Red” Caine became the spokesman. Like other chapters across the South, the Wilkinson County Deacons maintained secret membership rolls with strict admissions criteria. Some local activists—including Sam Hardin, James Williams, Gable McDonald, and Albert Carter—purposefully became publicly known members. Other male activists, like Leon Chambers, may not have been official members but were active in the movement and openly carried arms when protecting marchers or enforcing a boycott.

The main goal of the Woodville-based group was self-defense. Hardin, an open and active member of the Deacons as well as the NAACP, recalled the group’s activities: with citizens’ band radios, the group patrolled black neighborhoods as protection against Klan activity. The Wilkinson County Deacons also guarded marches in Woodville and, according to Hardin, enforced several boycotts. The Deacons’ enforcement largely consisted of roughing up shoppers who slipped into the white-owned stores through the back door, or sending strongly worded warnings about the importance of the boycott to individual families suspected of breaking it.

Still, the Wilkinson County Deacons certainly were not looking for a fight, not least because much of the time the guns they toted were not filled with ammunition. On a day-to-day basis the Deacons were able to make do with empty guns because the sight of armed black men—mostly veterans—who were disciplined and organized was enough to scare white supremacists. Klan members were happy to carry out violence when there were no repercussions but were not willing to risk their own lives when it became apparent that the community would fight back.

166. Umoja, The Natchez Model, supra note 31, at 287; see also Hill, supra note 31, at 210.
168. Interview with Sam Hardin, supra note 93.
169. Id.; Interview by Plater Robinson with Sam Hardin, supra note 91.
170. Interview with Sam Hardin, supra note 93.
171. Id.; see also Umoja, The Natchez Model, supra note 31, at 280 (“If White supremacists knew the Deacons had a limited supply of ammunition, the Deacons’s efforts would have been compromised.”).
173. See, e.g., Tyson, supra note 36, at 49–50. The intense fear of organized armed black men resulted in routine traffic stops of Deacons and gun confiscation. Id. Hardin remembered that the confiscation only occurred on one side of the battle, as whites appeared heavily armed: the “Klan had all kinds of guns, yes indeed.” Interview with Sam Hardin, supra note 93.
Whether or not the local branch of the NAACP had ever been fully committed to nonviolence, Woodville NAACP members during this period carried weapons at meetings. The Deacons for Defense would also stand guard outside of the meeting location. Armed guards at NAACP meetings were necessary because of incidents like the one that Mr. and Mrs. Hardin recalled years later. In September 1966, an unfamiliar man showed up at an NAACP meeting that Mr. and Mrs. Hardin attended with their children. Although Mr. Hardin noticed the stranger, someone at the meeting vouched for him, and he was permitted to enter. The stranger became upset about his car needing to be moved away from the church for safety reasons, and then began shooting. Mrs. Hardin lay down on the floor with her children as the shooting commenced while Mr. Hardin and other men in attendance tried to stop the shooter. Seven men were wounded that night, including the shooter and Hardin. Hardin remembers that the stranger later claimed that a white man put him up to it. Hardin figured that was probably the case since whites would often hire blacks to do “sideways stuff”—to instigate black-on-black violence to “show you how dirty you could be.” Moreover, black informants were common in Woodville just as they were throughout the South: all Deacon and NAACP meetings—no matter how secret or private—would become known to town officials.

The shooting at the NAACP meeting was not isolated. In fact, the Deacons had their own shooting incident not long after, when a young hotheaded Deacon quarreled with Ed Caine, the branch’s spokesman. The quarrel was intense, and the young Deacon shot and wounded Caine. Despite strict screening of members admitted to the organization, the Deacons in Wilkinson County and Natchez were known for their cavalier brandishing of weapons. However, the Deacons may have deliberately constructed that reputation to spark fear among local white supremacists. Most meetings for the Deacons were no different than most meetings for the NAACP: armed but nonviolent. Like the NAACP, the Deacons met regularly on weekends when the men were not at work. Discussions would naturally focus on “how we were supposed to get out there and watch for each other... watch out for the enemy”; in other words, strategy and patrol coordination.

Thus, when the Mississippi State Sovereignty Commission first observed boycott activity in Woodville in October 1966, the community was well on its way to implementing a Natchez-like model. Like the Natchez community, which rejected the strategy of provoking northern consciences and depending on federal intervention, the Woodville community took direct action through

174. Interview with Sam Hardin, supra note 93; see also H.I.L., supra note 31, at 212.
175. Interview with Sam Hardin, supra note 93.
176. Id.
177. Hill, supra note 31, at 212.
178. See id.
179. Interview with Sam Hardin, supra note 93.
local organization, economic boycott, and direct force. The NAACP and the Deacons provided a ready set of resources for mobilization and action. And, not least importantly, the community also made reasonable demands that town officials took seriously: a black police officer, two part-time deputy sheriffs, black clerks and cashiers in white-owned stores, paved roads, desegregated schools and courtrooms, jury participation, and one appointment to the Planning Commission.\footnote{Letter from Frank E. Bell, Chairman, Comm. for the White Citizens of Wilkinson Cnty. to the Comm. for the Negro Citizens of Wilkinson Cnty., Oct. 12, 1966 [hereinafter Letter from Frank Bell], available at http://mdah.state.ms.us/arrec/digital_archives/sovcom/index.php (on file with the Mississippi State Sovereignty Commission Files, Mississippi Department of Archives & History, SCRID No. 2-110-0-44-1-1-1).}

2. “One Hundred Percent Effective”

By October 1966, Charles Evers, in conjunction with then local NAACP president James Jolliff, was running a tight and strong boycott in Woodville. FBI agents were in town to observe, and Woodville’s mayor was seen daily in the streets cursing boycotters.\footnote{Cole, School Boycott and Civil Rights Activity, supra note 138.} But as the holidays approached in December, the Mississippi State Sovereignty Commission noticed black shoppers in the boycotted stores.\footnote{L.E. Cole, Jr., Woodville, Mississippi (Oct. 28, 1966) [unpublished investigative report], available at http://mdah.state.ms.us/arrec/digital_archives/sovcom/index.php (on file with the Mississippi State Sovereignty Commission Files, Mississippi Department of Archives & History, SCRID No. 2-110-0-48-1-1-1). Consequently, the community increased boycott enforcement with the desired effect.\footnote{Hardin remembers the need to enforce the boycott, and having to calm down a friend who became violently angry at the sight of his own father breaking the picket line. Interview with Sam Hardin, supra note 93; see also L.E. Cole, Jr., Pike, Amite, Wilkinson and Adams Counties (Dec. 6, 1966) (unpublished investigative report), available at http://mdah.state.ms.us/arrec/digital_archives/sovcom/index.php (on file with the Mississippi State Sovereignty Commission Files, Mississippi Department of Archives & History, SCRID No. 2-110-0-48-1-1-1) (observing that some blacks were seen in whites stores as the holidays approached).} Sovereignty Commission reports noted Woodville merchants’ complaints about the boycott being 100 percent effective.\footnote{Cole, Boycott, Oct. 28, 1966, supra note 182.}

Negotiations began on February 8, 1967, when four Deacons escorted Sovereignty Commission officials to a Woodville church for a negotiation meeting.\footnote{L.E. Cole, Jr., Woodville, Mississippi (Feb. 13, 1967) (unpublished investigative report), available at http://mdah.state.ms.us/arrec/digital_archives/sovcom/index.php (on file with the Mississippi State Sovereignty Commission Files, Mississippi Department of Archives & History, SCRID No. 2-110-0-58-1-1-1).} One official present observed over fifty Deacons guarding the church with carbines, rifles, and shotguns.\footnote{Id.} Negotiations went well, and the
black community gained several concessions from the town, including jobs at white-owned stores and two black police officers.\textsuperscript{187}

Yet only a certain kind of black police officer would be tolerated on the force. In March 1967, when a group of white youths argued over a car with a group of black youths, Woodville police were called to the scene.\textsuperscript{188} Responding to the call was one of the newly appointed black officers. The black officer was tasked with serving arrest warrants on the black youths. However, when it became clear that only the group of black youths would be arrested, the black officer refused to serve the warrants. White officers promptly arrested the black youths, and the black officer was dismissed from his post. Over 250 people rallied in protest of the officer’s dismissal.\textsuperscript{189} While the Sovereignty Commission report detailing the events does not contain the officer’s name, both an interview and a newspaper article corroborate that Leon Chambers was the first black police officer in Woodville and that he resigned after being asked to arrest only blacks.\textsuperscript{190}

Despite the February concessions, another boycott was up and running in August 1967.\textsuperscript{191} By September, the town sheriff, who had been known to walk

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187. Letter from Frank Bell, \textit{supra} note 180.
189. \textit{Id.}
190. MacKenzie, \textit{supra} note 93; Interview with Sam Hardin, \textit{supra} note 93.

Often members of the civil rights community in Natchez or other nearby towns would join the marches in support. Likewise, white supremacists from nearby towns would gather in support of Woodville’s white opposition. It was not uncommon for white supremacists to stand on buildings with guns trained on the marchers. Consequently, Deacons patrolled the edges of the march openly armed for protection. Nevertheless, during one August march, a group of forty armed white men gathered in a line confronting the marchers, who in turn disbanded and returned home rather than risk a bloody confrontation. Although reports are conflicting, the event drew national attention. Between five hundred and one thousand marchers were stopped during a march in Woodville by town police, armed whites, and sixty highway patrolmen. \textit{Mississippi March by Negroes Halted, supra} note 137; Lee Cole, Wilkinson County - Woodville, Mississippi (Sept. 11, 1967) (unpublished investigative report), \textit{available at} http://mdah.state.ms.us/arrec/digital_archives/sovcom/index.php (on file with the Mississippi State Sovereignty Commission Files, Mississippi Department of Archives & History, SCRID No. 2-110-0-70-1-1-1).

Throughout the day Deacons were stopped and disarmed while the armed white civilians were permitted to keep their guns. \textit{Mississippi March by Negroes Halted, supra} note 137. A different account reports that over two hundred marchers were threatened in Centreville, also in Wilkinson County. According to this report, a white man approached the crowd with a rifle and threatened the marchers. In response, over twenty-five Woodville Deacons who were present revealed their guns to diffuse the situation. Umoja, \textit{The Natchez Model, supra} note 31, at 280–81; Hill, \textit{supra} note 31, at 211; \textit{Wendt, supra} note 31, at 149–50.
with protestors, had a nervous breakdown.\textsuperscript{192} In the ensuing election, Klansman Burthell McGraw became Woodville’s new sheriff.\textsuperscript{193} Under his direction, the week after the tense protests, Mississippi state highway patrolmen were called to Wilkinson County. The patrolmen issued over three hundred traffic tickets and arrested numerous blacks in Woodville for a variety of violations.\textsuperscript{194} Town officials were overwhelmingly pleased with the Highway Patrol’s efforts: a town official reported to the Sovereignty Commission that this was the first time anyone had ever come to town and made “them” behave.\textsuperscript{195}

Also during September 1967, several Deacons were jailed ostensibly so that law enforcement could press upon them the importance of lifting the boycott.\textsuperscript{196} Unrest and harassment continued throughout the month. For example, the town responded to complaints about unfair primary elections by setting curfews on beer sales in an attempt to lower the number of blacks in town over the weekend.\textsuperscript{197} The town also sought advice on how to sue the NAACP to end the boycott since, as officials understood the situation, the black community was implementing a painful third-party boycott without demands.\textsuperscript{198}

More of the same continued through October 1967. The boycott was at 100 percent again, as were the accompanying Friday night rallies and harsh highway patrol enforcement of traffic laws.\textsuperscript{199} FBI agents were posted in town to monitor the boycotts and protests, but whether they were there to observe the town officials or the activists is unclear.\textsuperscript{200} October also brought two noteworthy incidents. The first happened on the fifteenth when a man drove his car into a crowd of marchers, “bruising” a twelve-year-old child.\textsuperscript{201} The Sovereignty Commission’s report expressed skepticism of the mother’s assertion that the injuries were serious.\textsuperscript{202} Then, toward the end of the month, Mr. Hudgins, a white man, shot two young black boys with buckshot.\textsuperscript{203} The boys had been out in a nearby field shooting guns at targets for fun. While the

\begin{flushright}
193. \textit{Id.}
194. \textit{Id.}
195. \textit{Id.}
196. \textit{See id.}
200. \textit{Id.}
201. \textit{Id.}
202. \textit{Id.}
\end{flushright}
boys were accused of stealing the guns they used, law enforcement took no action against Hudgins. However, Woodville’s black community did take action: Hudgins’ business was burned down and his home was fired into. Soon afterward Hudgins reported to the Sovereignty Commission that he thought these events might be in retaliation for shooting the boys.

Although no major incident occurred, between November 1967 and January 1968 Woodville’s boycott remained 100 percent effective. White merchants were “begging” for help. Yet, by April 1968, the boycott’s scope was severely lessened, and the Sovereignty Commission heard of no reports of Deacon activity. Ostensibly, many of the goals of the boycott had been accomplished.

When examining the Sovereignty Commission reports, it is possible to see the events that took place in Woodville between 1966 and 1968 as one long boycott that waxed and waned. But, community members thought of the events as several smaller boycotts, each with individual grievances, goals, and gains. During this period, NAACP membership expanded significantly, and several demands were met, including an expansion of job opportunities in white stores. Importantly, the civil rights activity also resulted in more frequent use of courtesy titles. No longer was Hardin referred to as “boy” or “son.” Nevertheless, the town continued to replace black police officers for alleged insubordination and resignation, and certain demands such as paved streets were never addressed.

Despite its willingness to make economic and political concessions, the white community in Woodville was adamantly against coeducational desegregated schools. Segregated schools persisted in 1969, and issues of school resources, staffing, and integration plans were all contested. Concerns over miscegenation persisted throughout the South despite—or possibly because of—the Supreme Court’s 1967 decision in *Loving v. Virginia*.

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205. See id.


208. Interview with Sam Hardin, supra note 93.

209. DITTMER, supra note 31, at 390.

210. Interview with Sam Hardin, supra note 93.

3. **School Desegregation**

Having achieved considerable gains in voting rights and economic opportunities, Woodville’s black community began a new boycott for desegregated schools in the summer of 1969, after the federal government had finally intervened in Woodville to enforce *Brown*. The Department of Health, Education, and Welfare (HEW) created a plan for integrating Wilkinson County schools. The plan was promptly published and denounced in the town’s weekly paper, the *Woodville Republican*.\(^{212}\) HEW’s plan was simple: split up the four existing school buildings into two high schools and two elementary schools—all integrated and coeducational.\(^{213}\) In response, the town proposed a simple plan that evaded full integration: split up the schools into two high schools and two elementary schools—integrated by race but segregated by sex.\(^{214}\)

During the summer of 1969, as HEW made it clear to the white community that school integration was in the immediate future, Woodville’s black community filed a new set of grievances with town officials over teacher firings and school resources.\(^{215}\) This time, two of the town’s civil rights leaders—Mon Cree Allen and James Jolliff—led the organizing efforts.\(^{216}\)


\[^{213}\] *Dual County School System to End Dec. 31, supra* note 212, at 1.

\[^{214}\] *School Board Rejects HEW Plan, Court to Make Ruling, supra* note 212, at 1.

\[^{215}\] Letter from The Negro Community to Whom It May Concern (June 11, 1969), *available at* http://mdah.state.ms.us/arrec/digital_archives/sovcom/index.php (on file with the Mississippi State Sovereignty Commission Files, Mississippi Department of Archives & History, SCRID No. 2-110-0-85-1-1-1). The principals and staff at Woodville’s black schools, like in most areas in the South, were largely accommodationist. *MOODY*, *supra* note 94, at 229, 382.

While a new boycott was put in effect for the summer, it remained unclear which integration plan would win out.

The new boycott’s power to desegregate during the summer of 1969 is revealed in a series of letters sent from a Miss Mabel D. Bocking, an older white Wilkinson County resident, to her U.S. Senator, James Eastland. Her first three letters, dated July 2, 5, and 6, 1969, reflect how some in the area—presumably the most ardent white supremacists—were affected by civil rights desegregation activity and the small gains that African Americans had accomplished. Much of the letters’ contents focus on the Woodville and Wilkinson County 1969 boycotts and the “watchers” who enforced them within the black community:

If a negro goes in a white place of business . . . the negro street watchers will beat him and burn his home. They are forcing all negroes, against their will, to buy their merchandise from . . . negro merchants . . . [or from places that] employ negro cashiers, who have a first grade elementary education and are on the welfare, and draw other government checks, and have a new car or 5 each, and draw more salary than you do.

Miss Bocking also wrote about the road blockades that seemingly resulted from marches and protests. She told Senator Eastland about how she was forced to drive her car carefully up and shove the cars out of her way, the whole time cursing “like thunder.” The cursing, according to Miss Bocking, made “them” scared enough to drop the guns that were pulled on her.

Miss Bocking’s letters are damning and unrestrained accounts of life in Wilkinson County at the turn of the decade. The letters ramble on for pages, circling back to the same few themes: demands to repeal all civil rights laws


218. See Lewis, supra note 212, at 1; School Board Rejects HEW Plan, Court to Make Ruling, supra note 212, at 1; Dual County School System to End Dec. 31, supra note 212, at 1; Wilkinson Co. Ordered to Adopt HEW Pairing Plan, supra note 212.


220. Although Miss Bocking’s letters may represent the most extreme view in Woodville’s white supremacist community, her letters nevertheless reveal the sentiments of those who, like Miss Bocking, interacted often with black protestors.

221. Letter from Miss Mabel Dorothy Bocking to Jim Eastland, U.S. Sen. (July 5, 1969) (available at University of Mississippi, Archives and Special Collections, Eastland Collection, copy on file with author).

222. Id.

223. Id.
and reinstate segregation,\footnote{For example, she had utmost contempt for black voting rights and the resulting recent election of Mississippi’s first black mayor, Charles Evers, in nearby Fayette. In a December 1969 letter, Miss Bocking made dire predictions about the future election of a negro president, opining, “[T]hings will become so terrible on earth that they close the book of the Lord here.” Letter from Miss Mabel D. Bocking to James O. Eastland, U.S. Sen. (Dec. 20, 1969) (available at University of Mississippi, Archives and Special Collections, Eastland Collection, copy on file with author).} explanations of anticommunist conspiracy theories, pleas for aid to desperate whites in Wilkinson County, and common white supremacist topics including states rights, miscegenation, and biblically commanded white rule.\footnote{One of her first letters read, “[A]ll of you in Congress need your heads examined for letting the negro run over the white race. No negro is hungry or really suffering in this U.S.A. so do not let him lie to you and tell you he is.” Letter from Miss Mabel D. Bocking to Jim Eastland, U.S. Sen. (July 2, 1969) (available at University of Mississippi, Archives and Special Collections, Eastland Collection, copy on file with author).}

Miss Bocking’s rambling letters also reveal that she herself was one of the white merchants severely hurt as a result of the 1969 desegregation boycotts:

We here in Wilkinson County, Miss have been boycotted by the negro, and these negroes are most sassy, and wicked, and wild, and like cannibals here . . . . The law officers are afraid to get rough with them, but they must, but without the use of guns only occasionally. The white people here are suffering torture and are hungry. The business people, like myself here, are catching ‘hell;’ pardon my language . . . . Stop allowing these negro watchers to beat a negro if he goes in a white . . . store. Stop letting them set fires to peoples places and stop letting them threaten white merchants and threatening to burn white peoples homes. They threw bricks through one man’s car here. They (negroes) make all negroes trade in Wilkinson County with negroes . . . when the negroes want to come to the rest of us white merchants in Wilkinson County where they are used to coming. Stop, stop, please, this mess. See to it police put a stop to this negro policy to spite the Wilkinson County merchants.\footnote{Letter from Miss Mabel Dorothy Bocking to Jim Eastland, supra note 221.}

As a poor white merchant,\footnote{She mentions in one letter that after telling the police of her FBI conspiracy theory, they wanted to check her into a mental institution. Letter from Miss Mabel D. Bocking to James O. Eastland, U.S. Sen. (July 6, 1969) (available at University of Mississippi, Archives and Special Collections, Eastland Collection, copy on file with author).} Miss Bocking blamed all of her troubles on blacks that were no longer “in their place.”\footnote{Letter from Miss Mabel Dorothy Bocking to Jim Eastland, supra note 221.} She felt her own place as a white southern woman was at risk when she heard herself referred to as “white trash” and “crookeder than a barrel of snakes.”\footnote{Letter from Miss Mabel Dorothy Bocking to Jim Eastland, supra note 221.} Miss Bocking’s letters are just one example of how poor whites in Wilkinson County reacted to the tensions that civil rights activity brought to the surface, particularly activism related to school desegregation.

\footnote{Id.}
However, neither Miss Bocking’s letters nor other local opposition to desegregation could stop the federal government’s intervention in Woodville. Eventually, a U.S. district court concluded that HEW’s school integration plan would be enacted in January of 1970.230 Although the town could not change that decision, it could and did labor quickly to find a workaround. Over the Christmas break of the 1969–1970 school year, the Woodville White Citizens’ Council hurriedly set up all-white private schools. This drew New York Times coverage of the opening of Wilkinson County public schools in January 1970.231 The nation’s eyes were directed toward Mississippi and how its small rural towns would react to forced integration. Remarkably, although many Mississippi school districts responded simultaneously to the federal government’s integration plan by setting up alternative white private schools, only Wilkinson County public schools actually opened with virtually no white children.232 Both black and white children and their parents were confused by the presence of two white children who attended a public elementary school on the first day. The white older sister told reporters that she had been scared, and the black children also reported being nervous about sitting next to the white girl in class.233 While in other areas of Mississippi a minority of white children continued attending, after the second day of classes in Woodville, not a single white student attended the county’s public schools. The siblings that attended that first day were pulled by their family after the community provided both pressure and the gift of scholarships to the Citizens’ Council schools.234

In the months that followed, Charles Evers again organized Woodville’s black community in conjunction with surrounding counties in a selective buying campaign.235 The community was acutely aware that buying from whites funded private white education. The slogan of this boycott proclaimed that if blacks were not good enough to go to school with whites, blacks would not spend money with them either.236 This boycott, like those previous, had an acute effect on Miss Bocking. Her last December 1969 and January 1970 letters

230. Dual County School System to End Dec. 31, supra note 212, at 1.
233. SOKOL, supra note 232, at 172–73.
234. Id. To this day, schooling in Wilkinson County continues to be segregated in the same manner, with a majority of the black students attending public schools and white students attending private schools. Cf. Celnisha L. Dangerfield, Mapping Race, School Segregation, and Black Identities in Woodville, Mississippi: A Case Study of a Rural Community, 4 J. RURAL CMITY. PSYCHOL. *1 (2001), available at http://www.marshall.edu/jrcp/dangerfieldSl.htm (exploring how separation within the Woodville educational system impacts identity formation, a process reinforced by the local mass media). In fact, not until 1989 did the Wilkinson County school district cease annual decreases in public school funding. Marilee C. Rist, Doing More with Less in Mississippi, 13 EXEC. EDUCATOR 37, 38 (1991).
236. Id.
convey continuing concern about desegregated schools and a boycott that was forcing whites to close shop and leave the area. Her January letter, addressed not only to Senator Eastland but also to President Nixon, immediately confronted the issue of education.\footnote{Letter from Miss Mabel D. Bocking to James O. Eastland, U.S. Sen. (Jan. 18, 1970) (available at University of Mississippi, Archives and Special Collections, Eastland Collection, copy on file with author).} Not only should public schools be segregated, but also African Americans’ education should be limited to that which is necessary “as the servant of the white race as demanded in the Bible.”\footnote{Id.} Miss Bocking’s letters further reveal that, like many white supremacists, her outrage at school desegregation was intimately linked to her concerns about miscegenation and rape.\footnote{Id.}

It was within this environment that Aaron Liberty died and Leon Chambers was accused of his murder. Although tensions in Woodville had been running high for some time due to boycott demands, previous years’ demands had largely focused on economic changes like access to jobs. Now, many in Woodville’s black community demanded not only good schools but also integrated coeducational schools. Integrated schools posed a new set of problems for many whites. Whites’ concerns over miscegenation were severe, and the possibility of interracial couples resulting from integrated schools could not be tolerated. Moreover, the school desegregation debate involved the federal government’s intervention in what the white community perceived as states’ rights.

The June 1969 shootout that left Leon Chambers severely injured and Aaron Liberty dead drastically increased the boycott’s importance.\footnote{Memorandum from W. Webb Burke, Dir., Miss. State Sovereignty Comm’n, to File (July 9, 1969), available at http://www.mdah.state.ms.us/arec/digital_archives/sovcom/result.php?image=/data/sov_commission/images/png/cd05/037256.png&otherstuff=2|110|0|86|1|1|136670 (on file with the Mississippi State Sovereignty Commission Files, Mississippi Department of Archives & History, SCRID No. 2-110-0-86-1-1-1, Mississippi Department of Archives & History).} In this context, the shooting of Liberty, a black police officer, meant different things to the black and white communities. To the whites in power, it posed a threat of increased protests and boycotts, and it served as an example of a reckless and out-of-control black population. To the black community, the incident was an example of police brutality and recklessness—as well as the manipulation of a black police officer to act against those who forced the town to hire a black police officer in the first place.

II.

CHAMBERS V. MISSISSIPPI: A MORE COMPLETE ACCOUNT

There are as many accounts of what happened the night Aaron Liberty died as there are people to tell them. Some accounts are public constructions in
hopes of influencing memories of the event. Others are given under oath. And a few provide glimpses into hidden civil rights activity—a world where ends justify means. When woven together, the accounts provide a textured illumination of one small incident in the civil rights movement that would become the impetus for a landmark holding by the United States Supreme Court.

A. June 14, 1969

On a hot Saturday afternoon in Woodville, Mississippi, a black youth in his twenties named C.C. Jackson was playing the jukebox in Hayes’s Cafe.241 Several times, he reported to the bartender that the jukebox took his dimes without playing a song, and asked for reimbursement.242 Eventually, Clarence Hayes, owner of the bar and pool hall, caught on to Jackson’s scheme; Jackson was the only person all day who had had troubles with the machine.243 Tired of Jackson’s scam, Hayes warned Jackson to stop disrupting the bar, but Jackson refused to stop. Consequently, Hayes filed an affidavit with the Woodville Police Department for Jackson’s arrest later that afternoon.244 However, despite great efforts, Jackson was not arrested on Saturday, June 14, 1969.245

There is no indication that June 14 was any different from any other Saturday in Woodville that summer. The boycott was still in effect; yet there are no reports of marches that weekend. Like most weekends during a boycott, there were probably a few picketers outside white merchants’ stores and boycott enforcers around town. As the day came to a close and evening sank in, the town almost certainly looked like most small southern towns on a Saturday night.246 Most of the black community would come to town to socialize.247 In her memoir, Anne Moody writes of Saturday nights in Wilkinson County and elsewhere in Mississippi: “Those that didn’t believe in sitting around or

241. Interview by Plater Robinson with Sam Hardin, supra note 91; Interview with Sam Hardin, supra note 93.
242. Id.
243. Id.
244. Interview with Sam Hardin, supra note 93; Transcript of Trial Record, at fols. 156–57, in Combined Court Records, State v. Chambers, 252 So. 2d 217 (Miss. 1971) (No. 46378) (notes from primary source on file with author).
245. See Town Policeman Killed, 2 Wounded Saturday Night, WOODVILLE REPUBLICAN, June 20, 1969, at 1. C.C. Jackson would reappear in the town’s newspaper and in court just a few years later. The two-time jail escapee’s escapades were dubbed the “Saga of C.C.” and a “one man crime wave” by the town’s newspaper. Eventually Lenox Forman, by then a judge, sentenced C.C. to serve several years at Parchman Penitentiary. Arrest Local Man on Election Night Assault Charges, WOODVILLE REPUBLICAN, Aug. 13, 1971, at 1; C.C. Jackson Shot and Captured Here Sunday, WOODVILLE REPUBLICAN, Feb. 25, 1972, at 1; Grand Jury Returns 12 Bills; Jolliff Indicted on 2 Counts, WOODVILLE REPUBLICAN, Mar. 17, 1972, at 1; Jackson Escapes Jail Saturday, WOODVILLE REPUBLICAN, Oct. 15, 1971, at 1; Jury Trial Nets Guilty Verdict, 7-year Pen Term, WOODVILLE REPUBLICAN, Mar. 26, 1971, at 1.
246. See MOODY, supra note 94, at 319.
247. Id. at 318–19.
hanging out in bars . . . just sat or moved from car to car for four or five hours.\textsuperscript{248} It was a time when people could come to town, catch up, and relax. If the town’s last movie theater, The Joy, had not been closed to avoid desegregating the theater, the kids too young to go to bars would have gone to a movie.\textsuperscript{249} Sometimes there would be a fight, but always there would be white police officers patrolling the town square.\textsuperscript{250}

By evening, as the town square began to fill up, two officers had begun to execute the arrest warrant for Jackson. Officers Forman and Liberty were assigned to the task. Both had been on the town’s police force for about a year and a half.\textsuperscript{251} James Forman was a white, full-time officer.\textsuperscript{252} He was known in the black community as “Fussie.”\textsuperscript{253} Aaron Liberty was a black, part-time officer.\textsuperscript{254} At age fifty-seven, Liberty was tall and weighed over three hundred pounds.\textsuperscript{255} He had a wife and son as well as a large extended family in the area.\textsuperscript{256} Liberty worked during the week at a wholesale grocery and helped out the police department on weekends.\textsuperscript{257} Reportedly well respected by powerful whites in the community, those who knew him called him “Son” or “Sonny.”\textsuperscript{258} The black community knew Liberty as “one of those hired men the white folks had to keep the black folks straight.”\textsuperscript{259}

The two officers had already stopped by Hayes’s Cafe on foot but were unable to locate Jackson. Now nearly night out, Officers Forman and Liberty made rounds in a patrol car. The two officers stopped at each black bar in town before returning to Hayes’s Cafe around nine o’clock.\textsuperscript{260} In his testimony at trial, Forman recalled seeing Jackson at that time outside the bar “with about thirty more colored people, colored males” out in the street.\textsuperscript{261} The officers parked the car and walked toward the crowd.\textsuperscript{262} According to Forman, he told Jackson he was under arrest and to get into the police car.\textsuperscript{263} In response to this request, Forman reported that Jackson yelled, “you’ll have to kill me first[!]”\textsuperscript{264}
In return, Forman remembered simply trying to handcuff Jackson, but Sam Hardin recounted that Forman “wanted to whup [Jackson], and still take him to jail. . . . [H]e couldn’t arrest the boy without beating him.”

In fact, Forman was unable to complete his attempt to arrest Jackson because several men in the crowd interfered. To Forman, it felt like twenty or twenty-five men jumped him, James Williams included. Indeed, Forman testified that he specifically remembered throwing Williams off his back. There is no doubt that Williams was outside Hayes’s that evening. As a local civil rights leader and a Deacon for Defense, Williams was no stranger to confrontation with the Woodville police.

But while Williams was well respected within the civil rights community, the same could probably not be said for Jackson. He was a troublemaker, and it is clear that the black men outside Hayes’s Cafe that night were not upset about the warrant for his arrest. However, the crowd of men, which included several civil rights activists, were upset that the white officers wanted to beat Jackson before handcuffing him and taking him to jail.

During this first arrest attempt, no account places Liberty near the crowd. In fact, after being repelled by the crowd, Forman gave up on the arrest temporarily and returned to the patrol car to call for back up. He radioed three white deputy sheriffs: Bud Geter, Waldo Welch, and Herman Anthony. While he waited for them to arrive, Forman returned to the crowd. Forman testified that he “didn’t try anything, [he] just talked to” Jackson to try to persuade him to get into the patrol car.

Yet, Officer Welch admitted that as he arrived he saw Forman grab Jackson, put him on the ground, and place one cuff on him. While Welch aided this second arrest attempt, both Forman and Geter heard James Williams lead the crowd in chants of “kill ’em, kill ’em[!]” and “kill them son of a bitches.” In one of Gable McDonald’s accounts of the evening, he remembered that the white officers were handling Jackson so roughly that the men in the crowd went to assist him. The officers agreed with just part of
that statement: a crowd that now swelled to fifty people repelled the officers’ second arrest attempt, and Jackson wriggled free.\textsuperscript{275}

\textbf{FIGURE 5: Copy of map used of First West Street during trial}

\begin{quote}
Jordan, Kaiser & Sessions, Civil Engineers, Map of Topographic Survey of First West Street Area, Woodville, Mississippi, Natchez, MS, October 1970. This is a copy of the map used by the defense during Leon Chambers’s trial. Witnesses plotted the positions they had held during key events on June 14, 1969. Here, in the full map, one can imagine where the police car was parked with its rear wheels in Main Street, and the rest of First West Street would have been filled with people as police officers tried to arrest C.C. Jackson.
\end{quote}

\textsuperscript{275} Transcript of Trial Record, \textit{supra} note 244, at fols. 160–62.
FIGURE 6: Detail of Figure 5

This detail of the map shown in Figure 5 gives the viewer some idea of the proximity of Jack’s Coffee Shop and Hayes Cafe & Pool Hall, as well as the alley where Aaron Liberty shot Leon Chambers.

At this point the street was crowded. One block from the town square, the narrow road and alleys were poorly lit and filled with people and parked
cars. Some people were just trying to get through; others, like Sam Hardin, came from nearby cafés to see what all the commotion was about.

Somewhere amid the chaos was Leon Chambers. Although probably armed, there is no evidence that Chambers participated in the physical intervention of the arrest attempts. Chambers, a World War II veteran and a homeowner, had lived with his wife and nine children in Woodville for several years. With only a grammar school education, he worked in construction and as a farm laborer. Still, he had had the honor, a few years prior, of being the town’s first black police officer—a concession from one of the successful boycotts. However, he served only briefly, resigning “when he rejected orders ‘to look after the blacks’ but ignore white lawbreaking.” After this, Chambers continued to be active in the NAACP and with the Deacons for Defense.

Following the second arrest attempt on the evening of June 14, Chambers was standing with others—maybe James Williams and Gable McDonald—in a narrow alley between Hayes’s Cafe and Jack’s Coffee Shop.

By this time the officers were in retreat. Forman, withdrawing from the crowd, returned to the car in search of his rifle. At the same time, Officer Geter was across the street from the cafe attempting to get information from Neil Jarvis. Geter had specifically sought out Jarvis, a black man with whom he was familiar, to gather information. But when Jarvis started talking about dimes, Geter dismissed him as not having any valuable information and “drifted back towards where Son was.” Then, when Forman reached the patrol car to retrieve his gun, he noticed that the “riot gun,” a sawed-off double-barrel 12-gauge shotgun, was missing from the police car.

It became apparent that Liberty had sought out the gun. He stood in the street facing away from the alley. With the riot gun in his right hand and the...
pistol from his holster in his left, he surveyed the rambunctious crowd. Then, Liberty raised the sawed-off shotgun in the air, and, wanting to help his fellow officers who were struggling with the crowd, he said—loud enough for the crowd to hear—that he was “going to separate the niggers,”288 “those black son of a bitches,”289 and that he would “get them niggers straight for you.”290 Hearing this and surveying Liberty’s threatening stance, a Deacon for Defense took aim and fired five to six shots into Sonny Liberty’s back.291

Sonny staggered. He twisted toward the alley and told Officer Welch that he had been shot.292 Welch in turn told Liberty to kill his assailant, and Liberty fired two blasts from the shotgun down the alley in the direction from which the pistol shots had come.293 The first shot seemed to the officers to have been fired at no one in particular.294 It had the effect of scattering the crowd: the men in the alley fled.295 The second shot seemed to the officers to have been taken with more deliberate aim.296 While the officers at trial suggested that Liberty deliberately took aim at Chambers, thus identifying him as his assailant, it is unlikely that Liberty could have actually known who fired the shots that killed him, since he was hit in the back and stumbled for a moment before turning around. Nevertheless, as he fled down the alley, Chambers was hit by the second blast: buckshot tore apart his head and neck. His wounds were so devastating that the officers left him for dead.297

After firing the second shotgun cartridge, Liberty fell, discharging at least one unintentional shot from the pistol in his left hand, which hit Welch in the leg.298 The immediate focus of the officers became getting Liberty and Welch to the hospital. As Forman sped to the hospital in Centreville, about fifteen miles away, Aaron Liberty died in the back seat of the police car.299 Officers Anthony and Geter returned to the station to get help without checking Chambers’s body for signs of life or even a weapon.300

The Deacons in the crowd likewise took swift action. After witnessing the shooting of Chambers, Sam Hardin testified that he went into Hayes’s Café and told those inside—including Gable McDonald—that “Mr. Chambers had been

288. Interview by Plater Robinson with Sam Hardin, supra note 91, at 13.
289. Nelson, Supreme Court to Rule, supra note 268.
290. Interview by Plater Robinson with Sam Hardin, supra note 91, at 13.
291. See Chambers v. State, 252 So. 2d 217, 218 (Miss. 1971) (per curiam); Interview by Plater Robinson with Sam Hardin, supra note 91, at 14.
292. Chambers v. State, 252 So. 2d at 218.
293. Id.
294. Id.
296. Chambers v. State, 252 So. 2d at 218.
297. See Transcript of Trial Record, supra note 244, at fols. 226–27.
298. Id. at fol. 226. At trial, the prosecution first tried to demonstrate that this later pistol shot that hit Welch may have come from another shooter, James Williams, but never fully followed up—in all likelihood because they knew it was from Liberty’s pistol.
299. See Town Policeman Killed, 2 Wounded Saturday Night, supra note 245.
300. Transcript of Trial Record, supra note 244, at fols. 207, 209, 226.
killed.” Heading back outside to find a few men gathered around Chambers’s body, Hardin was informed that Chambers was still alive. Having found no gun in Chambers’s possession, Hardin helped place Chambers into the back seat of James Williams’s car.

Importantly, Gable McDonald would assert at a preliminary hearing that it was not until after the sound of the shotgun fire that he went toward Hayes’s Cafe that evening. This assertion, however, was contrary to the testimony of Sam Hardin, Berkley Turner, and earlier recanted confessions of McDonald himself. According to McDonald’s latter account, he and Turner had been drinking at Gladys’s Cafe, and by the time they reached Hayes’s, all of the police officers were gone and men were helping place Chambers in Williams’s car. Yet McDonald was likely in the crowd when the shooting commenced, as his testimony is not only uncorroborated by any other account but also directly contradicted by testimony of both the man he was allegedly with at the time and a staff member at Gladys’s Cafe.

Nevertheless, it is undisputed that James Williams, Berkley Turner, and Gable McDonald drove Leon Chambers to the same hospital where Forman had brought Liberty and Welch. Hardin and two other men followed close behind in Hardin’s truck. According to McDonald, again at the preliminary hearing, the car ride to the hospital was silent. Although he was aware Chambers had been shot because “it looked like his brains was coming down his face,” McDonald claimed that he did not inquire about the evening’s events despite claiming that, at that time, he was unaware of how Chambers had been injured. Upon arrival, the hospital staff refused to provide Chambers with a stretcher. Instead, two of the men helped Chambers—riddled with buckshot in his brain—walk into the hospital. Once there, the hospital would not permit any visitors.

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301. Id. at fol. 282.
302. Id.
303. Id. at fol. 282, 290.
304. Brief for Petitioner, supra note 274, app. at 114.
305. Id. app. at 123. Additionally, William Vaughn would later testify that he saw an armed Gable McDonald outside the back door of Gladys’s Cafe shortly after the shooting, but never inside the cafe before the shooting. Id. app. at 140–44.
306. Transcript of Trial Record, supra note 244, at fol. 282–83.
307. Brief for Petitioner, supra note 274, app. at 54.
Q. Now, you tell us that there was no conversation that come up between you and James Williams or anybody about how this man got hurt that was laying there in the back of the car?
A. No, sir, no conversation.
Q. No conversation about it?
A. No, sir.
Q. Well, you didn’t inquire about who shot him or was he shoot or anything?
A. No, sir.
Id.
308. Id. app. at 71–72.
309. Id.
B. Charges, Investigations, Confessions

Immediately following the shooting, it does not appear that any law enforcement official was interested in discerning who shot Liberty. In all likelihood, had Chambers not survived, there would never have been any investigation, and the town simply would have blamed the murder on him regardless of his guilt or innocence. But once they found out Chambers was alive, the town had little choice but to prosecute him. The boycott had already pushed white merchants to the verge of closure, and the white power structure could not risk civil rights activists reframing the incident as one of police brutality that left an innocent person dead. Any assertion of Chambers’s innocence would contradict the official story that several black males had interfered with law and order.

Ostensibly understanding as much, by midnight Sheriff McGraw had surveyed the situation, determined that Chambers was in fact guilty of murder, and placed guards outside his hospital room “[s]o there wouldn’t be any disturbance and so he wouldn’t escape.” 310 McGraw also called in the state highway patrol—appreciated by the town for making “them” behave311—for assistance in keeping the peace that weekend.312 In the meantime, Officers Welch and Forman, along with Chief of Police Earl James, went back to Hayes’s Cafe and conducted a cursory search for the gun.313 In addition, Officer Geter and Sheriff McGraw made another survey of the scene after midnight, but “[i]t was dark and [they] couldn’t tell anything.”314

That night the police department was also busy detaining male civil rights activists, including many known to be Deacons. Five men would be arrested over the course of the night and charged with obstruction of justice, but others like Sam Hardin were simply detained for questioning.315 Each man was questioned individually as the police department attempted to turn members of the Deacons against each other. Police told each Deacon that another member had already revealed his name, thus exerting pressure to reveal the identity of the shooter or names of other members of the secret organizations.316 The process continued throughout the night, more for the purpose of harassment, less for the purpose of investigation.

In fact, throughout the next morning the search for the shooter was still underway. At least one officer was reportedly making rounds in the black

310. Transcript of Trial Record, supra note 244, at fols. 227, 461. At this point, Chambers had still not been charged with any crime.
311. See supra note 195 and accompanying text.
312. Transcript of Trial Record, supra note 244, at fol. 460.
313. Id. at fols. 230–31.
314. Id. at fol. 274.
315. See Interview by Plater Robinson with Sam Hardin, supra note 91, at 14–15. See generally Town Policeman Killed, 2 Wounded Saturday Night, supra note 245.
316. Interview by Plater Robinson with Sam Hardin, supra note 91, at 15.
community to gather information about possible suspects.\footnote{317} At trial, Officer Geter testified that in the days following the shootings, Welch and “the entire Sheriff’s Department made a diligent search and inquiry for [the gun].”\footnote{318} However, these searches and inquiries did not produce any results other than a bit of buckshot in a tree just feet from where Chambers had been “cut [u] down.”\footnote{319}

In collaboration with the police department’s continued search, white city officials convened a special session on Sunday, June 15, 1969. The powerful white men on the town council passed three town ordinances and one county ordinance in an effort to suppress any activity that might occur as news of the events spread. Each ordinance was posted in the town’s newspaper the following Friday. The first ordinance closed Hayes’s Cafe as a public nuisance—no records indicate whether the restaurant was later allowed to reopen.\footnote{320} A second ordinance imposed a curfew between the hours of 8:00 p.m. and 5:30 a.m.\footnote{321} The third town ordinance and the county ordinance set limits on the hours during which beer could be sold.\footnote{322} How long these ordinances were in effect and how strictly they were enforced is not known, but neither violations nor protests were reported in the local newspaper.

The shooting, however, received immediate local press coverage. Local newspapers swiftly constructed a narrative of the June 14 incident that concealed police brutality, recklessness, and the exploitation of black police officers, and valorized African Americans who cooperated with the whites to maintain the Southern way of life. Because Woodville’s town paper was printed weekly on Fridays, the first report of Liberty’s death was in the Natchez Democrat, a daily paper that often covered significant events that occurred in neighboring Woodville. The Natchez Democrat’s Sunday, June 15, 1969, front page read “1 Dead 2 Shot In W’ville.”\footnote{323} The accompanying story, like the one that ran in Jackson, Mississippi, the same day, was short and simply reported that an incident had occurred the previous evening.\footnote{324}

But by June 18, the Natchez Democrat began running more incendiary stories about the shooting, including a reprint of Tom Etheridge’s column, the

\footnotesize{\begin{itemize}
\item 317. Transcript of Trial Record, supra note 244, at fol. 216.
\item 318. Id. at fols. 228, 274.
\item 319. Id. at fols. 216, 275.
\item 320. Town Policeman Killed, 2 Wounded Saturday Night, supra note 245; An Ordinance: Removing Public Nuisance, WOODVILLE REPUBLICAN, June 20, 1969 at 4 (notes from primary source on file with author).
\item 321. An Ordinance: Removing Public Nuisance, supra note 320.
\item 322. Id.
\item 323. 1 Dead 2 Shot In W’ville, NATCHEZ DEMOCRAT, June 15, 1969, at 1.
\item 324. Id.; Woodville Policeman Slain, Deputy Wounded, CLARION-LEDGER, June 15, 1969, at 1. A follow-up story on Monday reported that arrests had been made and murder charges had been filed against Leon Chambers. Murder Charge Filed in Death of Policeman, CLARION-LEDGER, June 16, 1969, at 1 (notes from primary source on file with author).
\end{itemize}}
“Mississippi Notebook,” originally printed in Jackson’s *Clarion-Ledger*. The essay, reprinted with praise, was titled “Plight of Negro Policeman Shown,” and it illuminated how at least some Mississippians, and likely many locals, understood the role of black police officers. For example, the essay mischaracterized the black community’s motives for demanding black police officers: “Oddly enough, while black leaders have demanded that Negroes be given a ‘fair share’ of police jobs, it appears that many Negroes expect colored cops to show favoritism to members of their race.” Etheridge ignored the complaints of police brutality and the unwillingness of many southern police departments to protect blacks from physical harm or carry out justice.

Etheridge’s essay likewise demonstrated why hiring black officers often did not produce the desired results in the black community when he related his perception of the unique challenges experienced by black police officers:

A colored officer can easily find himself ostracized as “a white man’s nigger” or “uncle Tom” if his efforts at law enforcement are too vigorous to suit some members of his race. . . . The black cop may find himself marked for violence and even death at the hands of resentful extremists of his race. . . . Making it bad especially for colored officers is the fact that their race is responsible for major crimes far out of proportion to the colored population.

While Etheridge’s characterization of the situation in Woodville exaggerated and mischaracterized the criminal population, some in the black community did consider Liberty an Uncle Tom. He served on the force knowing he could not stop white lawbreakers even when they carried out violence against blacks. He served on weekends, when the force needed additional patrols for arrests of marchers and picketers. Further, although it is unlikely that Liberty was “marked,” Etheridge might have been right that Liberty was murdered for “too vigorously” enforcing the law. It was clear to some in the black community that Liberty was not on the side of civil rights. His actions on the night of his death demonstrate that his presence was insufficient to secure humane treatment when a black person was arrested.

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326. *Id.*
327. *Id.*
328. Aaron Liberty’s pallbearers included many whites, including Sheriff McGraw and other policemen. *Town Policeman Killed, 2 Wounded Saturday Night, supra* note 245; MacKenzie, *supra* note 93 (reporting that Liberty was “viewed by some Negroes as an Uncle Tom for protecting patrons at local stores during an economic boycott”).
329. Interview with Sam Hardin, *supra* note 93.
330. But see BROWN-NAGIN, *supra* note 41, at 12 (discussing the difficult choices “accommodationists” were forced to make and reminding the readers that a simplified view of “accommodationists” within the civil rights movement “underestimates both the enormous pressures that segregation imposed on blacks and the ingenuity and complexity of blacks’ response to racism”).
In contrast to Etheridge’s essay, which connected the Woodville incident to the broader increase in black police officers in Mississippi, the Woodville Republican’s coverage of the event was personal. Based on interviews with Sheriff McGraw and Officer Forman, the Friday paper reported details of the event including how Forman and Liberty were ambushed at the scene as well as the arrests of James Williams and Berkley Turner.\textsuperscript{331} But even more interesting are the contents of the weekly column, “Localisms,” written by John Lewis, the small paper’s publisher.\textsuperscript{332} Lewis described Liberty as “one of Woodville’s valued citizens” and a personal “lifelong friend.”\textsuperscript{333} “[W]ithout equivocation,” wrote Lewis, Liberty “held both our respect and our esteem. Hard working, honorable, dedicated to the principles in which he believed, unfailingly cheerful and polite, Son set an excellent example.”\textsuperscript{334}

Then, Lewis emphatically blamed the black community for Liberty’s death, referring to the men at Hayes’s Cafe as a “savage mob,” and making it clear that “[i]t would take a great stretch of the imagination to bring ‘police brutality’ into the issue.”\textsuperscript{335} He continued his condemnation, describing “the shock of realization of the level which disregard and actual contempt for police authority have reached among a certain element of our less desirable citizenry.”\textsuperscript{336} Without increased efforts to maintain law and order, Lewis predicted that “hoodlumism and rampant crime can and will swiftly sweep our fine community into a state of anarchy which will destroy it.”\textsuperscript{337}

Lewis’s contrasting descriptions of local law enforcement and the black community provided a frame for his readers to understand the black community’s discontent. His editorial constructed a narrative that placed the blame for the beating of C.C. Jackson, the bullet wounds of Leon Chambers, and the death of Aaron Liberty, on the black community’s disregard for law and order. The narrative concealed possible guilt of whites in conducting a violent arrest, exploiting a black police officer, and pursuing the murder conviction of a man who, in all likelihood, was innocent.

While the white press created its own account of the evening’s events, there remained a hidden narrative of events: hidden in part because the white community was not entirely interested in the truth, and in part because the Deacons had something to hide. While the police department was conducting a perfunctory investigation and the town was passing ordinances, the Deacons were conducting their own investigation of sorts.

\textsuperscript{331} Town Policeman Killed, 2 Wounded Saturday Night, supra note 245.
\textsuperscript{332} Lewis, supra note 254.
\textsuperscript{333} Id.
\textsuperscript{334} Id.
\textsuperscript{335} Id.
\textsuperscript{336} Id.
\textsuperscript{337} Id.
Although Gable McDonald testified that the trip to the hospital with Chambers was rather quiet, Berkley Turner testified about a more conversant McDonald on the way home.\footnote{338}{Brief for Petitioner, supra note 274, app. at 129.} McDonald told Turner that he had shot Sonny Liberty.\footnote{339}{Id.} One might suspect that since both men were Deacons, they likely discussed the details of the evening and how to proceed next. The men then drove to the home of the Deacons’ spokesman Red Caine, where several armed Deacons gathered to regroup.\footnote{340}{Id. app. at 72.} Before the night was over, several guns changed hands: Hardin left his gun with Caine’s neighbor; Gable left Chambers’s .38 revolver at the neighbor’s and left his .22 revolver with Caine.\footnote{341}{Id. app. at 72, 138. The .38 revolver was discussed at great length at the trial. Both sides were interested in it, its uniquely decorated handle, and its owner. However, the gun appears to be rather immaterial to identifying the shooter as Leon Chambers or James Williams, even if it did belong to one of them, because the autopsy revealed that Liberty was shot with six bullets from a .22 revolver like the one Gable McDonald purchased in July 1969 and had “stolen” from him around the time of the shooting. Transcript of Trial Record, supra note 244, at fol. 285.} After the meeting at Caine’s, Hardin gave McDonald a ride home, and on the way, according to Hardin’s testimony, McDonald again confessed that he had shot Liberty.\footnote{342}{Transcript of Trial Record, supra note 244, at fol. 285.} Hardin would also later testify that he saw McDonald shoot Liberty.\footnote{343}{Id. at fol. 282.} Hence, the confession must have come as no surprise but rather may have been part of a larger conversation about the Deacons’ plans for what to do next. In fact, Hardin told McDonald, “Well, you didn’t have to tell me because I was lookin’ at you when you done it.”\footnote{344}{Nelson, Supreme Court to Rule, supra note 268.}

The next afternoon, McDonald showed the .38 revolver to his neighbor, Albert Carter, and asked for advice on what he should do with Chambers’s gun.\footnote{345}{Brief for Petitioner, supra note 274, app. at 137–38. That morning, McDonald had visited Carter around eight or nine. Transcript of Trial Record, supra note 244, at fol. 286. The two men chatted about the events of the night before. Carter later remembered McDonald relaying to him that “Aaron Liberty got killed and Chambers got shot, he wasn’t dead [the night before] but [McDonald] was pretty sure [Chambers] was dead by [that morning].” Brief for Petitioner, supra note 274, app. at 135. Late in the morning, Hardin joined McDonald at Carter’s home to give McDonald the .38 pistol. Id.} Carter remembered telling McDonald that he should return it to Chambers’s wife.\footnote{346}{Id. app. at 137.} Carter would also testify that McDonald confessed that he had shot Liberty, saying that if “he hadn’t shot [Liberty], [Liberty] was going to shoot him.”\footnote{347}{Id. app. at 136–37.} After staying a short while longer, McDonald took the .38 pistol and drove home. However, worried that an officer would see the gun and pull McDonald over, Carter also testified that McDonald stopped the car on the way
home and buried the gun. “[H]e didn’t want the law to stop him. He didn’t have nairn and he had got rid of the one he done the killing with.”

In the days and months that followed, James Williams and Leon Chambers were indicted for the murder of Aaron Liberty, and McDonald—who was in his thirties and had worked as a laborer in the area—continued to leave a trail of suspicious behavior. For example, upon seeing Berkley Turner the week following the shooting, McDonald warned Turner not to “mess him up.” To Turner, this only confirmed that McDonald was the shooter. Then, in early July 1969, McDonald purchased a second .22 revolver to replace the gun that he claimed at trial was stolen from him. By this time he had moved to Louisiana, where he lived and worked in a sugar mill while his wife and son remained in Woodville.

In November 1969, McDonald’s wife wrote him. She related to him that James Stokes, a Natchez Deacon and the Deacons’ state spokesman, wanted to speak with him. The weekend after he received the request, McDonald met with Reverend Stokes at his Natchez gas station. Later, when recanting his confession, McDonald claimed that Stokes had asked him to confess to the murder in writing at this meeting. According to McDonald, the Deacons had a plan to sue the town for false charges against Williams and Chambers, and Stokes offered McDonald an opportunity to be part of the scheme. Allegedly, if he signed a written confession, he could collect part of the monetary reward that would result from the lawsuit. McDonald also claimed that Stokes guaranteed McDonald that he would not go to jail after making the written confession. That weekend, after allegedly being coached extensively by Stokes on what to say, McDonald gave an oral confession under oath to Williams’s and Chambers’s lawyers, with Stokes present.

The lawyers took the transcribed confession, and according to Sheriff McGraw, attempted to use it as leverage against the district attorney. McGraw recalled the discussion thusly: Chambers’s attorneys told the district attorney that there was a sworn third party confession but would not reveal the confessor’s identity. The attorneys then asked, based on this new development, if the state would provide an opportunity for Williams and

348. Id. app. at 137.
349. Id. app. at 129.
350. Transcript of Trial Record, supra note 244, at fol. 453.
351. Brief for Petitioner, supra note 274, app. at 88.
352. Id. app. at 94–95.
353. Id. app. at 99.
354. Id. app. at 100.
355. Id.
356. Id. app. at 99–100.
357. Id. app. at 108–13.
358. Transcript of Trial Record, supra note 244, at fol. 463.
359. Id.
Chambers to be released on bond.  When the district attorney refused, preferring to keep Williams and Chambers in jail without bond, the lawyers were forced to surrender the written confession and allow McDonald into custody for the murder of Aaron Liberty.

While in custody, McDonald received a few visitors. First, Sheriff McGraw came to visit, but having been told not to speak with police unless accompanied by his lawyer, McDonald let McGraw know that he did not wish to speak with him. McGraw was undeterred. He knew the McDonalds well, and had known Gable McDonald “ever since [he] was a little old boy,” so McGraw contacted Gable McDonald’s father. Soon thereafter, McDonald’s father visited him in jail. After speaking with Gable for a few moments in private, McDonald’s father called in Sheriff McGraw and said, “Sheriff, Gable wants to tell you the truth of what happened.” With McGraw listening, McDonald recanted his confession.

After hearing McDonald speak, McGraw took swift action on his behalf. McGraw later testified that he knew that McDonald was too uneducated to be capable of forming the responses contained within the written confession. He advised the McDonalds to secure a lawyer, and even drove McDonald to Jackson, Mississippi, for a polygraph test. Given McGraw’s familiarity with the McDonald family, it is little surprise that the known Klansman played a central role in McDonald’s recanting. By recanting his confession, McDonald opened the door for the prosecutor to charge Stokes, a prominent Deacon leader, with soliciting perjury.

In assessing these accounts provided by McGraw and McDonald, some elements seem more plausible than others. Notably, by the time McDonald provided his account of the conversation with Stokes, he was no longer a Deacon and instead was collaborating with Sheriff McGraw. However, there is evidence that there had been, in fact, discussion of a suit against the town for

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360. Id.
361. Id.
362. Brief for Petitioner, supra note 274, app. at 110–11.
363. Id. app. at 110.
364. Transcript of Trial Record, supra note 244, at fol. 463.
365. Id.
366. Id. at fol. 464.
367. Id. at fols. 463–66.
368. Id. at fol. 466.
369. Id. at fol. 317. The Woodville Republican reported that “James Stokes of Natchez, who identifies himself as spokesman for the State Deacons for Defense, was charged with attempted subordination of perjury. He is accused of attempting to procure false testimony in the murder case of . . . Leon Chambers.” Grant Change Venue Plea for Chambers & Williams, WOODVILLE REPUBLICAN, Mar. 13, 1970, at 1. Although the charges were eventually dropped once Chambers’s case had been tried, it enabled the prosecutor to proceed with limited participation from Stokes.
the injuries sustained by Chambers and the wrongful prosecution of the two civil rights activists. 370

Further, there are at least a couple of reasons why Stokes might have helped to prepare McDonald for the confession to the lawyers. The first could be the one given by McDonald at the preliminary hearing: Stokes may have indeed been plotting with McDonald to create a false confession. Alternatively, Stokes may have intended to help McDonald craft a mostly true confession that was embellished so as to make it clear that McDonald’s actions were in self-defense. The second scenario seems at least as likely as the first, since the elements of the confession that do not align with any other account of the evening are those that emphasize that the shooting was in self-defense. 371 First, the written confession places McDonald behind a tree, farther back than where Chambers was standing. According to the confession, Liberty shot first, hitting the tree and spooking McDonald, who in turn fired six shots from his .22 revolver at Liberty. Liberty then shot Chambers. However, this version emphasizing the self-defense aspect of McDonald’s actions is implausible both because Liberty was shot in the back, and because all accounts uniformly describe the six revolver shots as occurring before Liberty fired either shot from the riot gun. However, despite the account’s improbability, it seems at least plausible that Stokes and McDonald only doctored the story of how the events unfolded, not the truth of who the shooter was.

At least one thing is clear: the public account retold in the local press was incomplete. It created clear lines between good and evil where, in truth, the lines were blurred. It missed the true reasons why the shooter shot Liberty and why the black community desperately sought to create their own protective organization since not even a black police officer could offer more safety. Moreover, the same overt stereotypes and prejudices at work in the press account of June 14 were at work during Chambers’s trial.

C. Chambers v. Mississippi

Although traditionally understood as a decision about the admission of evidence at trial, Chambers v. Mississippi is a civil rights case—both because the decision prevented Mississippi’s local courts from using rules of evidence to prevent African Americans from receiving fair trials, but also more broadly because civil rights activity in the small town motivated the facts of the case. While the goals, strategies, and activities of civil rights activists in Woodville were largely unconcerned with the use of the legal system as a strategy or the justice system as a target for change, the trial at issue in the Supreme Court’s

371. See Brief for Petitioner, supra note 274, app. at 88–93.
decision was intricately bound up in the civil rights activity within the community.

1. The Trial

Leon Chambers’s trial began a little over a year after the shooting took place. The time between the initial filing of charges and the three-day trial was filled with strategic maneuvering by both the prosecution and defense. The district attorney brought murder charges not only against Leon Chambers, but also against James Williams—the outspoken civil rights activist who drove Chambers to the hospital. Upon indictment in October 1969, the two men’s lawyer, George West, Jr., immediately asked the court to order both Chambers and Williams to be committed to the Mississippi State Hospital for the Insane in Whitfield, Mississippi. Although the judge granted the uncontested motion for psychiatric examination, both Chambers and Williams were held without bail for two months before finally being committed to the hospital on December 16, 1969—making it impossible to spend the holidays with their families. On January 21, 1970, both men were diagnosed as competent and sane individuals and released into the custody of the Woodville Police Department without bail. The psychiatric evaluation had, as planned, bought time—not an insanity defense. The delay gave James Stokes and the attorneys enough time to investigate other possible shooters and track down Gable McDonald for the signed confession.

The success in obtaining the written confession, however, was short lived. At McDonald’s December 1969 preliminary hearing, he officially recanted his confession and was released from custody without any charges filed against him. Williams and Chambers continued to be held without bail through February 1970.

372. Nelson, Supreme Court to Rule, supra note 268.
373. Suggestion of Insanity of Defendants, at fol. 7, in Combined Court Records, State v. Chambers, 252 So. 2d 217 (Miss. 1971) (No. 46378). Whitfield is over a two-hour drive from Woodville.
376. See Brief for Petitioner, supra note 274, app. at 19–59.
377. A habeas corpus petition was filed on behalf of Chambers and Williams that claimed that “at present, both defendants are being unlawfully detained against their will by Burthell McGraw, duly elected sheriff of Wilkinson County.” Bond Hearing Set for Chambers and Williams Friday, WOODVILLE REPUBLICAN, Feb. 20, 1970, at 1. Chambers and Williams asked for bond in a reasonable sum. About a week after the petition was filed, the Woodville Republican reported that the bond
By March 1970, Clay Tucker, founding member of the Woodville White Citizens’ Council, had found his way onto the prosecution’s legal team. Although Lenox Forman—who was trouble enough for the black community—was the current district attorney, Tucker slithered his way into the case through “strictly voluntary” employment as Special Prosecutor. Tucker was a retired district attorney himself, and he had remained active in town affairs. In addition to being a member of the town’s planning commission and the Citizens’ Council, he was an informant for the Mississippi Sovereignty Commission. He once wrote to the Commission asking for all of the local license plate numbers recorded at civil rights events in Jackson so that he could straighten out the kids when they returned to Wilkinson County. Tucker also collaborated with Sheriff McGraw in maintaining a complete list of all NAACP members in Woodville.

hearing was delayed due to the illness of the judge. Habeas Corpus Bond Hearing Delayed by Illness of Judge, WOODVILLE REPUBLICAN, Feb. 27, 1970, at 1. Finally, in March, the arraignment hearing was held. 2 Murder Cases, Long Civil List, Face Court Term, WOODVILLE REPUBLICAN, Mar. 6, 1970, at 1.

378. Request for Information Relative to the Employment and Compensation of Special Prosecutor, at fols. 35–36, in Combined Court Records, State v. Chambers, 252 So. 2d 217 (Miss. 1971) (No. 46378) [hereinafter Request for Information].

379. See, e.g., Michael Rowe, Contemporary Prosecutions of Civil Rights Era Crimes: An Argument Against Retroactive Application of Statute of Limitations Amendments, 101 J. CRIM. L. & CRIMINOLOGY 699, 700 (2011). For example, in 1964, Lenox Forman helped to secure the release of two white men who brutally terrorized and murdered two young black men. On May 2, 1964, while hitchhiking Charles Moore and Henry Hezekiah Dee accepted a ride from James Ford Seale. A truck with three coconspirators followed Seale’s car into a secluded area. Moore and Dee were tied “to trees and beat[en] . . . with ‘bean poles’” while being interrogated. Id. at 700. The two young men were eventually “tied to an engine block and dropped into the river, all while they were still alive.” Id. Half a year later, Seale and a Charles Marcus Edwards were charged with the murders. Edwards confessed to the beating and Seale confessed to the murder. Nevertheless, Lenox Forman announced that he would bring the case before a grand jury, an announcement he knew would end the investigation since no white grand jury in that area of Mississippi would indict Edwards or Seale even with their confessions. Id. According to a recent newspaper article about ongoing civil rights era prosecutions, Edwards and Seale spread rumors that the arresting law enforcement officers had beaten them, providing Forman with an opportunity to back off the men’s prosecution. In a meeting on January 5, 1965—despite both men’s confessions—Forman met with the local sheriff, the Assistant Attorney General, and Mississippi Highway Patrol investigators to inform them that he did not have enough evidence to send the case to the grand jury. Just a week later, Forman filed a motion to dismiss charges that was immediately granted. Donna Ladd, James Ford Seale: A Trail of Documents Tells the Story, JACKSON FREE PRESS, Jan. 31, 2007, available at http://www.jacksonfreepress.com/index.php/site/comments/james_ford_seale_a_trail_of_documents_tells_the_story.


It was only natural then, that the Citizens’ Council leader stepped in to “advise” the Liberty family on the matter. The Libertys had been “faithful employees” on the Tucker family farm for years, with Aaron Liberty “born and practically reared” there. Tucker happily informed the Libertys that he would assist in the prosecution of Leon Chambers as Aaron Liberty’s killer in any way he could—quite an odd turn of events given that Mrs. Liberty believed that Chambers was innocent.

Defense counsel George West, Jr. was a perfect antithesis to Tucker. West was a young but prominent black attorney in Natchez. In 1962, West had graduated from Tougaloo College during a period in which Tougaloo was at the forefront of civil rights activity in Mississippi. Six years later, in 1968, West received his law degree from recently and dramatically integrated Ole Miss. He was a member of the NAACP, Adams County Democratic Club, Natchez Business and Civil League, Natchez School Board, and a few other fraternal organizations. Although West was involved in the civil rights movement, the Natchez Democrat respectfully described him as an esteemed lawyer and speaker. In fact, West was friends with two white attorneys in Natchez, Clyde Mullins and Cecil Smith, with whom he collaborated to form the defense team for Williams and Chambers. Mullins and Smith provided the defense with much needed experience. In fact, the October 1969 indictment proceedings were delayed while Mullins overcame an illness, since West had been a lawyer for less than a year and had no experience in capital cases.

Still, by March 1970, the team had made some progress and was hard at work trying to prevent Tucker’s involvement in the case: the defense filed a “request for information relative to the employment and compensation of special prosecutor.” At the arraignment, the defense also filed a motion for change of venue fueled in part by Tucker and the Woodville Police

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arrec/digital_archives/sovcom/index.php (on file with the Mississippi State Sovereignty Commission Files, Mississippi Department of Archives & History, SCRID No. 2-110-0-23-1-1-1).


384. Id.

385. MacKenzie, supra note 93. The article also includes McGraw’s response to hearing Mrs. Liberty’s belief that Mr. Chambers did not kill her husband: “She had a lot of problems after his death. She was upset. Then people came around and told her that.” Id.

386. George West Jr. Chairman of UGF, Natchez Democrat, Oct. 2, 1969, at 9A (notes from primary source on file with author); see also About Tougaloo College: Our History, Tougaloo C., http://tougaloo.edu/content/History/index.htm (last visited Jan. 25, 2013). During the 1960s Tougaloo was a launching ground for protests and sit-ins and a safe haven for young black activists.

387. George West Jr. Chairman of UGF, supra note 386.

388. Id.

389. Id.; George F. West, Jr. Ferriday Speaker, Natchez Democrat, Sept. 28, 1969, at 3A (notes from primary source on file with author).

390. Transcript of Trial Record, supra note 244, at fols. 11–13. Mullins was severely harassed by Natchez law enforcement for participation on the case. Nelson, Supreme Court to Rule, supra note 268.

391. Request for Information, supra note 244, at fol. 35.
Department’s expressed eagerness in seeing Williams and Chambers convicted.392 The motion stated that Tucker’s “influence in this matter is boundless in Wilkinson County and will work to the prejudice, prejudgment, and ill will of these defendants, thus preventing and making impossible a fair and impartial trial.”393 Additionally, Chambers’s lawyers expressed concern over the possible effect the “prejudicial newspaper articles appearing in the Natchez Democrat and [t]he Woodville Republican” might have on a Wilkinson County jury.394 The motion to change venue was accompanied by supporting affidavits from Mon Cree Allen and James Jolliff, Jr.—two of the most prominent civil rights leaders in Woodville.395 Although the motion was promptly granted, Amite County became the new venue.396 Misleadingly named Liberty, Mississippi, the county seat of Amite County had a disturbing legacy of oppression and violence against African Americans.397 The truth is there were still very few places in 1970 where African Americans would receive fair trials in Mississippi.398

As trial approached, apparently in an effort to secure the placement of African Americans on the jury, or at least make note of their absence, Chambers also made a request for a special venire, which the judge granted. As requested, a list of sixty possible jurors was given to defense counsel at least a day before trial began.399 Yet, despite these steps, thirteen white residents of Amite County were selected for the jury.400 Later, after Chambers’s case was on appeal, several civil rights activists from Woodville, including Leon Chambers, filed suit against Wilkinson County for unfair jury rolls.401 It is possible that Chambers’s attorneys—among them at least West would have been apprised of civil rights litigation strategies—wanted to document any injustice in the trial process either for later appeals or future lawsuits.

On Friday, October 23, 1970, the Woodville Republican announced that James Williams and Leon Chambers would be tried the following Monday in

392. Brief for Petitioner, supra note 274, app. at 6–7.
393. Id. app. at 6.
394. Id. app. at 7.
396. Brief for Petitioner, supra note 274, app. at 9.
397. Just one county to the east of Wilkinson County, Amite County was also in the heart of Klan country. Like elsewhere in southwest Mississippi, no civil rights group truly took hold in the area, and white supremacists operated without restraint. See also supra note 108 and accompanying text.
398. Landsman, supra note 24, at 367–68.
399. Transcript of Trial Record, supra note 244, at fol. 113. No record survives if any objections were made. Although the defendants also requested that the voir dire be transcribed for the record, it appears that the court reporter was merely present and available to record any objections the defense wished to enter into the record. Id. at fol. 29.
400. MacKenzie, supra note 93.
Amite County. The trial lasted three days, during which Chambers’s attorneys were not permitted to mount a complete defense. The defense team’s objections and development of the record indicate that they expected to appeal the conviction long before the verdict was given.

The prosecution presented its case during the first two days of trial. Prosecutor Lenox Forman called the coroner, who testified to Liberty’s wounds and concluded that the gun used to shoot Liberty was a .22 caliber handgun. But the crux of the prosecution’s case rested in the testimony of all four white police officers that were at Hayes’s Cafe on June 14, 1969. Despite Mullins’s objections that Forman was leading the witness and that the testimony was irrelevant, Forman asked the officers for descriptions of the crowd and interactions with C.C. Jackson. The prosecution’s strategy included an attempt to paint a picture for the all-white jury of an unruly group of African Americans who attacked, without provocation, several white police officers and one accommodating black officer.

The prosecution supplemented its depiction of the scene with the officers’ testimony that Leon Chambers was the shooter. Officer James Forman testified first, recalling that from twenty-five feet away he was unable to see the shooter because there were so many people were crowded into the confined space. Similarly, Officer Herman Anthony testified that he was unable to see the shooter. Despite the crowd that obstructed the views of Officers Forman and Anthony, Officer Gordon Geter testified, with prosecutor Lenox Forman leading the way, that he had seen Leon Chambers shoot Aaron Liberty. Geter, who was a full fifteen feet away, “in the line of fire,” and very “worried about old number one at that time,” testified that he nevertheless saw Leon Chambers shoot at Liberty and then turn to run further down the alley. In support of Officer Geter’s testimony, Officer Waldo Welch testified that, although he did not see a gun in Chambers’s hand, he did see Chambers “throw[] his right hand down” as the gun shots began. And even though Anthony had been unable to see down the alley from which the shots had come,

403. Transcript of Trial Record, supra note 244, at fol. 150. Recall that Chambers owned a .38 pistol.
404. Id. at fol. 130.
406. Id. at fols. 161, 165.
407. Brief for Petitioner, supra note 274, app. at 61.
408. Transcript of Trial Record, supra note 244, at fols. 205, 215. Mullins objected to Lenox Forman’s leading questions throughout Forman’s direct of Officer Geter, but the objections had little effect on the form of the questions or the responses the questions elicited. Id. at fol. 207.
409. Id. at fol. 215.
410. Id. at fols. 215–16. Geter’s timeline is a bit murky. He also testified that at or around this time he was also fighting with James Williams and attempting to arrest C.C. Jackson with Officer Forman. Id. at fols. 234–35. His entire testimony is less than compelling. Without the help of Lenox Forman’s leading questions, Geter’s testimony would have been rather questionable.
411. Id. at fols. 229–30.
he obliged the prosecution’s leading questions by testifying that “[by] the way he acted,” Liberty “knew who he was shooting at” and took “deliberate aim” at Leon Chambers.412

The State rested on the second day of trial, having relied primarily on the testimony of the four white police officers. In turn, the defense moved for a directed verdict with regard to both James Williams and Leon Chambers.413 All of the eyewitnesses identified Chambers, not Williams, as the shooter. In fact, the only evidence presented against Williams was limited testimony alleging that he had chanted “kill ‘em” and had physically confronted the police.414 Accordingly, the judge granted the defendants’ motion for directed verdict with regard to James Williams.415 More appropriate to the testimony given, Williams was eventually charged with obstruction of justice, to which he pleaded guilty in return for a fine and time served, which was not insignificant.416 It seems that James Williams was, first and foremost, guilty of being a vocal and visible civil rights activist in Woodville, which made him a target for serious charges such as murder despite a clear absence of evidence against him. And yet for Chambers, the fact that he had been riddled with buckshot by Liberty’s riot gun was enough to charge him with murder, and it took little more than a few white witnesses to ensure his murder trial would continue.

Accordingly, Chambers’s attorneys began their defense late on the second day. They not only recalled each of the four officers, but also ten new witnesses. When questioning the officers, the defense focused primarily on their investigations, especially on facts supporting the assertions in Gable McDonald’s written confession. Sam Hardin then testified in detail about the evening of June 14, 1969, and stated that he saw McDonald shoot Liberty.417 The defense also sought testimony from Hardin about the oral confession McDonald had made to him the night of the shooting. The prosecution promptly objected, and the court instructed the jury to disregard Hardin’s testimony.418

However, Chambers’s innocence was supported by the testimony of a parade of other African American witnesses. For example, William Vaughn—Liberty’s first cousin—testified that he saw McDonald outside the back door of Gladys’s Cafe, with a gun in his hand, only after the shooting had occurred.

412. Brief for Petitioner, supra note 274, app. at 62.
413. Transcript of Trial Record, supra note 244, at fol. 236.
414. See id. at fol. 114.
415. Id. at fol. 236.
416. Grand Jury Returns 12 Bills; Jolliff Indicted on 2 Counts, supra note 245, at 1. The fact that the prosecution so doggedly pursued a conviction of James Williams despite virtually no evidence indicating that he was the shooter suggests that the prosecution and police department sought the murder convictions of at least James Williams, and likely Leon Chambers, for their involvement in civil rights activity.
417. Transcript of Trial Record, supra note 244, at fols. 280–85.
418. Id. at fol. 285.
This directly contradicted McDonald’s alibi. Thomas Russ also testified that he and his wife were attempting to drive by Hayes’s Café when they became mired in the crowd. From the car, Russ saw both Liberty and Chambers when Liberty was shot: he “saw Leon Chambers and he did not shoot [Liberty].”

To further develop the record, the defense then questioned two witnesses outside the presence of the jury. Although the jury was not permitted to hear this testimony, the defense sought to preserve it for an appeals court to later review the case. Berkley Turner testified that, contrary to McDonald’s testimony, he was not drinking with McDonald in Gladys’s Café at the time of the shooting but instead was outside Hayes’s Café. Turner’s testimony corroborated William Vaughn’s testimony that McDonald was not at Gladys’s Café prior to the shooting. Turner further testified without the jury present that on the way home from the hospital that night McDonald told him that he was the real shooter, and that on a second occasion McDonald warned him not to “mess him up” by telling anyone that he had confessed. Likewise out of earshot of the jury, Albert Carter testified at length about who owned which gun and about McDonald’s confession to him. Carter testified that McDonald told him that he shot Liberty out of fear that Liberty was about to shoot him or someone else.

Mullins then submitted to the court that the jury should be permitted to hear Carter’s testimony. However, Tucker argued that the defense was attempting to impeach Gable McDonald—the defense’s own witness—which was prohibited under Mississippi rules of evidence. Tucker’s objection to the motion was sustained.

In addition to the eyewitnesses, the defense also called a gun salesman from Natchez, Ronnie Booker, who sold McDonald both .22 caliber guns. Booker’s sales records indicated that McDonald bought his first revolver on July 9, 1968. The records also noted a second gun sale to McDonald on July 5, 1969. These sales records roughly corroborated the testimony given by other defense witnesses: that McDonald had left his .22 caliber gun with Ed

419. Brief for Petitioner, supra note 274, app. at 140.
420. Transcript of Trial Record, supra note 244, at fol. 434.
421. Because the proposed testimony was objected to by the prosecution and sustained by the judge, the defense was permitted only to elicit the testimony outside the hearing of the jury in order to preserve a record for appeal.
422. Brief for Petitioner, supra note 274, app. at 122; Transcript of Trial Record, supra note 244, at fol. 160.
423. Brief for Petitioner, supra note 274, app. at 129. Turner was later arraigned for attempted murder of his wife. Woodville Resident Shoots Wife Sunday, WOODVILLE REPUBLICAN, June 4, 1971 (notes from primary source on file with author).
425. Id. app. at 139.
426. Transcript of Trial Record, supra note 244, at fol. 451.
427. Id. at fol. 453.
Caine to dispose of immediately after the shooting, and that McDonald then went with Carter to the Natchez gun store to replace it.\footnote{Brief for Petitioner, supra note 274, app. at 138–39.}

The defense then called McDonald to the witness stand, despite an ominous exchange at one of the pretrial hearings. On October 20, 1970, days before trial, the defense attempted to reserve the right to complain of surprise if the defense called McDonald at trial. In response, the prosecution objected to the defense being able to treat Gable as a hostile or adverse witness. Although the ruling on the motion was reserved for trial, the judge stated that the very fact of making the motion suggested to him that the defense would not in fact be surprised if McDonald testified contrary to his written confession.\footnote{Id. app. at 60–61.} Thus, it would be unlikely that the defense would be able to impeach McDonald if they called him to the stand.

At trial, McDonald testified about the events of June 14 and his written confession. During direct examination, McDonald showed signs of frustration or perhaps hostility towards Mullins.\footnote{Id. app. at 86. For example, when Mullins asked McDonald to review the written confession for his signature, McDonald replied that he had already told the court once that he could not read. However, literacy was not required for McDonald to locate his “X” mark.} Still, Mullins’s direct examination of McDonald went on for some length and included reading the written confession to the jury. However, given McDonald’s recanting of the confession and the exclusion of the other oral confessions—not to mention the apparent coaching by Reverend Stokes\footnote{See supra notes 357, 371, and accompanying text.}—the written confession was insufficient on its own for Chambers’s defense. Indeed, McDonald’s retraction of his confession went to the jury without the contradictory testimony given by Turner and Carter.

Throughout the trial, and in particular through cross-examination of the defense’s African American witnesses, the prosecution developed a theory that Reverend Stokes and the Deacons for Defense had orchestrated a cover-up for Chambers by framing McDonald.\footnote{See, e.g., Brief for Petitioner, supra note 274, app. at 96.} For example, Lenox Forman questioned Hardin about his and McDonald’s Deacon membership.\footnote{Id. app. at 76.} To further undermine the credibility of the defense’s witnesses, the prosecution called Sheriff McGraw as a rebuttal witness; his brazen testimony thus ended the third and final day of trial. Over a defense objection, Sheriff McGraw testified that “[i]n talking to the officers on the scene, [he] ascertained that Leon Chambers is the one that did kill . . . Aaron Liberty, City Policeman.”\footnote{Transcript of Trial Record, supra note 244, at fols. 461–62.} Further finagled through repeated objections, the prosecution finally drew out that McGraw had been able to determine that McDonald had given a false confession largely because McDonald was so uneducated that he could not have possibly put
together those responses in the confession. 435 And despite a sustained objection, Sheriff McGraw also blurted to the jury that he was able to confirm this opinion by taking McDonald to Jackson, Mississippi, for a polygraph test. 436 By this time in the prosecution’s direct examination of Sheriff McGraw, the defense had objected so many times that McGraw began answering questions after the objection, but before the judge could rule on it.

Following Sheriff McGraw’s belligerent testimony, closing statements were made. Later determined to be a “prejudicial statement, wholly unsupported by any evidence,” the prosecution ended its closing statement with, “Unless you find the defendant guilty, it will be a license for people to go out and kill police officers.” 437 Even though the defense’s immediate objection was sustained, the damage was already done. Moreover, the judge declined to grant the defense’s motion for a mistrial. 438

With that, the jury deliberated for just over half an hour. 439 The judge instructed the jury it could choose from three possible verdicts: guilty with a sentence of death, guilty with a sentence of life imprisonment, or innocent. The all-white jury purposefully spared Chambers’s life, but found “the defendant guilty as charged, and fix[ed] his punishment at life in the State Penitentiary.” 440 After the announcement of the verdict, the defense asked that each juror be polled. “[E]ach of [the] jurors answered the Court that the verdict of Guilty as Charged . . . [was] his or her separate and individual verdict in this cause.” 441

In the end, the question remains whether Chambers’s fate at the hands of an all-white jury would have been any different had the prosecution not made such a statement during closing, or had they not repeatedly raised the specters of the Deacons and NAACP, or had the court not excluded the oral confessions. Even if Chambers had been permitted to mount a complete and fair defense, it is unclear whether the jury would have delivered a different verdict, not least because in hindsight it is fairly clear that a Deacon—although probably not Leon Chambers—shot Aaron Liberty.

The trial largely turned the words of white police officers against local black men, many of whom were involved in civil rights activity and the seemingly extremist Deacons. Not surprisingly, the jury seemed to give less weight to the testimony of black witnesses than to that of whites.442 Although no explicit recognition of witnesses’ race took place at trial or in subsequent

435. Id. at fol. 464.
436. Id. at fol. 466.
437. Id. at fol. 521.
438. Id.
440. Transcript of Trial Record, supra note 244, at fol. 525.
441. Id.
appeals, repeated references to the Deacons and the NAACP were likely sufficient to completely discredit those who testified on behalf of Chambers. 443

It is no surprise, then, that Chambers’s attorneys were ready to begin the appeals process immediately. In addition to the defense team’s motion to set aside the verdict, the team also moved for a new trial based on the exclusion of evidence, refusal to permit the defense to treat McDonald as a hostile witness, and denial of a trial “in accord with fundamental fairness guaranteed by the Fourteenth Amendment.” 444 Both motions were promptly denied, Leon Chambers was placed in Amite County jail, 445 and a timely appeal followed.

2. Overturning the Conviction

While the primary purpose of this Comment is to unearth the history of civil rights activity in Woodville, Mississippi, the true events of June 14, 1969, and the fairness of Chambers’s trial, the appeals process is worth brief examination because it sheds light on how the U.S. Supreme Court and the justice system more generally can erase civil and political dissent from the legal record.

Sitting on the Mississippi Supreme Court, waiting to hear Chambers’s appeal, was Justice Thomas Pickens Brady. In 1965, Time referred to Justice Brady as “the philosopher of Mississippi’s racist white Citizens’ Councils and the polemical author of Black Monday, a Negro-baiting tract attacking the U.S. Supreme Court’s 1954 school desegregation decision.” 446 Still, Justice Brady’s decisions from the bench often upheld civil rights legislation. In 1972, Justice Brady told an interviewer that he was willing to side with the law in cases involving civil rights because it was the law—but not because the law was right. 447 For example, Justice Brady overturned the conviction of two young girls in a highly publicized case in which the girls received jail sentences for entering an already integrated park. 448

In contrast to the two young girls’ case, Chambers’s appeal must have appeared to Justice Brady, and to the rest of the Mississippi Supreme Court Justices, as unlikely to incite sympathy or a storm of media attention. The court issued a short per curiam opinion confirming Chambers’s conviction on June 443. As late as 1979, a federal court overturned a black man’s conviction when the prosecution’s closing statement included pointing out that no white person testified on behalf of the black defendant. Carpenter, supra note 26, at 21.
444. Transcript of Trial Record, supra note 244, at fols. 530–31.
446. Judges: The Education of Tom Brady, supra note 151, at 94 (quoting Brady as saying “[t]he social, political, economic and religious preferences of the Negro remain close to the caterpillar and the cockroach... proper food for a chimpanzee”).
448. Judges: The Education of Tom Brady, supra note 151.
Addressing the same set of facts presented to the U.S. Supreme Court, the opinion honed in on both the preliminary hearing in which Gable McDonald recanted his confession and on the probable coercive efforts of Reverend Stokes in obtaining the written confession. Of the eight errors that Chambers complained of, the court addressed only two. As to whether Gable McDonald was a hostile witness, the justices concluded that McDonald’s testimony “was not adverse to [Chambers], it was merely in McDonald’s defense and in explanation of his rather unusual confession. Nowhere did [McDonald] point the finger at Chambers.” Further, as to the error “in refusing to admit testimony corroborating a third party confession after the confession was introduced and supported by eye witness testimony,” the court determined that the testimony of William Vaughn (who testified to seeing McDonald with gun in hand in Gladys’s Cafe only after the shooting) and Thomas Russ (who testified that he saw Leon Chambers at the time of the shooting and attested that Chambers did not shoot Liberty) was sufficient to corroborate the third party confession in the absence of the oral confessions. Thus, the court concluded there was ample evidence to support the lower court’s holding, and accordingly affirmed the jury verdict.

In his dissenting opinion, Justice Rodgers wrote that he was “convinced that the testimony of the defense witnesses, Berkley Turner and Albert Carter, should have been admitted in evidence to the jury.” Justice Rodgers continued:

The court refused to permit the defendant to cross-examine [McDonald] upon the ground that he was hostile. The defendant was thus prevented from laying a predicate to impeach the witness. . . . Gable McDonald was alive, not beyond the jurisdiction of the court, and he did not object to being questioned in open court upon the ground that his testimony might incriminate him.

Justice Rodgers found credible the testimony that placed McDonald in a position such that he could have shot Liberty: “[H]e was seen with a gun in his hand at the time of the fatal shooting.” Consequently, Justice Rodgers would have permitted the oral confessions to be entered into evidence, but he was unable to sway even one additional justice to his side.

450. Id. at 218.
451. Id. at 220.
452. Id. at 219. The court went on to emphasize that Sam Hardin was also permitted to testify that he saw McDonald shoot Officer Liberty, despite not being permitted to testify to McDonald’s oral confession. Id. at 220.
453. Id.
454. Id. (Rodgers, J., dissenting).
455. Id.
456. Id. at 221.
By the time the Mississippi Supreme Court denied Chambers’s petition for rehearing in September 1971, Chambers was confined at Parchman Penitentiary. By then, Chambers’s attorneys—West, Mullins, and Smith—had exhausted their resources and capabilities on the case. Yet, not willing to abandon Chambers, they turned to the Lawyers’ Committee for Civil Rights. And in fact, the Lawyers’ Committee was already involved in Woodville’s civil rights activities. In February 1971, the Jackson, Mississippi, branch of the Lawyers’ Committee filed suit in federal court on behalf of James Williams, Leon Chambers, and a few other named plaintiffs as class representatives against several Wilkinson County officers including Sheriff McGraw and Lenox Forman. The suit alleged that blacks in Wilkinson County had been “purposely and systematically excluded from jury service” in the trials of the named plaintiffs. However, for Chambers’s appeal, his lawyers contacted the Washington, D.C., branch of the Lawyers’ Committee, which in turn doggedly sent out the case for review.

Finally, a young attorney named Peter Westen took Chambers’s case as a pro bono matter. Westen was able to secure bond for Chambers—a “virtually unprecedented decision” by Justice Powell. Accordingly, Chambers was released from Parchman Penitentiary on February 1, 1972, on the conditions

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458. Id.

459. Landsman, supra note 24, at 367–68. In his Evidence Stories chapter on Chambers, Professor Landsman provides a more complete discussion of the case’s path to the Supreme Court after the loss at the Mississippi State Supreme Court.

460. County Officers Named in Suit on Jury Selection, supra note 401, at 1. The relief sought for the allegedly illegal master jury lists included injunctions prohibiting defendants from further race discrimination in jury selection and prohibiting any criminal prosecution of an African American from continuing until fair and legal jury lists were established. Id. Unfortunately, no further record of this lawsuit can be located in the town’s newspaper or in online databases.

The local Jackson branch of the Lawyers’ Committee, funded by the Ford Foundation, had a small cadre of lawyers and several clerical staff at that time. All but one or two in the office were white. The Lawyers’ Committee focused largely on voting rights and reapportionment. The organization also represented Tougaloo students in large numbers and brought affirmative suits on behalf of those who were beaten. Constance Slaughter-Harvey, who worked in the Jackson branch in the late 1960s recalled having to file ten lawsuits just to get blacks in local jury pools. With the lawyer and defendant often being the only blacks in the courtroom, the legal defense strategy in Mississippi trials was exactly that of West and the rest of Chambers’s legal team: create a sufficient record upon which to base a substantial appeal. Telephone Interview with Constance Slaughter-Harvey (Sept. 7, 2011) (notes from primary source on file with author).

461. Landsman, supra note 24, at 367–68.

462. Id. Professor Westen now teaches at the University of Michigan and has written extensively about the doctrine set forth in Chambers.

463. Id. at 369. Landsman suggests that granting bail was a rookie decision by Justice Powell, who had recently been appointed to the Court. Justice Powell thus essentially forced his colleagues on the Court to grant certiorari so as not to belittle the new Justice’s judgment. Id. at 370. At the same time, Professor Landsman concludes that Justice Powell, having lived his whole life in the South, “could decipher the race-based message encoded in these facts.” Id. at 373.
that he report regularly to Sheriff McGraw, live at home with his family, and make efforts to secure employment. However, because this release came without notice to Chambers’s family, he was forced to walk and hitchhike the 250 miles home to Woodville. Nevertheless, once home, Chambers would not return to Parchman.

One year later, in February 1973, the U.S. Supreme Court announced a 7–1–1 reversal of the Mississippi Supreme Court. Justice Powell spoke for the Court: “[T]he hearsay rule may not be applied mechanistically to defeat the ends of justice. . . . [W]e hold quite simply that under the facts and circumstances of this case the rulings of the trial court deprived Chambers of a fair trial.” Although apparently not inclined to agree with the majority’s appraisal of the merits, Justice Rehnquist’s dissent did not reach the merits since Chambers “failed to properly raise in the Mississippi courts the constitutional issue that he seeks to have this court decide.”

3. Chambers and Civil Rights in the News

The Woodville Republican tracked Chambers’s case through every step, noting when it was heard in the U.S. Supreme Court and even reprinting a Washington Post article that discussed the case without the traditional hometown bias. The Post article astutely observed, “Blacks in Woodville, the sheriff and even the editor of the local paper are all only vaguely familiar with the questions that concern the justices in Washington. The legal significance and the human significance of the case are two different things.”

In March 1972, the Woodville Republican ran a front-page story with the headline “Court Voids Conviction of Leon Chambers.” But besides the announcement, the article noted little else. The white readers were apparently unconcerned with the reversal, and, in fact, the prosecutor did not seek another trial for Chambers. Both reactions are understandable given that there was little civil rights activity in Woodville by that time. The controversy over integration—which likely lent as much impetus to prosecute Chambers as the shooting gave to the local movement—had resolved itself with all of the white children attending private White Citizens’ Council schools and all of the black students in a decreasingly funded public school system. Further, Forman had

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465. Interview with Sam Hardin, supra note 93.
466. Chambers v. Mississippi, 410 U.S. 284, 302–03 (1973). Justice White filed a concurrence expressing concern over whether the Court had jurisdiction. But since the State did not challenge whether the issue was properly before the Court, Justice White joined the majority’s opinion on the merits. Id. at 307–08 (White, J., concurring).
467. Id. at 308 (Rehnquist, J., dissenting).
469. Id. at 5.
higher political aspirations, and any local prosecutor would have thought twice before recharging Chambers with the murder, since this would have likely attracted more national media attention and summoned further nonprofit resources for the defense.

Although the legal significance of the decision has come to drown out its civil rights origins, the nature of the case was apparent when the decision was issued. First, the fact that Chambers’s attorney George West was able to convince the Lawyers’ Committee for Civil Rights to take on the appeal indicates that for at least one organization, Chambers’s case posed a significant opportunity to create change in the Southern legal system and was worthy of the organization’s limited resources. Second, the racialized context of the case was not lost on the national media. Leon Chambers’s personal story was told and retold in the New York Times, Washington Post, and L.A. Times.

The L.A. Times delved deepest into Chambers’s life in Woodville. Jack Nelson, who won a Pulitzer Prize for his coverage of Watergate and was recognized for his coverage of civil rights, reported the story.471 He described Chambers’s family and occupation like most reporters, but also characterized Chambers as part of a group of civil rights activists in Woodville that had actively enforced the boycott of white stores against other blacks in the community.472 While Nelson’s story dug into the society in which the killing had occurred and alluded to the civil rights activity in Woodville, most other articles focused more on the legal implications of the decision by detailing aspects such as Justice Burger’s comments at oral argument473 or by simply observing that the decision “[c]ut[] deeply into the power of states to control their criminal trials.”474 In contrast, Nelson’s L.A. Times article made it clear what was at stake for Woodville residents—the quality of life for real people, the vindication of a right for a fair trial in the South, and to some extent, the recognition of civil rights activists in the community.475 The media coverage indicates that, despite being most affected by the Supreme Court’s decision, the voice of Woodville’s black community remained marginalized despite Chambers’s victory.

Yet those marginalized voices did have a few occasions to briefly shine through. National news coverage of Woodville was not limited to Chambers’s case. For a small, isolated, rural town, Woodville’s civil rights activity in the late 1960s and early 1970s continued to make the back pages of national newspapers. From voting rights to school integration, Woodville was finally

473. See, e.g., MacKenzie, supra note 93.
475. Nelson, supra note 93; Nelson, Supreme Court to Rule, supra note 268.
experiencing significant changes in its social fabric and hierarchy. If faintly heard on the national stage, Woodville’s marginalized voices had begun to ring loud and clear in Wilkinson County.

III. HIDDEN COMMUNITY ACTION

Over time, analyses of the Chambers opinion have obscured the history of one rural Mississippi town’s efforts to win equal rights, and with it the opportunity to understand Chambers as a civil rights case. The main goal of this Comment was to recover that history and reframe our understanding of the case. But in addition, the narrative of Woodville’s civil rights activity, hidden beneath the surface of the famous Chambers decision, teaches a lesson about the complicated role that law and litigation played in local civil rights organizing in the 1960s. National litigation both helped channel local civil rights activism and inspired local backlash. Yet rarely was civil litigation mobilized as a tactic of the local movement. More commonly, local activists attempted to change their daily realities through local economic boycotts and extralegal direct action. In the gap between gains made by national litigation and on-the-ground realities, it was primarily local law enforcement that mobilized criminal laws to oppress movement activities and actors.

A. In the Gap: Law and the Local Movement

The excavated narrative of Woodville’s grassroots civil rights movement reveals that national civil rights litigation was primarily a field of contestation framing activities of both the movement and opposition. The narrative also illuminates several instances of micromobilization of the law, primarily by the countermovement against local blacks.

One of the first cases that appeared in the narrative was Brown and the desegregation cases. In the late 1950s, a “separate but equal” school was built in Wilkinson County to demonstrate that, contrary to the Supreme Court’s decision, segregated schools could be both separate and equal. This act, although controversial, resulted in quantifiably better facilities, if not educational instruction, for blacks in the area. Thus, before the local movement ever gained great strength, the national litigation strategy of the NAACP shaped the terms of debate between pragmatic black educators and white officials.476

Likewise a result of a national litigation strategy, the next major lawsuit to appear in the narrative was HEW’s enforcement suit against several Mississippi counties to force school integration. But in contrast to the separate-but-equal school, this lawsuit directly named Wilkinson County, and Wilkinson County whites actively fought back. In fact, the dispute between HEW and locals over

476. See supra Part II.B.
what type of integration plan would be put into effect spurred another strong boycott demanding full integration. With tensions high prior to the approval of the integration plan, a black police officer was killed and a civil rights activist charged with his murder—adding even greater impetus to the movement and increasing the stakes of the debate.477

When the federal district court approved HEW’s plan for full integration, again the community responded. First, the local white community set up private schools that maintained total segregation. Second, the black community responded immediately with another boycott, although with less success than prior efforts. The HEW desegregation lawsuit directly influenced the shape of civil rights activities in Woodville. Though both the local movement and Woodville whites directly reacted to the suit, neither blacks nor whites seemed to act as participants in the suit. Rather, the suit’s driving force came from outside the community. Nevertheless, it became a conduit for the direction of the local civil rights movement and its opposition.478

In addition to suits that were part of a larger national civil rights litigation strategy, the local movement frequently encountered micromobilizations of the law as a social movement tactic used by the white opposition. Weaving in and out of the local racial narrative are examples of the criminal law, and at times civil suits,479 used to constrain and oppress the local movement and activists. In what might be understood as an attempt to oust the first black elected official since Reconstruction, local white officials ensured that James Jolliff was prosecuted for, and convicted of, a felony for actions he took during a civil rights protest.480 Similarly, criminal charges such as disturbing the peace and obstruction of justice were frequently used to immobilize and detain civil rights activists.481 In other instances, mass traffic ticketing was employed to harass the black community during times of high tension or especially successful boycott activities.482 Although not a mobilization of criminal law, the passing of town ordinances to control mobility and assembly is another example of the town’s use of the law to constrain the movement.483

477. See supra Part II.C.3.
478. See supra Part II.C.3. Another federal civil suit that enters the narrative is one brought by the Attorney General against several Mississippi county registrars for evading federal inspections of voter registration. That suit, however, seemed to have no effect on actual voter registration numbers, and there is no evidence that the local NAACP mobilized around the litigation.
479. For example, Sovereignty Commission records indicate that Woodville officials and merchants sought legal advice on how to file a suit against the NAACP and seek an injunction against the boycott. Though this suit never came to fruition, its conceptualization is further evidence of the opposition’s willingness—even eagerness—to turn to legal tactics. See supra note 198 and accompanying text.
480. See supra notes 145–149 and accompanying text.
481. See supra Part II.C.
482. See supra Part III.B.
483. See supra Part III.B.
Yet, at other times, law enforcement’s actions, or lack thereof, had significant consequences for individual lives: officers looked the other way when blacks were murdered and carried out beatings before executing an arrest. Then, of course, there are the murder charges against civil rights activists James Williams and Leon Chambers as an example of mobilization of the criminal law against black activists with grievous consequences. Local law enforcement and government officials went out of their way to secure charges against the two men in the face of substantial evidence in favor of their innocence.

Within this context, it is important to consider white officials’ reframing of the lawsuit that the Deacons allegedly used to bribe McDonald into giving a false confession. White officials swiftly and severely dealt with these alleged plans to sue the city for damages resulting from constitutional violations. First, the potential use of a legitimate legal tactic to enforce rights against the town was recast as an illegitimate scheme to steal money. Thus, officials discouraged the use of the law as a tactic for local civil rights activism, and used it instead as a tool of white oppression. Second, the government charged James Stokes, an important Deacons leader, for soliciting perjury to ensure that he would not be active in the litigation or supporting protest actions. Hence, while it appears that the Deacons had begun to consider filing civil lawsuits against the town, the white opposition likewise recognized the potential of such an action and reacted accordingly.

In fact, in the full scope of civil rights activity in Woodville, the law as a social movement tactic was never central to the local movement’s strategy for equal rights. Indeed, national litigation strategies resulted in the law serving as a conduit for social movement activity and countermovement activity. On the local level, law was primarily used to subordinate civil rights actors. More generally speaking, the law constrains the possible directions for the social movement and determines both the timeline and context in which conflicts between the movement and the opposition occur. Accordingly, the law both constrains and enables local actors in ways that can be hidden when focusing on national litigation strategies.

Thus, the recovered narrative of Chambers provides a bottom-up perspective on how local activists interacted with the law. By taking a U.S. Supreme Court opinion that obscures its civil rights origins and examining those origins, this Comment suggests that law’s impact on local social movements is multidimensional and powerful. Given traditional and now-challenged accounts of the civil rights movement that place litigation and law at the heart of civil rights activism, law in Woodville’s narrative is almost

484. See supra Part II.B.
485. See supra Part III.A.
486. See supra Part III.
487. See supra Part III.
omnipresent and yet hardly present in ways that are expected or central. It constrains, enables, and obscures.

B. In the Gap: The Boycott and Armed Self-Defense

While national litigation and micromobilizations of the law have strong presence in the recovered narrative, at the same time the “law” is absent. In the absence of police protections for the local black community, black males responded by mobilizing an extralegal self-defense group. In addition to providing a bottom-up perspective of grassroots movements and the law, the Woodville narrative also fits comfortably with the now substantial body of literature on self-defense in the long civil rights movement. Although no longer hidden from our histories of the civil rights movement, the Court’s concealment of the armed self-defense actions in Woodville’s local movement is a reflection of how national civil rights organizations helped to create an image of the civil rights movement as a monolithic whole. National civil rights organizations actively perpetuated a national nonviolent and religious image of peaceful innocent blacks; the necessary self-protective measures, local violence against the Klan, and intramovement strife were aggressively concealed to ensure white northern sympathies and funding.

Yet the lack of state protection from physical and psychological violence spurred and possibly necessitated the formation of groups like the Deacons for Defense. Further, the only successful civil rights model in southwest Mississippi likewise included strong physical and psychological enforcement of boycotts within the local black community. The strategy taken in Woodville reveals that self-protective action was a matter of course to guard against severe Klan violence in rural areas. Armed patrols of black communities in addition to guarded demonstrations and meetings were necessary for the movement’s success.

Further, Woodville’s use of the economic boycott also pushes to the forefront the whites’ attempt to turn the black community against itself. Physical enforcement of the boycott is what made town officials succumb to the activists’ demands. However, the necessity of enforcing the boycott required some blacks to take action against others in their community. Thus, attention was not focused solely on white oppressors, but instead divided within the community.

Moreover, intracommunity tension found in Woodville is a sign of the diversity of interests within the black community and the difficulty in any social movement of finding a cohesive set of shared interests within a broad and diverse group. The Woodville Deacons for Defense not only provided armed protection against white nightriders, but also suppressed those within the

488. See supra notes 30–36 and accompanying text.
black community who did not participate in the movement. Intraracial tensions were clearly present in the shooting of Officer Liberty. The shooting of Liberty could very well have been a defensive act and may have even spared lives. However, it is important to recognize the pressures placed upon Liberty to serve as a police officer and the real consequences of Deacons acting as an extralegal protective force.

Woodville’s local movement secured rights, safety, and justice without using litigation tactics. Nevertheless, the movement’s activities, successes, and defeats were intimately affected by national litigation strategies as well as by the town’s small mobilizations of the law against individuals and the movement itself—all of which were obscured by the opinion in, and subsequent analyses of, Chambers v. Mississippi.

CONCLUSION

After examining the uses of the legal system against the black community in Woodville and the response to that oppression, the absence of race in the Supreme Court’s opinion is stark and almost flagrant. Perhaps only inference and speculation can provide an explanation. Nevertheless, maybe the case’s civil rights nature was obscured because it was not initially recognized by locals or litigation-focused civil rights groups. Consider that the national civil rights movement had selected civil suits to pursue legal change for African Americans. Chambers’s criminal charges were of an inherently different nature, and local jurisdictions controlled the initiation and structure of the case. Further, none of the local activists suggested using a criminal suit as part of a national litigation strategy to eliminate bias from southern courtrooms, and not even Peter Westen took up the case with the immediate and specific goal of protecting a black defendant’s right to a fair trial. Indeed, as Constance Slaughter-Harvey from the Lawyers’ Committee remarked, many other civil rights activists faced unfair trials just like Chambers, but there was no large-scale social movement strategy in which Chambers’s attorneys could participate that would change that fact.

The Chambers decision was the result of a little advance planning and a considerable amount of luck. On one hand, details of the local struggle for equal rights have little to do with the general principle of evidence that Chambers has come to stand for. Yet on the other hand, those excluded details are crucial to understanding why Chambers received an unfair trial and why such pains were taken to ensure the jury never heard about the three oral confessions. Nevertheless, the Supreme Court opinion still had the potential to

489. See supra Part II.
490. To some extent, Professor Landsman provides one reasonable explanation in Justice Powell’s personal history. See supra note 463.
491. Id. at 367–68.
492. Telephone Interview with Constance Slaughter-Harvey, supra note 460.
improve the fairness of criminal trials for black defendants. By prohibiting hearsay rules that prevent defendants from mounting a full defense, the Court took from the legal toolbox of both the prosecutor and judge and added to the toolbox of the defense. Yet the appeals process and final opinion obscure the civil rights activism underlying the case.

In the end, it may not have mattered whether Mississippi’s rules of evidence and their enforcement at Chambers’s trial had been different. There is no doubt that the trial judge admitted hearsay into evidence when solicited by the prosecution. Although the Supreme Court’s decision eliminated one tool, Klansmen as police officers and men like Lenox Forman as prosecutors would likely have found other tools—like exclusion of blacks from juries—to convict Woodville’s African Americans without a fair trial. Especially given that most blacks in the rural South did not have the resources or luck to have talented lawyers pursue their cases to the United States Supreme Court, the decision may have had little impact for most black defendants in Mississippi. And even despite the good fortune of having his conviction overturned, Chambers nevertheless lived out the rest of his life with painful and debilitating head and neck wounds.493

Yet when examined in both its larger and more localized contexts, Chambers is the story of one community’s civil rights struggle during a time when the law was both everywhere and nowhere. The story of Woodville’s civil rights activists elucidates how one black community was empowered through an open and sustained demonstration of self-defense and an assertion of its own sense of justice. The shootout specifically illuminates the intensity of subordination felt by those in the black community who acted as informants and accommodationists. The black community combated the oppression on its own terms and without the direct aid of national civil rights organizations or outside volunteers. Woodville’s activists took armed, direct, economic action against the white power structure and made much headway. The events that sparked Chambers are just one example of that action.

In a way, this narrative underlying Chambers offers one last insight beyond those applicable to the civil rights movement discussed here: even jurisprudence that benefits marginalized groups may continue to obscure those same groups. Perhaps the simple answer is that obscuring and suppressing the gritty facts allows the Court to make rulings that appear neutral, emotionless, and unbiased, and which are thus more widely accepted and politically feasible. Whether that is true—and even more important, whether that is desirable—must be the subject for further research. It would be inappropriate, however, to assume that Chambers v. Mississippi is the only Court opinion that obscures the true narrative, struggle, and oppression experienced by the litigants.494 Many

493. See, e.g., Nelson, Supreme Court to Rule, supra note 268.
social movements use litigation as a publicity tool, and yet it is clear that the Court has, in the past, hidden the “movement” nature of the opinion. And, as many direct service lawyers already know, national legal rulings do not always translate to justice on the ground. Why this happens and what that means for modern day social movements pursing legal change must continue to be the focus of research in the socio-legal community.
