

Civil Rights-St. Augustine 2A

Interviewer: David Colburn

Interviewee: Judge Bryan Simpson

May 24, 1977

sjm

S: There, there are two or three main sections which you may have gathered from reading Mr. Kuenstler's comments, also from other sources. The, the first, the first things that happened down there, do you want me to start off with that? Or would you rather ask me questions?

C: Well, I was just going to ask you, the first one I was just going to ask you was, were you involved in any of the 1963 goings-on? That was before-

S: Well, that was, that was when they took, they got <sup>Hayling</sup> ~~hailing~~ and beating <sup>him</sup> ~~on~~ and everything.

C: Right.

S: Well, that, that came out, they never brought any action in this, in the district court, United States court, with reference to that.

C: I see.

S: But it came out in the following spring, in 1964, in the suit against L.O. Davis, the sheriff, which was one of the main, the main pieces of litigation. That styled Andrew Young v. L.O. Davis \_\_\_\_\_

C: Right, the ambassador-

S: Ambassador to the United Nations. But he was, he was an assistant of Martin Luther King <sup>Jr.'s</sup> at that time. And he, he was, he was arrested and beat up on and all sorts of things, so they, they, one of the early suits was Young v. Davis, one of the main suits. The early suits were numerous arrests for, this was about Eastertime in 1964--

C: Uh huh. Right.

S: Early April, I guess, or late March, 1964.

C: Late March.

S: Attempts to integrate eating places and motels, to a limited extent, but more, more eating places than anything else. And that's when Mrs. Peabody, the, the mother of the then governor of Massachusetts, Endicott Peabody, she was among the ones arrested and she'd been written up in her, that week, about her reasons for going down there. They, there were, oh, I don't know, a couple hundred arrests, I would guess, I don't want it to come out and be sure about it on paper. And they sought, Kuenstler, William Kuenstler and Tobias ~~Sawman~~<sup>Simon</sup> from Miami, they were representing these plaintiffs, they sought, they filed petitions to remove all the cases involved in these arrests, which were, I guess would been returnable to the county court <sup>of or</sup> the county judges court. I'm not certain which. Judge Mathis, John Mathis was the judge of that court.

C: Right.

S: And I had hearings for two or three days and determined that the cases weren't removable under the statutes which had been stood. Apparently, Kuenstler apparently looked to the fact that later they, I was reversed for the remainder of those cases. But that was because they, the court of appeals applied the '64 Civil Rights Act retroactively.

C: Oh right.

S: \_\_\_\_\_<sup>(12)</sup> opinion on that appeal and I had, at the time, at that time, I, my recollection is, and it's filed, you'll have to ferret it out. But my recollection is that I permitted a SUP-SEF2(?)<sup>(12)</sup> bond while the, while the refusal to, while my dismissal of the case was in this court, was

pending and that, that held them up, you see. They didn't go back at that time.

C: Right.

S: And they, those cases now, they'd arrest them, they'd be, typically they'd be a mixed group, two or three white ladies and a couple of colored ladies. Now Mrs. Peabody, she had the, she had the wife of a black Episcopal Bishop somewhere in New England.

C: Yeah, Massachusetts.

S: Massachusetts, I guess, with her, and one, I don't know, one or two other ladies, maybe another minister's wife. They, they were, they were arrested for trying to eat, for going in and sitting down in a restaurant to eat.

C: Uh huh.

S: And there were, that, that was more or less typical <sup>of</sup> those offenses and there was no special violence involved at that time.

C: Did you handle many cases like that before the St. Augustine confrontation?

S: I never had anybody try to remove a, try to remove one of those things. It was a new concept. I think in Kuenstler's chapter he says that I was, He indicated. He spoke to me and came to my office to me before the hearing and I told him I'd be interested to hear what they had, see what they had to develop. That this was something new to me, that they could remove these, this type of case. And so, after hearing them a day or so, and hearing their arguments- (What do you want, Ken? It'll keep, but thank you very much. Give the bank-book and stuff to Mrs.     . Thank you, Ken). Well, I've lost the thought, I'm sorry, but-

C: You were talking to Kuenstler about the-

S: <sup>I told him I'd hear him</sup> And ~~the hearing~~. And they, they have some, they got hassled around a little bit at that time, they got shoved around in the jail and first agreed to, they had a , as I recall a, a representative of a Miami bonding company or some out of town bonding company ~~the first~~ <sup>who</sup> who said they'd take them and then the next morning kicked that, released the people, and then the next morning they wouldn't even ~~— they shoved~~ <sup>Toby</sup> ~~Told Simon~~ and Bill Kuenstler around in the office a little bit and so on. That, that's I think you've covered that once that I know about. That was covered pretty thoroughly in the testimony in that case. Then later they started, it would have been in late May, they, they started marching down there and marching at night.

C: Right, right.

S: And that, that is the basic, the <sup>y</sup> marching <sup>ed e</sup> ~~—~~ <sup>in some little church</sup> ~~two or three~~ <sup>—</sup> then they were told by, told by the sheriff and the chief of police and so on that they couldn't march anymore. And they, then, we had this, had this suit involving, and that was, that was Young v. Davis

C: Right.

S: ~~\_\_\_\_\_~~ <sup>(PW)</sup>. I heard testimony for several days in that case and the, the incident about Dr. Cleaver <sup>Hayling</sup> ~~Hayley~~, not Cleaver-

C: Robert <sup>Hayling</sup> ~~Hayley~~ <sup>(PW)</sup>

S: Robert <sup>Hayling</sup> ~~Hayley~~ <sup>(PW)</sup>, yeah. Dr. Robert <sup>Hayling</sup> being beaten up and when they were trying to spy on somebody <sup>kind of a Klan meeting</sup> ~~and apparently~~ he and one or two other blacks were trying to spy on a Klan meeting and they caught them and they gave them a pretty <sup>rough</sup> time. And if I recollect, <sup>and I guess</sup> it doesn't appear in this court but perhaps in the St. Augustine local state or county court, they,

they wouldn't make any cases against the klan people, <sup>They</sup> had made some cases against <sup>he</sup> him, against the blacks-

C: Right.

S: That was the, well, that's when, that's how, that's how the <sup>Haley</sup> Haley thing came in, that incident came in. And there, there was a, there was another thing that came out during that, during that hearing and Kuenstler and his story about his case, <sup>surprised</sup> surprised that I would ask L.O. <sup>Davis</sup> Davis when he was on the stand about these special deputies that he had. Well,-

C: I was wondering that myself.

S: Well, you know, I guess time's gone by enough to talk about this a little bit, but the FBI has spies everywhere and lately I've heard it said back in later years, that if they didn't have the FBI on the undercover people <sup>paying dues</sup> the <sup>plan</sup> someplace would have to fold up, <sup>see?</sup> see?

C: Right.

S: So this was a, these, these people told me, had told me, had come and told me that, that they had information. I couldn't reveal source or talk about it, of course, but I had information from some, one or two of the older agents in the FBI office that some <sup>Klan</sup> plans people from Jacksonville were messed up in with Davis and <sup>MANUCY</sup> Minuse and everything down here in St. Augustine and <sup>he</sup> said that he had, he had Klansmen, their information was that Klansmen were his special deputies. And they said that they've imported the Klan down there, they called <sup>it</sup> something like the-

C: Ancient City Hunting Club?

S: Ancient City Hunting Club, or Gun Club or something or other, and that was what I was trying to get out of Davis and then I finally, finally

Davis come back the next day and bring me a list of deputies and that's when Hoss <sup>A MANUELY</sup> Minuse's name came up, for example. I told him, "I want to know, know about those deputies." And he didn't seem to know anything about them. He estimated he had twenty, or thirty or forty and I said, "My information, you have over a hundred. Get me a list." And he brought me a list, and it weighed like a hundred and forty or fifty, and he said those were the ones that he had deputized during the, during the Easter-time, that that wasn't all the special deputies. He didn't know how many special deputies he had, no idea. Well-

C: How did one get to be a special deputy?

S: Well, he, he, he testified in that proceeding that anybody that'd come in and volunteer, he'd make them a special deputy. He hadn't, he claimed not to have any list of questions. ~~the list~~ and so on, and there was no, no control <sup>over</sup> of them. Now remind me to talk about the, the deputy sheriff Lance matter after I get through, because that comes into this. Lance was one of those special deputies. Nothing, nothing very concrete came out of that. Then~~the~~, going back to the, well, this was in Andrew Young's proceeding that, that the special deputies matter came out. And it's very involved and I, there was another connection, there was a connection, or thought to be a connection between a bunch of Klansmen, the <sup>Jacksonville</sup> ~~actual~~ <sup>(P)</sup> bunch of Klansmen that I tried in late June and up, ~~I would call it~~ <sup>as I recall,</sup> July the fourth of 1964. It was either Saturday or Sunday and we had the trial going ~~and, uh, and~~, and the jury said they wanted to stay and work on the fourth or on Sunday or both, whatever it was, and they came in with a , they couldn't agree and I had to declare a mistrial. These people were charged

with dynamiting the home of, out in Lackawanna of the first one, of the only little black child that had gone to Lackawanna school, gone to the, that had happened a year or two before, two or three years before maybe. But under the integration order, one child put in the, put in the Lackawanna Primary School, the elementary school in the fall. He was a little first grader. They, they had the women parading out there at place <sup>that</sup> go by there and see it, and they had signs up, "Niggers go home and all kind of things". The little six year old kid couldn't read, you know, but it must have been a mystery to him, what the sign said. So finally this group, they got together and we tried these people for dynamiting that house and we had, we had, I can't think of his name, but I can find it somewhere, an experienced man from Indiana or Ohio, Kentucky, Missouri, somewhere right in that part that was a, he was an accomplished dynamiter. He, he pled guilty, William Rosegrans <sup>ROSEGRANS</sup> something. He pled guilty and he pled guilty, and testified in the first trial against these people. Now, after the mistrial, I tried my best to, I told the U.S. attorney, I said, "I'm going to try it again." And he wanted to try it in the fall. I said, well, I said, "Maybe this doesn't have anything to do with it, but you're a Democrat and that Lyndon Johnson's running here in this fall election." I said, "You try this thing a month before the election, it will bring a lot of, bring a lot of racial feeling, bring a lot to the surface that might react unfavorably on the President." And I said, "He's, he's a Democrat and that might interest him." And so they didn't try it until <sup>p</sup> <sub>v</sub> ater, after the election. Finally <sup>he</sup> <sub>tried</sub> it in November and the people were acquitted. They had a , they had a \_\_\_\_\_ <sup>(P.W.)</sup> dry run, and

this government witness wouldn't, wouldn't testify and we, I let him use the, I let him use his prior, testimony at the prior trial and that was, that was one of the points on the appeal, whether, whether he could testify again or not. And then, then he brought, pushed conviction proceedings which I decided against him and he claimed that the FBI had made him promise all kinds of things, you know to, to get his plea of guilty set aside. It turned out, he was the only one, only one that got it. These local Klan types, they, they got away, but there was there were indications that you couldn't, couldn't really put your finger on at that time and it'd be impossible to put them down in very concise order now, with the time passed and my memory being what it is, but that, these people were tied in with the St. Augustine bunch, and old Davis, and this, I'm not clear on this in my mind, but Davis arrested, the Florida East Coast strike was going on and there <sup>were</sup> some rewards out for people that were committing acts of sabotage against the railroad, putting dynamite all over it and blowing up the trains and so on. They had big rewards. This William whatever his name was, Davis had him and he thought he had gotten himself a, and I think <sup>9/</sup>MANVEL Minuse was in with him, I don't know, but they thought they had captured him. The East Coast saboteur. And it was all linked in together with this Klan trial that this fellow was a witness in here in Jacksonville and I'll get, get, they were, the FBI was monitoring the Jacksonville Klan thing and that's how they got up enough evidence to indict these people for the dynamiting of the house out there, the parents of, the mother of this little boy, and also they, they were getting some feedback in there about <sup>St.</sup> St. Augustine thing

from the same, same thing going on, see and it tied in with the, tied in with the dynamiter. Well, the, let's go back to Young, Young v. Davis. Now that went on for several days and they, they <sup>(2)</sup> brought another, brought this suit and we had, we had a hearing and I told him that, I said, "I'll get this out as quickly as I can, but I'd like to ask for committment that you don't demonstrate during the time I have the case on the advisement bench, it turned out to be about a week or ten days, nine or ten days, I forget, the order came out on the ninth of June. And they agreed, they went out to confer, and they agreed to that. Then I enjoined the marchers. I, I enjoined <sup>the interference</sup> ~~them first~~ with the marchers. Davis, and Dr. Shelley was the Mayor, and I've forgotten the chief of police's name.

C: Stuart Virgil. ✓

S: Stuart Virgil, Stuart, yeah. And of course, one thing, we got hot to start bringing in these people march at night and the people in pickup trucks with bicycle chains and ax handles <sup>(2)</sup> and ball bats and so on would assemble on the square and kick them <sup>(2)</sup> and fight them and they brought the Florida Highway Patrol down there. We had another, another big hearing about that I recall about lifting it. And I refused to lift it to them

C: There must have been a lot of pressure on you then, because I think everybody was, well, <sup>at least,</sup> the whites were hoping you'd put a ban on the demonstrations.

S: Yeah, yeah, right, well, then I, I got, I don't know where that file's

here or not, but I have stacks of you know, poisonous, poison pen mail, threats and everything else. I wonder with these people coming in and they would assemble from, they weren't all of them, they weren't all of them, many of them local St. Augustine people. They'd get a couple of pickup trucks loads come from Ocala, Gainesville, Palatka, Starke or somewhere and they'd come and they'd gather around the square. (2)

C: I was wondering what you, you hear a lot of St. Augustinian people say that there really wasn't a St. Augustine protest, it was people from outside. Did you have that feeling too?

S: Well, it was people, it was people from outside. King, King went in there, King started it and King was, King was tickled to death to get out of there with a dog bone, really. I couldn't, all I was trying to do, the main thing I was trying to do was to get a biracial committee formed down there and let them deal with these blacks. And you couldn't get anybody that would agree. They wanted to have a secret committee they wouldn't, wouldn't let their name be. And, well, Pope the senator, he came over and talked to me one night about what to do, and I said, "VERLE Burl, you can take the lead in this thing." No, he couldn't do that. You'd have to have some, if you're going to lead you have to have somebody to follow you and so on, see. Well, finally, a banker there, can't remember his name-

C: I'm, I'm not sure which one it was-Frank Harold?

S: Frank Harold was one, and then the other man, the other banker who's-

C: Wolfe, was it Wolfe?

S: Wolfe, yeah. And they finally got some sort of committee, they got some sort of a, at least a front of a committee together. And what, what saved the situation, I, I, what, you see the first thing, the first thing that people like, people like King would want, would be to make, they're making

a, they're making a protest and they're making a non-violent protest, but they <sup>want all the women's</sup> ~~won't~~ always willing bodies to get beat on and to make as much noise as they can;

C: They get the publicity-

S: They want, they want, the thing they'd want would be if you could, to say, well, the state of Florida can't have it. Get the President to send troops in or something, see, which, which would have been a, which would have been a bad mistake in, in, \_\_\_\_\_ St. Augustine people they wanted everybody to go away, and just play like it didn't happen.

C: Why do you think King went there? Do you have any-?

S: Well, I'll tell you why. Because I think what triggered it was the Civil Rights Commission in, I'm not sure but what they included that <sup>Hayling</sup> ~~Hayley~~ incident in their report, but they, they, their report that they filed in the fall of 1963, it said St. Augustine was a tinderbox and so on, and that it had to, something had to give, and that, <sup>way</sup> that people weren't, blacks weren't getting a fair shake and that it was a terrible thing, for what claimed to be the oldest <sup>C: City in America - (P)</sup> permanent white settlement or whatever they called it. And I think that's what called it to, to these outsiders' attention. It was HOSEA Williams and King and Young, they had four or five others of these black non-violent, you know, students, southern-

C: Southern Christian Leadership Conference.

S: Yeah, the slicks and the snakes. They had another one Southern Non-Violent which are snakes, I think, I don't know, they had a nickname for all of them. But, that's what brought it on. The, the situation as far as the Civil Rights Act was in '64, was passed and signed, right about the first

of July and that's right when things came to a head. I had issued a ~~short court~~ <sup>show cause</sup> order against the government for-

C: Banning the marchers?

S: He had, he had issued an order <sup>(PW)</sup> banning the marchers. I thought that there had to be another week <sup>(PW)</sup> ten days ahead to show cause <sup>(PW)</sup> on a certain date, why, it should be held in contempt. I thought maybe things would settle down a little then. Couldn't have a , you know people say, government ignores <sup>federal</sup> ~~little~~ court orders and so on like that. You got to take some

MEASURES ON things like that. Or you. just become a paper tiger real quick, you know. <sup>(PW)</sup>

C: Are you and Bryant, weren't you and Bryant fairly good friends at that time, or is that?

S: We had been friends, yeah, he had, he practiced law in Ocala and I, when I came on the district bench in 1950, I used to go twice a year, and hold court down in Ocala for two or three weeks, whatever it is. They have a courtroom, courtroom down there and we had an Ocala docket and I'd go down and meet all those Ocala lawyers pretty well, and Bryant was a Rotarian, a member of Rotary Club down there, and I'd see him at Rotary, we, we were friendly.

(PW) He, he had one of his close friends here in Jacksonville during that week or ten days we're talking about call me and ask me could he, he and I talk unofficially, and I said, "Come on over, I'll meet you at your friend's house." And we had a meeting one night about two hours, trying to figure out where, where we were going, where we were getting to. We, we were not, we thought differently, but we were not unfriendly, in a personal sense...

C: Uh huh, sure.

S: ...at all, see, and I was trying to help them, I was trying to help them figure them, figure things out. One way is to, to get passed off with the- well, the thing they were, the thing they were protesting about getting into, getting into motels and restaurants and everything was covered by the Civil Rights Act. So now the next, the next thing was, they started trying to integrate those motels and restaurants with the force of law behind them with Title Two of the Civil Rights Act to back them up. And so we had a bunch of those cases.

C: I wonder if I could back up just a second.

S: Yeah, yeah.

C: Do you think what King was concerned, do you think it, he was trying to use St. Augustine to get the Civil Rights Act passed? Did you sense any of that with Young?

S: I don't-

C: Was trying to pressure Congress ?

S: I, I don't know that King thought that way.

C: Uh huh.

S: King was, King was a, he was a terrific inspirational leader, you know, and he, I can hear him now. "I have a, I have a dream," you know, there, when the, at the Washington Monument     <sup>Re</sup> that period. He, he was, he was a terrific inspirational leader, but I don't think he was much of a thinker and a, and a planner and I, I would question whether he, but that may have, that's certainly a possibility. Now I wouldn't like to think that he was simply going all over and trying to stir up as much interest and concern for the plight of the blacks as he could. I, I, maybe they, course he was,

course I'm sure he examined the passage of the Civil Rights Act. I, I don't know, he probably testified up there. I don't know that, I don't think they would call him in, but you know there was a good deal of testifying, testimony about people say, this, talking about Title Two testimony, people say well, the department of black, Department of Justice lawyer-

-Break-

C: Yeah, I was going to ask you , one of the other questions I was going to ask you. You, were sharply critical of Davis for the conditions in his jail. Now I wonder if you might, how, how did you know that conditions were that bad then?

S: There was a suit, when that was, I tell you, there was a suit, and I'll try to think of the name of it. It's one of these cases, when, after the first of July, when, when they, when they started making these steps to integrate the various restaurants, and getting, those people getting arrested, again, you see, they, these were, these were locals. I suppose they were being directed from outside, but going in and try to, go and sit down and-I'll tell you one of those instances — find if or 'locked in the basement, whatever And, as I recall, there was also some marching and demonstrating about this same time, and when this, these, these problems brought on a , they brought on a lot of, a number of arrests and they, I'm not sure which and I couldn't tell from the testimony whether <sup>Davis</sup> the bailiff at (Ph), the jail set bonds or whether he had a direction from Matthews the judge to set bond, whereas the people that were, outside people that were demonstrating and trying to, trying to integrate, trying to integrate restaurants and motels-

C: Uh huh, right.

S: We were setting bond a hundred and fifty, two hundred, three hundred dollars then. That was a cinch for them. Now these local people, they get done arresting them in, in July there, so they were setting bonds at three thousand, thirty-five hundred.

C: Good heavens.

S: Out of sight for these people.

C: Well-

S: They brought a suit that, that they claimed that the excessive bail, UNDER THE Eighth Amendment with excessive bail, and also cruel and unusual punishment under the Eighth Amendment by the way they were treated in the jail. And that's when I criticized the jail conditions in the, in the order in that, in that case, in which I-

C: Were they that bad, just out of curiosity?

S: They were pretty bad. They, they had a, he had a, he had a compound where everybody was, blacks and whites, males and females had had to stay. They'd keep them <sup>outside</sup> there in the ball and chain in July all day, and they'd say that was \_\_\_\_\_. They sent them to court so they'd let them have exercise, they'd stay out there if it was hot, they'd stay out there if a thunderstorm came or whatever. And then you had them packed in like sardines in some places at night and that sort of thing.

C: I see.

S: That was the, that was the basis of that I, let me, I think.... \_\_\_\_\_ it might be the plunger, plunger <sup>NAMED</sup> Brock. Now Brock was the, Brock was the -

C: Here's, here's a reference to it-

S: Brock was the man that ran the Minson Motor Lodge.

C: Right.

S: And he was the one that was pictured throwing acid in the pool colored people jumping in the pool and him running around to throw acid in it, and so forth. I, now this may be, King v. Matthews may be the, the-

C: It says here in, in Freedman's book, that you, that there were two cases two suits referred to you and it said that in the, in the second opinion, you described the, the high bail requirements and then you also described the conditions in the jail.

S: Yeah, well now, does that, does that have a footnote citation or anything to-

C: It doesn't have any, I don't see any reference-

S: Any reference to the name of the case, well, it's one of these.

C: Reference to the case. Somehow the Plummer case rings a bell, but I wouldn't swear to that one.

S: Plummer, it might be Plummer. She was a, she was one of the local protesters, and it may have been, that may have been <sup>even</sup> brought in her name. Well I think it may have been, I know that Vance, the sheriff- Here's, here the, the contempt scene against Vance came up <sup>in</sup> the Plummer case, 'cause here's, here's the, here that material is, the <sup>oral</sup> ~~four~~ findings and the addition <sup>of</sup> ~~of~~ <sup>final</sup> fact. That went on, that went Supreme Court somewhere, about my right to turn, turn in his badge for molesting <sup>PC</sup>.

C: Uh huh. That's where Strom Thurmond denounced what you did on the floor of the Senate.

S: Yeah, I think, yeah it was in-

C: 'Cause the court upheld you, didn't it?

S: Well, yeah. My, my court upheld me, the fifth sector upheld me, and then the, then the, the Supreme Court and I'm, I'm not certain whether they heard it on the merits and upheld me, or, or whether they denied a petition for certain, and that's the way it- but anyway my good friend, Justice Black <sup>filed</sup> ~~found~~ a biting, sharp dissent about that, <sup>taking</sup> ~~took~~ him over the, <sup>since</sup> ~~usurped~~ him of functions of state and everything, well, this fellow Lance <sup>was</sup> ~~with~~ a, one of these volunteer deputies. He <sup>wasn't</sup> ~~wouldn't~~ <sup>paid</sup> ~~pay~~ and that's all in that stuff there. Kimball was one of the people, I think, one of the, ~~she was a~~ <sup>few of the</sup> local, nurse or she worked in some maybe or in some clerical capacity, I don't know, she... This Plummer, Plummer against Brock was the suit where they complained about the, the refusal to serve, see.

C: Uh huh.

S: A number of places, we took testimony about him and-

C: Right.

S: They, the testimony all was that, we ~~\_\_\_\_\_~~ <sup>them</sup> because the, the Ancient City Hunting Club and Gun Club when the <sup>As</sup> Minusy people were running around threatening them, see. I think what it amounted to, the result was an injunction enjoining them to serve and enjoining these other people from interfering with-

C: Right.

S: People who wanted to be served.

C: That was after the passage of the Civil Rights Act, wasn't it?

S: That's, that's right, that's right, that's right and that's what the Plummer case basically was.

C: Uh huh.

S: And then Vance, there was some, some white person, some white man from outside and I don't know what his, whether he was a preacher, lawyer, somebody came in down there and this colored man named ~~Thunderburk~~ <sup>FUNDERBERK</sup>, I know they call him Thunderbird-

C: Uh huh.

S: The colored people, they'd call him Thunderbird, I found out his name. He met the man and he drove him to this eating place, the Chews, run by some people called the Chews.

C: Chews, right, Chew's Restaurant.

S: Well, they had a different name then, I believe. But anyhow, he, he followed them and chased them all around, all up and down back streets, and finally, he, he said something to him while he was there, and then when he left, he followed them. Well, it wasn't any, there wasn't any reason for this volunteer deputy to be doing that for any reason except to intimidate Thunderbird<sup>urk</sup> and that was the basis for telling him that he'd have to turn in his badge, and he probably violated a Civil Rights Act himself that this wasn't any. That's Plummer, that's, there's got to be, King v. Mathis, maybe this is the one. I'm trying to find the one where what you asked about, where they, where the jail conditions-

C: Right.

S: Things get away from me. I thought I never would forget any of this. It went <sup>on</sup> for the, the...this was not setting bond, I guess. King v. Mathis.

C: That wasn't, wasn't the Young v. Davis, was it?

S: Young v. Davis, the original Young v. Davis was the, and here's that file, was the, was the, with respect to the parading.

C: Right.

S: Now, it may have, I don't think, I think they would have filed another suit. Here's one hotel, Williams <sup>CONNELL</sup> against Conett, I don't know what that is. That, that's just a attorney, Jost(?) Lewis Con<sup>N</sup>ell, proprietor, and individual doing business by the name of Santa Maria Restaurants, so that's just the another one of the integrating. There were, there may be a, there were maybe a dozen separate ones of those cases, <sup>twelve or (P)</sup> probably fifteen or more in which similar orders went out, that's what all that's about. Well, I'm not getting  
 VERY far... that's in REFERENCE <sup>to some of those</sup> CASES <sup>SOMEWHERE.</sup> HERE SOMEWHERE. (P)

C: You know, it really seems in looking at the events that went on, that, that you really kept the lid on events there that if, if they, if it hadn't been-

S: Well, somebody else, I, I don't know, another judge might, might have just said, well this is, all this mess, and swept it under the rug. I, I didn't feel, my conscience wouldn't let me do that. But you know,  
 Sometimes you get a bear by the tail, you don't want, you wish you never picked <sup>him</sup> it up, but you can't let go. This was a (P)...

C: Davis had no restraint on him from, 'cause Shelley was pretty much agreed with what he was, mayor-

S: Yeah, well, Shelley was the mayor and, and Davis was of course a different chain of command, but they were all working together.

C: Right.

S: Virgil  
 Gregory Stewart was the-

- C: Was the police chief, yeah.
- S: Was the police chief, but, we had, there was a lot of dealing with, two or three hearings on, where the highway patrol people had come in and they had them in there. They had a bunch of them, the governor did, and maintain order <sup>(PW)</sup> and <sup>claimed</sup> they couldn't maintain the, couldn't maintain order, Had to \_\_\_\_\_ <sup>(PW)</sup> an injunction against banning marches after this, I'll be declare, I just can't, can't put my finger on what I'm looking for. I know that it's here.
- C: That was, when they came up to, and questioned you about their ability to control events there, wasn't that when you said that they ought to start arresting some of those other people instead of-
- S: Well, that may have been, that may have been in the that was probably in those hearings, and it was also, I think in, in Young v. Davis, that ... I said they weren't convincing that they couldn't control it. Lets see if
- SIDE 2 I can't find that <sup>(PW)</sup>
- C: Oh, yeah. HERE'S a REFERENCE to the special deputies — 150, wow,
- S: THIS ONE I GUESS IS THE ... THIS IS WHAT. YVONNE JOHNSON AGAINST L.O. DAVIS 64/141 THAT IS THE THAT IS THE ONE ON THE EIGHTH AMENDMENT. <sup>(PW)</sup>
- C: Ah.
- S: You might give that a, I suppose these, those findings and these findings and the two most, the one about the marching and the other one and this one about the, the economic violations by the-
- C: Yeah, here's the reference to the 90 degree temperatures and the storm and the fact that he kept them in the compound during these times.
- S: — He held them for. I don't remember whether it was a man or a woman He had them in a place where <sup>they couldn't</sup> sit down. They had one cripple in there, too.
- C: One polio victim, right, on crutches.
- S: Was that a woman or a man?
- C: Yeah, it was a woman. And then you have the reference to the sweatboxes.

S: Well, that, that's the one there, that's about the eighth amendment. (P)

C: Right.

S: WHERE I said it was, it was <sup>more</sup> than cruel and <sup>unusual punishment</sup> deliberate tortures, something of sort. You know, you get mad as the dickens when you come along the street and somebody's run the windows up and left, left a little old dog in the hot sun-

C: Right.

S: And then you think about human beings and I think I said in there that this jabbing and kicking and twisting limbs but these weren't, these weren't foreigners or even people from other states, they were \_\_\_\_\_, \_\_\_\_\_ hometown. (P)

That's the one. And there was then, they'd be in the Plummer against, I guess, Plummer against Brock is where the injunction was entered. I cited Lance for violating and-

C: Right.

S: And had a hearing on, on that, because, he wasn't, of course he wasn't on this, he wasn't defensible and when <sup>THERE</sup> wasn't any reasonable <sup>(P)</sup> order, — to restrict these people, but he was, I said he was in, acting as <sup>IN CONSULT</sup> counselor with them and gave him a hearing on that. (P) That was one of the points in the appeal, whether or not he was, whether or not you could punish him for contempt when he, when he was not a defendant — named him in the original order \_\_\_\_\_

14th amendment — class suit — that's the way ... I remember approval Judge

Tuttle wrote that (P) I think Judge Tuttle wrote of the opinion affirmed Mr. Lance and as I say, I can't, I can't recall when the, when the, whether the Supreme ticket on the, on turn or whether they should <sup>CERTAIN</sup> black filed the strongest sentences in our circuit.

C: Yeah, I've read it, I can't remember either, to be honest with you.

S: It's a procedural matter (P)

C: Right.

S: And it's some of these things, somewhere. Now, for some reason, and <sup>in fact (E)</sup> I don't know why, there's a, and these are all filed, but, there are a bunch of, I don't know why I had these Xerox copies, and these are simply Xerox copies of the Supreme Court slips. And I suppose they're all the different-1964, about that time. bell against Maryland, Bowie against the City of Columbia. Several copies of the same thing. Whatever, they're, they're, if they, if nobody wants them, throw them away, because they're, they're in the books now anyway.

C: Uh huh. I'm sure they'll be glad to have those.

S: Well, they, they, if they don't want them, they can throw them away then, they're not much value to anybody, they're just, but they were, I wanted them at the time for some purpose that I can't even recall. <sup>And this. Let's see what he's files.</sup> I had a huge file of them. Call up and tell out tell <sup>your wife or son (E)</sup> what they're going to do to you.

C: Uh huh.

S: That's my first wife, she's dead now, but she knew how to handle them. She'd say, "Yes, thank you, so nice to call," and <sup>"May</sup> then I <sup>say</sup> said, "May have your name and who's calling?" And then say, "We appreciate having your views", or something like this. I told her just be polite, and she said, but <sup>"Bam"</sup> they'd hang the phone up, they'd get so mad at her for-

C: Being nice.

S: Being nice to them. They told me that, this is an aside. During this time, when they, I guess it was when the people were coming in from outside. I had a friend in Ocala who called me up one night. He ran a big truck stop and had waitresses there, and one of his waitresses was married to

somebody \_\_\_\_\_ <sup>(P)</sup> right next to him said, "You better watch out, those people are going to try to kill you." <sup>I said,</sup> "Can you tell me who they are?" He said, No. <sup>(P)</sup> "So, I said much obliged" "I don't know what to do." I said, "I guess \_\_\_\_\_ <sup>anyone</sup> best advice you can give." The FBI came to see me. They had some communicated threats from up in Georgia and Montana.

\_\_\_\_\_. They had the names of these people. I said, "Well, can you give me a picture of them? They got an arrest record, maybe you got a rap sheet or a picture \_\_\_\_\_  
*They couldn't get anybody to come up and make a mug shot.*  
*WE'RE going to move the place where you're parking your car.* I said, "Well, just be careful, that's all you can tell me." *Passed over,* I had some doubts about it when people got  
*two or three were killed that summer.*

C: Uh huh, right.

S: \_\_\_\_\_ <sup>(P)</sup>

several repeating rifles , and a couple of shotguns, I said, "You want me to put one at each window loaded and then if I hear anything go to that window and shoot, or what do you think I ought to do?" \_\_\_\_\_ <sup>(P)</sup>, "Use your own judgement." Aside from, it's a little hard on your family, <sup>C: SURE,</sup> this sort of thing is hard on your family. Nothing EVER <sup>(P)</sup>. I never will understand why they want to kill the judge, anyhow. \_\_\_\_\_

\_\_\_\_\_. <sup>(P)</sup> There's some newspaper things here, too, now I'm going to stop talking and let you ask me questions.

C: I just wanted to ask you about, <sup>really</sup> you answered most of what I wanted to ask you, I just wanted to ask about Kuenstler and Simon. What, what sort of lawyers were they? How did you find them? Both of them are very activist lawyers

today. I was wondering how they were back then.

S: Yeah, well, I'll tell you, Kuenstler was the soul of ethical conduct in the courtroom, very professional. So was <sup>Toby</sup> Kirby Simon, all through this and somewhere along the line, I think Kuenstler changed, between this time and the time that he took part in the Chicago Seven trial and some of the Rap Brown business and all of that, I, I think that the symptoms changed constantly. He, he got into this thing, as he tells in his book there, that he got into it pretty much by, started into <sup>it</sup> by accident, and got interested and kept on going. And at that time, he was, he was, I think a different person, now, I, I say this because we have a, how long have you been at the university?

C: Five years.

S: This <sup>maybe not.</sup> may have been a little before then, but <sup>and some,</sup> there was a, some trouble in Gainesville, I think it was the wife of a professor down there, and she and the, encouraging some activity on the part of black people. I, it's, it's kind of out of my mind and I didn't sit on it, there was an appeal and I suppose that it was, I don't know whether it was, was Judge Carswell who was still <sup>or after Arno, after Arno was on there or when maybe it <sup>may</sup> have been Tom Middlebrooks</sup>

District Judge

I just don't remember. <sup>but</sup> They had an appeal to be argued here <sup>it was with a panel of our court, the Court of Appeals by then <sup>under</sup> on the Court of Appeals. They had \_\_\_\_\_ <sup>sitting</sup> sit here in Jacksonville in this Gainesville case \_\_\_\_\_. This is something I couldn't imagine Bill Kuenstler doing in the time that I had all these contacts with him over that five or six months. He had, here again, the FBI came and told me they didn't know who to, who to tell. I wasn't going to sit on the</sup>

panel, but I was a resident <sup>circuit</sup> ~~sector~~ judge and there was three judges coming in from outside and so \_\_\_\_\_ (P) told me. They hadn't had somebody for a little meeting that they had in Gainesville with these these appellants, the people who appealed the case. They'd been, whatever, whatever rights they were trying to enforce that they They'd been turned down by the district judge and they were appealing and they told me that Kuenstler had, had appeared at the meeting two days before of the group in Gainesville. I can't remember what it was all about now. And he told them, he said, "I want you to come to Jacksonville that's a small courtroom, fill it up and well" He said, "Make some noise." Well, the idea of an ethical lawyer wanting to try to intimidate or influence a court that way, that, that was shocking to me Well, Judge Bell, who is now the Attorney Griffin Bell was on the panel and I told Griffin about it, and I said, "Griffin, I'll tell the marshal to have some extra men in the hallway and I'll tell the FBI to have some extra people, we'll have a few people in the courtroom and tell the marshal when, when the seats in the, it's a real small courtroom as I understand (P), when the seats are in there filled, not to let anybody else in \_\_\_\_\_ (P) any other suggestions, let me know. But the information is that they're going to come in and try to raise a disturbance and create a disturbance <sup>in the courtroom</sup> around the courthouse and so \_\_\_\_\_ (P) said, "No, I don't think anything else \_\_\_\_\_ <sup>else</sup> \_\_\_\_\_. <sup>So,</sup> He said, "If you hear anything, why call me," and this was Thursday or Friday before they were to start the session on Monday and Tuesday, Monday or Tuesday of the following week and they did. They came in \_\_\_\_\_ Griffin (P). There was Bell and it was one other

GENERAL I REMEMBER

regular judge, it was old judge Phillips, R.A. Phillips who was former chief judge of the tenth circuit. He was up in his eighties, he lived down at Lakeland and retired, you know, and he'd sit about, would have court about once a year, ————— I and would come up to Jacksonville <sup>(P)</sup> for a year or two before he died. And he was there, I REMEMBER Griffin telling me about Judge Phillips saying — he'd never heard of anything like that. <sup>(P)</sup> What, what're you, what're you going to do and what are they going to try to do and all like that, <sup>(P)</sup> but ————— under control, see ————— <sup>PW</sup>. But that, that to me is a, that to me is a—

C: Yeah.

S: Is an indication of a, of a change in a man's outlook, and he, he, he got so, he was no longer, he, he was no longer disinterested attorney representing a client, but he was part of the movement himself and acted, acted like he maybe wished he was black or something, you know, so he could protest and all that. He, he'd take on a coloration of Rap Brown or Stokely Carmichael or somebody—

C: Uh huh, right.

S: Rather than be, hold himself aloof from it. And he showed some of that in the, in that—

C: Chicago Trial.

S: Chicago Trial, yeah.

C: Did, did this fellow Earl Johnson come before your court in any of these cases at St. Augustine?

S: Peripherally, peripherally and I, I'm sure, I was a witness in one or two of them, and we had, we had some matters involving an instance of, they

they would, this fellow Mathis, this county kind of judge, he'd try to hassle these out-of-state, out-of-state lawyers. You know, he'd make a practice of in Florida, I won't listen to you, see. And they, they would have fool (P)

C: I see.

S: Go in there as a mouthpiece (P). They, I remember saying to some of my friends who were in a meeting Florida Bar at that time, that if, if, the day that some of these lawyers from the 15th or 20th going from (P) Jacksonville to Tampa would volunteer their services, come in and help the people that needed help in the court with things that these out-of-state lawyers were doing would not. I was starting start enforcing their rules about, you know, any rules about you can't appeal because you're not a member of, member of the Florida Bar or something. But I said, " Only, if you don't, I'll have, I'm going let, let them in the cases, \_\_\_\_\_ (P). There, there was a, that summer of '64 and maybe the next year, too, they had, they had two or three organizations, lawyers for constitutional, something LC, I don't know, they had initials, and, and there was a fellow named Arnstein that was here for two or three weeks and Arnstein ended up the permanent man OVER IN LOUISIANA and (P) Mississippi for the same, head of LC, the Lawyer's Constitutional, now I don't know what the rest of it was, and then there was another organization and a fellow named Melvin Wolf, if I recall W-O-L-F, Wolf who was (P) from New Jersey or Manhattan and New York and Washington \_\_\_\_\_. They, they would come in relays, they, see this, this, these guys would give their vacation time, they'd take their

vacation time and come down here and, and pay their own expenses and try to handle these cases for these, these people that were protesting and acting out their protest by trying to integrate things and so on.<sup>(2)</sup>

And they, well, -

C: I'm just, I'm just curious as to why, I mean there was, there were a lot of judges hearing cases in the South at this particular time, but why, what was it about your background or your education or whatever, that made you render the decision that you did, that, that, that protected the rights of the demonstrators, whereas so many other judges were finding against them.

S: I, I don't know, I can't answer, except to say that, that I CAME A <sup>good long ways,</sup>  
my concept of, I mean the first case with any racial overtones that I CON REMEMBER <sup>BEING</sup> interested, I was Circuit Judge and this was pre-Brown, it was back at the time of the Virginia case where they said they had to let blacks ride on the Pullman interstate — it was based on the constitution.  
But they had, they made a police case on the black trucker; <sup>at</sup> the railroad station here in Jacksonville trying to sit with white women —  
THEY WERE TRAVELING SOMEWHERE THEY CAME FROM OUT OF STATE —  
THEY CAME FROM OUT OF STATE — they charged them with disturbing  
the peace.<sup>(2)</sup>  
And I don't know if it was Earl Johnson or another black lawyer, at that time he appealed the direct <sup>a direct appeal</sup> from the police court from the municipal court through, the to the circuit court. And a judge <sup>PO</sup>  
I think they fined, fined the man or fined the two of them fifty apiece for fining somebody a hundred dollars. And they had paid it and then tried to take it to court. | And they ON THE HEARS I suggested

to the \_\_\_\_\_ of the city, ~~THERE WAS AN ASSISTANT CITY ATTORNEY~~ \_\_\_\_\_  
 NEITHER ONE OF THE LAWYERS <sup>had</sup> <sup>(PW)</sup> thought about this, but it seems to me that, I've  
 got a grave question about whether I can hear, hear this, because it  
 seems to me that they're attempting to appeal from EXECUTING SENTENCES <sup>(PW)</sup>  
~~THEY WERE SENTENCED~~, four or five hundred dollars, they paid the fine, what is  
 there, what is there to appeal?" And I said, "I let them know <sup>my</sup> <sup>(PW)</sup> opinion  
about their guilt? <sup>(PW)</sup> You'll come back a month later or two, sometime after  
 lunch and give me <sup>APPEALS</sup> ~~me~~ ON THIS <sup>(PW)</sup>." So they came back and they \_\_\_\_\_  
 \_\_\_\_\_ <sup>(PW)</sup> something's already done,  
 you know, like a man that's electrocuted and wanted to appeal, what, what,  
 what's he got.

C: Right.

S: So, I, I AM GOING <sup>TO FEAR WELL,</sup> <sup>(PW)</sup> that's BEING RELIEVED that I, not having to, not having  
 to stick my neck out-

C: Right.

S: I'm only a circuit judge and, and I was appointed a circuit bench in 1946  
 and had to run again in '48, I don't know whether it was before or after  
 elections, I had to run. He, he just, it was right about along that time  
~~WE,~~ \_\_\_\_\_ felt pretty good <sup>about that</sup> <sup>(PW)</sup> you know. \_\_\_\_\_ effect on me, and that's  
 the, that's the attitude of elected officials. I've had, I've had school  
 officials, elected school board members come and tell me, "You've got to,  
 you've got <sup>it</sup> to us taxpayers. We've got to have somebody to blame."

C: Right, right.

S: We got to go \_\_\_\_\_ telling people next election that damn son of a bitch  
 down there in the Federal Court made, made us do it. We didn't want, we

to mix your children with those blacks, but here we are", see. And that, that's sort of, and it's sort of a laissez-faire attitude, it's the way, customs and \_\_\_\_\_ talk to older people and say, "Well, these people outside they don't understand what we know about them down here in the South," and all that kind of thing.

C: Uh huh.

S: And, and we gradually wake up as you go along. Now I think,

Taking an oath \_\_\_\_\_ that you don't apply the law to the best

*of your understanding* there's not much, not much doubt about what the Supreme Court means when *of our constitution and the laws of the United States,*

they write a case like Brown, and some of the other racial cases. That

you're going to, if you don't abide by your oath \_\_\_\_\_ you have to, you have to \_\_\_\_\_

There used to be, there was a famous newspaper \_\_\_\_\_ that belonged to \_\_\_\_\_ Graves.

~~the~~ Atlanta Constitution-

C: Uh huh.

S: In the late nineties or early 1900's. Well, his son, John Graves, second

\_\_\_\_\_ second \_\_\_\_\_ . But he was editor of Jacksonville

Journal here for quite a few years I knew him . He had moved

to a he gone to own that paper by the time this happened. I knew him

well \_\_\_\_\_ here Jacksonville, John would say to me,

he said, he said he didn't mind people \_\_\_\_\_

so many southern judges running to meet him.

C: Well, thank you. I appreciate it