

**INTERVIEW WITH JUSTICE JAMES H. COLEMAN, JR.  
JUNE 15, 2017**

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## PART 1 OF 9

### Starting 'Below the Bottom Rung:' Early Life in the Rural, Segregated South

*Justice Coleman describes his birth and youth in Brunswick County, Virginia, detailing the influence of farm life and segregation on his worldview. He outlines his early education and his high school (1948-1952) experiences, first at a makeshift school at nearby Saint Paul's College, a historically black college, then, at James Solomon Russell High School. He recalls the impact of his teachers and the role of religion in shaping his resistance to Southern society's indelible prejudice.*

[Editor's Note: The following section was edited by Justice Coleman after the interview took place. An editor's note prefaces each section in which Justice Coleman made major additions or deletions. As a result, the text differs from the video.]

**Illingworth:** Good morning. My name is Shaun Illingworth, from the Rutgers Oral History Archives at Rutgers University in New Brunswick. I'm here today with retired New Jersey Supreme Court Justice James H. Coleman, Jr. We are in Elizabeth, New Jersey, and the date is June 15, 2017. And, first, I want to thank you, Justice, for sitting down with us for this project.

**Justice Coleman:** My pleasure.

**SI:** Okay, and you have a statement that you'd like to read. It's a very important statement about your background that we want to get on film, so, please.

**Justice Coleman:** Yes. I believe that good history should include good literature as well and I have two quotes I'd like to make, or repeat, that pretty much framed my life. One is by [novelist and poet] Josiah Gilbert Holland. He stated, quote, "Heaven is not reached at a single round/But we build the ladder by which we rise/From [the] lowly earth, to the vaulted skies/And we mount to its summit round by round." The second quote is by Booker T. Washington and he stated, "Success is to be measured not so much by the position one has reached in life as by the obstacles which one [he] has overcome while trying to succeed." [Editor's Note: These quotes come, respectively, from Holland's 1872 poem "Gradatim" and from Washington's 1901 autobiography *Up from Slavery*.]

I have referred to those two quotes because my historical journey to the New Jersey Supreme Court started well below the first round on a ladder. In order to build the ladder to reach our top court, I had to overcome many obstacles before I succeeded. My journey is not only revelatory--my educational background and the racism I encountered along the way distinguish me from the five Chief Justices appointed to the

Court before I arrived and the nineteen Associate Justices, all of whom were appointed under the 1947 Constitution.

[Editor's Note: The following section has been added by Justice Coleman.

What follows in these pages are the recollections of a snot-nosed, cotton-picking, tobacco-chopping poor boy who became a soldier in the Judicial Army to fight hate, to teach tolerance and to seek justice for all people.

That poor black boy grew up in a brutally inferior status coursing through poverty, racism and segregation in Southside Virginia during the Great Depression at about the time Hitler came to power. Those and other factors created extraordinary odds that a person such as me with a Jim Crow education might ever attain the height of his profession by being appointed the first minority to the nation's premier state high court, the New Jersey Supreme Court.

At about the age of seven, my mother said to me: "What I am about to tell you, Junie, you must not tell anyone. Your father cannot read or write. He signs his name with an 'X'. He was a sharecropper until about the time of your birth, earning diddly squat. I can read at about the first grade level, and I can sign my name." That secret turned out to be less embarrassing when I learned that as of 1890, about the time of my parents' birth, two-thirds of the negroes living in Virginia were illiterate.

Life is a challenge and sometimes a struggle. To make my way to the peak of the judiciary, I had to overcome many obstacles and learn how to handle some disagreeable people. Although there is some discomfort connected with portions of my life, I have learned to become comfortable with my discomfort. Had I not, I would be unable to paint the portrait of my life that is unveiled in the oral history project.

When I was in high school, I was torn between which form of human healing to pursue: whether to become a Baptist Minister; a medical doctor; or a lawyer-Judge, a Secular Minister for Justice. So brush-stroke by brush-stroke, like an artist, this oral history project paints a portrait of my journey to my ultimate destination, the New Jersey Supreme Court. Thank you.

Editor's Note: This ends the section that was added.]

**SI:** Okay, all right, well, thank you very much. That certainly sets a framework for our interview. I'd like to begin by talking about that, [the] early framing years of your life, that period. To begin, could you tell me where and when you were born, for the record?

**Justice Coleman:** I was born on May 4, 1933, in Brunswick County, [Virginia], in which the county seat is Lawrenceville, about five miles from Lawrenceville, during the time that Franklin Delano Roosevelt was President of the United States and it was about the same time that Hitler came to power. Our house was located on one of the two main roads that lead into Lawrenceville, Route 46--our house was on Route 46--and Route

58 is the other one that leads into Lawrenceville, running east and west and Route 46 running north and south.

**SI:** Now, one thing that struck me, in a lot of the articles that I've read about your background, [was] the fact that your grandmother was the midwife that helped deliver you. And she had actually been born into slavery. You know, tell me a little bit about the family background. And how long had your parents, your grandparents, been living there, at the time that they were freed? Or, what is the family background on that side?

**Justice Coleman:** Well, I was delivered by my paternal grandmother when she was ninety-four years of age. She had been born into slavery and had essentially been a contemporary of Dred Scott. So, she was impacted by all of the rulings, such as the *Dred Scott* case [*Dred Scott v. Sandford*, 60 U.S. 393, 19 How. 393, 15 L. Ed. 691 (1857)], because she was born into slavery. [Editor's Note: The *Dred Scott* decision denied African-Americans the status of U.S. citizens, even if they had been born in or escaped to free states.]

I have not been able to find any evidence to inform me as to when she became a midwife, but the house in which I was born, she and her husband, my grandfather, John Coleman, acquired that property a year before my father was born. And his birth certificate indicates that he was born in that house, also. I was not able to find out how she was trained to become a midwife, probably as a slave. My family and all of my siblings were also born in that house.

I was told by my grandmother that she delivered me on the kitchen table in the two-story house in which I was born. At that time, there was no electricity in much of rural America and that was because President Roosevelt did not establish the Rural Electrification Administration until about the time of my birth. [Editor's Note: The Rural Electrification Act was signed by President Franklin D. Roosevelt in 1936. However, the Rural Electrification Administration had been established by executive order the previous year.] And, in our area, it was late arriving and telephones were not available until in the early 1950s. So, the conditions were very different than we see today--different in the sense that the industrialization in America had not yet started to occur and America, at that time, was not industrialized [referring to the rural South], but it was in the process. And, if you were poor, as we were, you were much later getting electricity. We were able to get the electricity only after one of my three siblings, who **was** in the military, had sent home military allotments, and my father and mother saved the money to finally put electricity in the house.

Now, my grandmother also told me that, in order to heat the water to assist with the delivery of me and the other children, they used old, big, black pots. And that would be outside, and a fire would be made under the pots to bring the water to boiling temperature. The water that was used had been caught in barrels that had cascaded off of the A-frame house that we lived in, and they used that water for many purposes, including taking baths in old tin tubs. And the johns were outside--I called them "johns"

because that's the nickname that people used--was a toilet that was built over a hole in the ground.

**SI:** I would imagine your other grandparents had passed away some years before your birth.

**Justice Coleman:** Yes, I never knew them, but my mother would talk about them somewhat. She had a brother that I talked with a lot. He had served in World War I and was wounded with mustard gas and was collecting a pension. He lived at least sixty years or sixty-five years after the end of the war. He lived to be also about a hundred. The paternal grandmother who lived with us and who delivered me lived to be 104.

**SI:** Wow. So, you were about ten when she passed away. So, you got to know her quite well.

**Justice Coleman:** Yes. I have a scar on my arm that is left from a coffee burn, because she had become very nervous in her later years and the hands were shaking and the coffee burned my arm. It's my--I call it "my birthmark."

**SI:** Did she--I'm curious, [if] you know--did she ever talk about what her life had been like in slavery or was that something she wouldn't talk about with the children?

**Justice Coleman:** She didn't talk about it with me, because, at that time, despite the fact that she had delivered me when she was ninety-four, her mental condition, as I recall, was declining and she was shaking a lot, even when she burned me with the coffee. And the other part of it was, this was at a time when it was very difficult to get personal information out of adults. The basic principle was, they did not think that their personal lives was any business of their children or grandchildren. And, ironically, yes--and because I haven't lived in Virginia for such a long time--I haven't been back to dig into any census records to try to find out more information that may be available. I have applied for DNA testing, and I've not been satisfied with that. [laughter]

**SI:** So, tell me a little bit about your parents, what they did for a living and maybe how they met, if you happen to know that story.

**Justice Coleman:** I don't know how they met, but I do know that, again, it was the almost natural tendency for a husband and wife to have grown up pretty much in the same community, because transportation was rather limited and the ability to socialize outside of the church gathering, also, were pretty limited. Neither of my parents had gone very far in school. Both of them had a limited education.

Both of them knew how to count money. And my father was pretty industrious, though, with a limited education, because he had been a sharecropper up until about the time of my birth and soon after my birth and, certainly, by the time I was age five or six, when I would help to clean the bushes, and so forth, from the land that he was occupying, that my grandfather had owned and had made a will passing it on to the children. But, my

father was occupying virtually all of that land, and we cleaned it and made it tillable to become farmland. And, again, because of the lack of industrialization and the lack of funds to even buy a tractor, if we had thought about buying one, we had a mule that we used for the farming.

And we would grow cash crops, as they were called--tobacco, cotton--some wheat and some corn and a lot of gardening, with a number of fruit trees around. We had a peach orchard, an apple orchard, a number of pear trees, plum trees and grapevines. So, the dietary habits were good, because you had gardens. And the cash crops that were raised on the land were the tobacco and cotton. And, at time for harvesting them, we would hire extra help in order to do that, because, as my siblings grew older, they all migrated away.

The four older brothers went into the military and did not return. One sister left Virginia when she was probably eighteen or nineteen and did not return. So, I was pretty much there alone with siblings, except for my younger brother, yes.

**SI:** So, you mentioned four older brothers, one older sister, one younger brother. Were there any more siblings?

**Justice Coleman:** Yes. My mother--I was the ninth child that my mother delivered. Two of them were stillborn; I was told that one died at about age nineteen, at a time when medicine, medical practices, were not on the cutting edge. My mother told me that the sister who died had a beautiful voice, but she died from a coat hanger--well, the effects of a "coat-hanger abortion." And I was number nine that my mother had.

**SI:** So, tell me a little bit about this area you grew up in. You kind of described the farm. But, you know, in reading some accounts from the time you were confirmed, a lot of the papers up here talked about how it was a divided city, that--I think it was Route 46--that divided the African-American and white communities. Was it--how was it actually when you were growing up in the '30s and '40s?

**Justice Coleman:** Well, *Plessy v. Ferguson* [163 U.S. 537, 16 S. Ct. 1138, 41 L. Ed. 256 (1896)] was the law of the land, certainly in Virginia--and I'll talk later, if you ask me, about how it impacted life in New Jersey. But, everything was separate, but nothing was ever equal. [Editor's Note: The *Plessy v. Ferguson* decision reaffirmed the system of "separate but equal" racial discrimination in public accommodations in the United States.]

As an example, in the public school system, my first grade classroom was on the first floor of a building owned by an organization called the Odd Fellows [Independent Order of Odd Fellows fraternal order]. And my first grade teacher--I had what they called "low primer," "high primer" and first grade in that building, rather than calling it kindergarten--my first grade teacher and the teacher who taught me for low primer and high primer came to New Jersey and delivered the keynote address at my [New Jersey Supreme

Court] swearing-in ceremony in 1994. She was ninety-four, I think, at the time, too. She taught me the three "Rs."

Again, the public school system did not provide any supplies to the children, the African-American children. You had to buy your own. You had to walk to school. It did not depend on a certain distance. When I was in elementary school, you had to walk because the county would not pay for the transportation.

One good thing for us in this separate-and-unequal society was that there was an African-American college in the town, an Episcopal-operated Saint Paul Polytechnic Institute, at the time it was called. Many of the teachers were educated--the African-American teachers were educated--there and I always looked at the college as representing the kind of lifestyle that I would like to emulate. The president of the college, for example, would drive past, or someone'd drive him, in a nice, shiny automobile, past our house that was about fifty or sixty-five feet from the main road, 46, and I was so impressed with that. And I got to meet some of the professors at the college and was very impressed by them. [Editor's Note: Saint Paul's College was a historically black college that operated from 1888 to 2013.]

But, life was always "separate and unequal." I remember going to one of the restaurants, a white restaurant, and, if you wanted to make a purchase, you had to go to a back window. I made the purchase, and then, asked for a glass of water. This was at a time when plastic cups were not in circulation, as far as I was concerned or knew. And she gave me the glass of water. And then, after I consumed the water, she actually crashed the glass in my presence, to send the message to me that, "I think that you are either so inferior or so infected that this glass cannot be put in circulation for white customers anymore."

But, I learned pretty early in life that racial superiority is as much of an imprisonment as racial inferiority--and I'm talking about mindsets. If I had allowed myself to be guided by the concept of racial inferiority that was all around me, I never would have been able to reach up the ladder of success--[stage whisper] ask me more about that background.

**SI:** Sure, sure. Well, in some of the material I've read, you kind of give a lot of credit to the church and your faith to helping you turn the anger into the more hopeful message of trying to succeed, and so on. Can you kind of elaborate on your faith and how it actually unfolded in your life early in Lawrenceville, the Lawrenceville area?

**Justice Coleman:** Well, particularly in the South, the church is the key social and religious institution and I say that because, in the rural South, virtually everything revolves around the church. I became superintendent of the Sunday school at about age fifteen. And, after each Sunday's lesson, I would be asked, or volunteer, to report to the full assembly about our lesson. And, in doing so, I was able to increase my ability to develop better public speaking, beginning at an early age.

And something else that I took away from that religious experience was that there were many sections in Sunday school taken from the Bible that I used in my life to help form a good philosophy of life, as well as a foundation for how to treat people. And, from the Old Testament, Micaiah 6:8 states, "What does the Lord seek of thee, but to do justly, act humbly and do great things?" I'm paraphrasing. I used that so much in my endeavors to try to deliver equal justice to everyone who ever came before me in the court system.

And I met a couple of nice girls at the church, too, who may have had an interest in more than Sunday school lessons, but I was not interested in starting a family before I had completed my education. And the reason for that was, no matter how difficult it was to get a good education, I was determined to get an education, because I saw an education as a key to the future. Without an education, when I was growing up, there was little likelihood you would go anywhere.

**SI:** Can you kind of describe a typical day for us, when you were growing up, say around the age of eleven, twelve, thirteen? It sounds like you had a lot of work to do around the household as well as, you know, pursuing your studies.

**Justice Coleman:** Well, we can start even earlier than thirteen, starting at about age five or six. My day would consist of getting up around four-thirty, five o'clock, feeding all of the farm animals, including my mule, whose name was Judy. And, after feeding all the animals, I would go back and have some breakfast, very early, because my mother would have prepared some breakfast. And then, before going to school, I would hitch my mule to a plow and do plowing in the morning. And, after I was about ten or so, I was able to make myself a book holder that I would attach to the plow and put a book, some school lessons, paper, on it and study it while I'm plowing with my mule.

After school--I would come home and do the same thing and work in the fields until dark, at least, and then, do homework. As I indicated earlier, we did not have electricity. So, we had lamps, oil lamps, and I had to do the homework by the oil lamps. And, when my sister left, I had no one that I could turn to at home to help with any homework. It was a long, laborious day in so many respects, but I never had an attitude that I was an individual who should not do this. And the reason I think I did not have what I call a negative attitude was because, even at an early age, I had my eyes set on a greater prize.

[RECORDING PAUSED]

**SI:** So, we've been talking a little bit about your early years growing up in rural Virginia. You know, it sounds like, while the facilities were very unequal, as you said, that the teachers, though, seemed to be trying very, very hard and, you know, providing a good experience for students. Can you reflect a little bit on some of the teachers, maybe any ones that pushed you along your path?



**Justice Coleman:** Yes. I had some very good teachers, very dedicated, and some had a very high interest in trying to help me to become successful in life. One that comes to mind is one of my English teachers, Mrs. (Gilbert?). She thought I could do anything. Just as an illustration of how much she thought I could do, she was the teacher who presided over preparation and presentation of our junior class production and the junior class production was Giuseppe Verdi's opera, *Il trovatore*. And she had me sing the lead role and another young woman that had lived part of her life in Manhattan, New York City, sang the female role, (Mary White, Mary Walker?).

Another one of my great teachers was the one who headed the agriculture department, Mr. N. S. (Burwell?). Mr. (Burwell?) was head of the agriculture department and he helped my interest by insuring that I was involved in many of the Future Farmers of America organization [events]. He was the one who probably thought that I would become an agricultural teacher or a county agent, as one of my other friends had become. He was not disappointed when he helped me to get a job in college. He was the one who had a tremendous contact with Dr. [John L.] Lockett, who headed the Agriculture Department at Virginia State University. And all of us needed jobs, because none of us had money for college, and Mr. (Burwell?) would refer us. He did something else, too--he had me involved in the Future Farmers of America debates. And, in those debates, on a regional basis, I would learn to improve my debating skills, my critical analysis. I found those to be extremely helpful.

Another teacher in that same department did similar things. The county agent was extremely helpful. He had me involved in 4-H Club activities, including growing Victory gardens [a wartime effort to have civilians raise produce to alleviate strains on the food supply]. So, we did all those things and, to me, they were tremendous learning experiences and opportunities to meet people who were from different areas of the country, who were striving to do similar good things.

I mentioned Mrs. (Gilbert?). She spearheaded a campaign, during my sophomore or junior year, to raise funds to send me off to Wellesley University in Massachusetts to participate in the National Student Council election process or conference, in which they were electing a new president. And she was able to encourage people in the community to sell fried chicken, sweet potato pies, blueberry muffins and things of that sort, to raise money to pay for my one-week stay and transportation. I spent the week there with a family, and one of the regrets I've had, for many years, was not to have kept in contact with that family. I'm sure they have been deceased for a number of years.

When I was nominated for the Supreme Court in 1994, one or more reporters from New Jersey went to my home county in Lawrenceville, Virginia, in Brunswick County, and talked to many of my teachers. Just like to add one other little fact before I discuss what the teachers had to say--when I finished elementary school, there was no public high school for African-Americans. We had makeshift arrangements on the black college campus for my first two years of high school. And then, beginning of my third year of high school, the James Solomon Russell High School had been completed for African-

Americans. After *Brown v. Board of Education*[,347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873 (1954) (*Brown I*)] was decided, eventually, that new high school built for African-Americans became a middle school for African-Americans and white students. [Editor's Note: In *Brown v. the Board of Education of Topeka*, the U.S. Supreme Court overturned the "separate but equal" precedent established by *Plessy v. Ferguson* and ruled that state-sponsored segregated schools were unconstitutional.]

But, many of the white students did not attend the public schools anymore, because the white people established a Brunswick Academy, in order to avoid sending their kids to an integrated school. And, as one of the persons interviewed in one of those articles, when the *Asbury Park [Press]* person visited Lawrenceville, indicated that many of the persons who were sending their children to the Academy were on the verge of bankruptcy. But, they were placing their racial superiority attitude over their financial well-being.

Now, here are some of the things that some of the teachers told the reporter about me--and I would not have said them, but they are true. One of the teachers said to the reporter--and this was my gym teacher and football coach--that I was a person, from the early days that he had me as a student, that he could leave in charge. And they all spoke about the way I would dress to go to high school.

I liked to wear a bowtie because I didn't need to buy, or couldn't afford to buy, a lot of ties, and I would wear a shirt with--you know, a white shirt, generally--with the bowtie. And I would wear the shirt probably a couple of days, and then, wash it, hand-wash it in a little scrub tub, and then, iron it with cast irons that had been heated on top of the cooking stove. For me, even at an early age, I wanted to look like you want to be professional-bound. Some of the other teachers spoke of my performance in the classroom and how they admired it.

## INTERVIEW WITH JUSTICE JAMES H. COLEMAN, JR.

JUNE 15, 2017  
PART 2 OF 9

### Pursuing a Better Life: Early Influences & the Quest for a College Education

*Justice Coleman reflects on the origins of his academic drive and his desire to pursue a career in the law. He details his travels in the South and North as a youth and relates how racism and the ideals of the Second World War shaped his thoughts. He describes how he decided to attend Virginia State University (1952-1956) and his efforts to work his way through college. While at VSU, he notes his reactions to the promise of the growing Civil Rights Movement.*

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**Illingworth:** I wanted to ask a little bit more about where your motivation came from to succeed. I mean, as noted in some of the material, it was unusual for African-American students to go beyond the seventh grade, you know, and you were very driven to shape all parts of your life to succeed in the academic realm. What? Was there a mentor? Was it coming from your family? What was driving you in that arena?

**Justice Coleman:** I've asked myself that question a number of times, and I have not come up with a definitive answer, except to conclude that it probably was a combination of negative and positive factors. A negative factor would be, one, is that my mother had been suffering with diabetes for a very long time. And I wanted to try to do any and everything I could to not only help her feel and get better--I didn't know, at the time, that there was no cure for diabetes--but I wanted to do what I could to try to help her. So, I knew I needed to get a good education. And, having no money to go to college or professional school, I needed to try to qualify for a scholarship. So, that was part of it.

And so, in that context, one of the goals that I had in mind, early in life, was [to] try to become a medical doctor. But, in high school, I discovered that I was allergic to many chemicals in the chemistry course that I was taking. And I knew that, at that time, in medical school, you were working on live--I'm sorry, real--cadavers, not plaster. *Grey's Anatomy* was the book that was used and you were working on dissecting a real corpse, with a lot of chemicals, of course, to preserve them. So, it didn't take me long to realize that I would not be able to pursue that.

The original desire that I had, because I had been so involved in the church, was to become a Baptist minister. But, as I've said from time to time, there was an old saying that virtually all of the Baptists ministers will use and that is, "The Lord had called him or

her to become a preacher." And, when I did not get that call, probably for reasons other than not having a telephone, I decided that I had to do something else.

And then, I came to understand that there is a strong similarity between the healing process that goes on between a religious leader, a medical doctor and a lawyer, judge, who wants to try to do justice to everyone. And, when I realized that, my focus then shifted to want to become a lawyer and a judge, that I eventually categorized as being "a secular minister for justice."

Now, those were big ideas in a young, poor boy growing up in an inferior educational system, but that did not stop me for one second. I wanted to be able to do things that would help to make America better than the America in which I had grown up. I had always believed that there was meaning to what is inscribed on the Statue of Liberty, you know, extending a hand to the poor, to the weak, to the foreign person, to come to America and become part of the American Dream.

I wanted part of that dream, but in a different way--not to make money, but to try to be of service to mankind--and that was the motivation that kept me moving forward. And, along the road, I had a lot of teachers who detected those qualities in me and would do any and everything they could to help push me along--never giving me money, of course, to help pay the bill, but wanting to tutor [me], if I needed to be tutored, without charge and things of that sort.

**SI:** Before we get too much further in your education, I wanted to just ask about the impact of World War II. It seems to have impacted your family; you had older brothers go off to the service. You talked about Victory gardens. Any other memories of how the war impacted your family? And I'm curious, particularly, did your brothers come back with changed attitudes towards life as a result of their service?

**Justice Coleman:** Yes. They often--well, the brothers who had gone to war did not have the drive for greater education as I had, but, in their own humble way, they came back talking about all of the wonderful things that they had experienced in the foreign countries and were trying to think of ways to try to help fix America, that we shipped the young men off to a foreign land in the name of fighting for freedom, and, yet, to return home and find that you don't have much freedom, because of the concept of Jim Crowism, which means all of those laws that were passed somewhere near the end of the era of Reconstruction, end of Reconstruction, that created even more segregation--segregation as a matter of law, in contrast to segregation based on custom and conditions, known morally as "*de jure*" segregation.

So, they were disappointed, that they had fought on foreign soil only to come back home and not be able to find a job. You have to remember now, when they came back at the end of World War II, *Brown v. Board of Education* was at least ten years before it would be decided. And it took *Brown* probably another fifteen years before you would see any real implementation in the South, because of the fights that had gone on. So, they were distressed.

And, consequently, one of them went, migrated, to New Jersey. That was a brother with whom I lived when I finished high school. One went to Baltimore, but Baltimore was not that different from Virginia at the time. And one stayed in Virginia and he used his skills that he had learned in the Army to become a carpenter and a plumber.

**SI:** So, you told the story earlier about going to the restaurant, first, having to go to the back window, not being able to be served with white customers, and then, the waitress or counterperson smashing the glass. Do any other memories come to mind--I'm sure there's many--of that kind of blatant racism and, you know, where it was very clear that African-Americans were not welcome or equal in the town?

**Justice Coleman:** Well, oh, yes, it was going on all the time. One illustration is, my family owned the land on which we were living and in walking distance of our house was a family that was a sharecropper, a white fellow [and his] family. And I used to play with the son and he would never call me by my name. Everybody knew my nickname was Junie, for Junior. And, rather than to call me by my nickname, he would always call me by the N-word--and I don't mean Negro. And I felt offended at first, but, then, again, going back to my religious belief, I wanted to be more forgiving. I say forgiving in a more spiritual, religious sense.

But, in the final analysis, I think that I was learning to be obedient enough to stay out of trouble, because I had long-term goals. And, if I were to engage in fistfights or anything that may lead to fistfights as a result of having been called the N-word or mistreated in other respects, I knew that would dim my chances of succeeding in some of the things I wanted to do. So, as I've said in some speeches, I learned how to live under the conditions that existed and learned how not to fight, because I could not win that battle at that time. And I wanted to have a chance to prepare to be able to win battles.

**SI:** Now, you said you went up to Wellesley College, up in Massachusetts, when you were a junior in high school. Before that, had you ever traveled, really, outside of Brunswick County?

**Justice Coleman:** I had traveled outside of Brunswick, but not very far outside of Brunswick. I think I had gone to Petersburg and/or Richmond. And I had gone into North Carolina, because, when it was time to sell the tobacco that we had grown, my father would use anecdotal information to determine which may be the best place. They had a warehouse in Lawrenceville, but he thought that, in North Carolina, he may be able to get a better price for his tobacco. And so, I would travel with him, from time to time, into North Carolina.

And, in that same context, talking about racism, I used to try to persuade him not to stand near his tobacco, because the auctioneer would get the inference that it's his and may lowball them on the price. But, he was too proud to leave it and I couldn't convince him and I have no doubt that that was happening to him, yes. But, that's about the extent of the travel. I had no money.

Oh, there was another time, now that I think about it. My sister was dating a fellow and they wanted to go to Baltimore for some concert, I think it was. And my father wouldn't allow my sister to go without me escorting her. So, I got to go to Baltimore and there was a jazz concert that I attended in Baltimore. And I remember, until this day, that Vi Burnside was the saxophonist in that jazz concert. [laughter] And it was enjoyable. So, that was the extent of my travel.

And so many times, when I wanted to go into the Town of Lawrenceville, I would hitchhike and, at that time, I was unaware that I may have been violating the law, as I later discovered. As I have said in a couple of speeches, hitchhikers were arrested and put in jail and deprived, and disenfranchised, even. And, more recently, the Governor of Virginia re-enfranchised some of those people by executive order. And then, the Supreme Court of Virginia, in last July, issued an opinion saying that the Governor did not have the authority to restore those persons' civil rights. But, that indicates how some of the system of [the] "separate but equal" concept still prevails in some part of our wonderful America.

[Editor's Note: The Virginia Constitution permanently disenfranchises citizens convicted of a felony, unless their voting rights are restored by the Governor. Since 2013, Governors of Virginia Robert McDonnell and Terry McAuliffe have implemented reforms to this system in an attempt to restore the rights of these Virginians. In the Spring of 2016, Governor McAuliffe issued a series of executive orders that restored voting rights to over two hundred thousand people with felony convictions. In July 2016, the Virginia Supreme Court's *Howell v. McAuliffe*[, 788 S.E.2d 706 (Va. 2016), cert. denied, \_\_\_ U.S. \_\_\_, 137 S. Ct. 657, 196 L. Ed. 2d 548 (2017)] decision reversed the effects of those executive orders.]

**SI:** You noted in some of your writings that, you know, any action, any sort of routine action, could be grounds for potentially getting arrested, like loitering, being unemployed. Were there ever any times in your young life where you felt like you were being threatened or harassed by local law enforcement, local authorities or, you know, maybe your friends or members of your family?

**Justice Coleman:** Friends and members of the family were, but I never was, again. And I think, in part, because I learned early my place in the society in Virginia and that it would be in my best interest [to] just try to stay in my place. Now, I changed, of course, later on, and we can talk about that, the change that came. But, some friends were and I knew a couple of people, relatives, who were arrested, allegedly because they were drunk and disorderly, when I have no idea whether there was a factual predicate for it. But, I have a feeling that that was a problem that was created only because of their racial identity, rather than because the facts warranted it. But, I'd never see it, yes.

Now, when I would go to the Dew Drop Inn--typical Southern name--Dance Hall, I would improve my ability on the track team by running from gunfire that was fired in the floor, in the ceiling, of the dance hall and run and hide behind cars, and so forth. But, none of

those people were arrested. There were African-Americans, according to my father, who were involved in Southern moonshine whiskey, which is illegally produced whiskey. And they were arrested from time to time, but he would tell me that, many of those times, the arresting officer would be bribed and the charge would be dismissed by giving the officer a couple gallons of moonshine whiskey.

**SI:** You brought up the Dew Drop Inn and the dancing. When you say people were shooting, were they just--was it, like, a criminal activity? Were they just shooting off as for fun?

**Justice Coleman:** Well, I think that, most of the time, it may have been because somebody had asked the shooter's girlfriend or date to dance with him.

**SI:** Oh.

**Justice Coleman:** And he didn't like that. So, in order to try to scare the fellow away, he would shoot in the floor or shoot in the air--but I wasn't going to stick around to find out which. [laughter]

**SI:** Smart. Well, tell me a little bit about your decision to go on to college, specifically at Virginia State University. You know, why did you choose that [school]? Was it--did you have other options? Did you ever consider going out of state?

**Justice Coleman:** Oh, I did. One of the considerations was to go to Morehouse College, which is a famous black college in Atlanta. But, I quickly rid myself of that idea when I said, number one, I have a good college fifty miles away from home and I have a scholarship. My recollection is, the scholarship was less than five hundred dollars a year, but the overall costs, including room, board, tuition and laundry, was less than five hundred dollars a semester or a year--I've forgotten the numbers now, but very low.

But, that low number has to be viewed in the context of the average wage. Many of the people working in the public sector were earning less than a dollar an hour. An uncle was working in the pulpwood mill, earning, I think, about seventy-five cents an hour. I would plow the garden of people and make about twenty-five cents an hour. So, the cost of that college education in relation to the average wage may be regarded as high. And I had the scholarship and Mr. (Burwell?) had arranged for me to get a job on campus.

So, it was pretty much a work-study program, viewed in that context. So, I worked in college for thirty-five, about thirty-five to forty, hours a week, earning fifty cents an hour. And that, plus some earnings, along with the scholarship, paid for all of my educational expenses. I did not apply for undergraduate [at] any other, because, at that time, you had to spend money, to send money with the application, and I was going to save my few dollars, because I was very thrifty.

[RECORDING PAUSED]

**SI:** We were talking about coming to Virginia State University [a historically black public university].

**Justice Coleman:** Yes. It was a wonderful university and I had been there on a number of occasion, attending regional conferences in which I met a lot of other people and was introduced to some of the faculty. I liked everything about it. It was a much larger campus than Saint Paul's, where I had gone to high school. And so--and I didn't have any money, so, there was no need in applying elsewhere. And I did not know what the process would be for trying to get scholarship money as a nonresident or from being from a different area. In order to have gone to one of the other colleges, I would've been forced to come to North, well, probably New Jersey and New York, or go to California and maybe in Chicago.

**SI:** Well, what were your first few days and weeks on campus like for you? I mean, this had been a goal of yours for quite some time. What was it like to actually be getting into college life?

**Justice Coleman:** It wasn't that difficult, because my freshman year, I had two or three roommates and one of those roommates had been a high school classmate and we were very close, still are close. So, there was comfort in that. I adjusted fairly well, because I came with the knowledge that I had to work in order to earn the extra money--not extra, but the additional money--that I needed to stay in college. So, I did not have the typical college life experience, in that--let me back up for a second.

They had a dining hall and the food was served family-style. The students would tend to gather outside of the dining hall, both before and after the meal, to do a lot of chatting and the academic buildings were all around the dining hall. I was deprived of that because I had a job at the infirmary, which was on the other end of the campus, in walking distance from my dormitory, though. So, I didn't get to socialize much during those times.

I would--and I had to work seven days a week--I had a girlfriend and we made arrangements that I would meet her in her dorm. And, when I say "in her dorm," I mean in the lobby, because, at that time, boys could not go to the girls' rooms and the girls couldn't go to the boys' room. And, if anybody ever tried to do it, you were expelled from school. That's how serious they were with those practices.

But, I started out singing in the a cappella choir my freshman year on campus. I saw it was too time-consuming. And I had played football in high school my senior year and, by the way, had gotten a scholarship from being the high school class salutatorian. And I don't recall whether that scholarship was limited to going to Virginia State or not, but it didn't matter, because that's where I had planned to go. And so, I went out for the football team my freshman year. When I looked to my left and looked to my right and said, "I have an academic scholarship. These guys are going to knock my brains out." So, I gave up trying to play football.



My fraternity life started when I pledged the end of the freshman year and was admitted the second year. So, my socializing life on college campus was somewhat limited, but I had no complaints, because I was very serious about my mission in life and I intended to spend the bulk of my time preparing myself for the future.

**SI:** Now, you were at Virginia State University from 1952 to 1956.

**Justice Coleman:** Yes.

**SI:** Okay. Which, you know, it was just at the time that the Civil Rights Movement was picking up steam--I think the bus boycott in Montgomery was in your junior year or so?

**Justice Coleman:** Yes. [Editor's Note: On December 1, 1955, Rosa Parks was arrested in Montgomery, Alabama, for refusing to vacate her seat in the whites-only section of a bus. Local African-American leaders formed the Montgomery Improvement Association soon after to protest her arrest and chose Reverend Dr. Martin Luther King, Jr., then the pastor of the Dexter Avenue Baptist Church, as their leader. They led a boycott of the bus system from December 5, 1955, to December 20, 1956, when the US Supreme Court's decision in *Browder v. Gayle* [142 F. Supp. 707 (M.D. Ala.), *aff'd*, 352 U.S. 903, 77 S. Ct. 323, 1 L. Ed. 2d 245 (1956)], which struck down the segregationist laws involved as unconstitutional, took effect.]

**SI:** Were these events discussed on campus much?

**Justice Coleman:** Oh, yes, oh, yes, very much so. As a matter of fact, so much so that we had a protest movement on campus--protesting the quality of the food in the dining hall. And the President of the University made it clear that if the protest didn't end in a very short period of time, all of the persons who could be identified as protesting would be expelled. That's the kind of authority, authoritarian rule, that existed at that time.

And we were involved in N.A.A.C.P. activities, trying to help raise money and helping--more in law school than in college--help prepare the cases and trying to do things of that sort and be vigilant in the community and trying to help the local chapter of N.A.A.C.P.--that's the National Association for the Advancement of Colored People--raise money, small amounts though it may be. So, we went to several churches in the area. And it turned out one of the big churches at that time was headed by a high school classmate of mine and he was instrumental in helping to raise funds for our campus chapter, yes.

**SI:** So, tell me about any professors that stand out in your memory, or classes, anyone who maybe served as a mentor or that sort of role in your life.

**Justice Coleman:** Well, we're in college, so, let me back up for a second.

**SI:** Sure.

**Justice Coleman:** I talked about the segregated or Jim Crow education that I had received--and I'm in a rural area--when I'm in high school and elementary school. And, when I get to college, I'm competing with students who've gone to the so-called "cream of the crop" of Jim Crow education. And the "cream of the crop" existed in places like Richmond, Virginia, Maggie Walker High School there, Dunbar High School in Washington, D.C., a couple of high schools on the Eastern Shore, in the Norfolk-Tidewater area of Virginia, who had some teachers with advanced degrees, I mean doctorate degrees. And some of them had the doctorate degrees because they were fortunate enough to have matriculated at some of the predominantly white universities in the North--and couldn't find jobs anywhere. So, they came back to the segregated school system, and that was happening in college, too.

So, when I went to college, during freshman orientation week, I'm surprised, because, for the first time, I discover that you have to take standardized testing to determine which courses you can take in English and math. And I not only had not heard about standardized testing, but I'd never taken one. So, I experienced, essentially, "deer in my headlights," because I didn't do well on those tests and ended up being placed into a not-for-credit English course.

During the first week in that course, that English professor made an assignment to us, "The assignment for the next class is to bring in the definition of a scholar." I went to the library--and I don't remember now how I went beyond reading all of the dictionary definitions of a scholar--but I found something that impressed me and it has been with me all of my professional life. I told that same story when I delivered the commencement speech in 1995 at my college *alma mater*. I was not impressed with any of the dictionary definitions. So, I found something that Ralph Waldo Emerson had written, called "An Oration" that he had given in 1837 at the Phi Beta Kappa Society at Harvard.

Here's what he said, and I'll read it to be exact. He said, "The scholar is that man," and I add, nowadays, "or woman," "who must take upon [up into] himself (or herself) all the ability of the time, all the contributions of the past, all the hopes for [of] the future. He must be a university of knowledges. If there be one lesson more than another which should pierce his ear, it is, The world is nothing, the man is all; in yourself is the law of all nature, and you know not yet how a globule of sap ascends; in yourself slumbers the whole of Reason; it is for you to know all, it is for you to do [dare] all. Mr. President and Gentlemen, the confidence in the unsearched might of man belongs, by all motives, by all prophecy, [by] all preparation, to the American Scholar." That description stuck with me all these years. And that was the standard that I immediately started to strive for.

**INTERVIEW WITH JUSTICE JAMES H. COLEMAN, JR.**  
**JUNE 15, 2017**  
**PART 3 OF 9**

[Editor's Note: The following section was edited by Justice Coleman after the interview took place. An editor's note prefaces each section in which Justice Coleman made major additions or deletions. As a result, the text differs from the video.]

**Breaking Jim Crow's Grip: Studying the Law at Howard Law School**

*Justice Coleman recalls his impressions of significant professors at Virginia State. He then relates his initial experiences in New Jersey, working during summers in Newark and Atlantic City. He compares the de jure segregation of the South with the de facto segregation he faced in New Jersey and discusses the impact of the fluidity of racial identity within the African-American community. Inspired to attend the alma mater of his hero, Thurgood Marshall, Justice Coleman describes Howard Law School as a training ground for Civil Rights action, relating his thoughts on Brown v. Board of Education as a law student and the story of his classmate, Bruce Boynton, plaintiff in the 1960 Boynton v. Virginia U.S. Supreme Court travel accommodations desegregation case.*

**Illingworth:** I had asked earlier about any professors that stood out in your memory, classroom experiences, anybody who maybe served as a mentor for you.

**Justice Coleman:** Yes. After I read my researched definition of a scholar, the class applauded as if I had won a gold medal at the Olympics. My professor was highly impressed and asked if I would wait after class that day. The professor told me that she would transfer me to her regular English class, and I began immediately. We had a wonderful professor and it was a wonderful educational experience for me. And I got an "A" in the course.

Another one of my great professors was one of my history professors with a Ph.D. I liked the way that he would analyze ancient historical facts. And he was part of what encouraged me to continue to major in history and political science and English as a minor. I thought those majors would be very helpful in law school. It turned out to be a correct assumption.

My philosophy professor was another wonderful person, also a Ph.D., but had a deep African accent. He would dictate his exams; if you asked him to repeat something, he wouldn't do it. I would write the question down, and then, write out my answer. Why he would dictate, I don't know. It may have been to reduce the possibility of anyone stealing the exam the night or week before--not that I would ever do anything like that, but some people may have. He was a wonderful professor.

Philosophy and religion were combined with logic. I found those two courses really helped to shape my critical analysis ability and helped tremendously in improving my

writing skills, because, once I brought all of that together, I could see that certain sentences needed to be reconstructed when writing briefs and opinions.

In addition to those three, the head of the English Department, Dr. (Boone?), was also one of my favorite professors. When I gave the commencement speech in 1995, he was still on faculty and we had a long discussion. He was the only one of my professors that I saw and who may still have been alive at that time. We had a long discussion. He has since passed away, too. But those three or four were outstanding professors and had tremendous impact. My economic professor was, also. I didn't get an "A" in economics, primarily because one of my classmates got all "A-pluses" in the class and set the curve too high. [laughter]

**SI:** Now, while you were in college, was that when you were going up to Atlantic City to work in the summers?

**Justice Coleman:** Yes. Right after high school, I went to Newark and found my first job. Based on the history in New Jersey at the time, if you were African-American and not looking for a job, the only available job was a factory job that was described as dirty, dangerous and dusty, or a domestic job. I had one in a plastic factory, paying a dollar an hour, that was dirty and dangerous, because the hot ovens, and dusty, because of the dust that was circulating, trying to keep the place cool.

After I had worked there for a few weeks, I was offered a ten cents an hour raise. Mind you, I received that job--that was located behind the Ballantine Brewery in Newark--at a time that the Ballantine workers were on strike. They were striking, seeking an eight-dollar an hour increase in wage. I think they settled for four or five dollars additional wages an hour. That was the environment at the time.

So, after working there for one summer, I took the train from Newark back to Virginia. This was in 1952. I had to take what I call a "Jim Crow seat" once I got to Washington, meaning that I could sit anywhere in the train when I left Newark, but, because I was going South of Washington, I had to switch to the train marked for colored. The dining section of the train had a curtain that separated the section that African-Americans could use and those the whites could use.

In the Summer of '53, I went to Atlantic City to seek a job. I got a job in Atlantic City that summer, working in a hotel as a room service waiter by day and driving a motorized blue chair on the boardwalk at night, taking people sightseeing or transporting them to get from Point "A" to Point "B." The boardwalk in Atlantic City's pretty long.

One of those summers, I had in my chair Sammy Davis, Jr., Dean Martin and Frank Sinatra. And the tab came to three dollars. Sammy Davis, Jr., gave me a fifty-dollar bill. And I'm fumbling around, trying to get change for it, and he said, "Kid, keep the change." And I said, "Mr. Davis, you gave me a fifty." "Keep the change, kid." [laughter]

**SI:** Wow.

**Justice Coleman:** And that was the biggest tip I'd ever received and I'll always remember that. And so, I did that in Atlantic City, working by day in a hotel and, by night, driving the blue chair. And some of the time in-between--I'm not quite sure how I did it--I worked in a parking lot, parking cars. That may have been after I stopped working on the boardwalk, because I stopped working on the boardwalk about ten-thirty, eleven o'clock at night.

Those jobs supplemented my scholarship. The other good thing about it was the work was not hard, in a sense, but that wasn't important to me--I'd worked harder on the farm. I had learned to be willing to work hard in life in general in order to succeed in life. Additionally, I met so many people in Atlantic City during the summers who were attending some of America's top universities and colleges. I had a continuing relationship with some for years after we had worked in Atlantic City together. I not only earned some money for college expenses, I also met some life-long friends.

**SI:** So, most of the people working these types of jobs were also African-American.

**Justice Coleman:** Yes.

**SI:** Okay.

**Justice Coleman:** Well, I would say most of them. When I worked in one of the restaurants on the boardwalk as a busboy, most of those summer employees were white, male and female. But, many of the black females were doing domestic work, cleaning hotel rooms. And Judge Johnson's book described this--Judge Johnson is a judge in Atlantic County, has written several books. And he describes that and talks about the Northside, too, which I had experience with while working in Atlantic City. I liked Atlantic City. Yes, it was a very different place. [Editor's Note: Judge Nelson Johnson wrote the 2002 book *Boardwalk Empire: The Birth, High Times, and Corruption of Atlantic City.*]

**SI:** Were you living on your own or did you have family there?

**Justice Coleman:** I had no family there. Typically, in Atlantic City, the college students would come and the year-round residents looked forward to renting a room to the college students, because we could not afford to live in the hotel. So, I had a room at the same place for all of the summers I worked in Atlantic City. It turned out that Judge Williams, who became a Court Administrator during the early days of Chief Justice [Deborah] Poritz had grown up in Atlantic City and he knew the house where I stayed and the owner of the house very well. We chatted about it. (Melvina Hale?) was her name. [Editor's Note: The Honorable Richard J. Williams served as Acting Administrative Director of the Courts from 1999 to 2004.]

We would have two or three people in a room, but that's okay. College kids didn't care about that. We wanted a cheap room, so [that] we could save our money and go back to college. And we got to stand outside of the famous nightclubs and listen to all of the wonderful music, primarily jazz, and entertainment and seeing the big entertainers drive up in their big, sporty cars, limos or whatever, coming out of New York and Philadelphia. Club Harlem and 500 Club were the big-time clubs at that time. Atlantic City was in its heyday before casinos came. Shortly after the 1956 Democratic National Convention--I think that was the year of it--things started to change.

**SI:** Was it '64?

**Justice Coleman:** '54?

**SI:** '64?

**Justice Coleman:** No, '50, it was in the--was it '64, with the Mississippi Delegation?

**SI:** With Fannie Lou Hamer?

**Justice Coleman:** Yes, yes.

**SI:** I think that was '64. [Editor's Note: In April 1964, the Mississippi Freedom Democratic Party was established as a progressive alternative to the state's all-white Democratic Party. In August, the MFDP attempted to have its delegates to the 1964 Democratic National Convention in Atlantic City, New Jersey, seated as the legitimate delegates. After protests and a series of televised testimonies by Fannie Lou Hamer and others before the Convention Credentials Committee, support started to swing to the MFDP, but the Democratic national leadership feared alienating Southern whites in the upcoming Presidential election.]

**Justice Coleman:** '64, okay, yes. That's when Atlantic City was on its way down and before the casinos came, because the Casino Constitutional Amendment came, I think, in '78 or thereabouts, yes. [Editor's Note: New Jersey residents voted to legalize gambling in 1976. In 1978, the casino Resorts Atlantic City opened.]

**SI:** And you said you had some exposure to the Northside. Would you go in there for recreation or visiting folks?

**Justice Coleman:** Well, primarily, dealing with two or three of the people that I worked with. Judge Walls, who is now a Federal District Court Judge, grew up in Atlantic City. Judge Donald [E.] King grew up in Atlantic City and he became a Superior Court Judge in Essex County; he's now deceased. We all worked--they were from Atlantic City--and we would hang out with them and other people from other colleges at times. The (Greenburgs?) were around. I didn't know them at the time, but Judge Walls knew them from Atlantic City, yes. [Editor's Note: The Honorable William H. Walls was appointed to

the United States District Court for the District of New Jersey in 1994 and assumed senior status in 2005.

And so--but I worked with people who were living on the Northside, because they had some year-round or close to year-round hotel jobs. The boardwalk jobs closed down after Labor Day, but it was a good position. One of the guys that I worked with in Chalfonte-Haddon Hall, that became Caesar's--Caesar's or Resorts--had a master's degree. And he became the head room service waiter, and he was living year-round on the Northside. When the Trump Tower people wanted to construct the Trump Tower and Borgata, that construction project disturbed a lot of the Northside.

**SI:** I also wanted to go back to when you were in Newark. You had written in one of your speeches about how you had to act very subservient, even up there, to get that job, by telling them that you weren't going to go on for your education, and so on, and pretend like you hadn't been, you know, academically-advanced, you know, which is maybe shocking to outsiders that this was happening in Newark. But, were there other examples of that kind of racial division in Newark that you could see at that time?

**Justice Coleman:** Oh, absolutely, yes. The great shock for me was, I thought I was getting away from segregation by migrating to Newark, only to discover that, in Newark, I had left *de jure* segregation to find *de facto* segregation in Newark. There were restaurants in Newark black people could not eat in. The Tavern was one, very famous restaurant, and there was another one--the name now escapes me--that my brother and I went there trying to dine and they wouldn't serve us. Their answer was, "We don't serve colored," and many other forms of discrimination that went on, too. We'll come to it later, the problem I had trying to find a clerkship after I'd finished law school, but there were a number of them. In so many respects, it was *de facto* segregation all over again.

**SI:** And you kind of presented the image of the plastics factory next to Ballantine, very stark economic differences. But, so, like the plastic factory, was that all African-American and would a place like Ballantine's be closed to African-Americans?

**Justice Coleman:** No, no. The plastic factory was not--well, let me put it this way. All of the managerial staff in the plastic factory was white and my recollection is, most, if not all of the workers doing the dirty work--were African-American. They had at least one African-American fellow and at least one white fellow who were the draftsmen, doing some of the draftsman [work], and they would do things like the covers for this screen here, covers for big lights, neon lights for elevators and covers for the elevators, things like that.

It was big-time business; the market was great, I gather. But, there was the segregation. So, in that factory, the African-Americans were doing primarily the dirty work. That one draftsman was, in my view, in that class of African-Americans that Dr. Sam Proctor talked about in his book, who distinguished themselves from your typical

African-American based on hair texture and skin color. And he was one of those whom Dr. Sam Proctor referred to as Black Racism.

[Editor's Note: Dr. Samuel DeWitt Proctor, a pastor and educator, became President of Virginia Union University in 1955 and President of Agricultural and Technical College of North Carolina in 1960. Through these positions, his ministry and his friendship with Dr. Martin Luther King, Jr., he became a prominent leader in the Civil Rights Movement. From 1969 to 1984, he served as Martin Luther King Distinguished Professor of Education at Rutgers University.]

**SI:** I'm curious. In your initial forays into the North, did you face any either discrimination or any different feelings because you were from the South within the African-American community?

**Justice Coleman:** Well, there were some African-Americans who thought that they were better than I because they had grown up in the North and one or more of those persons, I know, worked at the plastic factory. And, again, in part, based on what I call African-American racism--they had a different hair texture and skin color than I, they were light-skinned with straight hair--and that alone distinguished them from me, because they saw me as a "darkie."

But, they were pleasant enough toward me, because they knew I was inclined to pursue a higher education and they respected that. I give them credit for that, yes. In African-American culture, there is a system of racism there that I was aware of. For example, my mother, who was brown-skinned, told me that her mother-in-law didn't like her because she was too brown. And I heard that many, many times. So, I was used to that. So, when an African-American would treat me with a slight of hand because I was from the South, I just ignored it, because I was not going to allow that to deter me in pursuing my educational goals.

**SI:** Now, I want to talk about your time at Howard, but any other thoughts about your time at Virginia State University that stand out that you want to talk about? Like, you mentioned you got into a fraternity. Were you very active in the leadership of the fraternity or any of its events?

**Justice Coleman:** No, no. I wasn't active in the leadership, because I was working and wanted to remain on the Dean's List.

**SI:** Sure.

**Justice Coleman:** Even the social part of the fraternity is time-consuming. Some of my frat brothers did become leaders in the fraternity, because they had come from families in which they didn't have to work as hard as I was working. I joined Omega Psi Phi fraternity in the Fall of '53, and it was a wonderful fraternity and we enjoyed ourselves.



And we formed a chorus, but I didn't have the time to do the practice. One of the brothers, named Robinson, formed the chorus. And, when I went back to give the commencement speech, he was there and we talked about how much fun it was. They recorded some of those performances and did a great job, too.

And we did things, such as trying to get people to register to vote. We participated in certain activities with the N.A.A.C.P. and things of that sort. We were trying to do good things, but my time was rather limited because of the work assignment that consumed thirty-five, forty hours a week and having to do my studying. I wasn't a student who did not need to spend time studying, as [was] one of the classmates in the economics course. He would play cards all night and go to class the next day and make an "A-plus" in economics. I couldn't do that. [laughter]

**SI:** Now, why did you decide on Howard?

**Justice Coleman:** Well, again, there were limited options. And I did apply for one law school other than Howard, because, on the bulletin board at Virginia State, I saw an advertisement for a Root-Tilden Fellowship scholarship at NYU. I applied and I think I made the quarterfinals and was eliminated. That year, I think I'm right, either Justice [Stewart] Pollock or Judge Reggie Stanton became the finalist and I didn't. [Editor's Note: The Honorable Reginald Stanton was appointed to the New Jersey Superior Court in 1975 and served as Assignment Judge for Morris and Sussex Counties from 1985 to 2003. Both Justice Pollock, Class of 1957, and Judge Stanton, Class of 1962, were Root-Tilden Scholars during their years at NYU School of Law.]

That was the only application I made and that was made only because I saw the scholarship offer. [Editor's Note: In 1951, with support and guidance from Chief Justice Arthur T. Vanderbilt, NYU School of Law created the Root-Tilden Scholarship Program, which continues today as the Root-Tilden-Kern Scholarship Program. Prior to being elevated to the New Jersey Supreme Court, Chief Justice Vanderbilt served as Dean of NYU School of Law from 1943 to 1948.]

I also applied to Howard and applied for a scholarship. I received both a scholarship and a fellowship. The scholarship paid part of the tuition fees and the fellowship paid for my housing. The fellowship required me to be the assistant director of a graduate men's dormitory. As the assistant director, I hired students to work at the front desk, all 24/7, and I had my room, in which they would contact me if they needed me. The fellowship was much more designed to give financial assistance than it was to have a real learning experience.

I had a close relationship with the actual director. My only thought was, as smart as I thought he was, how could he be satisfied with doing a job that I didn't think was very intellectual, as the director? But he was there when I came and he was there when I left. So, between the scholarship, the fellowship and summer work--that's how I paid the bills.

There is one other good reason that I applied to Howard. I really wanted to go there because one of my silent mentors and heroes, Justice Thurgood Marshall, had graduated from the law school the year of my birth. I admired all the things that he had been doing, particularly under the dangerous circumstances in which he was doing them. He was arguing cases in Mississippi and Alabama when the Ku Klux Klan would kill people the day before, things of that sort. And he was brilliant in his argument, too, really cut to the chase, so sharp, rather than to--going all around, as we say, "Robin Hood's barn," in arriving at his conclusion.

[Editor's Note: The Honorable Thurgood Marshall served as United States Supreme Court Associate Justice from October 1967 to October 1991. He served as United States Solicitor General from August 1965 to August 1967. As Chief Counsel for the N.A.A.C.P. Legal Defense and Educational Fund, he argued the *Brown v. Board of Education of Topeka* case.]

I also felt that, because I knew there was so much work to be done in the Civil Rights Movement, as well as in the African-American overall community and society, that Howard would be a great place to develop the skills that would enable me to make a contribution. I wanted to do more than to be able to say that, "Kilroy was here." I was interested in being able to look back and ask, "What contributions did I make?"

**SI:** Now, you were leaving VSU, going into Howard, around the time that *Brown v. Board of Education* had been decided. It was [a time when], you know, there was early beginnings of implementation, and then, "massive resistance." What impact did that have on you as a student going into law school at the time? Was it something you thought about? Did it have an impact on you?

[Editor's Note: In Virginia, initial efforts to slowly implement limited desegregation following the *Brown* decision were swept away by Democratic Party machine boss US Senator Harry F. Byrd, Sr.'s call for "massive resistance" by the white majority in 1956. In August 1956, Governor Thomas B. Stanley and the Virginia General Assembly, backed by the state's major newspapers, passed a slate of "Massive Resistance" legislation, including funding for private, segregated education.]

**Justice Coleman:** Well, it didn't have much of an impact on my determination to go to Howard. It had an impact as a student because [of] so many of the cases that were still being argued to try to have fulfillment of the mandate of *Brown v. Board of Education*. And one of the things that I found fascinating was--that I learned pretty early--that the use of the terminology "all deliberate speed," that had caused so much delay, was not the first time that had been done. "Proceed thee hastily" was the opposite that others wanted done. And I was part of discussions on several occasions of, "Why did the Supreme Court include, 'proceed with all deliberate speed,' rather than, 'do this immediately?'"

After I became a judge, appellate judge especially, it became very clear to me probably why it was done. *Brown* was a decision that needed to be unanimous. It needed to be

unanimous because, even though it would be unanimous, there would be widespread objection and resistance to what it was requiring. So, it would have weakened the mandate from the Court not to be unanimous. And I saw that in my appellate judge experience, which we'll come back [to], I assume, and discuss some of that later.

One of the other things that I saw when I was in law school was that the Law School served as a forum for preparation of many of the cases that would be argued in federal courts, including the U.S. Supreme Court, that addressed the issue of when should segregation end. Mock appeals were conducted on those big cases, much in the same way that I conduct mock appeals now in some big cases, and they were very important.

Law students who were on the Law Review assisted in the preparation. On one or two occasions, I heard part of those preparations that took place in the mock appeal courtroom. The professors would include many discussions in certain classes on how *Brown v. Board of Education* may change some of the decisions that we were then discussing in the context of constitutional law and civil procedure. So, it had a tremendous impact, even in the early days. And I guess we'll come later to discussing how it may have impacted the public school system in New Jersey and elsewhere.

**SI:** So, to get into your career at Howard a little bit more, again, any professors stand out in your memory as being particularly influential or important in your life?

**Justice Coleman:** Yes. I'm still trying to understand the mentality that persuaded more than one professor--and, in discussing this with law graduates from across America, my law school was not the only one--the first week of class, a number of the professors would say to the student body, in a given class, "Look to your left, look to your right. At least one of you will not likely be here next semester." And I was asking myself, "How cruel could that be?" I was surprised to learn that it was happening pretty much across America.

Now, one of the advantages that I discovered in going to Howard, that I was not acutely aware of [in] any way when I enrolled, was the educational background of most of the professors. I matriculated to law school in 1956. This was only two years after *Brown* had been decided. There had been a number of African-Americans--primarily, but not exclusively, males--who had graduated from America's most prestigious graduate schools, as well as undergraduate schools. When they finished those prestigious schools--and I'm talking about Stanford, Harvard, Yale, Columbia, NYU and on down the line--because they were black, they couldn't find jobs in white America. So, they gravitated toward the historically black colleges and universities.

Dr. Sam Proctor talks about this at length in one of his books, and he became one of those, too, after he got more degrees. So, we were blessed at Howard to have such well-educated professors in our law school. I think, and I was trying to reflect on this last week and, again, last night, among all of the professors that I had, I think only one had not graduated from one of those prestigious schools. And I had at least nine or ten.

Each of the professors in law school may teach more than one course. So, we were fortunate and the same thing had happened at my undergraduate school.

So, here was the advantage woven into the disadvantage--advantage to the student to have such well-trained professors; disadvantage to the professor, because they were denied equal access opportunity to use their training at some of America's other fine schools. But, minority, particularly black, students who were at Howard benefited from that, because that was true at both the undergraduate and the graduate level. Now, having said that, I also knew that the professors at Howard Law School would place a high emphasis on preparing you to become leaders when you returned to wherever you're going to go after law school, preparing you to be leaders in what I call "a big way," and that did happen.

One illustration of that preparation came during the Christmas holidays of 1958, during my third year of law school. One of my classmates, Bruce Boynton, bought a Trailways Bus ticket in Washington, D.C., to travel to Mobile, Alabama, [Selma] to visit his family. The first stop off for the bus was in Richmond, Virginia.

In the Trailways Bus Station restaurant counter and bathroom, there was a counter marked for colored and a counter marked for white and a bathroom marked for white. He chose to go to the counter marked for white. The sheriff was called because he wouldn't move. He was arrested and charged under some ridiculous statute that, essentially, says, "If the rightful owner asked you to leave and you don't leave, if you remain, you're committing an offense."

He was arrested for that and found guilty in the Virginia court. Virginia Supreme Court affirmed it. He contacted the N.A.A.C.P. Legal Defense Fund. Justice Marshall accepted the case, took it to the Supreme Court, argued successfully that it had--they had discriminated in violation of the Interstate Commerce Act. Historically, at my law school, we used the Interstate Commerce Act to attack segregation because we did not have all of the other things that happened subsequently by way of U.S. Supreme Court determinations.

[Editor's Note: Beginning in May 1961, African-American and white "freedom riders" began testing the desegregation of interstate bus travel made legal in the U.S. Supreme Court decisions *Boynton v. Virginia*, 364 U.S. 454, 81 S. Ct. 182, 5 L. Ed. 2d 206 (1960), and *Morgan v. Virginia*, 328 U.S. 373, 66 S. Ct. 1050, 90 L. Ed. 1317 (1946). They faced violence, arrests and imprisonment when hostile Southern mobs and local law enforcement refused to honor the ruling.]

And so, that was great and another one of my schoolmates, [**civil rights** activist and political figure] Vernon Jordan, became big-time. Another classmate, Doug Wilder, became [the] first black Governor in the country, became Governor of Virginia [from 1990 to 1994]. And another classmate became a Justice on the Florida Supreme Court and, also, the first African-American to serve on the Fifth U.S. Circuit Court of Appeals [The Honorable Joseph Woodrow Hatchett]. So, you can see what the Law School was

instilling in us, to do certain things. "And the time is going to come when the barrier is likely to break down and you want to be prepared to cross over, if that barrier should break down." And I benefited from that teaching, also.

**INTERVIEW WITH JUSTICE JAMES H. COLEMAN, JR.**  
**JUNE 15, 2017**  
**PART 4 OF 9**

[Editor's Note: The following section was edited by Justice Coleman after the interview took place. An editor's note prefaces each section in which Justice Coleman made major additions or deletions. As a result, the text differs from the video.]

**Finding a Footing in the North: Establishing a Legal Career in Elizabeth, NJ**

*Justice Coleman offers an example of his actions within the Civil Rights Movement in Elizabeth early in his career. He describes his original forays into the legal community of New Jersey, including the initial prejudice he faced in securing a law clerkship, his efforts to pass the bar and his reflections on the low number of African-American lawyers in the state at the time. He outlines how he started his private practice, discusses some typical cases from that practice and, in general, his impressions of Elizabeth, his then home and source of his clientele. He explains his strategy to buoy his practice by obtaining a second job as head of the second injury fund for the NJ Commission of Labor. He outlines how, in 1964, he became a judge in the workers' compensation court, including his early interactions with Chief Justice Richard Hughes during his time as NJ Governor.*

**Illingworth:** So, you'd also written about, I think, a protest at a construction site. Was that during this period as well or was that earlier, at Virginia?

**Justice Coleman:** No, that was after law school. That was around 1960. They were constructing the--what it was at that time--the new annex to the Union County Courthouse in Elizabeth. We had tried, through the N.A.A.C.P. and Urban League, as I was on the Boards and was counsel to the Urban League and to the N.A.A.C.P., to get them to hire African-American skilled tradesmen and they were refusing.

So, people decided that they were going to have a demonstration, in which they would physically lie in the street in front of the bulldozers to stop them from moving. I did not lie there. And I told them, "I support what you're doing, but I need to--I can't, you know, get you out of jail if I'm in jail. So, I'm not going to lie in front. I'm going to get you out of jail, you know, make a bail arrangement to get you out of jail." And so, some people were arrested and I made [the bail] arrangement, through a name that was very famous in the boxing world, Clinton Miller, who became a bail bondsman. And he was an amateur boxer and did very well at it, too.

And we were able to get the contractor and the Board of Freeholders to work together to be willing to hire some people who were skilled in certain trades--carpenters, brick masons, electricians and on down the line. After we succeeded with that, our difficulty was finding people to place on the job, because of discrimination and the discouragement that it had brought about, meaning that you had few people who would

meet the qualification. So, we were able to enroll them in some vocational training school to get them, eventually, qualified to be a journeyman and be hired on these jobs.

I copied my model after a certain thing that had been happening in other areas of the country in the Civil Rights model--somebody stayed on the sideline to make the bail arrangements. And I had another concern, too. I had been hearing things, that the Supreme Court of New Jersey, at that time, may not have been very liberal in its consideration of minority lawyers who may have, quote, "stepped out of line," end of quote. And I was fearful that, if I was arrested, that a disciplinary action may be brought against me. Even though it would've been part of the exercise of a First Amendment right, I was still fearful and that came through my mind, too.

Fortunately, I can say a whole different mentality has since prevailed at our Supreme Court level, even if the other one was, the suspected mentality at that time, was true. I don't know if it's true, but I wasn't willing to take the risk.

**SI:** Well, I want to talk about your journey up to New Jersey to start your law career--the story of the shoes, of course--but I just want to ask, at that moment that you were getting ready to graduate from Howard, what type of jobs did you think you might be able to get in the law at that point? You know, what kind of placements were people getting, your classmates? What opportunities were available for graduating lawyers?

**Justice Coleman:** Well, not many in the private or public sector, not many. Most of us were planning to return to, wherever we wanted to return to or go to, to become private practitioners. I had a different feeling. I had said to one of my classmates, at least by our third year in law school, that I liked the idea of becoming a judge. And he said, "Well, go forward."

And so--but, before I could become a lawyer--and I, you know, had planned to come to New Jersey--before I could become a lawyer, at that time, a clerkship was mandatory in New Jersey. And I thought you had to complete the clerkship before you could sit for the bar exam. And so, I didn't plan to take the July exam, because I knew I would be just beginning the clerkship, if I could find one--I'll come to that. So, I had to go looking for a clerkship. And so, I searched around, looking for a clerkship, without any success.

So, I went to the Urban League to ask if they had any idea--and, wait a minute. I was not alone, because I thought, at first, people may have been reluctant to hire me as a clerk because they may not have had the highest regard for the Howard Law School, because it was not in the Ivy League or near an Ivy League law school, in their judgment. But, I found out that was not correct.

So, I chatted with a friend, Judge Walls, who had a complete Ivy League background--Dartmouth undergraduate, Yale Law School--and he was having the same problem. So, he was able--I think using the Essex County Urban League--to get a clerkship in a Jewish law office. And I used the Union County Urban League and got a clerkship in the office of a Jewish member of the Union County Board of, Urban League Board. And

it was a wonderful experience. There was an old retired judge there who really took me under his tutelage. He had been a judge under the 1844 Constitution [New Jersey's second constitution] and he taught me a lot about how to conduct yourself as a judge.

And so, those were the difficulties. And, after completing the clerkship, I learned the hard way that none of the law firms would offer me a job. And I concluded that the same racial virus that had limited opportunities to African-Americans as they existed in other employment areas had not passed the legal profession by. So, I was able to get a first job with a black lawyer in Jersey City. I won't call his name, because I knew that, after a very short time, I would not be there very long, because of things that I saw going on and did not approve of. So, I was there for three weeks.

And then, I capitalized on an experience I had had slightly in the political arena. When Hugh Addonizio left Congress and decided that he would run to become Mayor of Newark, he started a pretty early campaign. And one of the persons working in his campaign was a person that I had met--and, oh, the name just escaped me--and we did some work in the campaign together. And so, he was then Chairman of the New Jersey Board of Parole. [Editor's Note: Hugh Addonizio served in the US House of Representatives from 1949 to 1962 and as Mayor of Newark from 1962 to 1970.]

And so, I said to him, "Do you know how I may be able to find another job?" And he said, "I'll be glad to introduce you to someone in the Attorney General's Office and we'll see if you can get the job," and so, he gave me the contact information. I called and I could not even get an interview--and the person that I called later became a judge and we served together in the Appellate Division. And so, I couldn't get the job. So, I said to him, "Do you have any other suggestion?" And he said to me, "Here's a telephone number of somebody I know who works for the Commissioner of Labor and in the Division of Workers' Compensation."

I called that number, I got an interview with the Director of the Division and was hired as head of the second injury fund. The title has changed from time to time. The position was to become the manager of a multi-million-dollar disability fund. And I had to prepare both an annual budget as well as a ten-year budget, because that budget had to be approved by the Commission of Labor.

Years later, someone who worked in the Commissioner's Office called me and told me that, "You won't believe it, but we noticed that your budgets are falling within a few dollars of the actual expenditures that you needed." I said, "Well, that accounting course that I took in college has paid off a little, [laughter] as well as Psychology 101." I remained in that from 1960 until 1964, when I became a judge of workers' compensation.

**SI:** So, you were, going back to--well, first, why don't we talk about your traveling to New Jersey to start your life, your law career?



**Justice Coleman:** As planned, after graduating from law school, I travelled to New Jersey to begin my legal career. This was a time that, despite *Brown*, segregation in transportation still existed. I took a Greyhound bus from Virginia to Newark. My mother had packed a shoebox with nice fried chicken and some baked sweet potatoes, so that I wouldn't get hungry, knowing that I wouldn't have money to buy food on the train or on the bus. As a matter of fact, the bus didn't have food--you had to stop in the bus depot to get food.

Upon arriving in Newark, I started the process of preparing to take the bar exam, and that process included borrowing money to study for the bar exam. Maurice Brigadier offered the one bar examination course in New Jersey, at that time; it was conducted exclusively at the Newark YMCA. So, I would take a bus from my brother's house to the YMCA to take the course. That course was conducted while I was doing my clerkship. I was unaware, until it was too late, that I could have taken the exam before completing the clerkship.

I completed that bar review course, probably before Christmas or by Christmas, because I sat for the February 1960 exam and passed it. The February exam was conducted at the War Memorial Building in Trenton and everybody from all over the state came for the exam. At that time, the exam contained all essay questions. Within a short period of time, I received notice from the bar examiners that I had passed the bar.

I was actually sworn in, in the old Supreme Court, which was in the State House Annex. It had big marble pillars and marble flooring, very impressive. We actually signed in "the big book" called "the roll of the attorneys." We actually signed it individually because we had only about 150 people who had passed the bar. The pass/fail ratio then was about forty-eight percent failure and about fifty-two percent passing.

**SI:** At that time, you know, just roughly from your memory, would you say you were one of the few African-Americans being sworn in at the time?

**Justice Coleman:** Very few. My recollection is, there was one other person who turned out to be African-American. I told you about the variety of skin colors and hair texture among [the] African-American population. The other African-American fell into that category and I did not find out until a year later that he was also African-American. About a year after taking the oath, I went to Newark on a matrimonial case. I saw this person clerking for that judge and he told me that his wife knows a friend of mine. That friend is an African-American woman. And I looked at him and asked the question and he answered in the affirmative. Then, I realized there were two of us who passed the exam at that time. I think Judge Walls was a year ahead of me; he passed it the first time also. I think Judge King may have been one or two years behind me.

At the time I was sworn in, I think we had fewer than fifty African-Americans on the list of attorneys. In one of my speeches, my research revealed that we were admitting African-American attorneys at a rate of no more than three or four a year. Those

numbers improved considerably after Rutgers Law School in Newark instituted the Minority Student Program in 1968 and Seton Hall Law School eventually did the same thing in 1977. [Editor's Note: The Rutgers School of Law in Newark faculty, in response to the inequities brought to light in the aftermath of the 1967 Newark riots, implemented its Minority Student Program (MSP) in 1968. Seton Hall School of Law initiated its Legal Education Opportunity (LEO) Program in 1977.]

I delivered the 30th anniversary speech in 1998 at Rutgers (Newark) Law School celebrating the program's success. By that time, the rate of admission of minority attorneys to the Bar in New Jersey had increased from 2 per year to 34 per year. That's one of the very favorable programs that I would identify, along with many others, that came out of *Brown v. Board of Education* and, later, the [*Bakke*] decision [*Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265, 98 S. Ct. 2733, 57 L. Ed. 2d 750 (1978)]. There was a big hiatus between the '54 *Brown* decision and [*Bakke*] decision that addressed the affirmative action issue.

**SI:** So, we are up to the point where you're up in New Jersey. You've signed up for the bar course, you have found a clerkship through the Urban League of Union County.

**Justice Coleman:** Yes.

**SI:** You know, any reflections on that clerkship, what you recall?

**Justice Coleman:** The people in the office were very nice. Lester Weiner, my preceptor, was one of the nicest persons and lawyers I could find, but my experiences as a law clerk focused too much on being a gopher than being a legal researcher, for example. I think that probably is one of the reasons why, not long thereafter, the requirements of a clerkship was abolished by the Supreme Court. They were supposed to have been post-graduate training programs. As a doctor having graduated from medical school serves an internship in a hospital, this was to be that kind of an internship, where you get in the office and you learned to do all these things that lawyers do. That was happening, but they were not teachable moments for the most part. And I had discussions with many of my friends and they felt the same way.

**SI:** And were you still living in Newark at this time?

**Justice Coleman:** Yes. The clerkship paid fifteen dollars a week and I used five dollars a week for transportation from Newark to Elizabeth, five dollars a week for lunch, and five dollars a week for other living expenses--high budget. [laughter]

**SI:** So, once you passed the bar and, you know, were sworn in, as you noted earlier, what was your first move in your career, in terms of trying to find a place to establish a general practice? Or, did you look for a job elsewhere?

**Justice Coleman:** Well, after I worked for the three weeks in the law office in Jersey City, I wanted to open my own office. I went to the bank that I had gone to on behalf of

the firm where I served my clerkship to see if I could get a loan to buy furniture to open the office. They turned me down. Their condition was, I needed collateral. I said, "Well, the only collateral I have are my law books," and, of course, they were not valuable to the bank.

Eventually, I was able to speak with a friend who had been arranging for financing of doctors and dentists, and he introduced me to that same person in East Orange. Her attitude was, "I'm willing to take a chance with you, because your payment would have to be at least no worse than what I'm getting already from so many doctors and dentists." She gave me the thousand dollars to buy some nice office furniture for the thousand dollars.

But clients were not knocking down the door. So, I looked for that job with the State after that.

**SI:** Well, you had mentioned earlier that that was the period, between, say, '60 and '64, where you were working for the Labor Department on budgets.

**Justice Coleman:** Yes, right.

**SI:** So, how would you split your time between that job and your private practice?

**Justice Coleman:** That was a five-day-a-week job in Trenton that also required me to visit people who were totally disabled and getting money from the fund. I couldn't tell them why I was visiting, but the purpose was to see if they were still alive. If I didn't check pretty often, they would endlessly collect the checks after death. Somebody would pass away and they would not know that I shouldn't send the checks anymore, cash the checks anymore, until a huge debt service existed.

I programmed myself to take care of my state job during most of the normal business hours, and work in my office evenings and weekends. There were times when I'd be on the road doing work for the state job that I'd be finished early enough to get to the office early, too.

**SI:** Now, you mentioned--I'm not sure if it was on tape or in conversation--that there was a prejudice within the community about using African-American lawyers, that the African-American community saw a white lawyer as potentially more preferable.

**Justice Coleman:** Yes, that was the feeling--not only my feeling, but a shared experience by a number of the other African-American lawyers I knew. Why? I wasn't quite sure, but, analytically, I thought that it was probably part of what had happened to them as individuals, for the most part, in a system in which they had been treated and perceived as being inferior. They had the same feeling about the minority lawyer, that the minority lawyer would be regarded as an inferior attorney when appearing before a white judge, or something to that effect. I have no idea what the reason was, though.

**SI:** So, how did you cultivate your clients during that period?

**Justice Coleman:** Through friends and good results, and I had a couple of doctor friends who would suggest, after treating some of the patients, that they may want, may wish, to consult with me--no kickback arrangement, of course--and word of mouth. I made sure the doctors were paid from any legal recovery.

**SI:** So, was your office in Newark?

**Justice Coleman:** No, it was in Elizabeth, right down the street from the courthouse, 1159 Elizabeth Avenue.

**SI:** So, any cases stand out from that period?

**Justice Coleman:** Yes. One of the very early cases I had I never dreamed that at such an early point in my career, I would have to rely on something I had learned pretty recently in my law school education. A client came to me to represent her and her husband in the purchase of a new house. A builder had built three new houses in Rahway--and they are the first purchasers. The salesperson suggested that my client should use the attorney who had represented the builder. My client said, "No, I want to use my own lawyer." So, they came to me.

They wondered, "Why should they have to pay for another title examination since the builder had done one so recently?" And I said, "Because I can't guarantee to you the title is good based on what the builder has done. I need to do my own examination of title." So, I had a guy that I trusted, who had had years of experience in title examination, conduct the title examination. Lo and behold, he finds that the builder never obtained good title to the land on which he'd built these three houses.

Our research revealed who had the real title. The mother had been the conveyor of the title to the builder. When the deeds and wills were studied, the mother only had a life estate and the two sons had the fee simple ownership, meaning the absolute title. One of the sons was in the priesthood and, as a person in the priesthood, not permitted to sign a secular instrument. So, I had to make arrangements to get permission from the Vatican to have that son sign the secular instrument, namely a deed. The other son signed the deed also. We finally closed--couldn't close by Christmas as the client was demanding--but we finally closed and we had good title to the property.

Within a few months--during the time I was preparing for the closing--one of the questions in the affidavit of title, which an attorney needs to have the client sign in order to get a mortgage, asked whether or not the client has ever been divorced. The answer was yes--and this was before New Jersey's new divorce law became effective. The answer was the wife was married previously and divorced on a certain date. The husband was married previously and divorced on a certain date before they got married. But, under the old divorce law, you only got a temporary divorce before the expiration of--I think it was either sixty or ninety days before the divorce would become final. And

they had gotten married before their divorces became final. [Editor's Note: The Divorce Law Study Commission, established in 1967, issued its report in 1970. The New Jersey Legislature and Governor acted on the recommended reforms to the 1907 divorce law through new legislation in 1971.]

I had to tell them that that means that their marriage to each other is not valid. The wife lets out a big scream, "Do you mean to tell me that our children are bastards?" This is where a course in law school popped into my head, that where there has been an undertaking to perform a legal marriage ceremony and children are born of that union, the law says those children are not bastards. I reached up on the shelf and pulled the statute and read it to her and she breathed a sigh of relief.

Sadly, within several months after I settled all of those issues, the wife called again. This time she wanted me to represent her in a divorce. I said, "I can't represent one party against the other one in a divorce when both of you have been my clients." That family presented the greatest legal challenges of all the cases I handled in my practice.

**SI:** Well, it sounds like you covered a variety of areas of the law in that practice.

**Justice Coleman:** Yes. In addition to matrimonial, I handled personal injury cases and corporate matters, small-time corporate matters, forming a corporation. I didn't have any big-time corporate clients.

In the personal injury area, I represented a client who lived in public housing and bought a bowl of soup from the Woolworth restaurant that was on Broad Street here in Elizabeth. As she was eating the soup, she discovered there was a roach in the soup. I filed litigation, because she became sick and had to go to the doctor.

In the trial of the case, the insurance company lawyer tried to convince the jury that there was no roach in the soup, but was instead some bacon they'd put into the soup to give it flavor. My client's response on the witness stand to the lawyer was "Mister," hypothetical lawyer, "I know the difference between what a roach looks like and what a piece of bacon looks like. I've lived in the Pioneer Homes," which is a public housing unit in Elizabeth at the time, "all of my life and that's a roach." And the jury returned a verdict in our favor. [laughter]

**SI:** Well, what was the city like when you came here, first came here, any impressions of the community that you were now a part of?

**Justice Coleman:** Well, very definitely, this racism between African-Americans existed. In Elizabeth, they made a significant distinction based on where you lived and the distinction was between which side of Route 1 you live on. If you're on the other side from the courthouse, you're in Downtown Elizabeth and that's where they have poor people live. If you're on the westerly side of Route 1, meaning where the courthouse is, you're in Uptown, where the more well-to-do African-Americans and middle-class white people live.

If you're living in the Elmora section, you're even better off. Elmora is a big street on the westerly side of the County Courthouse where many of the professionals lived. An African American medical doctor and his family had a house there for a number of years when I first came to Elizabeth and a child is still living in the house. That's what it was like with those kinds of divisions. There was an Uptown Baptist church and a Downtown Baptist church.

**SI:** Now, it sounds like maybe you didn't have time for this, but did you get involved in any professional or community activities in that period?

**Justice Coleman:** Yes, well, that's when I was talking about being a member of N.A.A.C.P.

[Editor's Note: Justice Coleman added his membership in the Urban League, the Good Neighborhood Board, the Elizabeth Advisory Board on Urban Renewal, Elizabeth Anti-Poverty Board, Union County College Advisory Committee on Higher Education, Incorporator and Board member of Union County Legal Services, and the Union County Bar Association.]

**SI:** Okay.

**Justice Coleman:** On the new resume, I have more current things on it. But, I was involved, yes, definitely. And, speaking of interests, trying to help take care of the underprivileged, poor people, a lady came to me one evening in my office, wondered if I could help her with an insurance issue. I had a nice conversation with her. It turned out that she had, on her husband, the same kind of insurance that many African-Americans had in the old South when I was growing up. It's almost like a debit card insurance--you pay a nickel or dime a week for some minimum coverage upon death.

Her husband had died on one of these nickel-or-dime policies and [the insurance company] wouldn't pay. So, she came to me and I wrote a letter to them explaining why, if they didn't pay, I was going to sue. So, they paid and she wanted to pay me for my services. The policy face value was less than a hundred dollars--and she wanted to pay me. So, she gave me five dollars and I thanked her and gave it back to her. But, that's an illustration of some of my former clientele.

**SI:** So, in 1964, that's when you became a judge with the workers' compensation court.

**Justice Coleman:** Yes, '64.

**SI:** Okay. How did that opportunity come about?

**Justice Coleman:** Well, it was essentially an elevation for me, because, when I was working as an assistant to the Commissioner of Labor, the fund that I managed grew out of workers' compensation claims. In that fund, if the combination of a work-

connected accident and pre-existing conditions made the person totally and permanently disabled, the employer would be responsible for paying that share of the award based on the nature and extent of the disability caused by that employment accident. And the person was then eligible to be placed on the fund and collect from the fund for the remainder of his or her life. The position of manager of that fund required me to study medical reports and everything.

When I became a workers' compensation judge, that required the approval of both the Governor and the Commissioner of Labor. So, Hughes was the Governor at the time. When he called me in to see him, I thought that he wanted to talk to me about my appointment. So, in his office, in the State House, rather than to talk about me and my potential appointment--he apparently was totally convinced he was going to make an appointment of me--he talked to me about the vacancy in the Office of the Union County Prosecutor. The Governor asked me which of two or three names did I think would be better for the position. I gave him the name of the one I thought'd be better eventually appointed that one. [Editor's Note: Governor Richard J. Hughes served as Governor of New Jersey from 1962 to 1970. He served as Chief Justice of the New Jersey Supreme Court from 1973 to 1979.]

The other one, and I'll mention him because it's public knowledge, became a Union County District Court judge, which is now known as the Small Claim Division of the Superior Court. He was eventually disbarred because of some improper conduct. So, I felt, and the Governor felt the same way in hindsight, that he was glad he had not made that person the prosecutor.

**INTERVIEW WITH JUSTICE JAMES H. COLEMAN, JR.**  
**JUNE 15, 2017**  
**PART 5 OF 9**

[Editor's Note: The following section was edited by Justice Coleman after the interview took place. An editor's note prefaces each section in which Justice Coleman made major additions or deletions. As a result, the text differs from the video.]

**Working Up the Ladder: Years of Service in the Courthouse**

*Justice Coleman expounds on his tenure as the first African American workers' compensation judge, including sample cases and his appreciation of the field's medical aspects. He also recalls his developing family life, including his 1962 marriage, raising a young family and moving to Roselle and Scotch Plains. He describes the housing discrimination his family faced in doing so, which led to his role in the creation of the Housing Council of Fanwood and Scotch Plains. In his judicial career, he relates how he became a County Court judge in 1973, the impact of the County and Superior Court merger in 1978 and his service in both the Civil and Criminal Divisions. He details his role in presiding over adoption cases, describes the courtroom he served in that was located in the Union County Courthouse for many years and its functions, and discusses the state of African Americans in the NJ Judiciary early in his tenure on the bench.*

**Justice Coleman:** When I became a workers' compensation judge, my home county was Union County, but I was assigned to cover both Freehold and Toms River. I was later assigned to cover Middlesex County. Middlesex was the only county in the State that had two trials locations. One was in Perth Amboy and the other one was in New Brunswick. I was eventually assigned to the Union County courthouse. Those quarters were moved from the courthouse to a building located at Broad Street and East Grand Street, in Elizabeth.

I enjoyed the work as a workers' compensation judge. I used to say to kids when going to their schools to talk with them, from second grade through high school, about my first desire, one of my earlier desires, was to become a medical doctor. I couldn't have found a better position that utilized medicine and law more than in workers' compensation. I really enjoyed it and it didn't take long for the people with the supervisory authority to recognize how much I liked the combination of medicine and law--it was about eighty-five percent medicine, about fifteen percent law. So, they started to give me the more complex cases--major cardiovascular problems, major lung and pulmonary problems, major cancer problems and you name it.

One of the most famous physicians that testified before me was, while he was then the New York Medical Examiner [from 1954 to 1974], Milton Helpert. He was very famous, was on television many times for a number of cases as a pathologist. He testified before me on a number of occasions and a number of other great doctors, too. I had



orthopedists, neurologists, and others on an almost daily basis. I enjoyed it because it was in the area of the law and medicine that I enjoyed.

When I became a County and Superior Court judge, that training was very helpful, because I had a lot of medical malpractice cases. We created panels to try to make a determination before trial whether or not a case was worthy of settlement, whether a trial was needed, or should we try to get it dismissed. We had a medical doctor in the field in which the alleged medical malpractice injury had occurred, a lawyer from the plaintiff's side, a lawyer from the defendant's side, and I was one of the two judges in Union County conducting those. So, again, that medical background came out to be very helpful. And I tried a number of medical malpractice cases, too, and wrote some opinions in that area as well.

**Illingworth:** You know, any particular cases stand out in your memory for either being very interesting or for their later impact?

**Justice Coleman:** Oh, yes. One--you mean dealing with a medical issue?

**SI:** Either one, you know, medical or legal.

**Justice Coleman:** Well, here, they're legal. [laughter]

**SI:** Sure, yes.

**Justice Coleman:** But, the medical, one case in particular, a doctor--and I do not think this one involved workers' compensation, at least not that I recall--doctor's charged with medical malpractice after the doctor had done thoracic surgery. It may have been to remove a lung or something very serious, because the chest bone had to be split. And, after they had done the surgery--well, before doing the surgery, you normally count the instruments and record how many you have, so [that] you know how many to look for at the end--and they did. When they finished the surgery, they were missing an instrument.

They roamed around in the chest cavity as long as they could without creating a major problem to the patient and couldn't find it. They closed everything and noted in the chart that they would go back later and look for it, when they would be able to have X-rays to help find it. The second around, they took it out, but the medical malpractice lawsuit followed.

I wrote the opinion in the Appellate Division and used a principle of medical judgment rule--whether I can do the least amount of harm to the patient by doing "A" rather than "B." And the "A" here was to close the chest, go back later and look for it or keep looking now, while the patient gets in greater and greater danger, because of the anesthesia and everything, and possibly lose the patient. And so, my opinion said that the use of medical judgment was proper in this case and that there was no medical malpractice.

**SI:** That was while you were on the appellate court.

**Justice Coleman:** Appellate Division, yes.

**SI:** Okay. What about when you were in the workers' compensation court?

**Justice Coleman:** I had a number of cases, but, there was no system for publication then like they have one in place now--to have a publication of workers' compensation decisions. I decided some very serious ones, but none of them were published as a workers' compensation case. Some went to the appeals court and may have been published there, dealing with major medical issues, yes.

**SI:** Now, around the time you were making that transition from private practice and the Labor Department to becoming a judge on the Compensation Court, you were also starting your family. You'd gotten married a couple years before.

**Justice Coleman:** Yes.

**SI:** Can you talk a little bit about that?

**Justice Coleman:** Yes. I'd married a beautiful young woman that had grown up here in Elizabeth on May 12th of 1962, which was a little better than two years after I'd opened my law office and just before I became a workers' compensation judge. We were married at an Episcopal church on Liberty Street here in Elizabeth, in close proximity to the courthouse. I don't recall whether or not the building is still there, but I know the Episcopal church closed as a religious institution at this location. But, I saw the priest who married us--as a matter of fact, he came to my swearing-in ceremony for the Supreme Court. But, he had moved out of state by then, but was moving back into the state. That church was chosen for our wedding in part because I did the legal work to create a religious corporation.

My wife had grown up here in Elizabeth, and our first apartment as a couple was only two doors from the church, on the same side of the street as the church. Someone that used to work here at the courthouse had a vacant apartment that I had rented before we were married and that's where we lived for--that was in '62, our first child was born in '63 while we were still living here. The first child was born right down the street at St. Elizabeth Hospital, which is also in close proximity to the church and where we were living.

We purchased a house in Roselle in 1964 and remained in Roselle until after the second child was born in '65. We purchased our present house in Scotch Plains in 1969 and moved in in 1970. My wife's three brothers attended Jeff [Jefferson] High School down the street here and two of the three were track stars at Jeff and went to college on track stars [scholarships]. My wife attended Battin High School for girls and attended Rutgers University, majoring in accounting.

**SI:** Did you meet through the church?

**Justice Coleman:** Did I what?

**SI:** Did you meet your wife through the church?

**Justice Coleman:** No. As a matter of fact, I'd met her two times, once at a party in Summit--that was before I opened my office--but we never dated. I'm not even sure I even got her phone number then. And we met the second time soon after I opened my office in Elizabeth, on Elizabeth Avenue. The front part of the office was occupied by a dentist, who was a close friend. My wife was a patient of his, and she had come to his office to visit.

He said to her, after he had finished her dental work, "How would you like to meet my friend, a new lawyer in the back of the building?" And she said yes. I don't know whether she told him she had met me already or not. So, he brought her back and introduced us. We started dating and got married relatively soon after that, probably a year later, yes.

**SI:** Now, I'm just curious, you know, having bought homes in Roselle and Scotch Plains, was there any housing discrimination in this area that you had to contend with?

**Justice Coleman:** The answer to the question is yes-- but I did not have to deal with it directly. My next-door neighbor on the easterly side of our house was an African-American who had been living there when we signed the contract in Roselle. On the westerly side of the house was a white family. The real estate broker told me that my white neighbor did not like the idea that he was showing the house to an African-American. The white neighbor never said anything to me, but he was never very friendly. By not being friendly, I don't remember him ever speaking to me. I think the wife did acknowledge me a few times, and my wife said the same with her.

[Editor's Note: The following section has been added by Justice Coleman.

The broker knew how to avoid a problem when we bought the house in Scotch Plains in 1969. The owner had moved to town. When we signed the contract, the broker informed the seller that a nice young judge and his family wanted to purchase the house. The seller's lawyer had them sign all the papers out of our presence. Only the lawyers were at the closing. Although the sellers were white, we never met them.

Editor's Note: This ends the section that was added.]

But, I know the issue existed, because the dentist friend, who had the front part of the office in which I had my law office, tried to buy both a house and a vacant lot on which to build a house in Scotch Plains and couldn't buy either one. So, I directed him to the Division of Civil Rights and to file a claim. The real estate broker, I am told, was

penalized, because the real estate broker was going along with the game plan, to avoid showing the houses to African-Americans. And we heard that many, many times. I also referred the lot owner to the Division on Civil Rights. My potential-buyer friend lost interest in the lot because of the configuration.

It was that concept that led us to form a Housing Council that covered Plainfield and Scotch Plains. And we were instrumental in trying to encourage real estate brokers not to decline showing the houses to minority families and to press hard to try to get those sales if they could. Otherwise, there would be more complaints filed with the Division on Civil Rights. The answer to your question is yes.

**SI:** Let me pause for a second.

[RECORDING PAUSED]

**SI:** So, you went--you served as a workers' compensation judge from '64 until about '73, was it?

**Justice Coleman:** Yes.

**SI:** When you became a County judge?

**Justice Coleman:** Right.

**SI:** Again, what was that transition like and how did that opportunity come about?

**Justice Coleman:** In 1972, the Legislature enacted laws that created the Violent Crimes Compensation Board. That law was signed--that legislation was signed into law--by then Governor Cahill. [Editor's Note: Republican Governor William T. Cahill served from 1970 to 1974.] And Governor Cahill's personal counsel, his personal in-house lawyer in the State House, was Pierre Garven. After that legislation was signed into law, Pierre Garven called me at my chambers in Newark, when I was a workers' compensation judge, offering me a position on the Violent Crimes Compensation Board. There were going to be three people and a chairperson would be elected or appointed.

I told him--and I think I know why, because, in violent crimes compensation, you're looking at people who have been physically and psychologically injured and they were probably looking for somebody with knowledge of law and medicine, as a combination, to help guide some of those decisions. While I felt that I may have enjoyed it, I did not want to leave the role of being a judge to becoming more of an administrator. Even though I was inclined to reject the offer for that reason, I called him back.

I told him that, "I'm glad you called, because I am interested in a Union County District Court or County Court, judgeship," and he said to me, in the nicest way, "I'll call you back soon on that." And I said to him, "Would it be okay if I spoke to the Democratic County Chairman and let him know we had this conversation?" He said, "By all means,

do that," and I did. That Wednesday before Thanksgiving Day of that year. Somewhere in the first fifteen days of the following January, he called me to tell me that he was working out a package and would I accept an appointment to the Union County District Court? I told him yes.

Two weeks later, he called me again. He said, "You know, you've already been a judge now for a few years. I don't think you ought to go to the District Court. I think you need to go to the County Court at least." I said, "I agree with you." So, he said, "I'm going to move your name to be a County Court judge," and he did. He called me back again and said, "Well, I have it all set for you, but I can't push it through until some other people, who need to be in the package, get the okay," from whomever they need to get the okay. He finally called me back, saying, "The package is a done deal."

[Editor's Note: The following section has been added by Justice Coleman.

Shortly thereafter, Governor Cahill nominated Garven to be an Associate Justice of the New Jersey Supreme Court. He was sworn in on March 23, 1973. I was sworn into the Union County Court around May 1973. Associate Justice Garven became Chief Justice on September 1, 1973, and died in office on October 19, 1973.

Editor's Note: This ends the section that was added. Chief Justice Pierre Garven joined the New Jersey Supreme Court as an Associate Justice in March 1973 and was elevated to Chief Justice upon Chief Justice Weintraub's retirement on September 1st of that year. He died after suffering a stroke seven weeks later.]

And so, Governor Cahill was the one who made my initial appointment to the County Court and I remained in the County Court until the constitutional amendment was passed in 1978 that merged the District and County Courts into the Superior Court. That amendment created a Superior Court with three divisions--the Superior Court Appellate Division, the Superior Court Chancery Division and the Superior Court Law Division, and Law Division had attached to it a Small Claims Division, which is the old District Court. That's the way it remains today. At that time, there was also a court called the Juvenile and Domestic Relations Court. That remained so for another three years after that merger and another constitutional amendment was passed to merge that court into the Superior Court. [Editor's Note: The County Court and Superior Court systems were merged after a successful ballot measure passed approving the amendment in the 1978 election, with the merger being enacted that December.]

And the way the Constitution, 1947 Constitution, read, it created a Supreme Court, a Superior Court with a Law Division and a Chancery Division, "And such other courts as the Legislature may, from time to time, create," and they called those--they used the term "inferior courts." So, that language was eventually taken out, to eliminate the word "inferior" and just said "such other courts." And, when those other courts merged, then, we had just the Superior Court and the three divisions.

**SI:** So ...

**Justice Coleman:** And I sat in all of them. [laughter]

**SI:** So, let's talk about the County Court position, which you said you were sworn in in May of '73. At that time, what did that cover? What kind of cases were you hearing at that point?

**Justice Coleman:** Well, the County Court was part of the political compromise that was made during the '47 Constitutional Convention that created the 1947 Constitution. That became effective in 1948, September 15th of 1948. That was part of the political compromise that was made and that meant that those judges would go through the first approval process by the county senators. The legislative re-districting had not yet occurred and that impacted it later. And the jurisdiction of the County Court was limited to the county, but it was countywide jurisdiction for anything in the county--civil cases, criminal cases, wills and estates, things like that. I sat in both the Civil and Criminal Division while I was in the County Court.

As a matter of fact, when a tragedy occurred in my family on August 1, 1975, I was a County Court judge assigned to the Criminal Division. That's the day that my brother, who operated a tavern in Newark, was murdered as he closed his tavern. I felt that I should be taken off of the criminal calendar, because I may have been running the risk of trying to look at some potential criminal and think whether or not that person may have had something to do with my brother's murder, because Elizabeth is so close to the Newark line and his tavern was not far from the Elizabeth line. So, the assignment judge accommodated very easily, and I went to civil only. Incidentally, no one was ever apprehended for the murder of my brother.

But, that was the nature of the County Court work, and I did, at different times, all of it--criminal work, civil work, wills and probate. One part of it, in the Probate Division, that I really enjoyed--not that I didn't enjoy all the rest of it--was presiding over adoptions. In one of the adoption cases--- I did two I'll mention very briefly--in one, I thought the law had been violated. So, I referred it to the prosecutor, even recommended quietly, to the prosecutor that I knew that he may not want to take any action on it. Somebody had gotten one or two children through an illegal source out of a foreign country and had paid money for it. That was in violation of New Jersey law. I approved the adoption, because it'd be a cruel and unusual punishment to require their child be sent back to the poor country from which the child originated. And I sent the matter to the prosecutor, who decided to do nothing.

The second one was a case in which the federal Supreme Court had required that, before terminating parental rights, even people who were in prison, notice had to be given to the parents and offered an opportunity to appear at the hearing. I did that in a case in which the father was in prison for a long time for robbery. The typical robbery sentence ran between eighteen and twenty years back then, under Title 2A rather than 2C that we have today. We brought him to the hearing--and he shocked everybody.

When he testified, he made it clear that, despite the fact that he'd been away in prison for a few years, he still had carried on a good relation[ship], a loving relationship, with his son that was up for adoption. And so, when the mother, who wanted to adopt the child, heard about this wonderful, loving relationship, she started to cry and indicate that she's not sure that she wanted to take the child away from the father. The father kept interrupting her and raising his hand while she's on the stand. I finally asked her to step down and brought him back to the stand.

He said to me [that] he had come to the Court today because he was going to object to the adoption, but he has now listened to this potential adoptive mother and he likes what he's hearing. He concedes that there's no way he can be as good a parent to this child that he loves as this potential mother can be, given all that he's heard. So, he said I should go ahead and approve the adoption. And that's what I did--first time it ever happened--but it was a wonderful outcome, and I'm sure she was a wonderful mother.

In another context, a Catholic couple who was married had gone to Catholic Charities for a child, and the child had been placed in the home. It was a premiere placement, because of the high demand for the children from Catholic Charities if you got placement of a completely healthy child. This child was completely healthy. After the child was placed in the home, the father said to the wife, "I do not want to proceed with the adoption anymore, and I want a divorce from you." I let the divorce proceed first and the question was, "Would Catholic Charities still consent to the adoption of a single parent?"

I don't remember their answer--but my ultimate decision was that the child had to be returned to Catholic Charities, because the social worker provided me with a sufficient basis to conclude that there are at least twenty-five to fifty married couples who would gladly take this child into their home. Now, that decision was not made in anywise based on an attempt to discriminate against a single parent, because I have approved single-parent adoptions.

I also approved interracial adoptions, too, even though I know--some of the professionals object to approving interracial adoption. I never did. I was looking at the quality of life the family and the child would have together, rather than the skin color of the family adopting the child. Now, was I naive to some extent? Maybe, proven right, but I had no doubt that, in all those cases, it was the best decision for the child at that time. And I never heard of anybody that I approved for adoption ever trying to become un-adopted. [laughter] I last presided over an adoption case at the trial level in 1979.

**SI:** Was same-sex couples adopting an issue then?

**Justice Coleman:** Not to my knowledge. There was one case that came out of the Appellate Division that disapproved it, and I never had the opportunity to make a decision when I was presiding over adoptions. But, the whole game has changed since then, yes. The New Jersey Court System would not tolerate allowing a judge to disapprove of an adoption based solely on the fact that this is a same-sex couple.

**SI:** Now, during this time, this is when you had your courtroom downstairs.

**Justice Coleman:** Yes.

**SI:** Can you describe that a little bit for us?

**Justice Coleman:** It was a powder blue courtroom, a little lighter than--I think this is blue, [laughter] there's so many mixtures today--and it was a very nice-sized courtroom. And I had all of the private amenities, you know, a shower, full bath. And, more importantly, the prisoners did not have to use the main elevator, because, following lunchtime, the elevator the jurors would use would be the same elevator that prisoners would be brought back from the jail [on], and you didn't have so much loss of time.

And, while down there, I presided over another kind of case. A fellow who had gone to Yale Law School got in a lot of trouble because he was madly in love with a lady that he had married. She started to cheat on him, and he found out with whom she was cheating and became angry. It was decided, not by me, that he had some mental problems he needed to have addressed. The case was assigned to me. He had filed all kinds of municipal complaints against judges and others as well.

I talked with him very nicely, and he agreed to everything I asked him to do. He loved the way I treated him, and he liked opera. He knew I liked opera, too. So, he would go in the rotunda and start singing one of the operas. [laughter] One of my sheriff's officers would invariably come up to me and say, "What should we do?" I'd say, "Just go and tell him, 'Calm down,'" and I treated him like a human being.

I knew he had issues, but was very smart. And he took pride in telling me that he had read to a classmate at Yale, an African-American male, who was blind. So, I think he assumed that I treated him nicely because of that experience. That was not the sole reason. Part of it was, I could tell that, inside, he was probably a very nice person and would respond differently when treated nicely.

**SI:** So, at this point, in the mid-'70s or so, were you, again, one of only a few African-Americans serving on the bench in this area, or even statewide, if you know?

**Justice Coleman:** I was the only one in the Appellate for a while and the only one in the Supreme Court. Yes, Judge Roger Yancey was the first to be appointed and I think he was appointed in 1956, first to the District Court and then County Court. I think the second one was F. Fillmore Wood. His picture's hanging out there, yes. Yancey was appointed to the Essex County District Court and was elevated, eventually, to the County Court. Wood was appointed to the County Court. Another fellow that I knew, who used to be an Assistant Prosecutor in Essex, became a County Court, and, eventually, a Superior Court, judge. [Editor's Note: The Honorable Roger M. Yancey was appointed to the Newark Municipal Court in 1955 and the Essex County Court in



1960, the first African-American to preside on both levels. and Wood. The Honorable W. Fillmore Wood was appointed to the Union County Court in 1961.]

A friend of mine was serving in the Atlantic County District Court. But, I think part of his problem was, he was afraid to try to move, because a new position would mean that he would no longer have tenure. And he was afraid that the politicians would play the game on him and kick him off the bench when that term of office expired. I never thought so. Hap Farley was the boss down there. So, statewide, when I became a judge, County or Superior Court judge, I think there may have been five or six statewide. [Editor's Note: Frank "Hap" Farley, a New Jersey State Assemblyman, then, State Senator for over thirty years, ran Atlantic County as the Republican machine boss, having gained power after Enoch "Nucky" Johnson, the Republican political boss during the early twentieth century, was jailed for tax evasion in 1941.]

**INTERVIEW WITH JUSTICE JAMES H. COLEMAN, JR.**  
**JUNE 15, 2017**  
**PART 6 OF 9**

[Editor's Note: The following section was edited by Justice Coleman after the interview took place. An editor's note prefaces each section in which Justice Coleman made major additions or deletions. As a result, the text differs from the video.]

**Entering 'The Monastery:' Elevation to the Appellate Division**

*Justice Coleman discusses his elevation as the first African American in the Appellate Division and reflects on several exemplar cases, including State v. Vinegra, which is a case from his tenure in the Law Division of the Superior Court, State v. Tate, and State v. Gilmore. He also describes the impact of the new criminal code implemented in New Jersey in 1979 and his service on a special panel charged with reducing the state's criminal appeals backlog beginning in 1983.*

**Justice Coleman:** I looked at the challenges as a way of learning more, rather than learning less. So, I wanted to, if necessary, have a medical malpractice case on Monday morning, a criminal case on Tuesday or Wednesday and a corporate matter on Thursday or Friday. Would that involve a lot of work? Absolutely. Would it increase the learning curve? Absolutely--and it was the latter that I was looking for.

**Illingworth:** Well, please, any memories of any cases you had during that period that you want to share before, you know, the change in '78, from that time on the County Court?

**Justice Coleman:** Well, yes, one of the cases was a case that was in the County District Court. When I finished my calendar--I think the cases, criminal cases, I had all assigned for that day all ended up entering guilty pleas, not that I was that frightening to the defendants. [laughter] I called the assignment clerk, named Maro, here in the courthouse, and said, "I'm free. If you have anything you want to send down to me, please do."

He scrounged around and found this case from the Small Claims Division, in which a bank had sued a borrower on a deficiency judgment after the loan on the car was not satisfied when the car was sold as junk. And the person appeared *pro se* and made his argument to me, to the Court, and the lawyer for the bank made his argument. I reserved decision and wrote a published opinion concluding that the bank was not entitled to get a deficiency judgment because the car had been disposed of in a manner that was not in according with the commercial code's requirement.

The problem was that the old poor guy was tuning up his own car, probably because he couldn't afford to take it to a mechanic to have it tuned up. When the repossession man came, the sparkplugs, and probably the distributor cap, were all taken loose, so the car

wouldn't start. The repossession man thought the car was a piece of junk and sold it as junk.

I found the argument to be unpersuasive, because he did not use reasonable measures to determine the facts. My answer in the opinion was, "If he'd looked under the hood, he would've noticed that the car did not have sparkplugs in it." In the old cars, the sparkplugs were not hidden. They were in clear view, so [that] you could get to them easily, whether they had six or eight of them. That car probably had eight, because, in the old days, more of them had eight cylinders than six. So, that was the one case that I had that comes to mind. If you want me to go on, I can go more.

**SI:** Sure, absolutely.

**Justice Coleman:** Another one occurred when I was, again, in this courthouse, in which the assignment judge had a politically-charged case. One of the officials in the case, in his official capacity in the City of Elizabeth, had the responsibility of approving stones that would go into a roadbed for construction of a roadway. It was alleged that he had cheated in the process, and I think the allegation included that he was cheating because he was getting a kickback. So, the assignment judge, noticing how politically-charged the case was, wanted to find a judge who would try it who was of a different political persuasion than the defendant. I was. So, he asked if I would the case, and I agreed.

The prosecutor placed that person before the Grand Jury without telling him that he was a target of the Grand Jury investigation. I wrote an opinion in which I concluded that the indictment should be dismissed, because the prosecutor violated the defendant's constitutional rights. That went to the Appellate Division. The Appellate Division reversed; I think there was a dissent. Then, it went to the Supreme Court, and the Supreme Court was divided. I think it was four to three. It was four to three, affirmed, meaning that I was wrong. Chief Justice Hughes wrote a very strong dissent, saying that I was right and concluded that a miscarriage of justice had occurred because they did not dismiss the charges against that person.

Every time I would see the Chief Justice after that, he would say he still thought we were right. He was the best person I have ever met for remembering names. He would meet you today and, five years later, he would actually know your name and your wife's name. And I thought for a while that he may be walking around with earplugs and somebody's whispering the names to him as he's moving around. The answer was no-- he had that type of a memory. And so, every time I would see him, he'd talk about that case, "Jim, I think we were right and they were wrong." [laughter] If I saw him two times in one year, he'd say the same thing. So, that was one of them, yes, and the name of that case, for those who may want to look at it, was *State v. Vinegra*, 73 N.J. 484, 376 A.2d 150 (1977)], V-I-N-E-G-R-A, was decided by the Supreme Court in 1977.

If you have some other questions, you may want to interrupt, because I have a lot of them, if you want me talk about them all.

**SI:** Well, let me ask about that transition from being in the County Court. So, you moved to the Appellate Division after the merger or as a result of the merger?

**Justice Coleman:** After the merger.

**SI:** Okay.

**Justice Coleman:** Because before the merger, as a County Court judge, I would not have been eligible to serve in the Appellate Division. You had to be a Superior Court judge to be eligible to serve in the Appellate Division. And I ceased being a County Court judge in the November 1978 election year, when the issue was on the ballot whether to merge the County Court with the Superior Court. And the voters voted, "Yes, merge," and that made me a Superior Court judge.

Even though I had gone from County Court to the Superior Court by virtue of that constitutional amendment, it did not extend the five-year term that I was serving as a County Court judge. So, let's see, I was appointed initially in '73. So, in '78, I had to be reappointed--and I was reappointed and reconfirmed, but that was to the County Court, I think it was, because it was in May of '78. And, five years later, I had to be re-nominated for the Superior Court. And, when I was confirmed then, I got tenure in the Superior Court.

[Editor's Note: Justice Coleman deleted a section.]

The new criminal code contained a provision that provided, essentially, that anyone who was serving a term of sentence of imprisonment as of September 1, 1979, that was longer than the term that person could get for the same or similar crime under the new code, had a right to seek to have the sentence reduced. And so, rather than to have every county on a statewide basis having a different judge make that determination, Chief Justice Wilentz decided, after he met with two other people and me, decided that it'd be best to have it done on a statewide basis. So, he appointed two people from Essex County and me to conduct court on a statewide basis to determine those [cases involving] re-sentencing eligibility. [Editor's Note: Justice Coleman served on the Special Three-Judge Resentencing Panel from 1979 to 1981.]

The code provided that, to change the sentence, you need to be able to show there's just cause to change it, and I won't get involved in a definition of what that means. The one case in particular was *State v. Johnson*[], 176 N.J. Super. 1, 421 A.2d 1016 (App. Div. 1980), *remanded temporarily to Resentencing Panel*, 87 N.J. 335, 434 A.2d 83, *on remand*, 182 N.J. Super. 1, 439 A.2d 614 (App. Div.), *aff'd o.b.*, 88 N.J. 26, 438 A.2d 519 (1981) (for the reasons expressed by dissenting opinion of Judge Coleman, 182 N.J. Super. 1, 6-11, 439 A.2d 614, 617-19)]. It was a case that dealt with--I think it dealt with a rape or a robbery. Under the new code, it would be a first-degree crime. We heard the case and I went along with the initial opinion that concluded that he was eligible to be resentenced.

The Appellate Division concluded that we did not find just cause to resentence him. While that was pending, it goes to the Supreme Court and they essentially agreed that it should be re-determined by the resentencing panel. So, on the remand, the other two judges went ahead and found that, under the statute, good cause was established. I wrote separately, finding no just cause.

I commented later that I had the common sense to acknowledge that I was wrong the first time around. I wrote separately saying just that. And, in the process, I thought about a quote that [John] C. Maxwell had once made. He said, "One must be big enough to admit his mistakes, smart enough to profit from them and strong enough to correct them." I was strong, I profited from my mistake and I was strong enough to correct it. I wrote separately to correct my mistake, saying that there was not just cause for resentencing. The Supreme Court agreed and reversed the majority opinion based essentially on what I had written.

Another special assignment that I received from Chief Justice Wilentz, after the criminal code was established, was that he created a five-judge part in the Appellate Division to hear all criminal appeals. I think he got the idea in part because his Administrative Director, Mr. Lipscher at that time, had a close relation with--I think the name of the person was Dean (Meteor?)--at the [National] Judiciary College, and he may have been also at the University of Virginia Law School. He was espousing different programs, creating more specialization. [Editor's Note: Robert D. Lipscher served as Director of the Administrative Office of the Courts from 1980 to 1996.]

I had already been assigned to the Appellate Division when the five judge panel was created. The other members were the Presiding Judge from the Appellate Division, who was Judge [Robert A.] Matthews, another judge from the Appellate Division at the time, Judge [Geoffrey] Gaulkin, the chief brought up two sitting judges from the Law Division, Judge [Thomas F.] Shebell, [Jr.], Judge [John E.] Bachman. We did that for about eighteen months, and then, the panel was disbanded. I didn't like it. [Editor's Note: The special panel, charged with reducing the state's criminal appeals backlog, began its work in September 1983.]

**SI:** Can you expand on that at all, like, why you didn't think it worked?

**Justice Coleman:** Well, I did not like the idea of specialization. I wanted diversity, more diverse work, more diverse cases in the Appellate Division, because I was one who did not [want specialization]. I enjoyed the specialization when I was at workers' compensation, but I didn't want that again--even though you could not avoid being assigned to either Criminal or Civil Division in the Law Division. That's the way the court had to operate. Chancery Division was separate. You couldn't do all three.

When I was in the Appellate Division, I was accustomed, as an appellate thinker, to having one kind of case on the docket at nine or ten o'clock, another kind at ten or eleven o'clock and on down the line, rather than, all day, nothing but criminal cases.

And to show you what I really mean by that, when we had the arguments on the five judge panel, there were times that we would schedule a huge number of cases for one day, much more than the typical four to eight or nine cases for a regular three judge panel. I'm talking about more than twenty cases for a day.

And then, another one of the important cases I wrote was in 1984. The name of it was *State v. Tate* [194 N.J. Super. 622, 477 A.2d 462 (App. Div. 1984)]. This was one of the cases in which I showed more of my humanity, perhaps better than any other case. Tate was a quadriplegic who had experimented with smoking marijuana to relieve the side effects of taking the prescription medication that would create tremors and all kinds of psychological and psychotic thought process in him. And so, he had experimented by buying marijuana illegally, to be used in lieu of medicinal purposes. And this was in 1984 that the case was in the Appellate Division, so, that means he probably was convicted somewhere around '82 or '83.

The case was assigned to my part and I wrote the majority opinion, concluding that New Jersey should establish a medical necessity defense, so that he is not punishable for a criminal conviction for using the marijuana for medicinal purposes. There was a dissent who disagreed with the majority opinion. That dissent required the Supreme Court to automatically take the case. The Supreme Court automatically took the case and agreed with the majority--again, with a severely split decision. There were five justices and judges participating, two of the five who voted to affirm had been brought up from the Appellate Division and the two who voted to reverse were full-time Associate Justices.

I continued to feel badly about that case because my humanity kept telling me this person should be able to get medical marijuana. Then, finally, just a few years ago, New Jersey enacted the statute in 2009 that allowed for medical necessity as a defense in this context. But, in reality, they set up the medical marijuana statute and there's a very clearly and limited circumscribed protocol that has to be followed in order to be in compliance with the statute [see NJSAC 24:61-1(2009)].

One of the writers for *The New Jersey Law Journal* called me after the federal system concluded that they were not going to prosecute such cases for simple possession and use of marijuana for medicinal purposes, to tell me she always did think that we were right in our majority decision.

**SI:** So, to kind of map out the progression of your legal career at this point, in '78, with the merger, you had become part of the Superior Court, and then, you left the Law Division for the Appellate Division?

**Justice Coleman:** Yes.

**SI:** Was it '88?

**Justice Coleman:** I went from the Law Division to the Appellate Division in '81.

**SI:** Okay. How did that come about?

**Justice Coleman:** The Chief Justice has the sole authority to make assignments to the Appellate Division. After I had served on the resentencing panel and had done a number of other things, he decided to elevate me to the Appellate Division. I always believed that, based on what he was trying to do to enhance diversity in the Judiciary, that he wanted to make his Appellate Division, second-highest court in the state, become diverse also.

[Editor's Note: The following section has been added by Justice Coleman.]

When Robert N. Wilentz became Chief Justice on August 10, 1979, he became the head of a judiciary whose Supreme Court had always been made up of all white men, whose Appellate Division had had only two females; an Appellate Division that had never had any racial or ethnic minority, and whose Assignment Judges had been only white males. That monochromatic Judiciary some 31 years after our Modern Judiciary had been established in our 1947 Constitution displeased the Chief very much. The new Chief Justice made changing the face of the judiciary a top priority.

He believed that the appearance of justice is as important as the reality of justice. Toward that end, he was determined to change the faces of some of the judges who serve as gatekeepers to justice. He knew that changing the "faces" of the gatekeepers to Justice would not be easy. He knew that human progress never rolls in on the wheels of inevitability. He knew that People, rather than time, must bring about change. But he, like Winston Churchill, preferred to fail while trying rather than being satisfied with the judiciary that he inherited. Having been born into a royal and powerful family, he could have been part of the silent majority. Knowing that silence is simply another form of injustice, he chose to become a crusader for diversity. Indeed, he became my Rabbi, my Godfather.

So, why and how did he become my Rabbi, my Godfather? There are two answers to the "why." First, because he had a deep, heartfelt, warm concern for people who are disadvantaged. He equated being disadvantaged with life circumstances rather than being a bad person. He knew that I fell within a disadvantaged group because I was born into a working class family, with a permanent suntan. He knew that I migrated to New Jersey, not by plane, train, or car, but that I had come by riding in a Plessy v. Ferguson seat located in the back of a Greyhound Bus. Because the Chief was a good student of history and cultural anthropology, he understood that it is not where one comes from, or the mode of transportation one has used, that determines what one can become with a little help from others.

Second, the Chief was an optimist who saw an opportunity in my disadvantages. He believed that sometimes people who are not born with privilege and power may have hidden benefits derived from cultural legacies that stimulate them to learn and work hard. So rather than focusing on the disadvantages in my background, as a pessimist

would have, the Chief saw the time, place and circumstances of my birth and education as the foundation upon which to build a bridge to the N.J. Supreme Court.

There is an old saying that law, like houses, should be built on a firm foundation. Similarly, the Chief believed that a Judicial Career should be built on a firm foundation in the law and in life experiences. So, block by block, he helped to build my judicial foundation, a foundation upon which a Supreme Court appointment was made possible. Here is how he became my Chief Architect, my Godfather, and my Rabbi by laying one building block at a time to establish a firm foundation.

My initial introduction to the Wilentz family was in 1964. I was a 31-year-old Judge of Workers' Compensation assigned to preside over trials in Middlesex County. Unlike any other county in the State, trials were conducted in both Perth Amboy and New Brunswick. The Wilentz Law Firm was located in Perth Amboy at the time. The firm had a sizable number of cases on my Calendar.

The second member of the family that I met was David T. Wilentz, the former Attorney General for N.J. and a powerful political figure. He called my Chambers in Perth Amboy and asked if he could come over to see me. I paused, thinking whether I should say yes or no. But then my commonsense prevailed and I said yes to Uncle David, as he was affectionately known. [Editor's Note: David T. Wilentz served as New Jersey Attorney General from 1934 to 1944 and gained international prominence as the prosecutor in the trial of Bruno Hauptmann for kidnapping Charles and Anne Morrow Lindbergh's son. He founded the Wilentz, Goldman & Spitzer law firm in Perth Amboy in 1950. His son, the Honorable Robert Wilentz, served as Chief Justice of the New Jersey Supreme Court from 1979 to 1996.]

The third member of the family that I met was Robert N. Wilentz, then a partner at the firm who handled important cases. The Firm had a dependency case on my calendar. Although a Junior Associate from the firm who routinely appeared was present also, the presence of the future Chief Justice raised the level of importance of the case. It involved the death of an important person and a confidential disposition of the case was essential. While all the other lawyers in the courtroom went on a bathroom or coffee break, the case was settled and the record was sealed.

Even though I was only 31 or 32 at the time, it did not escape me that I was being observed, but for what I did not know. I was not too young to realize that if Uncle Dave and his two sons wanted to check on me, it would be in my best interest to cooperate.

My days as a Workers' Compensation Judge ended in 1973 when I was promoted to the Union County Court, which was part of the upper court system, as it was called at the time. The upper court system was not very diverse. There were only 3 white women judges and 6 black male judges statewide.

Wilentz became Chief Justice less than one month before The New Jersey New Code of Criminal Justice became effective in 1979. The prior decade and a half of



observations of me now began to bear fruit. Within two months after becoming Chief Justice, Wilentz called me to ask if I would meet with him in Trenton to discuss how best to conduct resentencing of some criminal defendants pursuant to the New Code. As a result of that meeting, he appointed me to a Three Judge Resentencing Panel to conduct resentencing on a state-wide basis. Because the Code was new, we had to operate in uncharted territory. On one occasion, I went along with an opinion of my two colleagues only to have the Appellate Division to remand for reconsideration. On the remand, I thought about what John C. Maxwell once said: "One must be big enough to admit his mistakes, smart enough to profit from them, and strong enough to correct them." Bearing those principles in mind, I wrote separately, acknowledging that I had made a mistake the first time around. When the Supreme Court agreed with my dissent, the Chief Justice called to compliment me for having the courage and good sense to correct my mistake. A few months later, he called again to compliment me in a murder resentencing case when the court reversed based on my dissent.

The next phone call from the Chief was on December 24, 1980, at 4:15 p.m. He called me on Christmas Eve at my Chambers asking if I would accept a temporary assignment to the Appellate Division, effective in January 1981. Although I was annoyed with a plaintiff's attorney dragging out a simple case that delayed jury deliberations that caused me to be in Chambers when the Call came in, I later forgave the lawyer. The Chief made my assignment to the Appellate Division permanent in September 1981.

After I was assigned to the Appellate Division, the Chief called me from time to time to discuss various social justice issues with respect to the Judiciary. I would generally preface my remarks by asking the Chief if he was sure he wanted to hear what I had to say. His simple response would be: that is why I called. He did not always follow my suggestions, but his willingness to listen was indicative of the person he was. When he learned that I was writing the opinion in *State vs. Gilmore*, that involved the use of peremptory challenges, he called to get a copy of the opinion as soon as it was filed. That case held that excusing persons from serving on juries simply because they were African American violated the New Jersey Constitution. [Editor's Note: The case is *State v. Gilmore*, 195 N.J. Super. 163 (App. Div. 1984); aff'd, 103 N.J. 508 (1986).]

The Chief appointed me to various Task Forces and Committees while I was serving in the Appellate Division. Here are some examples: Sentencing Disparity Committee-Chair; The Committee of Minorities Concerns in the Judiciary (the first in the county)-Chair; The Five Judge Criminal Part in the Appellate Division; The Task Force on Minority Concerns (which was an outgrowth of the Coleman Committee). The purpose of those Committees, Task Force and Special Panels was to study ways to level the playing field for the disadvantaged, just another expression of the Chief Justice's sincerity and zeal for equality.

Chief Justice Wilentz knew that although the arc of the moral universe is long, that it nonetheless bends toward justice. When he became Chief Justice, the Supreme Court had had only white men among its membership. When he died, the Supreme Court had a female Chief Justice, a Female Associate Justice and an African American Associate

Justice. The Appellate Division had 2 African Americans, one Latino, and 7 females. There was one African American Assignment Judge. That, in my view, represents the kind of positive change that Chief Justice Wilentz worked hard to achieve.

Although all of the Justices have been gubernatorial appointments, the various Governors had been the Godfather to eight of the nine Justices who served with Chief Justice Wilentz. For me, however, Chief Justice Wilentz was my Godfather, my Rabbi. That speaks volumes for the person—for the Chief.

Editor's Note: This ends the section that was added. Justice Coleman also deleted a section.]

**SI:** And you initially had some apprehension, I guess, about going to that part of the Appellate Division.

**Justice Coleman:** Yes. I really liked my experiences here in this courthouse, because I'm a people-oriented person. And it was so enjoyable to participate in the jury selection process, because, as each person sat in the box or answered questions from the box, I was looking at them and raising questions in my own mind as to how they may be reacting in the jury room, but all this is very private. And then, I have the lawyers on their feet making various arguments, sometimes very good ones, sometimes arguments that are not so good, on behalf of their clients. And all of that interaction, I really enjoyed, the dialogue that was occurring, had some very fine lawyers making very good arguments, too.

I enjoyed that and, when I was elevated to the Appellate Division, I missed it. It felt like I had left the trial bench, a place that I had truly enjoyed, and had suddenly been elevated to "the monastery." I may have been getting closer to heaven in the minds of some people, but it was not, initially not, nearly as enjoyable. So, when I was told that I'm going to be assigned to the Appellate Division on a permanent basis, my chambers were in this building on the floor below this one. And I spoke to a person, Mr. Jackson, who was a supervising janitor here at the courthouse. And I shared with him my story.

"Mr. Jackson, I have this chance to go to the Appellate Division, but I like what I'm doing right here. I like the people around me and all the other nice things about it." And he said to me, "Judge Coleman, you can't turn down that opportunity, because look how long it's been, how long it has been, before any one of us was offered that opportunity. If you turn it down, God only knows when the next person may have that chance." And I never forgot what he said to me and how wise his wisdom was. And, for personal reasons and professional reasons, I accepted it and enjoyed it after I got there.

On one other occasion--no, let me stop there for a second. My first chambermates, after going to the Appellate Division, were Justice [Sidney M.] Schreiber, who was also from Union County--and he was, of course, then in the Supreme Court--and we shared chambers at the Mutual Benefit Building in Newark, at 520 Broad Street in Newark. And we really enjoyed each other's company. And, while I was there, my next chamber

mate became Justice [Marie L.] Garibaldi, the first female appointed to the Supreme Court, and she also was equally as enjoyable. And we got along very well together.

But, commuting into Newark was a pretty long commute. And I was given information that Mutual Benefit was not going to be allowing the Judiciary to occupy that space much longer--and, by much longer, no more than maybe one or two years. So, I then began conversing with the Presiding Judge for Administration, Judge Michaels, the Presiding Judge for Administration in the Appellate Division, about looking for chambers. That was occurring about simultaneously with the Appellate Division being thrown out of the Courthouse Annex in Newark, over the Hall of Records.

One day, I passed a building on Morris Avenue with a "For Rent" sign. I turned around, got the information, gave it to Judge Michaels. And the rest was history. For at least the next ten or twelve years, the Appellate Division had chambers in Springfield, Union County. That's where I had chambers when I was appointed to the Supreme Court.

There was a second story that went with my chambers and my courtroom here in this building. The Board of Freeholders would hire summer help to do extra cleaning around the courthouse. During one of those summers, [there] was an African-American, young male, who was given the assignment of cleaning my courtroom. He noticed that I was the only judge with a courtroom in the basement.

So, one day, when he was cleaning Judge [V. William] DiBuono--the Assignment Judge's courtroom that we're in now--he approached Judge DiBuono and said, "Judge, you mind if I ask you a personal question?" Judge DiBuono said, "Oh, absolutely, yes." He said, "You have one judge here, one brother judge," he called me, "here at the courthouse. Why do you have him in the basement?"

Judge DiBuono started to smile and said, "He's there because that's where he wants to be. There've been at least three occasions that I offered him one of the courtrooms in the new Courthouse Annex and he refused because he likes the basement." And the person said, "Oh," and walked away happily, apparently. Those are two good, human stories that I approve of.

**SI:** So, you were serving in the appellate court when the *Gilmore* decision [*State v. Gilmore*, 195 N.J. Super. 163, 478 A.2d 783 (App. Div. 1984), *after remand*, 199 N.J. Super. 389, 489 A.2d 1175 (App. Div. 1985), *aff'd*, 103 N.J. 508, 511 A.2d 1150 (1986)] was reached.

**Justice Coleman:** Which one?

**SI:** *Gilmore*.

**Justice Coleman:** Oh, *Gilmore*, oh, yes, yes, while I was in the Appellate Division, in 1984. But, before I went to the Appellate Division, I was presiding over criminal matters in my courtroom here in this building. A lawyer, who had been an assistant prosecutor,

stopped by to see me. I had a few moments to spend with him. He was trying a case here in the courthouse, too, because he was in private practice by then. He asked me if I know of any case in New Jersey that he could use that would prevent the prosecutor from excusing African-Americans with the use of preemptory challenges based solely on race.

I said to him that, "I do not, but I'm hoping that, one day, I'll find one." And so, he went back and finished his case, disgruntled and disappointed though he may have been, could do nothing about it. On another occasion, I was talking to a lawyer at a Bar function, and he told me about a case that he had tried that had the same issue.

[Editor's Note: Justice Coleman made additions and deletions to the following paragraph.]

While I am in the Appellate Division, the Gilmore case is on my calendar, a three-judge panel calendar. We had an extensive research memo that concluded there was nothing we could do in light of a controlling U.S. Supreme Court decision. The opinion was assigned to me to write. I did extensive research on the case. I wrote a remand following something I'd read recently that had happened in the U.S. Supreme Court. In denying the petition for *certiorari*, the Court concluded the matter should linger a little longer in the trial courts, so as to allow the trial courts to serve as a laboratory to test some of these issues. So, we remanded the case back to the trial court in Gilmore. Following the remand, I read the transcript from the original jury selection process and compared it to the responses reasons stated on the remand for excusing the jurors. I was able to ultimately conclude that every one of the African-Americans had been excused solely because of group membership. All of the explanations that the prosecutor had given on the remand were not in accordance with what the jurors had said when asked pertinent questions. We concluded the excusal of potential jurors based on protected group membership violates New Jersey's Constitution.

So, I was able to make that kind of conclusion based on the record, and then, use some old law that I was familiar with, that had dealt with why you want to bring a wonderful cross-section of jurors to the courthouse, because that's one of the best ways to get rid of the all-white juries, as occurred initially in the Byron De La Beckwith case for the murder of Medgar Evers in Mississippi.

**SI:** Emmett Till?

**Justice Coleman:** Who?

**SI:** Emmett Till?

**Justice Coleman:** No, not Emmett Till. He was a Civil Rights worker.

**SI:** Oh.

**Justice Coleman:** That was an all-white jury and the reason for that is that you can skew things in such a fashion as to substantially enhance the chances that you're going to get an all-white jury.

[Editor's Note: Byron De La Beckwith assassinated Civil Rights leader Medgar Evers on June 12, 1963. Two trials with all-white juries in 1964 ended in hung juries. He was finally convicted in 1994. Emmett L. Till, a fourteen-year-old African-American from Chicago, was tortured, disfigured and murdered on August 28, 1955, while visiting family in Money, Mississippi. Roy Bryant, with his half-brother J. W. Milam, committed the murder after Till spoke to his wife, Carolyn, in their grocery store. Bryant and Milam were acquitted of the slaying, though they openly admitted to committing the murder in an interview later.]

As an aside, on another occasion dealing with jury selection is a case called *State v. Powers*, while I was in the Appellate Division. One of the South Jersey counties had the sheriff's officer line up the people who were going to be brought into the Courtroom to serve on jury duty. And, after they were in the courtroom, rather than to follow the standard procedure that the rules required, which is to put a pellet in a box with names on each juror, and then announce the name randomly and randomly choose the name, and then, say, "You're number five in the jury box. You're number six," as you take it out of the box, to avoid anybody from trying to enhance the chance or skew the jury in advance.

We reversed that conviction, too, *State v. Powers*, because the sheriff's officer [lined them up]--and I didn't accuse anybody of anything, but it was only the process that was involved. And so, *Gilmore* was a reversal, based on the unconstitutional discrimination against jurors, against jurors and the defendant then and *Powers* was reversed based on improper selections to initially fill the seats required for a jury.

The Supreme Court took the *Gilmore* case and affirmed. The Supreme Court affirmance came after the United States Supreme Court had decided the same question I had decided in *Gilmore*. That case was *Batson v. Kentucky*[, 476 U.S. 79, 106 S. Ct. 1712, 90 L. Ed. 2d 69 (1986)], which had already been decided when the Supreme Court affirmed me. And, in subsequent cases, as I expected, I wrote narrowly and always intended to write narrowly, so [that] my decision was that the juror and the defendant had been improperly discriminated against in violation of the New Jersey State Constitution.

Subsequent cases that the New Jersey Supreme Court decided expanded *Gilmore* to prevent anyone from being able to excuse all white persons on a jury, to excuse people who may be wearing religious garb at the time they are called and put in the jury box, and things of that sort. So, as I anticipated, that that would happen, because I didn't see how you could reasonably write to say, in a criminal case, you can't do it, but, in a civil case, you can.

**INTERVIEW WITH JUSTICE JAMES H. COLEMAN, JR.**  
**JUNE 15, 2017**  
**PART 7 OF 9**

[Editor's Note: The following section was edited by Justice Coleman after the interview took place. An editor's note prefaces each section in which Justice Coleman made major additions or deletions. As a result, the text differs from the video.]

**Making History: Becoming the First African-American NJ Supreme Court Justice**

*Justice Coleman describes his tenure and administrative duties as Presiding Judge for the Appellate Division, beginning in 1987, and his work with Chief Justice Robert Wilentz on creating the New Jersey Supreme Court Task Force on Minority Concerns. He relates the research conducted in creating that task force to many cases from later in his career, including State v. Cromedy, State v. Novembrino and State v. Kamienski. He then shares his memories of being nominated to the NJ Supreme Court, the press conference announcing the nomination and reactions to this historic moment from the press and others.*

**Illingworth:** Now, 1986 was the year that you became a Presiding Judge in the Appellate Division.

**Justice Coleman:** It was '87.

**SI:** '87, okay. Can you kind of describe what additional duties you have to take on as a result of that?

**Justice Coleman:** Well, I'll answer probably two questions--you're probably going to ask me, down the road, describe something I did not like doing ...

**SI:** Okay. [laughter]

**Justice Coleman:** And I never cared that much for administrative work and, as a Presiding Judge, you have a bit of administrative work to do. You have to deal with all the motions and the other judges, the other three or four judges on your part, will call you with the information, how they want to vote on a motion and the assignment of opinions to be written. Presiding at oral arguments was the good part. The presiding judge must also determine whether a case gets a two-judge assignment or a three-judge assignment--part of that is assisted by the fact that there's a person in Trenton called Ellen Wry [Director of Central Appellate Research]. She's been there for a number of years, does a magnificent job of giving each case in the Appellate Division a rating of one to four--one being the most difficult, four being the easiest one. And,

based on that rating, I would decide, after looking at the file quickly, whether or not this case requires two judges or three judges.

Three judges are going to be put on a case that raises important novel issues or very complex issues. And two judges will deal with a lot of the routine things--an excessive sentence. The defendant pled guilty in an excessive sentence case. The maximum sentence he could get was four years, he got three. He's complaining still. That's a quick rule affirmance, so, I'll put two judges on it, because you need two in order to decide the matter. And those are the kinds of administrative things that I never liked, but that's what you do.

Now, the Presiding Judge of a part is determined based on the seniority ranks of all of the judges in the Appellate Division and the seniority is the first thing you look at when you're trying to assign the senior judge to each part, the most senior one to each part. You're looking at the seniority. And, if there's a tie in seniority in the Appellate Division, you then look at the seniority in the Law Division, between those judges that you have to choose between. So, it's more time-consuming and more consistent with being in "the monastery." [laughter]

**SI:** So, you also served on, I believe it was Chief Justice Wilentz put together a panel or committee on improving minority enrollment in the Bar and other aspects of the law.

**Justice Coleman:** Yes. Chief Justice Wilentz appointed me as a chairman of a committee to look into minority concerns in the Judiciary. That committee was appointed at a time when there was not a lot of diversity on the bench or in administrative capacities in Trenton or in the courthouses around the State. I believe that was in about 1982.

Part of the issues was to look at, "Why was it that, when we took a look at it, almost all of the guardianships in which there's a fee to be made by attorneys were being given to primarily white lawyers?" and, at that time, primarily white male lawyers, too, because we didn't have a lot of female lawyers. And we looked into many other issues and, as a result--and one of the other issues was, "Why is that we are having--we have so few minority law clerks at all levels in our Judicial Branch of government?" I wrote a report and made recommendations.

After the report was filed with the Chief Justice and the Supreme Court, a task force was appointed to continue those investigative angles--and I asked the Chief not to name me as chairman of the task force, because I was becoming concerned that lawyers may begin to move to disqualify me on certain cases because I was too close a connection with the concept of wanting to enhance diversity. I didn't want to be taken out of some of those cases. I'd made a recommendation to him to name somebody else and he did. Judge Davis became chairman of the task force. [Editor's Note: The Honorable Theodore Z. Davis was appointed to the New Jersey Superior Court in 1981 and became Presiding Judge of the Chancery Division-General Equity in 1991, serving

until his retirement in 2003. He became Chair of the New Jersey Supreme Court Task Force on Minority Concerns in 1986.]

In a number of the opinions that I wrote, I used some of the discussion, the social science data that we collected in the Task Force Committee Report and in the Coleman Committee's Report. One of those cases was a case that dealt with cross-racial eyewitness identification. In that case, I use a lot of social science data to support the conclusion I reached that we need to have a special jury instruction when it comes to eyewitness cross-racial identification. And the same principle was used in *Brown v. Board of Education* and, at that time, it was being called a "Brandeis brief," meaning to use the social sciences. And it was used in a number of other cases we'll be discussing later, too. [Editor's Note: When it comes to eyewitness cross-racial identification issues, the case was *State v. Cromedy*, 158 N.J. 112 (1999).]

**SI:** Was that the case with the Rutgers student who had been convicted of rape?

**Justice Coleman:** Yes. You want the name of it? I can give it to you.

**SI:** Tokeley or Croke, Crawley?

**Justice Coleman:** Yes, it was *Cromedy*. [laughter] It's all the way near the back [looks through documents]--it was *Cromedy*.

**SI:** *Cromedy*.

**Justice Coleman:** *State v. Cromedy*[, 158 N.J. 112, 727 A.2d 457 (1999)], a 1999 decision, yes. And it was a first impression case--in this jurisdiction, too--whether or not you need special identification, cross-racial identification, instruction to be given to the jury, yes.

**SI:** So, before we come up to your nomination in 1994, [are there] any other aspects of your work with the Appellate Division that you want to discuss?

**Justice Coleman:** Yes. Another case that still reverberates strongly is *State v. Novembrino*[, 200 N.J. Super. 229, 491 A.2d 37 (App. Div. 1985), *aff'd*, 105 N.J. 95, 519 A.2d 820 (1987)] that I wrote in 1985. The U.S. Supreme Court had created an exception to the Fourth Amendment requirement of probable cause before issuing a search warrant and those kinds of things. In *Novembrino*, the question raised was--well, the U.S. Supreme Court also decided that there should be a good-faith exception when the police officer engaged in good faith conduct, but, nonetheless, not in compliance with the federal Constitution. And the attempt was made to have the good-faith exception apply in New Jersey.

I wrote the decision in *State v. Novembrino* in 1985, concluding that under our state constitution, the Fourth Amendment probable cause concept should not be waivable, because it is of a constitutional dimension under our state constitution, even recognizing



that a person can waive certain constitutional rights. My thought primarily was, "While the individual may waive it, that does not create a license for the government to waive it."

Another very fascinating case, from the medical perspective at least, and perhaps from society's perspective as well, was a case called *State v. Kamienski* [254 N.J. Super. 75, 603 A.2d 78 (App. Div.), *certif. denied*, 130 N.J. 18, 611 A.2d 656 (1992)], K-A-M-I-E-N-S-K-I. I spelled it because it's pronounced so different from the way it's spelled. That was decided in 1992. It raised a serious medical question within the context of a defendant's right to have a certain defense in a criminal prosecution. The question raised was the impact that multiple personality disorders can have on the criminal justice system.

In other words, this person had murdered a parent. The defense was, the person was in that other personality at the time of the murder. The question was, "Can such a defense be used?" And our answer was, "Yes, it can, but you have to give very clear instruction to the jury, with medical expert testimony, on what to look for when the person is not in that psychological personality." By that, I mean the almost psychotic personality.

The big surprise for me is that that is a legitimate medical diagnosis and that people do, from time to time, go from one of these personalities to another one of the personalities. And there's no way, necessarily, to determine in advance when they're slipping from one or into another. And I thought that was an important thing for the Court to have to consider.

**SI:** Now, first, I want to ask--you know, you're coming up to 1993 or so, I believe, when it's, you know, obviously Judge Clifford is going to be retiring. There's speculation over who will take his seat. How--at any point in that process, do you know if you're being considered or you're thinking you might be considered? Is that something that crosses your mind?

**Justice Coleman:** Well, I'll be lying if I said it never crossed my mind. In fact, there was a person working in the AOC [Administrative Office of the Courts] who wanted to go public on recommending me for Clifford's replacement, at least two, if not three, years before Clifford was reaching retirement date. And I strongly opposed it, because it was likely to be far more hurtful than helpful. And I would never have wanted Justice Clifford to think that I would be part of a process that was trying to get him to retire, force him to retire, early.

My answer was, yes, I had been aware of that and was doing everything in my power to become a competitor for his replacement long before 1992 or '93. I started planning ever since I had at least become a Presiding Judge in the Appellate Division, starting in '87, if not sooner. And the reason why I can say this is because, even when I was a workers' compensation judge, my brother and I--when I was living with my brother, he had a house right behind the Essex County Courthouse. As a matter of fact, I looked at

my Social Security card a few days ago and noticed that it has his house address on it, that I got in, obtained in 1952.

As we were walking down the street and we walked past the courthouse, I said to him, "Boy, I would like to be a judge in this courthouse one day." His remark--and I don't have any belief that he understood or appreciated the impact of what he was saying--he said, "You're not only going to be a judge in this courthouse, in my view, but you're going to be in the Supreme Court." And I thought that he may have been hallucinating when he made that statement.

So, I would be not truthful if I were not to acknowledge that I had my eyes on the Supreme Court after I was in the Appellate Division, because I knew, number one, that he was a Democrat. And I knew, from the make-up of the Court at that time, that his replacement would also have to be a Democrat. And one thing that made me even more interested was when Governor Whitman was running and was looking favorable in the polls. [Editor's Note: Christine "Christie" Todd Whitman (born in 1946), a Republican, served as Governor of New Jersey from 1994 to 2001.]

I received a call from Justice Schreiber, who had retired. At that time, Justice Schreiber was doing the vetting for the then Governor's Office on potential nominees for Superior Court judgeships and for prosecutorial appointments. And he called me in--I think it was October of 1993, that election year--and asked me, number one, my age, number two, my political affiliation and, number three, how was my health? Now, somebody may say that's a lot of personal data that they should not be entitled to. I wasn't stupid enough to challenge him, because I knew he would be asking for good purposes, purposes of which he probably could not tell me. I also knew he was a very strong supporter of me. We worked together at the Union County Courthouse.

Somebody had dropped the bug in his ear to check me out, because the soon-to-be Governor, Whitman, if she were elected, would know that this was going to be her first appointment. And, as fate would have it, I later learned that when Whitman was elected, she made Verniero her first, Chief of Staff, was the first position. It turned out that Verniero had been one of Clifford's clerks in the Supreme Court. And I said to myself, "Oh, boy, how do I deal with that?"

[Editor's Note: Prior to his service on the New Jersey Supreme Court, the Honorable Peter G. Verniero served as Governor Whitman's chief counsel in 1994 and was elevated to her chief of staff in 1995. He became Attorney General of New Jersey in 1996, succeeding Chief Justice Deborah T. Poritz when she joined the Supreme Court.]

I called one of Justice Clifford's old best friends, with whom I had served my first year in the Appellate Division, McElroy. And I had done something very favorable for McElroy. One day, we had court and, the day before, he was involved in a head-on collision. The next morning, he came to court with his face all scarred. "What happened?" He told me, head-on collision. He was trying to decide whether to buy that same car again. I said to him, "Mac, I don't understand. That car saved your life in a head-on collision,

you're going forty or fifty miles an hour--and you're trying to decide whether to buy that same car again?" He said, "Jim, don't say any more."

McElroy and Clifford were very close friends for a long time. And so, he had always been saying to me, before he became a judge, that, "I was going up, I was going up." And I knew how much he approved of me. So, I said to him, "Would you share that information with your buddy, Clifford?" He said, "I'd be delighted to do it again." And so, when Clifford spoke to Verniero, that was very helpful, very helpful. That was largely the way that it was started.

It ended in a process that made me a little nervous, because I was under consideration for the Federal District Court simultaneously. I had gone through the process. Senator Lautenberg had requested all of my opinions, published and unpublished. Verniero had requested the same. I had volumes with all of them. So, he collected those opinions and had--who became Chief Justice Zazzali--be one of the readers.

But, in the final analysis, I was one of two semi-finalists with Senator Lautenberg. There may have been a third. But, Judge Walls and I were semi-finalists and I received the word from Lautenberg about a week before I received the word from Governor Whitman. When I received the word from the Governor--they also had read all of my opinions before the Governor called me in my chambers in the Appellate Division. One of my law clerks, Michael Ship, who's now a Federal District Court judge, answered the phone. I guess my secretary must have left for the day then, because she came early and left early.

He tapped on the door and said to me, "There's some woman on the phone named Christie. She wants to talk to you." I said, "Who?" So, I pick up the telephone and say, "Hello?" And she said, "Hi, Judge?" I said, "Yes." "This is Christie." "Christie who?" [laughter] And she said, "The Governor." "Oh!" You could've bought me for a penny at that point. She said, "Well, is it okay to schedule a press conference tomorrow to announce your nomination to the Supreme Court?" I answered, "Yes," with all capital letters.

Even before the press conference, Kathy Carter [Kathy Barrett-Carter], who was with *The Star-Ledger* at the time, had a gut feeling that something was about to happen. So, the morning of the press conference, on October 3, 1994, she called the appellate chambers in Morristown, where I was supposed to be. They told her I was not available. By the time the press conference started, she had concluded that that's what it was all about and that I was the nominee.

At the press conference, a light stanchion--not like this one, but the umbrella kind--one of the reporters tipped it over and it softly struck somebody else. And I wanted to lighten the moment. So, I took a card out of my pocket and handed it to the person, saying, "As an old workers' compensation judge, you may need this." And everybody went crazy. [laughter] Thereafter, everything was absolutely smooth sailing. I couldn't believe it.

**SI:** You only had twenty-four hours' preparation before that press conference.

**Justice Coleman:** Yes, that was more time than I needed.

**SI:** Wow.

**Justice Coleman:** Oh, yes, and I was lucky to have that, because she wanted to expedite it. The press conference was on a Tuesday. The public notice, I think, required a week before confirmation can occur. But they wanted to have a special session to confirm me the next week. I'd heard from somebody that I trusted that some of the Senators may look bad if they go ahead and move my nomination so quickly, when there are some other major issues that had been backlogged for a while.

Because the President of the Senate and I lived in the same town, I informed him that there was no need to rush. Clifford would not be retiring until December and this is the 1st of October. Also, if we don't rush it, I would have a chance to call each member of the Judiciary Committee and find out what concerns, if any, they have.

They waited about two weeks before having the confirmation hearing. That gave time to call each member of the Senate Judiciary Committee. Before I could tell them why I was calling, every one--I think there are thirteen on the Committee--every one said to me, both Democrats and Republicans, said, "We're voting for you, we're voting for you." I wasn't calling for their congratulations, but just trying to be sure that if they had any issues that I could answer, because the newspapers were going wild by then.

Everything was very favorable. The big surprise was not the fact that I was being appointed at age sixty-one but regarding my background that was revealed in my statement that day: the fact that my father had been a sharecropper. The headlines all over read, "Dealing with growing up in poverty, now being appointed to the highest Court in the State." I may get emotional at times when talking about it, but it was a wonderful journey--that has not yet ended. [laughter]

**SI:** So, obviously, a lot of the press coverage dealt with race, dealt with, you know, kind of this "rags-to-riches" story, but a lot of it also looked at, you know, issues of conservative versus liberalism. How did you feel about that issue, that it was brought up so prominently?

**Justice Coleman:** I didn't--I really expect that it would, because the papers for at least ten years before then, had often talked about, "Somebody was so conservative," or, "Somebody was so liberal" on the U.S. Supreme Court or the New Jersey Supreme Court. They used that concept of being liberal to attack so many of the decisions of the Supreme Court of New Jersey, in the areas of death penalty legislation and death penalty jurisprudence. So, I wasn't at all surprised that they were surprised about my Horatio Alger upbringing.

What they eventually came to accept was my statement that, "Neither of the three labels would ever properly fit me. I'm not to be called a conservative, I'm not to be called a liberal and I'm not to be called a moderate. I will bear whatever label following the facts and the law lead me." And everybody, in response, says, "You couldn't give a better answer." That was exactly the way I felt then and had felt all of my appellate life. That's the way it ought to be.

Not everyone is that way. I think there are members of the Court now--and there may have been some when I was on the Court--who can be labeled moderate or conservative or liberal. And I was never of that mentality.

[Editor's Note: The following section has been added by Justice Coleman.

The issues of race and affirmative action influence on my appointment were properly answered by Governor Whitman. Here is what she said:

Among the many appointments I have made as Governor, few have been as gratifying as the nomination of James H. Coleman, Jr. to the Supreme Court of New Jersey.

Justice Coleman's background is impressive. He has served in the Judiciary since May 1973, when he was appointed a judge of the Union County Court. He served there until his appointment to the New Jersey Superior Court in December 1978. He served as a member of a special three-judge resentencing panel from October 1979 to February 1981. In March 1981, Judge Coleman was elevated to the Appellate Division of the Superior Court, and in May 1987, he was named presiding judge in Appellate Division. He served on three different occasions as a Justice *Pro Tempore* of the State Supreme Court, in 1989, 1991, and 1993.

Born in the segregated rural south, Justice Coleman recognized early that education was the key to a better life. He started working at age seven to buy clothing and school supplies. Faced with a political and social system that was separate and unequal, he channeled his energies into his education, excelling in high school, at Virginia State University, and then at Howard University Law School.

Much to our good fortune, Justice Coleman realized he could pursue opportunities in New Jersey. After graduating from law school, he moved here for good. And good it has been—for him and for all of us. He has served the people of New Jersey with honor, both in private practice and on the bench. He carries a record for fairness that would make any jurist proud. He judges each case on its merits and brings a balance to every decision, basing his conclusions on the facts and law. His experience as both a trial and appellate judge will add distinction to our highest court.

Justice Coleman was the best candidate for the job. His heritage was not a determining factor. We selected him because of the kind of person he is and because we were so impressed by what he had brought to the positions he has held thus far. But of course, I am aware that we have broken a barrier. Justice

Coleman is the first African-American to sit on the New Jersey Supreme Court, and it has been a privilege for me to help make that happen.

New Jersey shares the pride that Justice Coleman and his family must feel. I looked for an individual who could bring the highest qualifications, intelligence, and integrity to the Court—and found him. Justice Coleman has a depth of knowledge and breadth of experience rare in any profession. As the first sitting judge to be appointed to the Supreme Court in many years, he has gained wisdom both on and off the bench. I congratulate him and his family on his appointment and will follow his career on our highest court with pride. [Seton Hall Const. L.J. 331-32 (1994-94)]

Editor's Note: This ends the section that was added.]

**SI:** So, tell me a little bit about how you felt when you were sworn in and during that ceremony.

**Justice Coleman:** Well, I felt that all of the hard work had paid off [pause] when I was a kid growing up on the farm in Virginia had finally paid off in a very respectable position. The premiere state Supreme Court in the nation, I've now become a part of that--what better reward, short of heaven, can there be?"

**SI:** Sure.

**Justice Coleman:** I give the press a hundred percent credit for the way they reported the story. I don't know if they were looking for negatives, but, if they found any, they didn't report any. At the confirmation--I'm sorry, yes, at the Senate confirmation hearing--every Senator went out of his or her way to make positive speeches, not coming close to raising any question that would have, that may have, jeopardized [the appointment]--not that I knew of any, but they didn't even try to go there. I like to think that they didn't go there because they had no reason to go there, but, then, that may sound like I was bragging. All of the articles that I read were always glowing.

My own feeling was that hard work, integrity, honesty and humility can pay off in the end. Being raised in poverty need not become one's destiny, but you have to take control of your life and you have to recognize the need to do that beginning at an early age, before you engage in conduct that is irreversible. I know too many people who've made those mistakes, people with excellent minds--one in this very courthouse.

One of the judges, who sentenced him after I had sent him to prison, said to him, "You know, as smart as you are, why do you have to steal cars? You should be able to get a job and pay for it." So, he sent him to prison and the person apparently misunderstood the judge. He wrote the judge a letter from prison, said, "Dear Judge: I'll take that car you promised me now." [laughter] But, my [point], the moral of the story is, there are so many of those people around.

That's what breaks my heart, because so many of those same people had golden opportunities to have done so much with their lives, in contrast to people like me, growing up under the circumstances under which I grew up, who in life looked at the opportunity in every difficulty, rather than looking at the difficulty in any opportunity, and somebody who chose to want to see the good in people, rather than the evil, somebody who would like to transform anger into new energy to do positive things. But, so many people choose the opposite.

It is the choices that we, at times, make in life, despite circumstances, that can have a lasting impact on what you do or not do in life. Yes, I grew up under racial discrimination. Yes, I grew up in poverty. But, I used those experiences to instill in me that I had to work harder than the kid with the ancestral privileges, because they have privileges to help benefit them," which, theoretically, means will help pay the bills that you will incur while trying to get an education. Life is different when you have nobody but yourself to depend upon.

I say that without diminishing the moral support that I received from many black and white people along the way. I've talked about some--when I mentioned Justice Schreiber's name, and some others. They were always very, very supportive and did not seek or did not want any publicity as a result of that. In every court in which I served, numerous lawyers would say to me, after court had ended, that I should try to "move up the ladder," to the higher court.

That was when I was in workers' compensation. When I was in the Law Division, they were saying the same thing, "Move up to the Appellate Division." When I was in the Appellate Division, they said the same thing, "Move up to the Supreme Court." Those were people who were just not trying to make complimentary remarks to gain something such as a privilege or some other benefit from me. They were very, very sincere.

I have somewhere in my personal file a letter that a lawyer wrote after we finished a medical malpractice trail downstairs. I don't remember if it was my first one or not; I don't think so. He wrote a letter to the Assignment Judge with a copy to the Chief Justice and the Administrative Director of the Courts--telling them what a wonderful job I had done and that I should be considered for a promotion to anything that may be chosen for me. I didn't ask the lawyer to write that letter. When I saw him twenty-five years later, or thereabouts, he mentioned to me that he still felt the same way.

**INTERVIEW WITH JUSTICE JAMES H. COLEMAN, JR.**  
**JUNE 15, 2017**  
**PART 8 OF 9**

[Editor's Note: The following section was edited by Justice Coleman after the interview took place. An editor's note prefaces each section in which Justice Coleman made major additions or deletions. As a result, the text differs from the video.]

**Justice For All: Reflections on a Historic Tenure on the Supreme Court**

*Justice Coleman describes the Court's procedures during his tenure, relates his impressions of the NJ Supreme Court as an institution and shares his thoughts on the Chief Justices he served under, Robert Wilentz and Deborah Poritz. He reviews the opinions he wrote in the following cases: Brill v. Guardian Life Ins. Co. of Am., Saffer v. Willoughby, Cmty. Realty Mgmt., Inc. v. Harris, Collins v. Union Cty. Jail, Karins v. City of Atlantic City, Flagg v. Essex County Prosecutor, State v. Carty, State v. Maryland and McNeil v. Legislative Apportionment Comm'n. He then reflects on stepping down at the mandatory retirement age and his views on how he feels his perspective left an impression on the Court.*

**Illingworth:** Well, let's talk a little bit about how the Court operated. Tell me about getting involved in terms of the conferences and, you know, the day-to-day work, what that adjustment was like once you joined as a member.

**Justice Coleman:** Well, let me preface my remarks by saying there are certain things that occur at conference that are expected to remain confidential. All of the arguments are made in the courtroom that is open to the public.

**SI:** Oh, of course, yes.

**Justice Coleman:** I know where to draw the line, because I've published an article that dealt with the disposition of cases in the Supreme Court. And, before I gave that speech or published the article, I had clearance from the Court, because I have such high respect for the Court. There are things that happen in a court conference, however, that we have no desire to make public.

Here's the way it works. In order to have a case heard by the Supreme Court in New Jersey, you can only come by way of one of three routes. You either have a dissent in the Appellate Division, which gives you an automatic right to appeal to the Court. The second, and most frequent option, is to file a Petition for Certification. Under the rules, you base your certification on one of the standards articulated in the rule as to why the Court should hear your case.



When I retired from the Court, the Court was accepting less than fifteen percent of the Petitions for Certification. A Petition for Certification is a written request with a brief, asking the Court to take a case. The other side will file a brief also, sometime joining in the request to take the case, but, most often, saying why the Court should not take the case.

The final way to seek certification is to ask the Court to take a case that is already pending in the Appellate Division, because the case is so very important. One example of that comes to mind--and it's one of those rare examples--was a case in which I had involvement in a similar case in the Appellate Division. The question involved searches of athletes to see whether they're taking drugs or involved in any distribution of drugs. The Court recognized the importance of that case while it was pending in the Appellate Division and granted certification.

Once the Court takes a case, the brief that was filed with a Certification Petition will also serve as the Merits Brief. If, for any reason, one feels compelled to file an additional brief, permission by the Court to do so is required.

[Editor's Note: The following section has been added by Justice Coleman.

Brief writing should be regarded as a science and as an art. Logic, organization, and coherence are essential. The brief writer should remember that from the perspective of an appellate judge or justice, the cold trial record "is like a dehydrated peach; it has neither the substance nor the flavor of a peach before it was dried." [*Trusty v. Ford Motor Co.*, 19 N.J. Super. 100, 104 (App. Div. 1952).] The strongest point should be presented first in the hopes of capturing votes early. Thoroughness does not equate with filing overlong briefs.

Many times, the oral argument of an appeal is the climax of the case. In the Appellate Division, oral arguments are allowed in only the cases in which one of the attorneys has requested it in writing. In contrast, all appeals before the Supreme Court are argued. Our Supreme Court permits attorneys to use the first five minutes of oral arguments to present an overview of the case without interruption by questions. The Chief Justice presides over oral arguments in the Supreme Court and the presiding judge of a panel presides over oral arguments in the Appellate Division.

There are gradations in the tone and style of questioning during oral arguments. "Oral frippery" should be avoided. After one oral advocate repeated that he was being "perfectly honest" with the Court, the late Chief Justice Wilentz was prompted to say, "You will tell us when you are not being perfectly honest as well, won't you?" Many times, a justice's or judge's tentative pre-argument position changes based on the oral argument. Although careful preparations are required, much of an oral advocate's performance must be spontaneous.

The conferences conducted in appeals after oral arguments are perhaps the most sacred and secretive of all aspects in the appellate process. This helps to explain why

there is a great deal of mystery surrounding the process. The "unknown" aspect of appellate courts is one of the reasons that Bob Woodward's book *The Brethren--Inside the Supreme Court* became so popular in 1979. Little has changed since then. Because I perceive that the public continues to be curious about the inner sanctum of our highest courts, I will share those aspects of the process that I can without violating the rules of professional or judicial responsibility.

The primary function of the conference is to discuss the appeal, decide the case, assign the opinion, re-discuss the appeal after an opinion has been circulated, critique the opinion in terms of substance and language, reconsider in light of any circulated dissenting or concurring opinions, and then reach consensus on the opinion of the Court that is to be filed in the case. The ultimate opinion reflects the combined thoughts of all the justices.

Our Court conferences involve a modified Socratic dialogue in that each justice is asked to express his or her thinking and disposition of each issue raised by the parties. The Chief Justice, who is appointed (the position does not rotate), presides over the conference. The Chief Justice calls on one of the justices to lead the discussion. Generally, the justices have no advance notice of who will be called on to lead the discussion. Obviously, then, each justice must be prepared to discuss each case.

Many ideas expressed at the conference are later incorporated into the opinion. At the conclusion of those discussions, the Chief Justice, if he or she is in the majority, assigns the opinion. When the Chief Justice is in the minority, the senior justice in the majority assigns the opinion. The senior justice in the minority assigns the dissenting opinion. [Seton Hall L. Rev. 1082-1087 (1998)]

Arthur T. Vanderbilt, the first Chief Justice of the New Jersey Supreme Court under the 1947 Constitution, inaugurated the practice we still follow and once criticized the ways other appellate courts conduct business. Chief Justice Vanderbilt was especially critical of a single-justice opinion system in which one justice is assigned to write on a rotating basis.

Editor's Note: This ends the section that was added.]

**SI:** Now, you served under Chief Justice Wilentz for about eighteen months or so.

**Justice Coleman:** Right.

**SI:** After he passed away, and then, under Chief Justice Poritz for the remainder of your tenure on the Court.

**Justice Coleman:** Right.

**SI:** Any--that you can share--any differences in style that stand out or practices?

**Justice Coleman:** Well, one great similarity is, both would always strive for a consensus. In some jurisdictions, many Chiefs do not strive for a consensus. Everybody is on his or her own. Both of those Chiefs would strive for a consensus, in a very friendly, highly-professional way. It doesn't offend me if someone is telling me why he or she disagrees with what I am saying or have said, because it's going to be done in a highly-professional way--and it may or may not cause me to change my mind. That is why we go around the table.

One great quality in both of the Chiefs is that each one did a lot to improve diversity in the Judicial Branch of government. Obviously, no one could ever have more committees and more assignments and so many ideas than Chief Justice Wilentz had. He was a workaholic, and I'm not saying that in a negative sense. I know for a fact that he would work on opinions at two or three o'clock in the morning. I did a lot of late night work myself; that's when I accomplished the most because of the lack of any disturbance.

There are many similarities and there are some dissimilarities, also. When Chief Justice Poritz joined our ongoing court, she was in tune with things as if she'd been on the Court for a long time. And, as was said on an earlier occasion, some of us would start a sentence and she would be able to complete it. That's how she had become a part of the Court so quickly.

I acknowledge that there is something that is highly-favorable, in one respect, when a previously or a sitting judge is elevated to the highest court, because they have a tendency to be able to fall right in quickly. The learning curve tends to be shorter. Again, I do not like to brag, but, from my perspective and from what the media has written, I fell right in. It was because I had worked in all of the Courts. But I am not suggesting that should be the resume for all appointments. There needs to be appointments of people from their public or private services.

The people are so smart who are appointed to the Court. Even if they have had no prior judicial experience, they have a short learning curve. Someone once asked me, "What are some of the good training grounds to become an Associate Justice or a Chief Justice?" High-level positions in both the public and private sectors can serve as excellent trainings.

[Editor's Note: Justice Coleman deleted a section.]

**SI:** Are we ready? Okay. So, now, you're up to speed. You're part of the Court. What was your first major opinion?

**Justice Coleman:** It was *State v. Haliski*, 140 N.J. 1 (4/20/95), but I do not remember the details. One of the first--and, by that, I mean during the first term I was on the Court, which would have been argued somewhere between the 1st of January of '95 and the end of May of '95--was *Brill v. The Guardian Life Insurance Company [Brill v. Guardian Life Ins. Co. of Am.]*, 142 N.J. 520, 666 A.2d 146 (1995)]. That has become

the most frequently cited case in New Jersey. I was surprised and pleased that the Chief assigned such an important case to me so soon after my appointment.

It deals with the standard for determining whether to grant summary judgment in civil litigation. The standard that we adopted deviated from the old *Judson* standard, in the sense that we simply adopted the standard that three U.S. Supreme Court decisions had followed. That standard requires the motion judge to engage in an analytical process, essentially the same as that necessary on a motion for a directed verdict. In other words, you look at the entirety of the evidence and determine whether, at the end of a trial, the party seeking some result can prevail. If you conclude that he or she cannot, then, there is no issue that is triable for the jury and summary judgement should be granted.

Some commentators have referred to the *Brill* decision as "a judge's decision" because that was exactly what I was trying to do, out myself in the shoes of a trial judge. We decided to write it this way because judges were too reluctant to grant summary judgment in cases in which they should have been granting them.

I mentioned *Brill* as my most frequently cited decision. One of the two most unpopular decisions of my appellate career is *Saffer v. Willoughby* [143 N.J. 256, 670 A.2d 527 (1996)]. In that case, we simply concluded that--in an attorney malpractice case--the lawyer is not entitled to get a fee for work that he performed or she performed that was ultimately determined to have been malpractice and that the cost incurred by the litigant in the prior litigation in which the malpractice occurred can be added to the cost the litigant can receive--I mean damage--the litigant can receive in the actual malpractice case.

One of the cases that I regard with a great deal of empathy is *Community Realty v. Harris* [*Cmty. Realty Mgmt., Inc. v. Harris*, 155 N.J. 212, 714 A.2d 282 (1998)]. This case deals with dispossession of a tenant for nonpayment of rent. We know, as a matter of common knowledge, that in subsidized housing, or in many of the housing [options] that will not be subsidized, a lot of the tenants can barely make the rent payments that are due pursuant to the lease. If you are going to allow added expenses to that charge, such as late fees, it becomes virtually impossible for a lot of tenants to be able to avoid the eviction.

In *Harris*, that's exactly what was happening. She had the money that she could've paid into Court that day for the overdue rent, if no expenses had been added to it. If she had been able to pay the required amount into Court, she would have avoided eviction. Because she was not able, the rule was that she would not be able to avoid eviction. Having worked so long with Legal Services, I felt very strongly that fees should not be allowed. No federal law required or allowed them to be admitted as part of the damages to be paid to avoid eviction.

*Collins* [*Collins v. Union Cty. Jail*, 150 N.J. 407, 696 A.2d 625 (1997)] is another case that was very important, where a jailhouse officer in Union County committed sexual

assault upon an inmate. We concluded that the psychological post-traumatic experience, stress disorder, coming from that, by the inmate, is sufficient to satisfy the damage kind of expense clause of the Tort Claims Act. That was also a novel case.

A case that raised significant First Amendment issues was decided in 1998, *Karins v. City of Atlantic City*[, 152 N.J. 532, 706 A.2d 706 (1998)]. That case involves one police officer who came to assist another police officer at the scene. One of the police officers said to the last officer to arrive, that last officer who was an African American, used a derogatory word and said, "Oh, no, not that nigger S-word again."

That officer contended that, under the rules and regulations of the department, that his statement was protected freedom of speech. The Court concluded that the comment had no socially-redeeming value, in the sense that it did nothing to help improve the workforce. If anything, it was contradictory to efforts made to try to improve the workforce. So, that racist slur was not remotely related to any matters of public concern. In addition, Atlantic City's interest in maintaining order, discipline, harmony and professional working relationships between the Police Department or police officers was substantially deteriorated by such a remark.

The next case is one that was almost a miracle that it ended up in the Supreme Court, *Flagg v. Essex County Prosecutor*[, 171 N.J. 561, 796 A.2d 182 (2002)]. Flagg was a garbage truck driver and he was told by his boss to empty a truckload of garbage into one of the streets. Whether the boss intended for that to [be] temporary or not, the record did not reflect. But, this person was reported to the police for having done that. He was brought before the Civil Service authorities and fired and denied any benefits as a result of that. The case was handled by a pro bono attorney.

The Court concluded that, number one, he had not violated any Civil Service rule and should not have been fired and that he should be restored to his job. This was not a case in which they even tried to implement what we call "gradual punishment." They had fired him, which is the most severe penalty one can receive in the workplace.

At the time that I joined the Court, the issue of racial profiling was a front-page newsworthy article that was occurring, largely because of what had happened on the New Jersey Turnpike. Certain motorists were contending that they had been stopped only because of race. And that information became persuasive enough so that the New Jersey State Police Department was placed under surveillance by the U.S. Attorney's Office. As a result of that, things kind of quieted down.

[Editor's Note: On April 23, 1998, two New Jersey State Troopers patrolling the New Jersey Turnpike in Mercer County pulled over a van with three African-American and one Hispanic-American men inside. The stop resulted in the troopers firing shots into the van, wounding three of the unarmed men. This incident re-ignited criticism that the New Jersey State Police was pulling over minority drivers based solely on race.]

In one of the cases that I will talk about, I used to be confirmatory of the correct result that was reached. When I use the word "racial profiling," I simply mean that a person is being treated improperly based solely on membership in a certain group. Like the case of *Brown v. Board of Education*, in deciding the first of some of these racial profiling cases, I used social science to help shape the rule of law. That is highly recommended because it has been demonstrated to be substantial. It falls in the context of what I said earlier--social science has been used a lot in the context of the so-called Brandeis brief.

To set the tone, I have to begin with an earlier decision of our Supreme Court that disagreed, based on our state constitution, from a decision of the U.S. Supreme Court. In *State v. Johnson*[, 68 N.J. 349, 346 A.2d 66 (1975)], that was decided in 1975, the New Jersey Supreme Court held that in order to be able to search a car that is stopped on a public roadway for some relatively minor traffic violation, you need to be able to have a knowing consent from the operator or passenger of the car before you can do it. To be knowing consent, the person had to be informed that he or she has the right to refuse consent.

We modified the consent requirement, because the social sciences concluded that so many of the stops that were being conducted were for the purposes totally unrelated to a minor traffic violation, but were conducted for the purpose of searching the vehicle. So, we added a requirement that, before you can ask for permission to search the car that had been stopped because of a minor traffic violation, you needed to have a reasonable and probable suspicion that some criminal activity has or is occurring.

That is a different standard than the knowing consent. The knowing consent was very important, because you had to tell the person that you have the right not to consent. But, if you do it under the standard we have set now, you have to be able to articulate what reasonable suspicion of criminal activity is occurring. One of the cases was *State v. Carty*[, 174 N.J. 351, 806 A.2d 798 (2002)], that presented the novel proposition, stated differently, that should be used by police officers when consent [is sought] to search incident to a lawful stop of a motor vehicle for a traffic violation. That was the case that was used to set the new standards.

A second case is *State v. Maryland*[, 167 N.J. 471, 771 A.2d 1220 (2001)]. It is slightly different, because the stop in *Maryland* did not involve a motor vehicle. It involved the police's desire to conduct either what is called a field inquiry or an investigatory stop. This same issue was discussed again very thoroughly, a little--no, on June 6th of this year--by the Supreme Court, in which it approved again of the standard we set in *State v. Maryland*.

In a field inquiry, it is the police's ability to simply stop a person and say to the person, "I have a few questions to ask you." Because that does not amount to a detention, the person is not considered to be under any suspicion at the time. If that individual chooses to walk away from the police and say, "I don't want to answer any of your questions," that's the end of the conversation. In contrast to a stop for an inquiry, it amounts to a slight detention and, in order to do that, the person is retained for a very

short time. But, in order to satisfy that, the police officer needs to be able to articulate some reasonable basis to stop the person.

The problem in *Maryland* was, the only basis that had been articulated was the person's race. So, that was held to be unconstitutional. Now, again, the importance of that is reemphasized in this more recent case that I mentioned, *State v. Rosario* [229 N.J. 263, 162 A.3d 249 (2017)], that the Supreme Court decided on June 6th.

The last case is a very complicated one that dealt with legislative redistricting. Not only is the last case that, without another question, I will be discussing, it was the last case we heard before I reached the mandatory retirement age. The opinion was not filed until July 31st, which was after I had retired. But, the conference on the case is the standard for determining when a retiring justice may not participate.

For example, when Chief Justice Wilentz became ill, he had participated in the conference, but no opinion had been filed on a number of cases. He elected to tell us that, despite the fact that he had participated in all of the opinions, that we were going to get them ready for him before he passed away, that he would not participate. All those cases had to be re-argued. In the *McNeil* case [*McNeil v. Legislative Apportionment Comm'n*, 177 N.J. 364, 828 A.2d 840 (2003), cert. denied, 540 U.S. 1107, 124 S. Ct. 1068, 157 L. Ed. 2d 893 (2004)], that was not an issue.

To make it as simple as I can, it dealt with the redistricting under the U.S. Supreme Court's doctrine of "one man, one vote;" I'm going to say "one person, one vote," because women now comprise such a large part of the voting population. It was the "one person, one vote" doctrine. And that doctrine is implicated in determining whether you're going to have a certain town with a certain population of about 245,000 be a separate legislative district or be combined with other municipalities. That raises a question of whether or not you're going to have packing or unpacking in a legislative district.

The simple matter here is that, ultimately, the decision was that Newark and Jersey City need not be placed in one district. That was the bottom line in that case. It, too, turned out to be another one of our very controversial cases. But, this issue is likely to reappear again with the Census that is likely to be occurring in the near future, yes.

**SI:** All right. Now, I want to just ask a few more questions about [this period]. So, tell me a little bit about anything you want to share with regards to the interrelationships on the Court, congeniality, even friendships with your fellow Supreme Court Justices. It sounds like it was a very congenial group, from everything I've heard.

**Justice Coleman:** It was. And, again, I'm not a bragging person--at least I try not to be--but the Court that I joined and the Court from which I retired were very congenial. I played tennis with three other members of the Court. Four of us spent part of the summer on Martha's Vineyard and we would have dinner together. Justice LaVecchia

joined us recently in that same context. So, it was extremely congenial. Four of us participated in an emergency matter from Martha's Vineyard.

We got along very well together. We had a high regard for each other's ability to do the job right and well, R-I-G-H-T and well. I found it to be true under both of the Chief Justices under whom I served. I also served with Associate Justice [James R.] Zazzali, who later became Chief. My information is, he was the same way--as the other two had been. So, it was a wonderful Court to be part of and we got along so well together.

I regretted my mandatory retirement date. I had the experience of serving on a State Bar Association task force assigned the function of trying to determine whether we need to make some changes to extend the retirement date. No conclusion has yet been reached in that respect, but I feel pretty strongly that health-wise I was able to be a meaningful jurist for at least ten years following my retirement. But, we have the mandatory at seventy.

Seventy in 1947 was an old age, but not in today's world. But, a lot of issues are connected with changing the retirement date. One of them is, if someone, such as Justice LaVecchia or Justice Verniero, is appointed to the Court in their mid-forties or thereabouts and you can stay until you're eighty that will have deprived one or two other people from being able to serve in that slot. And some change on the Court, in my view, is essential to keep a well-functioning Court. New approaches, new ideas, new mentality, all that would help to lend institutional strength.

**SI:** Well, in looking at the articles that were published when you retired, you know, they all noted that you were unbiased in your [opinions], you know, not showing any of the partisanship, just as when you became a judge. That was such an issue in general, but, you know, what do you feel you brought to the Court from your own perspective that maybe helped inform your colleagues as they worked out issues? What perspective do you think you added?

**Justice Coleman:** Well, I always made it clear, verbally and in written form, that I feel strongly genetically connected to the underprivileged, to the poor, to the weak and downtrodden. To say otherwise would be to deny my own early existence. People who try to run away from their early and important existence generally encounter many problems in life. I would have been ashamed to do so. I have no shame or no reservation about acknowledging, as I wrote in the *Harris* case, that I think poor people are also entitled to equal justice. And I wanted them to feel that the poor as well as the rich had a voice on the Court.

I'm not suggesting remotely that I was the only one with such views, but I was under the impression that I probably had one of the strongest foundations in poverty and segregation that would or should make me a bit more sensitive and sensible about those issues. I'm very proud to have been there and I'm proud of some of the things that we were able to accomplish. As I said earlier, "It isn't just that Kilroy was there, but, for me, it's what Kilroy did while there."



Was it difficult to get justices to join me in some of those decisions? The answer is no. And how much help and how easy it was to get help to write some of those, I do not recall a single Justice ever voicing a suggestion that we should not go that far. I think one reason was that I was always trying to be a very careful writer. I wanted to decide one issue today and leave open the next issue for tomorrow. Some opinions I've [seen] from other states try to solve all the world's problems at one time. That is not a good approach, because you're not familiar enough with all of the issues that you need to be familiar with before you can do it. You haven't heard all the arguments that need to be advanced.

Step-by-step, fact-by-fact, is the way I tried to do it. And I think, in the end, everyone appreciated that and that's why the media's comments were as glowing as they were. They got the message and they appreciated the message, too.

**SI:** Again, this might be an applicable question or not, but I just want to ask it. Like, something like the *Abbott* cases, which had obviously been going on before you joined the Court and continued on, you know, what do you think you brought to those discussions, in terms of, you know, you come from a very different background--maybe other judges were not as aware of the impact of segregation in New Jersey? You know, how do you think you brought that--was that a factor and, you know, how do you think you maybe brought that to the fore?

**Justice Coleman:** Well, in the discussions that we had--I think my numbers are right, *Abbott V* and *VI* were decided while I was on the Court--and I remember that *Abbott* was on our Conference agenda the last time that I saw Chief Justice Wilentz alive. He had brought us to his house to have a discussion about *Abbott V*, and he was totally devoted to it. We had a number of conversations about how we could try to do things to improve it.

I'm not sure whether he was the one who appointed the Standing Master, who was Judge King from Camden County. Judge King became the Standing Master and conducted extensive hearings and research on how to modify the curriculum. The Chief wanted to try to do things other than giving a lot of money to the districts. He wanted to determine ways in which the money could be best utilized, ways that significant improvements could be made in the system. I remember--again, the number of the case, I'm not sure of--but one of the cases, we put an end to the fact that some of the teachers out of one of the programs were not required to be certified. We changed that.

[Editor's Note: The Honorable Michael Patrick King served in the Superior Court Appellate Division from 1977 to 2005. Judge King held his hearings regarding the *Abbott* mandates beginning in 1996 and issued a report in 1998. The report called for full-day pre-K and kindergarten programs, summer remedial programs, health and social services within schools for underprivileged children, improved physical and technological infrastructure and access, school security and the implementation of

accountability measures. See Appendix II for more information on school funding cases.]

But, our humanism didn't allow us to make that effective overnight, for two reasons. Number one, they needed time to find replacements and, number two, it would've been grossly unfair to those individuals, theoretically rendering wonderful services, even though they didn't have their degree or certification, not to be given a window of opportunity to improve. So, we wrote things to help them find opportunities to get the college education and get certified, and so forth, but modified the standard to require it.

I'm very proud to have had a hand in that, because I have believed for so long of how important education is. Education is probably the best tool there is for being able to move out of poverty and urban ghettos, because you become better equipped to be thinkers, you become better equipped in being able to provide the kinds of services that are continually involved in society's needs and demands. Having a seat at the table and being part of the discussions, I thought, were always very helpful.

Not only was I doing that within the conference room of the Supreme Court, but I actually was out on the beaten paths, visiting schools and talking with teachers and students and listening to their questions and some of their concerns, and then, bringing that back to the conference room. That was a way of showing that we have a Supreme Court that is interested in knowing some of our problems. If you don't know the problems, it becomes more difficult to try to provide a solution.

**INTERVIEW WITH JUSTICE JAMES H. COLEMAN, JR.**  
**JUNE 15, 2017**  
**PART 9 OF 9**

[Editor's Note: The following section was edited by Justice Coleman after the interview took place. An editor's note prefaces each section in which Justice Coleman made major additions or deletions. As a result, the text differs from the video.]

**Life After Leaving the Bench: Post-Court Career, Service and Family**

*Justice Coleman describes how he came to take on his current role within the Porzio Law Firm and discusses his service as Chairman of the Board of Trustees of New Jersey Legal Services. He reflects on significant changes in the judiciary over the course of his career and the impact of pro-diversity and anti-racism trends on the legal community of New Jersey. He also includes a poem on his role as the first African-American NJ Supreme Court Justice written by a former law clerk and concludes with a discussion of how his grandchildren are continuing his legacy of pursuing academic excellence.*

**Illingworth:** So, you reached the mandatory retirement age in 19--I'm sorry, 2003.

**Justice Coleman:** Yes.

**SI:** Can you tell me a little bit about your working life after that?

**Justice Coleman:** Well, I worked with the Court until the end of that term, which was July 31st. And then, I think I took a vacation with the family on Martha's Vineyard. And then, in the fall, I think I went to Florida and joined up with Justice Pollock and his wife for a while, looked at some real estate, [laughter] and then, probably while in Florida, gave notice to the Porzio Law Firm that I would be joining them on January 20th of 2004.

And I've been with the Porzio Law Firm since then, engaging primarily in alternative dispute resolution, arbitration, mediation, and assisting attorneys in writing briefs. I don't write briefs, but [I will] assist attorneys, if they ask, in how to write a brief, such as whether to list your best issue first to last? I tell them, "Think of the answer. If you have to wait until they get to the end of the brief to know what your best argument is, that may diminish your chance of winning because I may fall asleep."

And I've enjoyed my stay at the firm. They are very gracious and generous in many respects. I work four days a week. I also help with mock appeals. I have some very large mock appeals pending. I hope that we can get them concluded before Christmas, yes. So, it's been a wonderful journey. I interviewed at several firms before accepting an offer from Porzio. I chose them partly because they are doing a lot of things that I like to do and there are a lot of personalities there that I found agreeable. They have become part of my extended family.

[Editor's Note: The following section has been added by Justice Coleman.

One of the highlights of my past judicial career has been participating on a legislatively established Death Penalty Study Commission. The Commission was comprised of 13 members selected by the Governor, the Senate and the General Assembly. I was selected by Governor Corzine. As we learned at our first meeting, six of the members had a parent, sibling or an otherwise close family member who had been murdered in New Jersey. My closest brother was murdered in Newark on August 1, 1975. After conducting many hearings at which expert and lay witnesses testified, we recommended to the Legislature that our death penalty statute should be repealed. Bipartisanship and the hard work of New Jerseyans for Alternatives to the Death Penalty led by Celeste Fitzgerald succeeded in getting the legislation signed in law. One compelling statistical conclusion was that of the 455 death-eligible murders in New Jersey since the 1982 Death Penalty became effective, only 2% of the death eligible defendants was given the death penalty by a jury. Hence, one of the highlights of my post-judicial life was helping to persuade the Legislature to become the first state to legislatively abolish the death penalty. Additionally, I helped to incorporate Union County Legal Services in the 1960s and became Chairman of the statewide Legal Services organization in 2004 or '5.

Editor's Note: This ends the section that was added.]

**SI:** Now, just to kind of end with some overview questions, you know, you've obviously experienced the law through many different changes, both administratively and what you might call socially and culturally. What do you think have been the most significant changes in the legal field in New Jersey during your time here?

**Justice Coleman:** Oh, there have been many--products liability, medical malpractice, many, many changes in the concept of tort claims, and criminal law. Criminal law would probably rate within the top three, because we've taken some major steps to help reduce racism in the administration of justice. I would put criminal law certainly in the top three. One law firm handles a lot of corporate mergers and acquisitions, patent law, but that's beyond my training, so, I can't comment in those areas. But, I know they seem to keep busy. [laughter]

On the negative side, and it has not as much to do with the law as it has to do with a change in social conditions, up until about--while I was Chairman of the Board of Trustees of the New Jersey Legal Services--about twenty-five percent of the population in need of legal services was not being served. I think my numbers are about right. When I saw the numbers last week, somewhere close to one out of nine or ten of those in need is being serviced.

That's a huge gap that has been widening because of the reduction in funding. Part of the reduction in funding has come as a result of the interest rates payable on attorneys' IOLTA accounts [Interest on Lawyers' Trust Accounts] and partly because the State and

federal government have reduced funding. These things are occurring at a time when the need for legal services representation is expanding. I find it hurtful that we can't do more. But, that's about the best answer I can give you, because I haven't looked carefully at the information recently--but I know changes are occurring.

On the civil side, I know there have been several restatements or revisions in the restatement of the law of contracts, of torts, of agency and products liability. Products liability has been very important in the last twenty-five years. Since we moved away from *Henderson Motors* [sic], and so forth, you don't need to have a direct contract saying that, "This car is safe to drive." [laughter] We've moved away from that. [Editor's Note: Justice Coleman was referring to *Henningsen v. Bloomfield Motors, Inc.*, 32 N.J. 358, 161 A.2d 69 (1960).] Many other changes have occurred, both legislative and judicially. So, it's an important question, but I can't be any more precise.

**SI:** Well, you said you thought New Jersey had made good progress, I guess, in eliminating racism from--or reducing racism--in criminal, administration of criminal justice. You know, could you expand on that? Like, what do you think, if you could give it a grade, maybe?

**Justice Coleman:** A grade? I can't give a grade, but look at *Gilmore*.

[Editor's Note: The following section has been added by Justice Coleman.

Before *Gilmore* was decided, peremptory challenges could be viewed as an attempt to perpetuate the caste distinction upon which slavery rested. Fortunately, and as I expected, *Gilmore* was eventually extended to civil cases, *Russell v. Rutgers Health Plan*, 280 N.J. Super. 445 (App. Div.), cert. den. 142 N.J. 452 (1995); ethnicity, gender, ancestry, and other protected groups such as religious principles, *State v. Fuller*, 182 N.J. 174 (2004); and defendants' attempt to excuse all white jurors, *Fuller*, at 202, n. 9; *Gilmore*, 103 N.J. at 532, n. 6. More recently, the remedy for violating *Gilmore* has been extended. *State v. Andrews*, 216 N.J. 271-293 (2013). "Racial bias is detestable in any context, but in our criminal justice system it is especially pernicious." [26 N.J.L.J. Oct. 10, 2016]

Racial profiling was a big deal in New Jersey at the time of a certain Turnpike incident. Some young college students were going back to college and were driving a van when the bad incident occurred. That incident prompted an investigation by the U.S. Justice Department in the early 1990s. That process continued to years. Not long thereafter, a federal judge appointed a former N.J. Attorney General to investigate the Newark Police Department concerning racial profiling and other matters related to criminal justice.

Editor's Note: This ends the section that was added. Justice Coleman also deleted some material. In 2014, the U.S. Justice Department investigated unconstitutional procedures within the Newark Police Department, including improper "Stop and Frisk" searches and excessive force. After negotiations with the federal DOJ, the City of Newark agreed to implement a series of reforms within the Department. In March 2016,

Peter C. Harvey, New Jersey Attorney General from 2003 to 2006, was named as the administrator of these reforms.]

The racial profiling, the two or three cases that I discussed before, has had a substantial impact. You can't now just stop a car because a tail-light is out, and then, ask the person, "Do I have consent to search your car?" What's searching the car got to do with a tail-light that's out?

[Editor's Note: The following section has been added by Justice Coleman.

I used social sciences to help shape the rule of law that dismantled racial profiling in motor vehicle stops, *State v. Carty*, 170 N.J. 632 (2002); *State v. Maryland*, 167 N.J. 471 (2001); holding that a stop to conduct a field inquiry may not be based on race.

Editor's Note: This ends the section that was added.]

The New Jersey State Police's own data, that was utilized when a *Tulane Law Review* article was published showing that--when it came to stopping cars, and then, getting permission to search them--that in somewhere between eighty and ninety percent of the cases, no summons or warning was ever issued with respect to the motor vehicle code violation. That confirmed that the sole purpose in stopping the car was to try to get permission to search it. [Editor's Note: Justice Coleman is referring to Wesley MacNeil Oliver, *With an Evil Eye and an Unequal Hand: Pretextual Stops and Doctrinal Remedies to Racial Profiling*, 74 *Tul. L. Rev.* 1409 (2000).]

We required special jury instructions in criminal cases involving cross-racial identification in *State v. Cromedy*, 458 N.J. 112 (1999). Those are some of the reasons I say that criminal law probably is among or near the top of the list where major improvements have been made, major improvements that have meaningful impact on the lives of people.

**SI:** Well, in terms of your tenure on the Supreme Court, is there anything else you'd like to add that we skipped over or maybe some anecdotes that you would like to share that we didn't bring up?

**Justice Coleman:** Well, one thing that has followed me all of my judicial career--and most certainly appellate career--has been what I mentioned probably twenty years ago, the shoes that I wore while in the early days of being a judge, and then, wore them again after I was appointed to the Supreme Court. I refer to them as, rather than my thinking cap, my "thinking shoes," because they have been with me so long. They're here today and I had them probably on display when one of my law clerks, who was a law school classmate of First Lady Michelle Obama, wrote a poem regarding them.

**SI:** You want me to hold this up and you'll read the poem?

[Editor's Note: The following section has been added by Justice Coleman.

**Justice Coleman:** Yes. The name of the poem is "Miles in Those Shoes."

He has walked miles in those shoes  
Though they've tattered and frayed  
Their soles carried him  
Such a very long way.

From the dark days of past  
Where he humbly began,  
With those shoes on his feet  
And the light in his hands.

Through the long days of toiling  
Our burdens to bear,  
For segregationists' past  
Wasn't no 'crystal stair.'

Still, those shoes brought him here  
In the peak of his prime,  
Toiling justice and temperance  
And holding the line.

For we waited and waited,  
Thought he'd never arrive,  
How could a state so enlightened  
Be so slow to oblige...

What we all know forever,  
Where the journey would lead  
With those shoes on his feet  
As he's planting the seeds...

Oh, history's memoirs  
Of our great pioneers  
And original thinkers  
Bravely judging with no fear.

So, though his shoes may seem worn now  
On them, he still firmly stands,  
And on this day we honor

The Justice--The Man.

Editor's Note: This ends the section that was added. From "Miles in Those Shoes," by Charisse A. Carney-Nunes, appellate law clerk to Justice Coleman, 1992-93, written on the occasion of the Garden State Bar's Honoring of Justice Coleman on May 6, 2000. Reprinted here with permission of the author.]

**SI:** That's very nice.

**Justice Coleman:** In addition to the poem, here is what the author of the poem had to say at the time of my retirement in 2003.

[Editor's Note: The following section has been added by Justice Coleman.

Justice:

I never really believed that justice was blind. Nor was I ever really sure it had any face at all. Through my clerkship and subsequent relationship with you, I learned while blind justice is an aspiration, justice must approach the legal system with open eyes—eyes that have seen, that have traveled, that have vision—if we ever hope to reach the aspiration at all. And if I could ever be convinced that justice really does have a face, I know that it would be your face. For you face of judiciousness, fairness, temperance, history, vision, and wisdom has done more for the ideal of "justice" in our beloved State of New Jersey, than any other face I know. I only wish that "justice" had stepped in to repeal the law compelling your retirement. You are younger, in better shape, and have more vitality and vigor than most 35 year olds I know. The State of New Jersey will sorely miss you, but of course was immensely magnified by your years of service. As a former clerk, I will have to "miss you," as I have been blessed by your infinite commitment to stay in touch, provide advice, and mentor. By Charisse Carney-Nunes.

Editor's Note: This ends the section that was added.]

**Justice Coleman:** That's it?

**SI:** Well, I do want to ask you just if you want to add anything about your family, you know, your children, your grandchildren, that sort of thing.

**William Mecca (Videographer):** [Inaudible]

**Justice Coleman:** Did you break it?

**WM:** No, I'm still rolling.

**SI:** Okay.

**Justice Coleman:** It's okay?



**SI:** I think. Is it okay to go? Okay, all right.

**Justice Coleman:** Oh, yes. Believe it or not, my wife, Sophia, cooked a delicious dinner yesterday because we had invited three of the four grandchildren over for dinner.

One has graduated from college. The oldest has graduated from college and has a good job at Prudential in Newark. The next two oldest are going into their senior year of college. The female granddaughter is majoring in education and she has nearly a "4.0" average at University of Maryland. And my oldest grandson is going into his senior year at the University of Hartford. And he's doing very well in computer technology and science and he has a good internship for the summer with one of the big companies in Manhattan. And the last, or the fourth, is my grandson, who will be finishing Ridge High School. Tomorrow is the graduation. And he has a full scholarship to play football at Towson University in Maryland. Four beautiful grandkids, wonderful grandkids, very loving and I appreciate them very, very much.

When I was sworn in to the Supreme Court, I had only one, who was about eighteen months old at the time. And, after I was on the Court for less than two years, my son's only child was born. He was described as a "miracle child," because his mother knew it would be a complicated pregnancy. In the very beginning of the seventh month of that pregnancy, she went into coronary failure. And they had to deliver the baby by C-section one day and, the next day, perform open-heart surgery on her. So, she didn't get to hold the baby for probably two weeks or so. But, other people in the nursery were very kind and gentle, and we were also, to try to be as much of a substitute as one could under those circumstances. He is the youngest--no, I'm sorry, he is the oldest of the grandsons. And he's the one who's going into his senior year at the University of Hartford and has few, if any, health issues, except asthma that is pretty well controlled.

So, we are very blessed in all respects to have four lovely, beautiful, healthy, well-educated grandchildren, very proud of them. And, as a proud grandfather, I do everything I [can] try to help them, without doing too much. To spoil is almost as bad as not being helpful at all. Either way, you help produce the wrong person. That's the end of it.

**SI:** All right. Well, thank you very much, I really appreciate all your time today. It's been very valuable.

**Justice Coleman:** I hope so.

**SI:** Thank you, sir.

**Justice Coleman:** You have been very good in conducting the interview, yes.

### **Planting Roots in the Garden State: Further Reflections on Settling in New Jersey**

Justice Coleman explains his motivation for resettling in New Jersey after graduating from Howard University School of Law in 1959. He elaborates on the fraught environment for African-Americans in Virginia after the *Brown v. Board of Education* decision of 1954 and describes his efforts to support his education at Virginia State University by taking summer work in Newark, then, Atlantic City, New Jersey. He also discusses his role in various official and unofficial capacities in trying to bring about greater justice and opportunity for African-Americans in New Jersey, primarily Union County and Essex County, in the 1960s while establishing his law practice and early judicial career.

**INTERVIEW WITH JUSTICE JAMES H. COLEMAN, JR.**  
**JUNE 13, 2018**  
**PART 10 OF 10**

[Editor's Note: The following section was edited by Justice Coleman after the interview took place. An editor's note prefaces each section in which Justice Coleman made major additions or deletions. As a result, the text differs from the video.]

**Planting Roots in the Garden State: Further Reflections on Settling in New Jersey**

*Justice Coleman explains his motivation for resettling in New Jersey after graduating from Howard University School of Law in 1959. He elaborates on the fraught environment for African-Americans in Virginia after the Brown v. Board of Education decision of 1954 and describes his efforts to support his education at Virginia State University by taking summer work in Newark, then, Atlantic City, New Jersey. He also discusses his role in various official and unofficial capacities in trying to bring about greater justice and opportunity for African-Americans in New Jersey, primarily Union County and Essex County, in the 1960s while establishing his law practice and early judicial career.*

**Illingworth:** This begins the second interview session with retired New Jersey Supreme Court Justice James H. Coleman, on June 13, 2018, in Trenton, New Jersey, with Shaun Illingworth of the Rutgers Oral History Archives. This is for the New Jersey Supreme Court Oral History Series. Thank you very much for sitting down with me again.

**Justice Coleman:** My pleasure.

**SI:** To begin, we wanted to get more stories about how you came from Virginia and that region, where you had gone to college and you went to law school at Howard, which is just over the border in D.C. So, what drew you initially to New Jersey, where you had a series of summer jobs while you were in college?

**Justice Coleman:** Well, while growing up in Virginia, it became obvious that there were no job opportunities to earn any money to assist you with attending college. My ambition was to go to college and, eventually, go to law school. I had a brother who had moved to New Jersey following World War II and he had a home in New Jersey, Newark.

After finishing high school, I went to New Jersey, by a Greyhound bus, riding in one of the "*Plessy v. Ferguson* seats" in the back of the bus. My mother had packed a shoebox with fried chicken and sweet potato pies, so [that] I would not get hungry on the bus ride. Having boarded the bus in the Lawrenceville area, I had to change in

Washington, D.C., or Richmond, Virginia. Unfortunately, when I arrived in Washington, D.C., I still had to ride in the back of the bus.

[Editor's Note: The *Plessy v. Ferguson*, 163 U.S. 537, 16 S. Ct. 1138, 41 L. Ed. 256 (1896), decision reaffirmed the system of "separate but equal" racial discrimination in public accommodations in the United States.]

So, I was going to Newark to live with him for the summer. He had a house and a wife and daughter. I looked for a job and, at that time, jobs were very difficult for young black men, and for young black women as well. You were pretty much relegated to a dirty, dusty, dangerous job; women doing domestic work. They, at that time, had not even been able to obtain a job as a clerk in a department store.

I looked around for jobs for a few days and, invariably, I was told that they had no job or that I had too much education for the kind of work that they would offer. So, I wised up and decided not to be very truthful about my future plans. I said to them, when I finally got a job, that I had finished seventh grade and, quote, "I want no more education." Apparently, they believed or were willing to accept it, and I got a job.

The job was working in a plastic factory in Newark, paying one dollar an hour, located behind the old Ballantine Brewery. At that time, the Ballantine workers were on strike, seeking somewhere in the neighborhood of four dollars an hour increase in wages, while I was being paid one dollar an hour--didn't have any deductions because I wasn't making enough, no deductions for taxes or Social Security.

So, that was the reason why I came to Newark, to get money to assist with the scholarship that I had to go to college. I was going to college at Virginia State University. It was Virginia State College at the time, later became Virginia State University--where the tuition and fees were not very high, but the ability to pay those were still very difficult. I think the tuition and fees ran about four hundred dollars a semester--a year, I think, yes. I had a scholarship for, I think, one hundred dollars a year, or one hundred dollars for a semester. So, that job in the plastic factory was very helpful.

**SI:** Now, later on in your college career, you came back to New Jersey, but you went to Atlantic City. You talked a little bit about that. You shared the story about driving the Rat Pack up and down the Boardwalk.

**Justice Coleman:** Right.

**SI:** Specifically, what drew you to Atlantic City? Did someone tip you off to it?

**Justice Coleman:** Yes. After working in Newark in the factory for the first summer of 1952, I went back to Newark the Summer of '53, after one year of college. I chatted with some people who had been working in Atlantic City and they told me about better opportunity and an opportunity to make more money, as well as different working

environment. So, I, again, worked in Newark that year for about two weeks, at the same factory.

Then, I left and went to Atlantic City, found a room in a lovely lady's home, Mrs. Hale's home, and found a job working as a room service waiter in one of the hotels. A fraternity brother was the one who introduced me to that job, because he was the head waiter for room service purposes. It was the Chalfonte-Haddon Hall, as a matter-of-fact, that later became one of the hotels with the early casino in Atlantic City, and I met a lot of other college students.

While working in the hotel by day, as a room service waiter, I was told that you could get a job, maybe, at night working on the Boardwalk, driving one of the motorized chairs, and I did. It was called the Blue Chair, but it had a motor, in contrast to the other, Shield Company's chairs, that were pushed by people, rather than being motorized.

I think the first summer it was, I had three very popular people in my chair: Frank Sinatra, Dean Martin and Sammy Davis, Jr., gave them a short ride, and Sammy Davis was the one who paid the bill. I think it came to three dollars and he gave me a fifty-dollar bill. I was fumbling around, because I didn't have forty-seven dollars in change to give him, and he said, "Oh, keep the change, kid." I always remember that.

But, I met a lot of wonderful people who were attending many colleges and universities across America, who were also working in Atlantic City. I worked there from the Summer of '53 through the Summer of '57 or '[5]8. I graduated law school in '59, so, it would've been the Summer of '58, yes. I learned how to cater to people who were there on vacation and, because of my own human dignity and trying to be persuasive, to get bigger and better tips from them. [laughter] That was a wonderful experience, because I met so many wonderful people.

Unfortunately, in Newark, as well as in Atlantic City, issues of racism still existed, because black people were not allowed to stay in many of the hotels. They could attend many of the nightclubs that were in Atlantic City, but some of the hotels were still discriminatory. I remember [jazz singer] Sarah Vaughan tried to stay at one and was denied occupancy, based on nothing more than being an African-American female.

So, I saved the money rather than enjoy the nightlife at some of the hotels or nightclubs. After finishing the work on the Boardwalk, we would gather, many of us college students, in front of Club Harlem or the 500 Club. Those were the two main ones, and watch all of the people coming and going and driving their fine automobiles and dressed in their fine clothing, coming out of Manhattan and from Philadelphia, a lot of them. I was wishing that maybe I could go in one day, but I wasn't about to spend the money necessary to go in. [laughter]

**SI:** So, the area where you had to live at that time, that was also segregated.

**Justice Coleman:** In some respects, yes; in others, no. I lived on North Virginia Avenue. Later in life, I found that Judge Williams, who became the Administrative Director of the Courts, also had lived in Atlantic City. He knew the house and the owner of the house very much, was a very nice lady, but they had their sections in which black people lived and in which white people lived. Judge Johnson, in the book, describes some of that also; at the time that I was there, yes. Much of that was eventually taken by eminent domain or otherwise for the casino industry that was built in the area of Borgata's.

[Editor's Note: The Honorable Richard J. Williams served as Acting Administrative Director of the Courts from 1999 to 2004. Judge Nelson Johnson wrote the 2002 book *Boardwalk Empire: The Birth, High Times, and Corruption of Atlantic City*.]

**SI:** So, explain how you decided to return to New Jersey after graduating from law school, that that would be the place where you would start your law career.

**Justice Coleman:** Yes. Although I had not changed my place of residence before I finished law school, my plans had always been to come back to New Jersey to practice law and try to become a judge of some level, if I could. The reason for that was, I knew there was zero opportunity of becoming a judge in Virginia at the time.

I had my serious doubts, given the small town area which I had grown up, that I would have much of a practice of law, because it was a farm area. In the black community, there would be very few people with enough money to afford a lawyer, even at the very low rates that were being paid at that time. So, I decided that my aspirations could better be served by locating permanently in New Jersey, and so, I did. I always indicated to my friends that I wanted to come to New Jersey.

The idea of going to law school materialized after it became pretty clear to me that I could not, or should not, pursue my first intended professional goal. That was to be a medical doctor, and the reason for wanting to be a medical doctor was that I wanted to try to help cure my mother's serious diabetes and to help work with and cure many of the others, because the quality of medical care for black people in Virginia at that time, if you were poor, was close to zero. The big pharmaceutical companies were not in existence. Any medication, for the most part, was mixed by the local pharmacist in the back of the pharmacy.

One story I didn't tell you about Virginia was that after *Brown v. Board of Education* was decided in May of 1954, the drugstore that had a soda counter that I always wanted to get a soda, a milkshake from, shut down rather than serve black people. They had one theater in the town. Again, following *Brown*, they closed the theater rather than to allow integration, meaning black people were required to sit upstairs while white people would sit downstairs. They closed the theater rather than to have an integration.

As a result of that school closing kind of thing, to show you how bad things were, the white people established a Brunswick County Academy, at which they sent their kids, after *Brown* was decided, so that they would not have to undergo integration. Many poor white people went almost bankrupt trying to keep their kids in school, rather than to send them to the integration that was required, yes.

[Editor's Note: In *Brown v. the Board of Education of Topeka*, 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873 (1954), the U.S. Supreme Court overturned the "separate but equal" precedent established by *Plessy v. Ferguson* and ruled that state-sponsored segregated schools were unconstitutional.]

**SI:** By the time you made your last major resettlement to New Jersey, had the laws regarding transit changed? Were the trains more integrated, or did you still have to sit in a particular section?

**Justice Coleman:** Yes, as a matter-of-fact, in 1958, one of my law school classmates bought a ticket, Trailways Bus Company, for a bus ride from Washington, D.C., to, I think, Mobile, Alabama. It was in Alabama, I think it was Mobile. The bus stopped--it was a Trailways Bus--it made its first usual stop in Richmond, Virginia. My classmate, Bruce Boynton, decided that he was not going to sit in the section marked "for colored" or use that section of the restaurant "for colored," or the bathroom marked "for colored."

So, he went to the section that was designated "for white" and the waitress asked him to move and he would not. She called the police. He was arrested and charged with failing to exit the premises after being requested to do so, something close to a disorderly or petty disorderly person offense. He was convicted in Virginia, and the highest court in Virginia, I think it was, or one of the appellate courts, upheld the conviction. He was able to prevail upon the N.A.A.C.P. Legal Defense Fund, headed by Thurgood Marshall at the time, to take an appeal to the U.S. Supreme Court.

The U.S. Supreme Court overturned the Virginia Supreme Court decision and concluded that you could not have segregation in the restaurants and bathrooms being operated in the [bus] stations and in the railroad stations that were involved in interstate commerce, because it violated the commerce clause.

[Editor's Note: Beginning in May 1961, African-American and white "freedom riders" began testing the desegregation of interstate bus travel made legal in the U.S. Supreme Court decisions *Boynton v. Virginia*, 364 U.S. 454, 81 S. Ct. 182, 5 L. Ed. 2d 206 (1960), and *Morgan v. Virginia*, 328 U.S. 373, 66 S. Ct. 1050, 90 L. Ed. 1317 (1946). They faced violence, arrests and imprisonment when hostile Southern mobs and local law enforcement refused to honor the ruling.]

That was the big case that led to the integration of the train ride and the bus ride and everything, because, up until then, when I would board the bus in Newark to go back to Virginia State, or train, for that matter, when the bus or train reached Richmond, Virginia--I'm sorry, Washington, D.C.--I had to relocate into the section of the

transportation facility designated "for colored." So, it was a wonderful experience to be able to board a bus or a train in Newark and stay on the same bus or train until I arrived in Richmond or Petersburg, Virginia.

I say that only because it was a sign of the gradual process that was occurring, that was essentially being forced based on a major U.S. Supreme Court decision. *Brown v. Board of Education* opened the doorway to so many of the later cases that came, such as the one, *Boydton v. Virginia*, that dealt with the Trailways Bus Company, and there were many others, that finally opened the way.

**SI:** So, you became established in Union County. You told a story in our first interview about how you were involved in Civil Rights actions. Your role was usually to go bail people out, as a lawyer. I think the story you told regarded picketing a construction site, I think so that they would hire more African-American laborers.

**Justice Coleman:** Yes.

**SI:** I'm just curious, for the record, what groups were you involved in during, say, the first decade or so that you were in New Jersey?

**Justice Coleman:** I was a member of, and counsel to, the local chapter of N.A.A.C.P. in Elizabeth. I was counsel to the Union County Urban League and I'd been a member of the Board there. I was a member of Good Neighbor Council, things of that sort, Good Neighborhood Council.

Some of the church groups, also, in a much more quiet way, wanted to do things, open the door of opportunity. For example, it may sound like it was a no-brainer almost, in today's world, but there were people working trying to get the department stores to hire an African-American to do more than sweep the floor. So, when the first African-American got a job as a clerk in one of the major department stores--and I've forgotten whether that was in Newark or in Elizabeth--you would think the individual had won an Olympic Gold Medal, because that's how popular they'd become.

I remember also when the first African-American received a job in the Sheriff's Department in Union County, the same thing, was the feeling in the community. Things that may seem small to people today, huge, large back then, because you had to take baby steps in trying to bring about more diversity or eliminate segregation. We knew that that was the plan that we were trying to operate under. Those plans became successful when Thurgood Marshall and others won more cases at the federal level, in the Federal District Courts as well as in the United States Supreme Court, yes.

[Editor's Note: The Honorable Thurgood Marshall served as United States Supreme Court Associate Justice from October 1967 to October 1991. He served as United States Solicitor General from August 1965 to August 1967. As Chief Counsel for the N.A.A.C.P. Legal Defense and Educational Fund, he argued the *Brown v. Board of Education of Topeka* case.]



**SI:** So, when the methods were quieter, [like those] that were used by the church groups, would they try to lobby the businesses, just say, "Will you consider [this]?"

**Justice Coleman:** Yes. They were primarily working behind the scenes, trying to get the merchants to hire an African-American to do more than clean the floors. Sometimes, the ministers would get a chance to have a meeting--with whom, I'm not quite sure--in the Mayor's Office of Elizabeth, for example, or Linden, two big towns in Union County. They would work in quiet to try to do things.

I remember once going to the Mayor of Elizabeth during the Newark riots--that was in '67--and had a conversation with him, to see what, if anything, we could do to try to keep the peace. We had some meaningful discussion, and the riots did not spread into Elizabeth, from Newark to Elizabeth, which is in close proximity to one another, yes.

[Editor's Note: The Newark riots lasted from July 12 to July 17, 1967. They began after the police arrested an African-American cab driver and rumors spread that he had been killed in custody. The riots resulted in over two dozen deaths, over seven hundred injuries, fifteen hundred arrests and property damage exceeding ten million dollars.]

**SI:** Do you remember anything that you tried that prevented any violence?

**Justice Coleman:** Well, one of the things they did was, we had a discussion as to what we might be able to do. The Mayor said that he would speak to the Chief of Police, for example, to be very careful if they were going to be making arrests--by "being careful," not to take something that was a very small incident and let it explode into something that became very large. It was kind of like behind the scenes. The Mayor wasn't asking the Chief of Police not to perform his official duties, but just to recognize that we were taking efforts to try and avoid Elizabeth from experiencing some of the riotous conditions that had been occurring over in Newark.

**SI:** [Regarding] any of these groups that you were involved in, did they ever use boycotts as a method to try to encourage a business to hire more African-Americans or so forth?

**Justice Coleman:** I'm not sure. I want to say yes, but I don't want to confuse what happened in [the] Elizabeth area with what had happened in other towns. Yes, I'm not sure.

**SI:** Again, you described the one incident of picketing a construction site. How often would more direct action be needed?

**Justice Coleman:** Well, that was during the time that they were building the Courthouse Annex. A lot of tradesmen were working on that jobsite: electricians, pipefitters, plumbers, carpenters, roofers, going on the line, heavy construction

equipment operators. I don't know whether any of those were unionized at the time, but I know unions were viable units, in the late '50s, anyway.

They wanted to get jobs at all levels, other than to be digging with the pickax or something. Unfortunately, we did get some agreement from the bosses to hire some minorities in some of those jobs. The unfortunate thing was, we did have some difficulty filling those jobs, because so few people had been trained to do the kind of work, out of fear or the recognition that, after the training, they wouldn't be able to get a job.

The typical African-American that had migrated to the urban area at that time did the kind of dirty, dusty labor, dangerous work, that I was doing. Working in the plastic factory was a dirty, dangerous job, so much heat and the chemicals emanating from heating the plastics to a very high temperature in order to shape light fixtures and things of that sort. Those were the kinds of jobs that the typical African-American was receiving.

Unfortunately, at that time, education was not being pushed as hard as I think, in hindsight, or even then, that it should've been pushed. For example, I was surprised, when I visited my brother for the first time, during that first week, I saw a beautiful library in walking distance of his house. Much to my surprise, I went to the library and it was empty. My immediate reaction was, "Boy, I wish I had had this opportunity down in Virginia." [laughter]

**SI:** Now, your activities with these Civil Rights-oriented groups, was it mostly confined to Union County, or did you ever get involved in more statewide [activity] or even wider?

**Justice Coleman:** No, confined to Union County, and some of those involved social groups in Essex County that were doing things also. My fraternity was doing things to try to get more kids admitted to college and to try to get programs that would help pay some of the expenses once they were admitted to college, because New Jersey had a few colleges in the area.

The county college system pretty much had not been started, but you had Newark State, I think was the name of it, down Broadway in Newark, that later moved to Union County, became Kean University in, I guess, Elizabeth, for the most part. It's Elizabeth, yes. We had Montclair State. So, those were some of the schools, including Rutgers, that we were trying to get more people admitted to.

The quiet, diplomatic approach was being used, and it was becoming progressively more successful. In that context, we were able to persuade the hiring authorities at some of the schools to hire people, African-American people, to do things other than be a janitor. I can't specify exactly, but I have a favorable memory that we were at least partially successful.

**SI:** What about at the secondary or grammar school levels in Union County? Were the groups, like the N.A.A.C.P., looking at inequities there?

**Justice Coleman:** They were, but in a quiet way. For example, my wife grew up in Elizabeth, and she often tells me that she never had anything other than a white teacher at any grade level, and her three brothers said the same thing, for the most part. The younger brother, I think he said he may have had one African-American teacher. At that time, white America had all of the teaching jobs in some of the urban areas, as well as all of the administrative jobs, yes. So, again, we were working behind the scenes, trying to accomplish things.

Everybody had to do things in a pretty quiet fashion. The radical people had not yet appeared on the scene. One reason why we thought the quiet diplomacy was the best approach was that you need to be able to have a conversation with the powerful structure. If you appear too confrontational from the very outset, the door to a conversation will be immediately closed, if never opened.

**SI:** I'm curious, again, about the "quiet diplomacy" approach. When you would be in these--first, would you be in these conversations, either alone or with others?

**Justice Coleman:** Some of them, yes.

**SI:** Again, not to name names, but how would the people you were trying to move react to what you were saying? Would they say, "Well, I agree, but now's not the time?" What was your take on their genuine reaction?

**Justice Coleman:** Some of the spoken words were intended to make it appear favorable, but the body language frequently negated that whole approach. One of the things that we heard so often was, "What will my business partner," or my friends or my neighbors, "think of me if I did something like you are suggesting?"

In hindsight, I wish I had had the foresight to have said to them, "You know, silence is as much of an injustice as rejection. When you have an opportunity to help make positive changes and you refuse, or find ways to decline to do so, based on what a neighbor or friend may think of you, it makes you as guilty, in my view, as that neighbor that you say will find you blameworthy or reject you for doing it. If you believe in justice, you need to speak out." I realize that I'm talking in hindsight now, because, if you were regarded as being too militant, you never would have an opportunity to have the conversation. No change was going to occur unless you could have a conversation with those in the position to bring about change.

Now, the litigation came and that was very helpful. It took time after *Brown v. Board of Education*, that series of cases, had been decided before America really started to make noticeable change. But, I'm proud of the fact that I had some contact with some of the people who brought about some of those changes. For example, the Dean in my law school was one of the persons that argued, participated in the argument of, *Brown v. Board of Education* before the U.S. Supreme Court. I got to meet Justice Thurgood

Marshall on a number of occasions, who became my idol in the legal and judicial professions, yes.

[Editor's Note: James Nabrit, Jr., Esq., served as an attorney on the *Bolling v. Sharpe*, 347 U.S. 497 (1954), case that became part of the *Brown* decision. He served as Dean of the Howard University School of Law from 1958 to 1960, then, became President of Howard (1960-1965, 1968-1969).]

**SI:** Is there anything else you'd like to add for this session?

**Justice Coleman:** No, but I'm free to answer your questions. [laughter]

**SI:** Okay. Again, following up with the impact on the school system, by the time your children were going through the system, would you say things had changed significantly, or did they face any of the same issues--from when you had started working with the groups in Union County?

**Justice Coleman:** Well, there was gradual change occurring, because my kids grew up--they were born in New Jersey and grew up in New Jersey. New Jersey Constitution, and statutorily, had anti-discrimination, racial discrimination law on the books, but that didn't prevent the power structure from having its own way of ensuring that there would be limited, if any, diversity.

But, eventually, my kids, there was a black teacher. We lived in Scotch Plains since the kids were young and both of them attended school in Scotch Plains. While my daughter was in elementary school, they finally hired a black teacher. In today's world, they have a number of black teachers in Scotch Plains, and some in administration as well.

When we first moved to Scotch Plains, there were levels of discrimination in housing patterns, and so forth. Much of that has changed, but I'm fearful that some of the dialogue I hear from time to time on television may require revisiting efforts to prevent the earlier forms from occurring. For example, we bought our house in Scotch Plains in - signed the contract in 1969. The broker was very careful to tell us, "I have to be careful, because I'm not sure if the seller may be interested in selling to an African-American. So, I'll arrange for you to see the house when nobody was home." That's what we did.

That became important because a doctor friend of mine tried to buy land at about the same time on which to build a new house and they wouldn't sell it to him. So, I took him to the Division on Civil Rights and, before we finished that, he decided that he didn't want it. They were going to compel the sale and he found another house that was already constructed and he was able to buy that one. What the broker did in order to allow him to buy it, I'm not quite sure, but things have improved considerably since those early days, yes.

**SI:** Now, I may be misremembering this, but you either started a housing council or worked with one to combat some of these issues.

**Justice Coleman:** I don't recall starting it, but I definitely worked on one, was a member of the Board, of the Fanwood-Scotch Plains Housing Council. The mission was to try to bring about more integration in housing. We were talking about integration in the context of getting white people to be willing to sell the house to non-white, and it wasn't so much that the law discriminated. The law was not the factor.

It was human nature that was the problem, and that's much more difficult at times to address than changing the law. I think we were successful, because, in hindsight, I looked around and I saw a number of African-Americans owning homes that had, up until recently, been exclusively white ownership. I think that the concept of open housing is still alive and doing pretty well, yes.

**SI:** So, would the Housing Council usually follow that tactic of guiding people towards the Civil Rights Division of the Justice Department?

**Justice Coleman:** If necessary, yes, and the Civil Rights Division in New Jersey is under the Division of Law and Public Safety, which is the Attorney General's Office. The office was pretty conveniently located in Newark and, in my early days, when I was a workers' compensation judge, my chambers were in Newark, at 1100 Raymond Boulevard. The Division on Civil Rights was almost next door to my chambers. I knew the people working in there.

At that time, during those first six years that I was a judge at Workers' Compensation, I also had my law office. So, I had ease of contact with those people and [could] get advice on how to deal with some of the issues, because a substantial portion of my practice at that time--not that I had a very large one--dealt with real estate transactions, single-family-home real estate transactions. So, it was incumbent upon me to try to find ways to help people buy houses where they wanted to buy houses, both morally and economically, yes.

**SI:** All right. Thank you very much. I appreciate all of your time today.

**Justice Coleman:** Me, too, been a pleasure.

## Appendix I

During his tenure on the New Jersey Supreme Court from 1994 to 2003, Justice James H. Coleman, Jr., served with the following Chief and Associate Justices:

<b>Name</b>	<b>Years of Service</b>
<b>Chief Justices</b>	
Deborah T. Poritz	1996-2006
Robert Wilentz	1979-1996
<b>Associate Justices</b>	
<b>Name</b>	<b>Years of Service</b>
Barry T. Albin	2002-Present
Marie L. Garibaldi	1982-2000
Alan B. Handler	1977-1999
Jayne LaVecchia	2000-Present
Virginia Long	1999-2012
Daniel Joseph O'Hern	1981-2000
Stewart G. Pollock	1979-1999
Gary S. Stein	1985-2002
Peter Verniero	1999-2004
James R. Zazzali	2000-2006

Note: Justice Zazzali was elevated to Chief Justice upon Chief Justice Poritz's retirement in 2006, a position he held until 2007.

**Appendix II**  
**Select School Funding Case Citations**

***Abbott v. Burke Series***

*Abbott I*, 100 N.J. 269, 495 A.2d 376 (1985)  
*Abbott II*, 119 N.J. 287, 575 A.2d 359 (1990)  
*Abbott III*, 136 N.J. 444, 643 A.2d 575 (1994)  
*Abbott IV*, 149 N.J. 145, 693 A.2d 417 (1997)  
*Abbott V*, 153 N.J. 480, 710 A.2d 450 (1998)  
*Abbott VI*, 163 N.J. 95, 748 A.2d 82 (2000)  
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