

11-16-2017

**Panelist: Dedication Ceremony of the Honorable Robert L. Carter  
Attorney Lounge**

Lewis M. Steel '63

THE BENCH AND BAR OF THE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PROUDLY WELCOME YOU TO THE

*Official Dedication Ceremony*

*of the*

*Honorable Robert L. Carter*

*Attorney Lounge*

**Keynote Speaker**

**HON. JEH C. JOHNSON**

**Moderator and Panelists**

**HON. JAMES C. FRANCIS IV**

**ELAINE R. JONES**

**KENNETH W. MACK**

**LEWIS M. STEEL**

**November 16, 2017**

**Daniel Patrick Moynihan Courthouse  
500 Pearl Street, New York, New York**

I speak in behalf of  
Robert Carter on pages 24 to 26  
and pp 40-45. But pages  
Please 42-45 really capture Carter,  
save and talking about his sentencing  
this in the New York Nine case  
illustrates why he was such a  
great man and the best of judges  
Lewis

**ORDER OF PROCEEDINGS****WELCOME**

Hon. Colleen McMahon, Chief Judge

**REMARKS**

Christopher John Carter,  
Grandson of Hon. Robert L. Carter

**KEYNOTE ADDRESS**

Hon. Jeh C. Johnson,  
Former Secretary of Homeland Security

**PANEL DISCUSSION**

Moderator: Hon. James C. Francis IV  
United States Magistrate Judge  
(Retired)

Panelist: Elaine Jones  
Former President and Director-Counsel  
of the NAACP Legal Defense and  
Education Fund Inc.

Panelist: Kenneth Mack  
Lawrence D. Biele Professor of Law  
at Harvard University

Panelist: Lewis M. Steel  
Civil Rights Lawyer  
Outten & Golden LLP

**REMARKS**

Hon. John W. Carter,  
Son of Hon. Robert L. Carter

**PLAQUE UNVEILING**

Hon. Colleen McMahon, Chief Judge  
Hon. John W. Carter  
Son of Robert L. Carter

Carter made the first argument, and Bob Carter made it in the second *Brown* case. That just symbolizes what kind of lawyer he was, how much he was respected and loved, and that his place in history is yet to be fully recorded, because when we read that record, *res ipsa*: it speaks for itself.

JUDGE FRANCIS: Thanks, Elaine.

(Applause)

JUDGE FRANCIS: On my left is Lew Steel, who is a civil rights attorney. Lew worked for the NAACP and is now of counsel to the firm of Outten & Golden.

Lew

MR. STEEL: I'd like to take us to a different time.

I went to work for Judge Carter in 1964, and at that point in time the Civil Rights Act of '64 had just been passed, and there was forward momentum with regard to that. At that time, Robert Carter, who was then general counsel of the NAACP, with a very small staff, looked at the reality of the civil rights movement and said, "We've got to take the

movement to the North, and when we take the movement to the North, we have to fight a wholly different problem." That was a problem that came to be known as de facto segregation.

The reality was that the North was literally as segregated as the South. The schools were segregated, the schools were inferior, the housing was segregated, and by the way, segregated by law. The government was largely responsible for the housing segregation. Employment was very much limited to inferior jobs, low-level jobs, and Robert Carter said that unless we break that bound, that bar, that was affecting civil rights development in the North, we would be facing civil rights major problems for many years to come.

I grew up within that framework as a lawyer and was trained by him in that framework as a lawyer. And I must say, as I'm sitting here now, still handling civil rights cases, I look back on my early conversations with Judge Carter, who became a lifelong friend, mentor, teacher to me. When I look back now, after all those years, sadly, I see many of the same

problems which Judge Carter pointed to back in 1964.

Our schools are still segregated in the North. Our housing is largely segregated today. Our employment still struggles to break the barriers of job discrimination, and so today, I still find myself as a civil rights lawyer practicing within the framework of what he taught me back in 1964.

I don't say this to in any way take away from the reality that he was one of our greatest heroes, and moved mountains in America and changed our life in ways that most of us in this room have no idea about, because you'd have to go way back then, to the days of Jim Crow, when I started working for him.

So he made those changes. He then, in my era, pointed to what had to be done in the future. And I'm here to say as we all sit here now in this room, that work must be done if America is going to come together again.

Thank you.

(Applause)

JUDGE FRANCIS: On my far left is

step, then we step back."

So he experienced lots of reverses in his life, lots of things that seemed to erode the things that he thought he had achieved, but at the end of it, he still said "I have hope." He said, "two or three steps forward, a step back," and I think he might say that about what we're going through today.

JUDGE FRANCIS: Good.

Let me ask you, Lew, about a subject where maybe there is a little bit more obvious hope these days. Long before Michelle Alexander wrote *The New Jim Crow*, Judge Carter had identified the devastating effects of mass incarceration on minorities and particularly on black men. Does the apparently bipartisan criminal justice reform movement signal the beginning of a solution to that problem?

MR. STEEL: Well, here's part of the problem. We're in this beautiful courtroom in a federal courthouse. The huge number of incarcerated persons are in state prisons, and generally speaking, the state system is incredibly localized, so you have district

attorneys and prosecutors all over the country, in probably thousands of offices, and each one of those prosecutors really has significant control over the docket in his courthouse.

Part of the problem of taking somewhat of a groundswell to really reduce the prison population and get under control some of the what I would call worst laws and sentencing policies, which sentence people to enormous times in prison, to undo those, you really have to undo them at the state level. And to do that, you have to get all these prosecutors who want to exercise their discretion to the fullest extent to agree to make those changes.

They don't want to do that, and one of the reasons why they don't want to do that is their dockets are overwhelmed and therefore, they, generally speaking, over-indict so that they can, in effect, threaten defendants with even longer sentences if they don't agree to some deal that will reduce their sentence. That's a major problem, and I really don't see that in this era being undone unless there's a groundswell, frankly, of progressive voters to

change a lot of these prosecutors to put in their place more progressive prosecutors.

I think on the federal level, it may be possible -- when we get a new President in office, who is not committed, as this President is, to raising sentences and is committed to the death penalty, at a time when it looked a couple years ago like we were going to make some progress on the federal level.

I do agree that you keep pushing and pushing and pushing. There will be times when you sense that no progress is being made, but life changes, and attitudes change. The costs of having, I think we have something like 2,200,000 persons in America in either federal or state prisons. It's just an enormous amount, an overwhelming amount, and I haven't seen that really go down significantly in the last year or so since the movement.

I would like for just one minute to talk to you about how Judge Carter viewed his role as a federal judge handling a criminal case. It's interesting that you used the word "channel." I'm thinking of that as well. When

I was given this assignment to be on this panel, I said to myself, I'm going to try and channel Judge Carter and ask him, "What would you like me to talk about in terms of the criminal law?" And I heard a voice, and that voice said, "Speak to them about a case involving a group called the New York Nine." Let me just tell you a little bit about that case, the New York Nine.

Sometimes it was called eight because one of the group actually pled guilty and turned and became a witness for the prosecution when the case went to trial, but I'll call it the New York Nine.

New York Nine occurred in 1985. Judge Carter was assigned to the case. The defendants were all African American. They were all educated. They were between 30 and 45 years old, and their charge was that they had been conspiring to both steal a helicopter and free one of the prisoners from the Brinks robbery and also commit mayhem. And when they were arrested in a Brooklyn apartment, the authorities found weapons, they found explosives, and they had tape recordings that were made by one of the

so-called conspirators.

The case went to trial, and the defendants' attorneys, who were very skilled, actually convinced the jury that what was on the tapes and what had occurred was just talk, and so they convicted the eight for weapons possession and the explosives, which could have led to a massive penalty, many, many years in jail. The case came before Judge Carter for sentencing, and Judge Carter, probably as well as anyone in America, understood that in black America, there were massive segregated ghettos; that schools were still absolutely segregated and as unequal as they were before *Brown v. Board of Education*; that job discrimination was everywhere and that as a matter of fact, the prisons were being filled up and commentators were calling what was going on a mass incarceration.

That was the reality that Judge Carter faced, and rather than sentencing these men and women to major crimes, to send them to prison, where we all know what the prisons are like in America, he tried to save these young people and

so he sentenced them to probation and to community service. And the reality is at the time that he wrote his book, "A Matter of Law," which I recommend to all of you to read, these young men had received more education, they'd gone out in their communities and they were living positive lives. So when Judge Carter was faced with the reality of what he should do with these young people rather than send them to prison and take the risk that they would be destroyed there, he went in the opposite direction, and he saved them.

From my perspective as a civil rights lawyer, that was one of the finest things that Judge Carter did as a judge in the federal courthouse in the Southern District of New York.

JUDGE FRANCIS: There are lots more issues that I think we could deal with, and deal with in depth, but we've pretty much used up our time.

Ladies and gentlemen, help me thank the panel.

(Applause)

JUDGE McMAHON: Thanks to all of you