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Measuring a Life: Frank Minis Johnson, Jr.

Myron H. Thompson[†]

Yes, he was a great jurist; he was a man of vision; he was all those things we say about people who did great things. But it would be grossly inadequate for me to attempt to assess this man's judicial career by measuring it against some standardized ruler of appropriate superlatives. For, if anything, he was not a man of norms based on mere social acceptability; at the time he memorialized his notions of justice and the rule of law in words, these notions, though self-evident today, were novel to many in this country—indeed, so original and socially unacceptable that they provoked violence. Nor can I reduce him to personal anecdotes. We were not fishing buddies. I did not clerk for him. The times that we sat together on the bench on cases, though exquisitely meaningful, were few. No; for me, he was much more, incomparably more. He was for me what he was for many Southerners who came of age at the end of the second part of this century: a full life's experience.

Many, upon reading these words, will surely think that I exaggerate, and that I am taken by the emotion of the moment and of the honor of making this tribute. I do not and I am not, and let me explain.

I begin in 1955, during my *childhood*, an African-American childhood in Alabama. It was an important year for those of us (both black and white) born in the South near the beginning of the second half of this century, for we were then poised to leave the seclusion of home and enter the public world of state-enforced racial segregation, that first entry being into public schools. But it was also an important year because it was the year that he was sworn in as a United States District Judge for the Middle District of Alabama. The forces behind these two events would collide again and again, for, due in great measure to what he did over the next half-century, the public life that I and others entered would hardly resemble the one of 1955. Indeed, for me, some twenty-five years later, the two events would ultimately coalesce into a singularly significant event. But I am getting ahead of myself.

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The first collision was immediate. In the late 1950s and the early 1960s, he entered the public schools that I attended and sought to attend and, by court order, began a three-decade effort to change the environment in which I was to be instilled with the tools to become a competent American citizen. He sought to impose on (and teach to) me and other children the simple notion that, for us kindergartners playing in our sandboxes, the only colors that should affect our choices were those of the box and its utensils, not the skin colors of those playing in it.

And the collisions continued and expanded as this color-blind principle followed me through my elementary and secondary years. He applied it not only to all the grades in the public schools but also to the environment in which I played after school and during the summers. No longer was I to suffer the indignities and mental assaults that my parents had suffered, sitting in the back of the bus or drinking “colored” water or swimming in “colored” pools. In the wake of the Montgomery bus boycott, which had been triggered by Ms. Rosa Parks’s refusal to give up her bus seat, he and one other judge on a three-judge court struck down the city’s segregation ordinance. Later, in the wake of the Freedom Rides, he held that the maintenance of separate bus facilities for the two races constituted unjust discrimination, declared unconstitutional a state statute requiring segregation of the races in bus and rail terminals, and desegregated all facilities in bus terminals. This was followed by orders desegregating the local Montgomery YMCAs, which had been given free use of Montgomery’s parks and playgrounds.

During my *teenage* years, that which had been taught in school to my parents about the American Dream—to pursue honorable work, to vote, to serve the community through public office—was taught to me as well, but with the added possibility that the dream could actually be mine. He ordered the desegregation of all of state government. He ordered that the Selma-to-Montgomery march be allowed, a march that, as we know, set the stage for congressional passage of broad voting-rights legislation; and then, with the enactment of those laws, he did as he had done with regard to all national laws—he simply enforced them. When I turned eighteen a few years later, I could, and did, engage in the simple American act of voting.

And, during my *college, law school, and early law practice* years, 1965 through 1979, he taught us all, both black and white, that African Americans were not the only essentially forgotten and disenfranchised groups that had been egregiously denied the rule of law. He applied the Constitution to two other groups: He ordered that barbaric conditions in Alabama’s mental institutions and prisons be reformed. And later, in a decision overturned by the Supreme Court, he attempted to apply to gays and lesbians the fundamental right, essentially enjoyed by everyone else, to privacy in sexual acts.

And then, in 1980, he swore in an African American—me—to replace him as a federal trial judge. When he was sworn in back in 1955, this act was not only unthinkable to most Southern whites (one of their worst nightmares), it was unthinkable to most Southern blacks (beyond their wildest dreams), and would have been impossible absent the remarkable events during the thirty years in which he played a central role.

I have now turned *fifty* and am looking back. For me and for most of us down here, he was no anecdote, no mere interesting event. His was instead a full life's experience, and by that I mean our full lives: What he did spanned the breadth of our lives. For us Southerners who came of age in the second part of this century, the measure of his public life is the measure of our whole lives; as we seek to recount his, we cannot but recount our own, for he was there from the beginning and was almost everywhere. From the sandbox to the ballot box, due in great measure to him, our lives in 1999 are, most fortunately, not the same as they were when he and I set out in 1955.

