The Martinsville Seven: Virginia's Most Controversial Court Case, 1949 - 1951

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THE MARTINSVILLE SEVEN: VIRGINIA'S MOST
CONTROVERSIAL COURT CASE, 1949 - 1951

by

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B.S. May 1970, Old Dominion University

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ABSTRACT

THE MARTINSVILLE SEVEN: VIRGINIA'S MOST CONTROVERSIAL COURT CASE, 1949 - 1951

Michael Dean Plemmons
Old Dominion University, 1996
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In January, 1949 seven black youths were arrested and charged with brutally beating and raping a white woman in Martinsville, Virginia. The judicial process lasted over two years and gained national and international attention. The defendants were ultimately found guilty and sentenced to death for their ruthless crime. The conviction came as no surprise. The evidence was overwhelming, but the verdict created controversy. Some claimed the youths were victims of Jim Crowism while others believed the punishment was just.

This study explores the events of the case and determines why Martinsville was unique given patterns of racial unrest throughout the South during the late 1940s. Primary sources include police reports, interviews with residents who have first-hand knowledge of the trial, the court record, and newspaper accounts from the Martinsville Bulletin, the Journal and Guide (Norfolk), and other newspapers.
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CHAPTER 1

INTRODUCTION

The signing of the Emancipation Proclamation in 1863 by President Abraham Lincoln freed all slaves in the states in rebellion against the United States. Technically free, blacks faced many years of discrimination and prejudice that in many cases resulted in violence and death. In order to protect their economic, political, and social way of life, white southerners devised ways to keep blacks subordinate. They used various methods, including the poll tax and literacy tests, to prevent voting, as well as violence by hate groups to maintain social order between the races. This violence, in the form of lynching, proved very effective.

Lynching traces its origins to the early 1700s and was an established practice by the end of the colonial period. Originally lynching consisted of whipping Loyalists and British sympathizers. After the Revolution, this practice soon spread across the frontier "as mobs used whipping, rituals of humiliation, and occasionally hanging to impose
social order."¹ Southerners found these practices efficient to keep slaves and lawbreakers in line. Organized vigilantes watched for suspect slave behavior and "by the close of the antebellum era, the tradition of mob violence had evolved into an integral part of southern culture."²

The lynching of slaves in the antebellum period normally consisted of beatings or whippings. The economic interest of the slave holder usually opposed the murder of a slave. Plantation owners, hesitant to allow a slave to be hanged except in cases that involved rape or an insurrection scare, preferred to allow the judicial system to try accused slaves. However, the threat of mob justice continued to exist prior to the war and increased after emancipation.³

Southern supporters of this practice argued that it was an efficient, humane, and effective way of punishing blacks for crimes, particularly against southern white women. According to this logic, lynching was efficient because it saved the cost of a lengthy (usually about two days) trial.

² Ibid., 4.
It was humane because execution was quick and the guilty party did not suffer through the long appeal process. This effective punishment sent a clear message to the black man: violate a white man's property or the virtue of southern white womanhood and you will be punished! The judges, sheriffs, and leading businessmen were not concerned that vigilante justice violated the law. In many cases these “respected” citizens assisted the mob or looked the other way.

After emancipation, lynching became the most effective method of control and served four functions: 1) eliminated persons accused of crimes, 2) instilled fear in the black community, 3) discouraged others from providing assistance, and 4) unified support for white supremacy. White southerners used lynching primarily as a punishment for those accused of raping white women or any other austere crime against whites. The Tuskegee Institute estimated that, between 1900 and 1930, more than 1,500 black men and 150 white

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4 James Goodman, Stories of Scottsboro: The Rape Case that Shocked 1930s America and Revived the Struggle for Equality (New York: Pantheon, 1994), 16-7.

men were lynched in the South for various reasons. Lynching, therefore, insured blacks would remain subordinate and enabled whites to respond when they felt threatened.

In some cases, lynchings occurred because whites perceived a crime had been committed. Although blacks were murdered for many different alleged offenses, the rape or assault of a white woman was a charge whites could not tolerate. Whites who participated in lynching actually believed they were protecting white women and suppressing the danger of social equality. These cases, when examined years later, reveal an entirely different story.

Many cases were similar to the one that occurred in Tunica County, Mississippi in the mid-1890s. A black man was lynched because he was accused of raping the seven-year-old daughter of the local sheriff. Ida B. Wells, a well-known reporter and civil rights advocate, investigated and discovered the girl was a young woman more than seventeen years of age. She had been discovered in the black man's

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cabin by her father who led the mob and saved his daughter's reputation. Other accounts by Wells included white women who enjoyed teasing black men and then cried rape when the event went too far and the woman gave birth to a dark baby.⁹

Virginia, like other southern states, had its share of lynchings. This form of punishment was used to rid the county of blacks or correct behavior viewed unacceptable by whites.¹⁰ Seventy black men were lynched during the period 1880 to 1930. Mob justice, however, was almost non-existent in Virginia when compared to over four hundred lynchings that occurred in Georgia during the same period.¹¹

The charge of rape or attempted rape was the most common reason for lynching blacks in Virginia. Thirty-three African-Americans suspected of rape were killed. Murder, the second most common reason for lynching, resulted in twenty-three deaths.¹²


¹⁰Brundage, Lynching in the New South, 146.

¹¹Ibid., 270-83. Brundage also documents the lynching of sixteen white men in Virginia and nineteen white men in Georgia during this period.

¹²Ibid., 281-3.
Lynching incidents in the United States slowly declined during the late 1920s. Reasons for this decrease included the decline of the Ku Klux Klan and other hate groups, a wave of prosperity over the nation, the migration of both blacks and whites to urban centers. Additionally, increased tolerance on the part of both races helped ease the threat of racial violence. When times were good, people tended to be more understanding. For example, in 1929 there were only ten reported lynchings, of which only six were successful.\(^{13}\) Twenty-one lynchings were accomplished in in 1930 at the beginning of the Great Depression.\(^{14}\) A combination of increased public awareness and decreased newspaper support contributed to the decline of this gruesome practice.\(^{15}\) Unfortunately in 1931 all the ugliness and violence of mob justice received international attention in the Alabama community of Scottsboro. Although lynchings did not occur in the area, the threat was present until after the trials.

On March 30, 1931 the Jackson County grand jury

\(^{13}\)Goodman, *Stories of Scottsboro*, 17.


\(^{15}\)Ibid., 53.
indicted nine black youths and charged them with raping two white women. In only three days, eight of the nine were tried, convicted, and sentenced to death. The ninth defendant’s trial ended in a mistrial. He was retried and also found guilty. During the next five years the “Scottsboro Boys,” as they came to be known, repeatedly appealed their convictions with little success. Finally in 1937, the Alabama Supreme Court ordered new trials. Five of the defendants received prison terms ranging from twenty to ninety-nine years, and charges were dropped against the other four.  

Andy Wright, the last to be paroled, was released on June 6, 1950.  

Over the next twelve years conditions improved only slightly. Blacks continued to be subordinate to whites, however, they did witness minor accomplishments in many areas, from the courts to sports, and the arts to the military. 

In sports Jesse Owens won four gold medals at the 1936 Summer Olympics in Berlin. His victories embarrassed

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17Norfolk Virginian-Pilot, June 7, 1950, 10:3. Wright was released in 1944 after serving seven years of his term. The parole was revoked when he was convicted of reckless driving and driving without a license three years later.
Adolph Hitler, who believed in Aryan superiority. Another boost to black morale occurred as boxer Joe Louis regained the heavyweight championship from Max Schmeling in 1938. This contest was more than a boxing match. It was a battle against a foreign invader, black vs. white, and democracy opposing the Nazi threat. Louis realized the symbolism and told reporters "This isn't just one man against another or Joe Louis boxing Max Schmeling; it is the good old U.S.A. versus Germany."  

Ten years later, Jackie Robinson became the first African-American to play professional baseball in the all-white major leagues. Blacks had played baseball in their own leagues since the early 1920s. Teams such as the Homestead Grays, New York Black Yankees, and the Kansas City Monarchs provided black athletes with an opportunity to display their talents.

Although Robinson was not the most gifted player, he

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had a strong will that enabled him to manage the pressure and abuse directed toward the black pioneer. Wilmer Fields, a successful Negro League pitcher, recalled that Robinson "was able to accept his success on the field without showing anger at his mistreatment off the field. . . . He was truly one-of-a-kind." Robinson was so successful that he was elected to baseball's Hall of Fame in 1962, the first year of his eligibility. 

The military also took positive steps to establish racial harmony. In 1940, Benjamin O. Davis, Sr., was appointed Brigadier General and became the highest ranking African-American in the military. At the start of the war, the army established a training program for black pilots at Tuskegee, Alabama. Although segregated, the school represented an attempt to provide blacks with meaningful training and a rewarding profession. Over six-hundred black pilots earned their wings and distinguished themselves during the war. 

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21 Ibid., 67.


23 Hornsby, Chronology, 85 and 90.
President Harry S. Truman, on July 26, 1948, signed Executive Order 9981 that called for equal treatment and equal opportunity for all in the armed forces. This was an enormous milestone as it established the foundation for eliminating discrimination and segregation in the military.\textsuperscript{24}

In the arts, Hattie McDaniel won the Academy Award for Best Performance by an Actress in a Supporting Role for "Mammy" in \textit{Gone with the Wind}. Charles Johnson received national recognition as a writer, and Gwendolyn Brooks won the Merit Award for her poetry.\textsuperscript{25}

The most significant gains for equality occurred in the legal arena. The following court decisions, along with many others, provided the historical background and foundation necessary for the landmark decision \textit{Brown v. Board of Education} in 1954. One of the first victories in education was in \textit{Gibbs v. Board of Education of Montgomery County, Maryland} in late 1936. This decision established equal salaries for black and white school teachers. In another decision, \textit{Missouri ex rel Gaines} (1938), the United States

\textsuperscript{24}Lerone Bennett, Jr., \textit{Before the Mayflower: A History of Black America} (Chicago: Johnson Publishing, 1987), 370 and 544.

\textsuperscript{25}Hornsby, \textit{Chronology}, 85, 95, and 97.
Supreme Court ruled that states must provide equal, even if separate, educational facilities for blacks.\textsuperscript{26}

The Supreme Court took additional steps toward equality by declaring the all-white primary to be unconstitutional. This decision, \textit{Smith v. Allwright}, (1944) allowed blacks the right to participate in the Democratic primaries of Southern states. In \textit{Morgan v. Virginia} (1946) segregation in interstate bus travel was ruled unlawful. The Supreme Court ruled Jim Crow statutes could not be imposed upon interstate travelers.\textsuperscript{27} Although this decision had little immediate effect, it would be cited in future cases involving interstate travel. This case became an effective tool used by the Congress of Racial Equality (CORE) during the freedom rides of the 1960s. Another important decision was \textit{Shelley v. Kraemer} (1948). The nation's highest court ruled that restrictive housing agreements violated the equal protection clause of the Fourteenth Amendment. The intent of this decision was to allow blacks the right to live in

\textsuperscript{26}Ibid., 83-4.

an area of their choice.\textsuperscript{28}

The most important accomplishment, to that point, in the battle against segregation occurred in the summer of 1941. As the defense industries geared up in the late thirties and early forties, it became apparent that the Negro was an unwelcome asset. Some plants welcomed all workers "except Germans, Italians, and Negroes."\textsuperscript{29} A. Philip Randolph, President of the Brotherhood of Sleeping Car Porters, proposed that blacks march on the nation's capital to demand equal access to government and defense-related jobs. President Franklin D. Roosevelt called an urgent meeting with Randolph and other black leaders to discuss cancellation of the protest. Roosevelt appealed to the group's pride and patriotism and urged the leaders to discuss alternative methods to solve this problem. Randolph steadfastly refused, pledging over 100,000 would march unless blacks received additional consideration in the work place.\textsuperscript{30}


\textsuperscript{29}Bennett, \textit{Before the Mayflower}, 365.

fearing violence and concerned that a major demonstration would cause disharmony on the eve of hostilities, issued Executive Order 8802. This directive prohibited racial discrimination in defense industries and government jobs. Additionally, the Fair Employment Practices Committee was established as part of the Order to monitor hiring procedures. Although this commission proved relatively ineffective, the presidential order was a victory and the method used by Randolph was successful. Plans for the march were terminated.\footnote{Egerton, \textit{Speak Now Against the Day}, 216.} This was the first time an all-black movement, organized on a national level for direct action, accomplished its goal. The tactic of mass demonstration would be employed successfully during the next decade to end segregation.\footnote{Pfeffer, \textit{A. Philip Randolph}, 88.}

Nationally, conditions were improving. At the state and local level, however, changes occurred slowly. Virginia during the late 1940s and early 1950s was not unlike other states in the South. Rural areas and small towns still predominated; less than forty percent of the population lived in large urban centers such as the Richmond-Petersburg
area, Hampton Roads, and Roanoke. Agriculture, manufacturing, and textiles were the primary occupations with the fishing industry gaining in importance.  

When World War II ended, Virginians, as well as citizens throughout America, experienced changes as a result of the war effort. The economy was stable and economic success could be acquired if a person was willing to work hard. This post-war optimism was fueled by rapid growth in all areas of the economy. The cornerstones for this growth were the automobile industry, housing and construction, and civil service and defense industries.

After the war many people relocated to the Old Dominion when discharged from the military. The resultant increase in the population, especially in the twenty to thirty year age group, made Virginia younger than at any time during the past twenty-five years. These new residents had many reasons for settling in the state: many lived here before the war and enjoyed the location, the mild climate, the abundance of diverse recreation facilities, and the southern way of life. Regardless of the reasons, Virginia offered the opportunity to

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become prosperous to those who were willing to work hard and offered an environment favorable to family life.³⁴

Under the leadership of Governor William Tuck, a member of Senator Harry F. Byrd’s political organization, Virginia attempted to offer a better way of life to its residents. Although not known as a reformer, Governor Tuck made minor improvements in the prison system and called for programs that protected the environment.³⁵

Some improvements in the education system were noted during the Tuck Administration. Additional funds were provided to upgrade facilities and improve teaching standards, and the number of teachers who had completed four years of college increased from 50.1 per cent to 61.3 per cent.³⁶

During this same period, however, the average amount spent on each student attending public school was well below the national average of $135.21. In 1946, Virginia spent

³⁴Ibid., 525.


$92.29 for each student in elementary and secondary school, and ranked fortieth in the nation. Although this amount increased during the next four years, Virginia's national ranking remained the same. In 1950 the national average was $208.83 and Virginia spent $145.56.\textsuperscript{37}

Health care was another area that improved during the late forties. Expansion of facilities and physician services enabled almost ninety-six per cent of the state's residents to have increased access to medical care. Improvements in mental health and the battle to control tuberculosis were recorded at the completion of Tuck's term as governor.\textsuperscript{38} Enhancing the quality of life appealed to the younger generation, and may have been a factor in their decision to make the Old Dominion their home.

On the surface, Virginia appeared to be a good state in which to live. Closer examination, however, revealed that Virginia was controlled by the Democratic Party with


\textsuperscript{38}Crawley, "The Governorship of William M. Tuck," 489-90.
political power in the hands of a small group of men, led by Senator Harry F. Byrd. This organization, or the Byrd Machine as it was called, was ultra-conservative on financial matters and is remembered for its "pay-as-you-go" policy.

Byrd believed deficit financing should be avoided at all costs—to the point of doing without. He often compared the state's spending to a family's budget: "as the family struggled to avoid debt, so must the state do likewise."

It was with pride that Virginia's leaders proclaimed it a debt-free state. Yet Byrd's financial policies shortchanged essential services, such as education, highways, and welfare. Support for education remained poor. The noted political scientist V. O. Key, Jr., analyzed Virginia's support of education by stating that "while the school system is inadequate it is about as good as the money appropriated will buy." This neglect of education proved, in part, to be the Achilles heel of the Byrd Organization.

Virginia's highways also suffered from lack of

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40 V. O. Key, Jr., Southern Politics in State and Nation (Knoxville: University of Tennessee Press, 1984), 27.

41 Wilkinson, Harry Byrd, 45.
financial support. Believing in Byrd's pay-as-you-go philosophy, Virginians renounced deficit spending and bond issues. Instead, improvements were made "only as fast as current revenues from gasoline and automobile licensing taxes permitted." Other states floated bond issues to finance highway improvements thus attracting new industry and additional jobs. A state senator who had supported Byrd's "pay-as-you-go" plan later believed this policy was a mistake that set Virginia back twenty years.

Welfare allocations suffered more than any other state program. Members of the Byrd Machine had an aversion to any give-away programs and dispersed welfare at the lowest possible levels. In 1948, the Old Dominion ranked fortieth in the United States in general assistance, fortieth in aid to dependent children, forty-fourth in aid to the blind, and last in old age assistance.

The Byrd organization boasted that Virginia was debt-free and that careful spending policies provided efficient government. Conditions and opportunities, however, were

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42 Ibid.
43 Key, Southern Politics, 27.
entirely different for blacks during these years when the strategy was separate and unequal.

After the war many blacks left the military and returned to Virginia because this was their home, or because they did not have any other place to go. Living conditions and views of blacks had not altered during the 1940s, but the attitude of many African-Americans had changed significantly. Blacks who had been sent overseas often observed that they were accepted and respected by many Europeans. Yet although they risked their lives for their country, the nation they returned to denied them the right to use public facilities, shop in certain stores, and even vote. War heroes returned to cheers from southern crowds. The cheers, however, turned to whispers, if the heroes were black.45

Blacks in Virginia, as in other southern states, were still controlled economically, politically, and personally. Known as the "tripartite system of domination," the white society maintained its privileges by keeping blacks subordinate. Not only was this policy the accepted way of southern life, but it was endorsed by local and state governments who did everything within their charters to

45Egerton, Speak Now Against the Day, 467.
keep blacks on the bottom rung of the success ladder.  

Economic opportunities available to blacks were limited and consisted mostly of the lowest-paying and dirtiest jobs that no one else wanted. Janitors, porters, shoeshine men, cooks, and common laborers were examples of employment "opportunities" for black men. Supervisory positions were nearly always occupied by whites who controlled the workplace. Blacks continued to be the "last hired and the first fired." This economic suppression also affected black women. Over seventy percent were employed as poorly paid domestics or service workers in white homes.

The second control denied African-Americans in Virginia the right to participate in the governmental process. Because they were denied involvement in politics, African-Americans did not have any control over the distribution of public resources and received far less than the white communities. Slowly, however, measures designed to prevent blacks from voting and serving in government positions were abolished. The lifting of these restrictions

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47 Ibid.
enabled blacks to participate in political, constitutional, and civil affairs.\textsuperscript{48}

Personal controls denied blacks basic human rights and labeled them an inferior race. Forced to use separate facilities that were second-rate, and placed in a subordinate role when compared to whites, blacks were denied human dignity and constantly reminded of their low status.\textsuperscript{49}

These were the conditions faced by blacks in Virginia during the mid-twentieth century. Many continued to work hard, believing that one day they would gain acceptance, as Booker T. Washington had professed years before. Others were inclined to support the ideals of W. E. B. Du Bois, and believed equality would never be freely given by whites; if blacks were to succeed, they had to take their freedom.\textsuperscript{50} Many had been in other countries and observed how blacks were treated and believed it was time for America to follow suit.

During the next decade, events throughout the South changed and improved the way of life for blacks. As in

\textsuperscript{48}Hine, \textit{Black Victory}, 237.

\textsuperscript{49}Morris, \textit{Origins of the Civil Rights Movement}, 2.

\textsuperscript{50}Bennett, \textit{Before the Mayflower}, 263, 332-3.
other states, these changes were most noticeable in Virginia's large urban centers; conditions improved more slowly in the rural areas. An event occurred in early 1949 that is representative of changes in the Old Dominion. A brutal crime forced a small, rural community, as well as the larger urban areas, to reevaluate racial conditions. The following study investigates this crime and explores why the community of Martinsville, Virginia was unique when compared to other small towns in the South.
CHAPTER 2

THE CRIMES

Martinsville, Virginia is located in the south-central part of the state, near the foothills of the Blue Ridge Mountains. During the 1940s, the city served as the capital of Henry County. Its nearly seventeen thousand residents were primarily engaged in the manufacture of furniture and wood products, textiles, and agriculture.¹ The small town lifestyle was inviting: there was no significant crime, the people lived and worked well together, and the climate and location were appealing. This was the setting in early 1949, when a brutal crime, the first in many years, was committed. On January 8, 1949 seven black men were arrested and accused of assaulting and raping a white woman. The nature and severity of the crime rocked this peaceful community and had the potential to initiate a bloody and violent race riot.

The counties of Patrick and Henry were virtually free of racial unrest that resulted in lynchings during this century. Only four lynchings were recorded between 1880

and 1930 in these two counties and these occurred in the 1890s. Two of the victims, accused of murder and attempted rape, were white.²

The arrest, trial, and subsequent appeals process of the seven accused men lasted over two years and received national and international attention. Carl DeHart, a local white historian, was a teenager at the time and remembered that these events were the main subject of conversation from the smallest homestead to the Governor's Mansion in Richmond. Everyone had an opinion, and offered explanations and recommendations to anyone who would listen. He also recalled that the reporters for the local newspaper, the Martinsville Bulletin, performed exceptionally by providing well-researched, factual articles that were not accusatory in nature.³

Virginia Windel, a white housewife and the former deputy treasurer for Henry County, also believed the local newspaper "did a good job." She followed the trials with great interest and recalled that this event was sensitive enough without the local press overreacting and stirring up

²Brundage, Lynching in the New South, 281-3.
³Carl DeHart, interview by author, August 21, 1995, Martinsville, Virginia.
the people. Mrs. Windel described Martinsville as a good community with no trouble between the races.⁴ A senior black resident of Martinsville, who wished to remain anonymous, concurred and stated he could not remember a racial incident in the city or county. The trials would certainly test this relationship.

During the late afternoon of January 8, 1949, Mrs. Ruby Stroud Floyd, a white woman, decided to visit Mrs. Ruth Pettie, who lived in the black section of Martinsville. The purpose of the call was to collect money for clothing that she had previously sold Mrs. Pettie. Not knowing the exact location of the Pettie house, she stopped at Mrs. Rosa Martin's house for directions. Mrs. Martin was not at home but her eleven-year-old son, Charlie, knew the way and agreed to act as a guide. While walking along the Danville and Western railroad tracks, Mrs. Floyd and Charlie observed four black men sitting on an embankment and drinking from a bottle in a paper bag. In passing, she asked if Mrs. Pettie lived near and one of the men answered it was further down the tracks. Thanking him, she continued on, only to find no one

⁴Virginia Windel, interview by author, June 22, 1995, Martinsville, Virginia.
at home.  

Mrs. Floyd and Charlie returned via the same railroad tracks and noticed that the same four men were now walking toward them. Suddenly one of the men grabbed her and the other three helped force her to the ground. Charlie became frightened and left the scene. While the attack was in progress, three other men joined by holding Mrs. Floyd down and assaulting her.  

After all seven men had assaulted and raped or attempted to rape her, Mrs. Floyd managed to escape. Running along the railroad tracks, she saw a “colored woman, a Negro man, and a child” approaching. Grabbing the woman’s dress, Mrs. Floyd begged for help, but was ignored because the passerby did not want to be involved. Her attackers returned, overpowered her, and decided to take her further into the woods to conceal their actions. There they continued to rape and assault her.  

After hours of abuse, the last of her attackers departed. Bloodied, bruised, and barely able to walk, Mrs. 

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5Martinsville Bulletin, January 10, 1949, 1:5.
6Ibid., April 21, 1949, 1:6.
7Ibid.
Floyd managed to make her way "to the home of a colored family," where she asked for assistance. The Wades, a black couple, escorted her to a store where the police and medical personnel were telephoned.8

Mrs. Floyd described the attack to police officers A. T. Finney and M. V. Barrow of the Martinsville Police Department. Sergeant J. H. Barnes, Virginia State Police, arrived and took charge of the investigation. He was informed that two men were in custody and had been initially identified by the victim as being involved. Mrs. Floyd, although in shock, was able to guide the officers to the locations where the attacks occurred. She was later taken to the local hospital where she was treated for cuts, bruises, and internal injuries. Her condition was listed as good, and she was allowed to go home.9

The two men, Booker T. Millner and Frank Hairston, were taken to the local police station for additional questioning. Later that evening, they admitted raping Mrs. Floyd and signed confessions that implicated five other men. Research indicated these confessions were obtained legally and

8Ibid., January 9, 1949, 1:2; April 21, 1949, 1:6.

voluntarily. No evidence could be found that the police used intimidation or beatings, as was a common practice in other southern towns, to gain confessions.\textsuperscript{10}

Francis D. Grayson and John C. Taylor were arrested in the early hours of January 9, 1949, at their residences. Also arrested that morning were half-brothers James and Howard Hairston.\textsuperscript{11} Joe H. Hampton, the last to be implicated, was arrested the following day at the home of a friend. According to Martinsville Chief of Police, H. W. Stultz, the seven men were confined outside of Henry County for security reasons. Stultz indicated that, although he did not expect any trouble, he did not want to take any unnecessary chances.\textsuperscript{12} Hampton was transported to the jail in Chatham, a small town forty miles northeast of Martinsville. Grayson and

\begin{itemize}
\item \textsuperscript{10}All persons interviewed indicated the local police officers did not use illegal means to obtain information.
\item \textsuperscript{11}Hairston is a very popular name in Henry County with over 300 listings found in the telephone directory. Many members of the black community may be descendants of a large slave plantation owned by Samuel Hairston. The plantation had over 2,000 slaves and occupied most of what is now Patrick and Henry Counties in Virginia and Rockingham County in North Carolina. Carl DeHart interview, August 21, 1995, Martinsville, Virginia. See also Peter Wilson Hairston, \textit{The Cooleemee Plantation and Its People} (Winston-Salem, North Carolina: Hunter Publishing, 1986), 30.
\item \textsuperscript{12}Martinsville Bulletin, January 10, 1949, 1:5.
\end{itemize}
Taylor were taken to Stewart, Virginia, located thirty-five miles west of Martinsville. The remaining four were incarcerated in Roanoke, Virginia.13

This was the biggest event ever to occur in Martinsville and the first racial incident anyone could remember.14 No one could predict if violence would result, or how the residents, both black and white, would react to such an atrocious crime because no racial strife or mob violence had occurred this century.15 The city police and county deputies were on alert and employed increased security measures.16

The townspeople acted in an honorable manner. They were described as "remarkably composed and it was soon quite apparent that the law would be permitted to take its proper course."17 The behavior of local residents was


15Brundage, Lynching in the New South, 281-3.

16David J. Edwards, interview by author, August 22, 1995, Martinsville, Virginia. Deputy Chief Edwards of the Martinsville Police Department refused to comment on the precautions taken because some of the emergency plans are still in use.

17Woodruff to Chew, Tuck Papers, Box 116, Folder 3, 3.
unusual as blacks in other southern states were being removed from jails and lynched for lesser alleged crimes. According to residents who remembered the episode, there was little if any talk of harming the accused men or organizing mob justice. The county was quiet and the citizens believed that justice would prevail.\textsuperscript{18} This local behavior was unique for a southern town, and was responsible for the absence of racial violence toward the accused men.

Stories of white mob violence and lynchings were common in newspapers and provided fuel to an already volatile situation in southern states. By reporting these incidents in a less than accurate manner, the accused was already convicted by the press. This custom may have affected the decision of the jury (provided the accused was tried) and enhanced the claim by those hostile to the white south that southern justice for blacks was a legal lynching.\textsuperscript{19}

An incident very similar to the Martinsville case occurred in Jackson, North Carolina on May 22, 1947. A young white woman, on her way to the movie theater, was attacked by a young black man, Godwin Bush. Several white

\textsuperscript{18}DeHart interview, August 21, 1995.

\textsuperscript{19}\textit{Daily Worker}, May 18, 1949, 1:2.
high school boys, hearing her screams, came to her aid and assisted police in the capture.\textsuperscript{20} News of the incident spread quickly, and an angry white mob formed within hours in front of the jail. Armed men overpowered the jailer and forcibly removed Bush from his cell. Bush escaped and the mob dispersed. He later surrendered to federal authorities and indicated he believed the mob would have murdered him.\textsuperscript{21}

Godwin, who was later tried and convicted of attempted rape, was fortunate to escape mob justice. Other black suspects and members of the Negro community did not fare as well. In many cases innocent blacks were beaten, murdered, or had their property destroyed as a result of mob violence. An incident in Groveland, Florida illustrated such action at its worst. On July 16, 1949 a young, white housewife was allegedly kidnapped and assaulted by four black men. Three of the four men were in custody within twelve hours based on the victim's description of the attackers. The following day Sheriff W. V. McCall reported that a mob of about one hundred armed men tried unsuccessfully to remove the three prisoners. But justice prevailed and McCall


\textsuperscript{21}\textit{Ibid.}, May 29, 1947, 44:1.
persuaded the mob to disband.\textsuperscript{22}

Racial tensions continued to simmer, however, and several days later violence erupted. Groups of angry white men were still upset over the abhorrent crime, and continued to roam the outskirts of the town. Several homes in the black community were destroyed by this mob. The mood was so threatening that Governor Fuller Warren mobilized the National Guard to protect the community.\textsuperscript{23} The violence against the black community continued until the Grand Jury indicted three of the four black men identified by the victim. The fourth man, Ernest Thomas, was killed by a posse when he tried to avoid capture.\textsuperscript{24} An all-white Coroner's Jury decided in less than two hours that the white posse was justified in the shooting death of Thomas. Their acquittal strengthened the belief that bias was firmly entrenched in all levels of the judicial process in the South. Law enforcement officers could freely violate the rights of blacks with little or no fear of punishment by the courts.

\textsuperscript{22}Ibid., July 18, 1949, 10:3.

\textsuperscript{23}Ibid., July 27, 1949, 48:3.

\textsuperscript{24}Ibid.
Soon, however, in a landmark case, this would change.\(^{25}\)

Another case, representative of white supremacist groups, occurred in Hooker, Georgia, and involved the Ku Klux Klan. County sheriff John Lynch stated that seven black men were taken from his custody by hooded members of the Klan. These men were driven to a secluded area where they were beaten and flogged for their "crimes."\(^{26}\) This was typical of the white mob justice that was practiced throughout the South. This case was unique because the sheriff and his deputy, William Hartline, were subsequently indicted and charged with violation of the prisoners' civil rights. The two were convicted, sentenced to one year in prison and fined one-thousand dollars each.\(^{27}\) This marked the first time "a southern all-white jury voted a guilty verdict against a sheriff and his deputy for having a part in a masked assault upon Negroes." Southern liberals celebrated the verdict and insisted race relations in the deep South were improving.\(^{28}\)

\(^{25}\)Ibid., July 29, 1949, 18:5.

\(^{26}\)Ibid., April 4, 1949, 18:6.

\(^{27}\)Ibid., March 18, 1950, 30:1.

\(^{28}\)Ibid., March 19, 1950, 10:7.
These accounts were indicative of the violence that routinely occurred against blacks accused or suspected of crimes against whites. An editorial cartoon from Norfolk's black newspaper, the Journal and Guide captured the essence of the plight of African-Americans during the late 1940s. The cartoon characterized Washington lawmakers as ignorant of African-American rights, and allowing local groups to administer justice. These crimes, although not publicly supported, were condoned by leading town residents, including law enforcement officials and newspaper editors. This was not, however, the case in Martinsville.

Several explanations for the lack of violence were offered by residents who remember the incident. First, the weather was a contributing factor. It was bitter cold on the evening of the attack with snow forecast for that weekend. Sam Hairston, a black resident and no relation to the defendants, recalled that conditions were terrible and "it was too cold to go out unless you had to." A second contributing factor was the relationship between blacks and whites. Virginia Windel closely followed the

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30 Sam Hairston, interview by author, August 22, 1995, Henry County, Virginia.
events and stated "There were no racial problems. Of course, we had minor altercations but nothing serious, nothing like other southern towns." Additionally, Robert Padgett, a white city employee, stated "To say that blacks knew their place and whites kept them in it is not true. We all got along better than in most towns." Sam Hairston concurred: "We had few, if any, racial problems during that time."

Prompt response, effective coordination, and increased security measures by local law enforcement officers contributed to maintaining order in the area during the investigation. The seven men were in custody within thirty hours and incarcerated outside the city to avoid any problems. This was a precautionary measure as the police officials did not know what to expect. There had never been a major racial incident in the town and only two lynchings occurred in Patrick County.\(^3^4\)

\(^3^1\) Windel interview, June 22, 1995.

\(^3^2\) Robert Padgett, interview by author, August 21, 1995, Martinsville, Virginia.

\(^3^3\) Sam Hairston interview, August 22, 1995.

\(^3^4\) Brundage, *Lynching in the New South*, 281. On September 6, 1897 Henry Walls was accused of murder and hanged. The other recorded lynching in the county was John Wilson. Accused of stealing a horse, he was hanged on February 6, 1886.
Residents, many of whom knew about the incident, were law-abiding citizens. They respected Sheriff Morton Prillaman and Police Chief H. W. Stultz and believed that a thorough, complete, and impartial investigation would be conducted. William Martin, a black resident who was in his mid-30s at the time of the incident, remembered "We trusted the sheriff to keep things straight." Martin further stated that Prillaman was fair and did not allow his deputies to harass any of the citizens.\(^{35}\)

Local coverage of the incident played an important role in determining how the residents reacted. The events were reported in a clear, concise, and non-accusatory manner. The editor and reporters of the *Martinsville Bulletin* were concerned with reporting the facts and not writing sensational stories just to sell newspapers. Many of the explicit details of the crime and testimony during the trial were not printed in order to maintain harmony and avoid prejudicing the issues.\(^{36}\)

Finally, dedicated racist organizations were not

\(^{35}\)William Martin, interview by author, June 21, 1995, Martinsville, Virginia.

\(^{36}\)For examples of unbiased reporting by the *Martinsville Bulletin*, see articles dated January 9, 11, and 16, 1949, as well as February 18, 1949.
effective in Henry County. Groups such as the Ku Klux Klan were splintered, unorganized, and lacked charismatic leadership. John Adams, a senior black resident, recalled that a few men claimed membership in the Klan but "overall it was not effective. They [the townspeople] had no reason to get involved because the Klan could not offer anything." 37

This potentially volatile situation was handled with an amazing amount of good sense by all citizens. In their biography of Governor J. Lindsay Almond, Jr., Ben Beagle and Ozzie Osborne state that race relations in Martinsville were neither good nor bad, but tolerant and nonpersonal. Many whites lived on Mulberry Road, closer to the center of the town, while the majority of blacks lived in the poor east and south sections. 38 Although only a few miles separated their residences, the difference in the way of life was enormous. Sam Hairston recalled that "blacks did their job and minded their own business. We all got along because we kept our mouth shut and did not complain about every little thing." He continued by saying that

37 John Adams, interview by author, August 21, 1995, Henry County, Virginia.

there was not much to complain about and "I think we had a
good relationship with the whites. That's why I was
embarrassed when those boys attacked that woman." He
further stated that he "worked part-time in a grocery store
and had always received fair treatment by the white owner." 39

The seven men charged with the assault on Ruby Floyd
were representative of young southern blacks accused of a
capital crime. Five of the seven were born and raised in
Henry County and had never been outside the area. Unaware
of conditions in the next town, they worked at odd jobs
during the week and looked forward to Saturday night
activities. 40 Francis Grayson was not like the others. He
was considerably older, thirty-seven, had a wife and five
children, and had traveled throughout the South. Arriving
in Martinsville several months earlier, he found employment
with the American Furniture Company.

All were inadequately educated. Millner entered the
eleventh grade and Hampton completed the seventh before
quitting to find work. Howard Hairston, John Taylor, and
James Hairston all quit school during the fourth grade;

39 Sam Hairston interview, August 22, 1995.

40 Ibid.
Howard Hairston completed the fifth grade. No information on Grayson’s education was available.\textsuperscript{41}

Schools for blacks throughout the South lacked qualified teachers, adequate facilities, and sufficient funding. This was not surprising as these schools relied on financial support from the white power structure. During this time, separate but equal was not a reality as local government always found other projects for tax dollars.\textsuperscript{42}

Robert Hairston, a black native of Martinsville, recalled it was difficult to stay in school. Born in 1935, he was able to continue his education because his father worked for the American Furniture Company and his mother was a maid. The accused men were not as fortunate; they had to quit school to help their families survive. James Hairston, for example, had been working since he was nine.\textsuperscript{43}

\textsuperscript{41}Petition to his Excellency John S. Battle, Governor of Virginia for Commutation of Sentence, undated, Executive Papers of John S. Battle, Box 115, Folder 1, 2-3, The Library of Virginia, Richmond, Virginia. (hereafter cited as Battle Papers)

\textsuperscript{42}Morris, \textit{Origins of the Civil Rights Movement}, 196.

The best a young, illiterate black teenager could hope for was a manual labor job paying several dollars per day. Prior to their arrest, John Taylor helped deliver soft drinks, James Hairston hauled wood, and Howard Hairston worked in the fields of a plantation. John Adams remembered these as tough times, but "we all thought that through hard work we could become successful." He continued by saying that he had been working for white people since he was fifteen and had no problems because he worked hard and avoided trouble.\(^4\)

Blacks continued to be subordinate to whites. They did not receive the same level of education and in many cases were forced to quit school in order to help the family. The work place provided another example of bias. Wages were lower for blacks; the policy of equal pay for equal work was still a dream. Steady work, however, was available, but while it led to respectability for whites, it resulted in blacks only being able to survive.\(^5\) These were the conditions that existed in early 1949 when seven black men appeared in Judge Kennon Whittle’s courtroom.


\(^5\)DeHart interview, August 22, 1995.
Virginia's Seventh Judicial Circuit Court included the city of Martinsville and the counties of Patrick, Henry, and Pittsylvania. Since the attack on Mrs. Floyd occurred within the jurisdiction of the Seventh Circuit Court, Judge Whittle presided at the trials. He had been appointed to that post five years earlier and had gained valuable experience trying both civil and criminal cases. This varied experience as a judge prepared him to conduct the proceedings. Oden Duncan, a white merchant, remembered several of Whittle's previous cases and characterized him as being "a fair and honest man who was concerned that everyone's rights were protected." William Martin, a black cabinetmaker, stated "he was a good judge; if someone did something wrong, he would be punished, didn't matter if he was black or white."

Kennon Caithness Whittle was born in Henry County on October 12, 1891. He attended school in Martinsville and enjoyed a happy childhood with his brother Stafford. He graduated from Washington and Lee University in 1914 with

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46 Oden Duncan, interview by author, June 21, 1995, Martinsville, Virginia.

a Bachelor of Laws Degree; however, his dream to become a lawyer was interrupted by World War I. He served with the Sixth Virginia Coast Artillery Corps until termination of hostilities. When the war ended, he returned to Martinsville to practice law with his brother under the firm name of Whittle and Whittle. He hoped to follow in his father's footsteps by becoming a trial judge and state Supreme Court Justice.\(^4^8\)

Whittle was knowledgeable in all facets of the law and earned a reputation as a compassionate defender of the rights of the accused in both civil and criminal proceedings. Colleagues remembered him for his "courtroom artistry and persuasiveness with juries."\(^4^9^\)

In December, 1944, a vacancy occurred in the circuit court and, based on his successful legal career, Whittle

\(^4^8^\)Virginia Reports-Cases Decided in the Supreme Court of Appeals of Virginia, Volume 209 (Richmond: Commonwealth of Virginia, Division of Purchase and Printing, 1969), ciii. Additionally, his father Justice Stafford Gorman Whittle was nominated to the Virginia Supreme Court in March, 1901. He served as President of the Court from March, 1916 until his retirement in December, 1919. (Source: Virginia Reports, Volumes 99, 120, and 126)

\(^4^9^\)Ibid.
was unanimously endorsed by all Bars of that circuit.\textsuperscript{50} He brought to the bench the same drive and concern for rights exhibited while a practicing attorney. Oden Duncan attended many of the cases Judge Whittle heard and stated, "He didn't put up with any nonsense. Anyone out of order was charged with contempt; he was tough on the lawyers too, you had better be prepared."\textsuperscript{51} Virginia Windel remembered the Judge as a personable man who was pleasant, sociable, and a devoted family man. Inside the courtroom, however, "he was all business; no one got away with anything."\textsuperscript{52} Members of the black community also had high praise for the Judge. John Adams remembered him as being tough but fair. He was "just as hard on whites if they did wrong."\textsuperscript{53}

One area that has remained a mystery is why the crime was committed. With the exception of Hampton, who had been convicted of grand larceny in 1947, the young defendants were not hardened criminals. Several had minor police records: Millner was charged with being drunk and disorderly

\textsuperscript{50}Ibid.

\textsuperscript{51}Duncan interview, June 21, 1995.

\textsuperscript{52}Windel interview, June 22, 1995.

\textsuperscript{53}Adams interview, August 21, 1995.
in 1947 and Taylor was fined for a misdemeanor in 1944.\textsuperscript{54} The remaining four, James, Frank, and Howard Hairston, and Grayson were hard-working men and did not have a police record.\textsuperscript{55} No information could be found to prove that it was premeditated, motivated by robbery, or a crime of revenge. Why, then, did six local youths and an older outsider, commit this crime? Research failed to provide an answer; however, several opinions were offered by residents who knew the men.

William Martin believed peer pressure was the primary cause. He stated “They were drinking and observed how attractive Mrs. Floyd was. Things just got out of hand. Once the assault started, no one wanted to back down.”\textsuperscript{56} This theory has a certain amount of credibility. During the attack, several of the youths could not perform but tried repeatedly so as not to be embarrassed.

Oden Duncan offered a different hypothesis. He stated the crime was a result of sexual frustration. They were tired of being treated like second-class citizens and here

\textsuperscript{54}Woodruff to Chew, Tuck Papers, Box 116, Folder 3, 6.

\textsuperscript{55}Petition for Commutation of Sentence, Battle Papers, Box 115, Folder 3, 3.

\textsuperscript{56}Martin interview, June 21, 1995.
was an opportunity to be superior. Duncan added "They probably only wanted to harass her and have a bit of fun, but lost control." Adams concurred and added that the crime probably would have occurred had the woman been black. He stated "I don't think it was a racial thing. It could have been any woman."

These assumptions are neither correct or incorrect but offer insight into the fact that residents have wondered why this crime was committed and have formed opinions. Review of the confessions, testimony, appeal process, and letters written by the condemned men revealed no clue as to why the crimes were committed. The reasons may never be known because the local leaders in 1949 were mainly concerned with who committed the crime and less with the motive.

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57 Duncan interview, June 21, 1995.

The seven men charged with the assault and rape of a white woman appeared in Circuit Court before Judge Whittle on January 21, 1949. Lawyers were officially appointed to represent the defendants, and upon advice of counsel, each entered a plea of not guilty to all charges. Bail was denied and a Preliminary Hearing was scheduled for February 17, 1949.

Judge Whittle selected a respected group of lawyers to defend the accused men. Joseph H. Whitehead was chosen to represent Hampton and William F. Carter defended Frank Hairston. Both attorneys had excellent reputations in the area. Claude E. Taylor, who defended Millner, S. D. Martin, who defended Howard Hairston, and Will Joyce, who defended Grayson, all had successful law practices in Henry County. Clarence P. Kearfott defended James Hairson and Frank Burton defended John Taylor. Carl DeHart, a white resident and authority on local history, stated the attorneys were not happy about taking these cases but had no choice. Under Virginia law, court-appointed attorneys must provide
counsel or risk disbarment.¹

Commonwealth’s Attorney Irvin W. Cubine represented the state of Virginia. He was assisted by W. R. Broaddus and Hannibal N. Joyce (no relation to the defense attorney).

At the Preliminary Hearing, the prosecution had only to prove that a crime had been committed. Therefore, Cubine called several supporting witnesses, including the police officers who conducted the investigation. Believing their testimony to be sufficient, Cubine saw no need to call Mrs. Floyd, Charlie Martin, or other important witnesses.

Lawyers for the defense could view this hearing as a formality or challenge the testimony. They chose the latter and concentrated on discrediting evidence and testimony. The two physicians who examined Mrs. Floyd after the attack were called to describe her condition and the seriousness of her injuries. The doctors testified that although the injuries were not life-threatening, they were far from minor.²

¹DeHart interview, August 21, 1995.

To challenge the victim at this early stage of the proceedings was dangerous, but Will L. Joyce, believed it to be a sound tactic. The attorney for Grayson wanted a record of the assault because prior to the hearing, the only information from the victim was her statement. Additionally, the defense team was eager to see how Mrs. Floyd would react to examination. Therefore, in an unusual move, the defense called the victim to testify.

Mrs. Floyd calmly and clearly answered the questions describing in detail how she was repeatedly beaten and raped. She eventually lost her composure and sobbed through many questions asked by Joyce. The victim regained her poise and stated that she did not cry for help because she was afraid of being killed.³

When asked if she could identify her attackers, she pointed at Hampton and said he was the first to seize her and thought Millner was the second one. She also identified Grayson as the last one to rape her.⁴ Joyce’s questions were designed to discredit the victim’s account of the crime by implying that she used poor judgement.

³Ibid., 48.
⁴Ibid., 45-9.
and was a willing participant. This tactic angered Judge MacBryde and resulted in Joyce being reprimanded for using extreme methods.  

Based on the complaining witness' testimony, and the strength of the confessions, Judge MacBryde decided to send the case to the Grand Jury. The seven accused men were ordered held without bail and incarcerated outside the city.

On April 11, 1949 a Grand Jury met to determine if trials were warranted. The seven-member jury, composed of four whites and three blacks listened to the evidence presented and indicted each defendant on one charge of rape and six counts of accessory to rape. Carl DeHart stated that it was expected that trials would be held; but what was significant was that blacks were on the Grand Jury.

After completion of these proceedings, the Commonwealth’s Attorney announced that the suspected leader,

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5Woodruff to Chew, Tuck Papers, Box 116, Folder 3, 4.
6Preliminary Hearing Transcript, 55.
8DeHart interview, August 21, 1995.
Joe Hampton, would be tried first.\textsuperscript{9} Carl DeHart believed this approach made sense because Hampton might implicate the others as was the case with the confessions.\textsuperscript{10}

On April 19, 1949 defense attorneys filed a motion for a change of venue. They argued that their clients could not receive a fair trial due to adverse publicity and because "in this small town everyone knew everyone else."\textsuperscript{11} Both sides submitted numerous affidavits and called both black and white witnesses to support their claims. The defense called prominent members of both races to testify that newspaper coverage would not allow a fair trial. The prosecution countered by calling B. K. Thompson, editor of the Martinsville Bulletin, to defend his publication. He stated the articles "carefully avoided arousing undue resentment and bitterness among the populace."\textsuperscript{12}

Based on the testimony and affidavits, Judge Whittle decided that the defense had failed to prove its contention and dismissed the request. The judge, discussing the

\textsuperscript{9}Woodruff to Chew, Tuck Papers, Box 116, Folder 3, 4.

\textsuperscript{10}DeHart interview, August 21, 1995.

\textsuperscript{11}Windel interview, June 22, 1995.

\textsuperscript{12}Woodruff to Chew, Tuck Papers, Box 116, Folder 3, 6.
motion with only the attorneys present, indicated that both black and white members of the community and the reporters had conducted themselves in an honorable manner and should be commended. There was no mass feeling against the defendants, and many felt that a fair trial was possible. Therefore, Judge Whittle was confident that an impartial jury could be found.

Court convened in the City of Martinsville at ten o'clock on April 21, 1949, with the seven accused men present. Additionally, the witnesses for both the State and defense were present. Jesse D. Clift, Clerk of the Court read the charges against each defendant: one count of rape and six counts of accessory to rape. Commonwealth's Attorney Cubine declared that the state would seek the death penalty. Each defendant then entered pleas of not guilty.

The jury selection lasted over an hour and signaled the first hint of controversy. Of the twenty-nine men called to serve, two were black and both were excused.

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13 Virginia Reports-Cases Decided in the Supreme Court of Appeals of Virginia, Volume 190 (Richmond: Commonwealth of Virginia, Division of Purchase and Printing, 1950), 547.

because of doubts they held concerning the death penalty. Five white men were dismissed after admitting they were members of the local Elk's Lodge, an all-white fraternal organization, and had contributed funds toward Mrs. Floyd's legal and medical bills.\textsuperscript{15} The defense attorney, Joseph Whitehead Jr., established that the victim's husband was also a member of this organization and had received this money.\textsuperscript{16} Whether this was an effort to stack the jury in favor of the prosecution or coincidence is not known. The incident did, however, put the jury on notice that Judge Whittle would not tolerate bias by anyone in his court.

The defense attorney continued to try to disqualify prospective jurors on the issue of prejudice. Each was asked if any bias existed because the victim was white and the defendant was black.\textsuperscript{17} Whitehead continued this line of questioning by asking:

\begin{quote}
If the defendant is found guilty as charged in the indictment, would any of you gentlemen be influenced as to your verdict by the fact
\end{quote}

\textsuperscript{15}R. G. Adkins, John F. Floyd, J. C. Arron, Stan Finney, and F. I. Richardson were members of Elk's Lodge \#1752 in Martinsville.

\textsuperscript{16}Transcript of Hampton's trial, 11.

\textsuperscript{17}Martinsville Bulletin, April 21, 1949, 1:6.
that the defendant is a Negro and the prosecutrix is a white lady.\(^{18}\)

The selected men stated that they had formed no opinion about the case and punishment had not been considered in the event the defendant was found guilty.\(^{19}\)

These questions, as well as some that were not allowed, represented an attempt by the defense attorney to introduce the issue of race prejudice into the proceedings. Judge Whittle, careful to avoid the race issue, was quick to admonish all officers of the court, stating that race should not be a factor in the case. Before starting each case, he informed the jury that the defendant was charged with a most serious crime and the state would ask for the extreme penalty. He charged the all-white jury to be responsible and render a verdict based on a fair evaluation of the facts presented. The judge knew most of the white jurors and believed they were good men who would do their duty.\(^{20}\) He concluded by stating the city and county were

\(^{18}\)Transcript of Hampton's trial, 12.

\(^{19}\)Prior to 1950 only men were allowed to serve on juries in Virginia. On July 1, 1950, as a result of an amendment to the law passed by the Virginia General Assembly, women became eligible to serve on state juries.

\(^{20}\)Transcript of Hampton's trial, 16.
free from any racial trouble with many black citizens
denouncing this act as much as whites. He cautioned both
the jury and the legal teams to insure the case was:

tried in such a way as not to disturb the
kindly feeling now locally existing between
the races. It must be tried as though both
parties were members of the same race. I
will not have it otherwise.21

The courtroom was almost empty as Joe Hampton’s trial
began. Judge Whittle decided justice could best be served
by allowing only a few spectators because of the sensitive
nature of this crime and to avoid embarrassment to the
families.22 These included relatives such as Mr. Floyd,
family members of the accused men, and the witnesses.23

The prosecution team called seven witnesses—the first
being the victim. Initially Mrs. Floyd described the
attack in a calm and deliberate manner, but began to sob
and lost her composure at the end of the story. She did
manage to identify Joe Hampton as the one who seized her
and first raped her. Charlie Martin, the eleven-year-old
boy who accompanied Mrs. Floyd, was the next witness to be

21Virginia Reports, Volume 190, 555.
22Windel interview, June 22, 1995.
23Norfolk Virginian-Pilot, February 1, 1951, 6:1.
called. In order to establish that Charlie was a reliable witness and understood the seriousness of the trials, Commonwealth's Attorney Cubine asked him if he knew what happened to little boys who tell lies. Charlie answered, "They go to hell." He continued by saying that four men hurt the woman and identified Hampton as the one who grabbed her.

Mary Wade was the next witness to testify and stated that Mrs. Floyd was bruised, scratched, and disoriented when she arrived at the Wade house. Officer A. T. Finney and Murray V. Barrow of the Martinsville Police Department described the crime scene and the condition of the victim. Dr. J. A. Ravenel treated Mrs. Floyd at the emergency room and testified that there was some swelling of the lower lip, multiple scratches and abrasions over the elbows, and cuts on both legs and knees. There were scratches on the back of the neck, the right side of the chest, and both buttocks. The physician also observed a long (six to seven inches) scratch on the victim's left thigh that could have been made by a fingernail. Additionally, Dr. Ravenel

\[24\] Transcript of Hampton's trial, 47.

\[25\] Ibid., 104.
found evidence of internal injury and recommended she be evaluated by a specialist. Dr. Baynard Carter of Duke University Hospital was the final witness for the prosecution. A specialist in internal medicine, he testified that the victim had sustained injuries as a result of the attack. These injuries were serious and he estimated that it would be "six to eight months before she would be free from medical care." 

Defense attorney Joseph H. Whitehead asked several questions in an effort to present the victim as a willing participant. Mrs. Floyd denied this accusation and again identified Hampton as the first to commit rape. Whitehead, seeing this line of questioning was unproductive, had no further questions and the witness was excused.

Whitehead had little success with the cross-examination of other prosecution witnesses. Unable to discredit the complaining witness, the police officers, or the eleven-year-old boy, he asked a few, very general questions. He decided the best defense was the testimony of character witnesses and his client.

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26 Norfolk Virginian-Pilot, April 22, 1949, 10:1.

27 Transcript of Hampton's trial, 46.
Several witnesses were called in an attempt to show Hampton as a law-abiding citizen and hard worker. His father, Scott Hampton, testified that his son was a good boy who had had a difficult life. Born in 1929, in Axton, Virginia, Joe’s mother died when he was only eight. The family moved to Martinsville six years later. The father testified that his job required him to be away from home and consequently Joe received inadequate training and discipline.28

Mid-way through the afternoon session, Hampton took the stand. He claimed he was drunk and did not remember the attack.29 When cross-examined by Cubine, Hampton repudiated his confession saying he signed what was put in front of him and did not read it.30

After Hampton’s testimony, attorneys for both the state and defense presented brief closing statements. Cubine addressed the brutality of the crime and stated that enough evidence had been presented to warrant a conviction. Whitehead argued that there were extenuating and mitigating

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28Woodruff to Chew, Tuck Papers, Box 116, Folder 3, 5.
29Norfolk Virginian-Pilot, April 22, 1949, 10:1.
30Transcript of Hampton’s trial, 131.
circumstances and his client deserved mercy. 31

Judge Whittle explained the law and provided instructions to the jury. He told the jury that rape is committed when "any man shall carnally know a female of sixteen years of age or more against her will by force." 32 The judge then informed the jury that four options existed and explained the punishment for each. If the jury should find the defendant guilty beyond a reasonable doubt, then the punishment should be fixed at death, "or in your discretion by confinement in the penitentiary for life or any term not less than five years." 33 If the jury should find the defendant guilty of attempted rape, the penalty was the same as rape. A third option, guilty of aiding and abetting, carried the same penalty as rape. The fourth and last option was assault and battery for which the penalty is confinement in prison for twelve months, five hundred dollars fine or both. 34 The jury retired and within two hours found Hampton guilty of rape. The foreman, J. E.

31 Ibid., 144.
32 Ibid., 153.
33 Ibid., 161.
34 Ibid., 166.
Jones, announced that the jury recommended the death penalty. 

The prosecution had won a major victory. Anything less than conviction for rape and the death sentence would have cast doubt on the competence of the legal team and posed serious problems for the remaining trials. Cubine masterfully presented the picture of a helpless victim, savagely attacked by a group of men. His questions and the responses were designed to gain sympathy from the jury. Conversely, Whitehead waged an uphill battle and was unable to muster any support for his client, even though an emotional father begged for mercy. The trial was completed in time for the jury to be home for the evening meal. There was no rest for the prosecution, however, as they worked late into the night preparing the case against the second defendant.

The trial of Frank Hairston, Jr., began on April 22, 1949, and was almost an exact duplicate of the Hampton trial. Cubine and his team presented the State's case while William F. Carter represented Hairston. A new jury was selected and the proceedings began. The Commonwealth's

35See Appendix B.
Attorney again built the case around the complaining witness, Mrs. Ruby Floyd. During this trial she was more composed but began to sob when she described the attack. She identified Frank Hairston as one of the assailants and stated he held her down while the others raped her.36

Charlie Martin again related the details and identified the defendant as one of the attackers. Mrs. Wade, Officers Finney and Barrow, and Dr. Ravenel also testified. Additionally, Sergeant James H. Barnes of the Virginia State Police testified that he questioned Hairston for "about an hour and then he admitted he raped her."37 During this questioning, the suspect identified the other participants and signed a confession.38

The defense attorney's only chance to save his client from the electric chair was to discredit the testimony of the complaining witness. During the cross examination of Mrs. Floyd, Carter repeatedly asked if she had not been warned not to go into the East Martinsville section,

36 Commonwealth of Virginia v. Frank Hairston, Jr., transcript of trial, Henry County Courthouse, Martinsville, Virginia, 33.

37 Ibid., 72.

38 See Appendix C.
especially at night. She said no warning was given and she had gone there before with no problems. 39 Additionally, as in the Preliminary Hearing, the defense tried to show that the physical injuries to the victim were minor. After all, she was treated for scratches and abrasions and allowed to go home. If these injuries were serious, should she have been admitted to the hospital? The doctor replied that he believed she could rest better at home and allowed her to leave if she would return the next morning for tests. 40

Carter presented the defense case by calling character witnesses who testified that Hairston had never been in any trouble. Josephine Grayson (wife of one of the defendants) and Leola Millner (sister of one of the defendants) testified they knew Hairston and he had never been in any trouble. Both stated that they were walking along the railroad tracks when the attack occurred and noted Frank's presence but could not say if he were a participant. 41 Jesse Wade testified that Frank "was a good

39 Transcript of Frank Hairston's trial, 44.
40 Ibid., 104.
41 Ibid., 121.
boy and had not caused no trouble."\textsuperscript{42} George Galloway, the janitor at the school for blacks, said he remembered Frank as being a good boy.\textsuperscript{43} Several ministers testified he was truthful and a good citizen. Perhaps the most emotional testimony came from Mrs. Bessie Hairston, Frank's mother. She stated that he was a good boy who never caused any trouble. She believed he was with the wrong group of people and begged the jury to spare her son's life.\textsuperscript{44}

In a continuing effort to try to discredit the victim's testimony, Carter called Dan Gilmer to the stand. Gilmer stated he gave directions to Charlie and Mrs. Floyd. He also claimed that he warned her not to go into that section of town. He said "If I was you I wouldn't go this time of night." Additionally, he offered to accompany her the following morning, but she declined and left with Charlie.\textsuperscript{45}

Carter realized these tactics were having little effect on the jury and decided to put his client on the stand in order to present his version of the incident.

\textsuperscript{42}Ibid., 150.
\textsuperscript{43}Ibid., 153.
\textsuperscript{44}Ibid., 159.
\textsuperscript{45}Ibid., 169.
Hairston, born in Martinsville in 1930, did not deny having intercourse with Mrs. Floyd, but claimed Hampton paid her five dollars and she consented. This accusation shocked the court and was considered so preposterous that the jury discounted it. Upon cross-examination, Cubine noted this information was not in the confession, and Hairston offered no explanation except that he forgot to mention it.

The judge provided instructions to the jury and offered the same parameters of punishment as in the Hampton case. Deliberation lasted less than an hour with a guilty verdict being returned along with a recommendation for the death penalty. The jury, as in the previous trial, placed a great deal of importance on Mrs. Floyd's testimony. All attempts to discredit her version of the attack failed. So did the emotional pleas for mercy. After an emotional and stressful two days, a weekend away from the courthouse was welcome. There was no rest for the prosecution, however, who spent the weekend fine-tuning the case against the next

\[46\] Ibid., 174.

\[47\] Ibid., 181.

\[48\] See Appendix C.
defendant. The defense team also worked through the weekend. They noted the tactics and results of the previous trials and struggled to prepare a plausible defense. The only person who managed to relax was Judge Whittle, who reportedly went fishing.49

The trial of Booker T. Millner started on an ominous note. After the jury was selected, the prosecution asked for a recess. Dr. Ravenel stated Mrs. Floyd was physically unable to testify.50 Judge Whittle granted the request and adjourned the court until 10:00 AM the following day. Cubine called the same witnesses as in the previous trials and efficiently presented the state’s case in less than three hours. Charlie Martin, a key witness in this trial, testified that Millner gave him a pocket knife and told him to stand guard, a point that had not been presented in the previous trials. He stated the defendant said “If anyone comes by, cut them.”51 Charlie refused to take the knife, and Millner then offered him a quarter if


50Commonwealth of Virginia v. Booker T. Millner, transcript of trial, Henry County Courthouse, Martinsville, Virginia, 22.

51Ibid., 48.
he would leave and not tell anyone what he had seen.
Charlie took the money and ran home.\textsuperscript{52}

Defense counsel Claude E. Taylor, like his predecessors, found little to object to and realized that cross-examination was fruitless. Leola Millner and Josephine Grayson were called as character witnesses, and Millner took the stand in his own defense. He stated he was drunk and should not have been there. He admitted participating in the attack; however, he claimed he could not perform the act and left the scene.\textsuperscript{53} Since he did not rape Mrs. Floyd, he begged the jury to have mercy and vote for a lesser punishment.\textsuperscript{54}

The final witness called by Taylor was Ida Millner, mother of the defendant. She said he had always been a good boy and had been in trouble only once before. In an emotional plea, Mrs. Millner begged the jury to spare her son's life.\textsuperscript{55}

Judge Whittle provided the jury with instructions, and they adjourned. In less than an hour, a guilty verdict

\textsuperscript{52}Ibid., 49.
\textsuperscript{53}Ibid., 94.
\textsuperscript{54}Ibid., 97.
\textsuperscript{55}Ibid., 100.
was returned with a recommendation for the death penalty.\textsuperscript{56} The trial was completed by mid-afternoon with the entire case lasting less than seven hours.

The next trial, that of Howard Hairston, was the last of the four men initially involved in the assault. The prosecution called the same witnesses, who by now could anticipate the questions and had the answers memorized. Cubine presented the state’s case in two and one-half hours.

Defense attorney S. D. Martin, Jr., called character witnesses, several of whom were prominent white citizens. Martin, trying a new tactic, believed the credible testimony of white residents might result in a different verdict. Mrs. Ruth Schafer, of Chatmoss Plantation, revealed Hairston worked at the estate for several years and was honest, reliable, and a good worker.\textsuperscript{57} Cecil Turner, foreman for a sawmill, recalled the defendant was dependable and although he had a speech impediment, was a good worker.\textsuperscript{58}

\textsuperscript{56}See Appendix D.

\textsuperscript{57}Commonwealth of Virginia v. Howard L. Hairston, transcript of trial, Henry County Courthouse, Martinsville, Virginia, 91.

\textsuperscript{58}Ibid., 93.
Hairston did not testify as Martin realized it was useless to put him on the stand to beg for mercy. The attorney relied instead on prestigious witnesses and a summation designed to portray his defendant as a non-participant. Martin stated that since his client did not rape Mrs. Floyd (although his confession indicated that he tried several times), punishment should be less severe. These attempts failed and the jury found Hairston guilty and recommended the death penalty.59

On April 28, 1949 Francis D. Grayson, the oldest of the group, arrived at the courthouse in the custody of Sergeant James L. Carter and Officer A. T. Finney of the local police department. After jury selection, the prosecution presented the state's case by calling the same witnesses as in the previous trials. This case concerned Cubine because it was different from the others. Grayson was not present when the initial attacks occurred and might not be considered as guilty as the others. Second, Grayson, in his confession, stated he could not perform the act although he tried several times. After he failed, he gathered Mrs. Floyd's clothes and helped her up the hill.

59See Appendix E.
Finally, the defendant was married and had five children. Additionally, he had served honorably in the United States Army and when discharged in 1943, moved to North Carolina. Unable to find steady work the family arrived in Martinsville six months earlier. Based on these facts, Cubine believed Grayson had the best chance to have the charge reduced to assault and battery. Therefore, the prosecution carefully presented a case that lasted over four hours.

The defense attorney, Will L. Joyce, tried to use the differences in the case to his advantage. Several witnesses, both black and white, testified that Grayson was a model citizen, a hard worker, and a devoted father. In his closing statement, Joyce reminded the jury of the confession: Grayson did not have relations with Mrs. Floyd, and he helped her up the hill. He pleaded with the jury

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60 Petition to his Excellency John S. Battle, Governor of Virginia for Commutation of Sentence, undated, Battle Papers, Box 115, Folder 1, 3.


63 Ibid., 105.
to show compassion for this father who was in the wrong place at the wrong time.\textsuperscript{64}

The concerns of the prosecution were unfounded as the jury convicted Grayson of rape and sentenced him to death.\textsuperscript{65}

In a last-ditch effort to save his client, Joyce filed several motions asking the court to set aside the verdict. These motions claimed that: 1) the verdict was contrary to the law without evidence to support it; 2) improper remarks were made; 3) erroneous instructions were presented to the jury; and 4) denial of change of venue deprived Grayson of an opportunity for a fair trial. Judge Whittle denied the motions and, as in the other trials, deferred sentencing until completion of all trials.\textsuperscript{66} Noting the strain on the witnesses, court staff, and prosecution team, the judge declared the following day an off-day and scheduled the final trial for Monday morning, May 2, 1949.

James L. Hairston and John C. Taylor were the final defendants to be tried. In an unusual move, a request by the defense for a joint trial was granted. The prosecution

\textsuperscript{64}Ibid., 107.

\textsuperscript{65}See Appendix F.

\textsuperscript{66}Norfolk Virginian-Pilot, April 29, 1949, 1:4.
concurred as the judicial process was thereby shortened and the strain eased on the primary witness.

The morning session was dedicated to selecting a jury and presenting opening statements. Mrs. Floyd was called to the stand at 2:10 PM, and described her ordeal. As in the previous trials, she "broke down and sobbed as she continued her testimony." Cubine presented the state's case by calling the same witnesses that testified in the preceding five trials. Brief but damaging testimony with little cross-examination allowed the prosecution to present the case in thirty-seven minutes.

Hairston, represented by Clarence P. Kearfott, took the stand after several character witnesses testified. In an attempt to gain sympathy from the jury, Hairston told how his mother died when he was seven and his father left several years later. He attended school, completing the fourth grade and could only read and write his name. He indicated he really did not want to go with Taylor and Grayson but agreed because of peer pressure. Kearfott tried to persuade the jury that his client was a good boy.

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68 Ibid.
with no criminal record who became involved with the wrong people. Hairston stated, "I didn’t want to go at first, but I later went. I didn’t know what was going on." 

Frank P. Burton, representing Taylor, also called several character witnesses but did not allow his client to testify. The attorney tried to present the defendant as a good person by calling previous employers to the stand. The entire defense lasted less than thirty minutes.

The Commonwealth’s Attorney, in his closing statement, called for a verdict of guilty and asked for the supreme penalty. He reiterated the brutality of the crime and cited the confessions. Kearfott and Burton pleaded for mercy stating that these two young men were not as guilty as the others and deserved a lesser sentence. The jury deliberated seventy minutes and returned the verdict and sentence requested by the prosecution.

After twelve days the trials were completed with the

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71 Transcript of James Hairston and John Taylor’s trial, 155.

72 See Appendix G.
juries reaching guilty verdicts and recommending death for each man. Opinions among the residents varied with many of each race believing the death sentence was not warranted for all. John Adams, a senior black resident who remembered the trials, believed they were all guilty but felt several deserved a lesser sentence. He stated "that the Taylor boy and [James] Hairston probably should have got some jail time. They were not as guilty as the others." 73 William Martin, a black cabinetmaker, disagreed. He stated that "They were all in the same boat. What they did was wrong and they all should get the same punishment." 74

Opinions in the white community were just as diverse. Oden Duncan, a white merchant, indicated "They were guilty and should pay for their crimes." 75 Carl DeHart offered a different perception: "The first four were clearly guilty but the guilt of the other three was questionable. I believe the last two juries responded with guilty verdicts because they did not want to be different." 76 DeHart's

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74 Martin interview, June 21, 1995.
75 Duncan interview, June 21, 1995.
76 DeHart interview, August 21, 1995.
interpretation of these two verdicts was innovative and discounted the more traditional reasons. All attempts to contact members of these two juries failed. Had these attempts been successful, it is doubtful that they would have been willing to discuss the case and even more hesitant to admit that DeHart's theory is correct.

Robert Padgett, a white city official, speculated that "The lawyers, as good as they were, knew they could not win, but they gave it a good try. They believed the best chance the defendants had was the appeal--which they [the defense attorneys] would not have to argue." Public opinion notwithstanding, the trials were completed and a verdict had been recommended. All that remained was for Judge Whittle to pronounce sentence.

The following morning, May 3, 1949, the defendants appeared in court for sentencing. Judge Whittle thanked the prosecution for their responsible conduct in presenting the cases. He praised the defense attorneys for their restraint and compassion in dealing with the delicate subject of inter-racial rape. He stated he was grateful to the members of the juries and the witnesses who made great

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"Padgett interview, August 21, 1995."
sacrifices and conducted themselves in a mature and professional manner. Judge Whittle then addressed the convicted men. He stated he could think of no more brutal and degrading crime a man could commit upon a woman. There was no excuse for such behavior. Therefore, he accepted the jury's recommendation and passed the sentence of death.

Execution was scheduled for July 15, 1949 for Hampton, Frank Hairston, Millner, and Howard Hairston. The three other defendants, Grayson, James Hairston, and Taylor were scheduled to be electrocuted on July 22, 1949.

The trials of the Martinsville Seven, as they came to be known, were finally over and many Virginians believed sympathy for the convicted men would decline. This was not the case, however, as Governor Tuck received hundreds of pieces of correspondence denouncing the trials and the verdicts. Examination of this correspondence revealed

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79 Ibid., 18.

80 Norfolk Virginian-Pilot, May 4, 1949, 10:1.

81 The Tuck Papers contain letters, telegrams, post cards and letters written from people throughout the country.
that the Civil Rights Congress (CRC), a Communist-supported organization, and the Daily Worker, a New York City newspaper with Communist ties, had been successful in rallying support for the condemned men after the verdicts were passed.

One petition demanded that Governor Tuck grant new trials because of the assembly-line method of justice, forced confessions, and incompetent court-appointed attorneys.82 A letter, from Ruth Frank of Michigan, claimed the trials were "rush jobs done in an atmosphere of complete intolerance and hatred" and the confessions were made under threats of violence.83 Another letter, perhaps the most preposterous of all, was written by Mrs. Robert Lee House, president of the Richmond Council of Church Women. She blamed the victim for "violating a strict Southern code by going into a Negro district after dark and without proper escort. She asked for trouble."84

82 Petition to Governor Tuck from residents in Milwaukee, Wisconsin, undated, Tuck Papers, Box 116, Folder 3.

83 Ruth Frank to Governor Tuck, June 14, 1949, Tuck Papers.

84 Mrs. Robert Lee House to Governor Tuck, August 29, 1949, Tuck Papers.
It appeared this letter was both an attack on a member of an unpopular religious sect (Mrs. Floyd was a Jehovah's Witness) and a chastisement of the victim for using poor judgement. It was ludicrous for Mrs. House to make these assumptions because the defense did not challenge Mrs. Floyd's excellent reputation during the entire proceedings. In any event, if Mrs. Floyd had the benefit of a support network sponsored by the church or a group such as the National Organization for Women (NOW), opinions concerning her conduct and misfortune might have been different.

This outpouring of sentiment for the condemned men was based on misinformation and half-truths provided by newspapers such as the Daily Worker and from meetings sponsored by the CRC. Only the citizens of Martinsville, who had first-hand knowledge of the events knew that the trials were conducted in a peaceful setting. Their town and these trials were not typical of southern justice toward blacks.

The entire process lasted less than two weeks but would affect many of the residents for years to come. Sam

85Woodruff to Chew, June 7, 1949, Tuck Papers, 1.
Hairston related "We thought the trials were stressful but we weren't ready for what happened during the appeals." The real test for this small Virginia town was just beginning and would receive national and international attention.

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\footnote{Sam Hairston interview, August 22, 1995.}
CHAPTER 4

THE APPEALS

The conviction of the seven defendants represented not only a victory for the state, but a continuation of a tradition: black men convicted of rape were sentenced to death while white men convicted of the same crime received prison terms. At the time of these convictions, forty-one African-Americans had been executed in Virginia for rape or attempted rape while no white men had been executed for similar crimes.¹ Citing this discrepancy and a belief that the defendants did not receive a fair trial because of racial issues, lawyers for the National Association for the Advancement of Colored People (NAACP) announced the appeal process would be initiated. A spokesman stated that guilt or innocence was not the main reason for providing assistance. The primary concern was to:

assure to every American, a fair and impartial trial, and to see that justice is meted out to the guilty [and] that the innocent are protected in their rights, without regard to

¹Information Paper, “Brief History of Executions Conducted by the Virginia Department of Corrections,” undated, Virginia Department of Corrections, Suffolk, Virginia.
to the racial identity of the characters involved.²

A spokesman for the civil rights group also announced that Martin A. Martin, Spottswood W. Robinson III, and Oliver W. Hill, all reputable African-American lawyers from Richmond, had been selected to initiate the appeal.

The NAACP was not the only group interested in the case. Emmanuel H. Bloch, an attorney employed by the Civil Rights Congress (CRC), requested an official transcript of the trials and indicated he would represent Grayson in the appeal process.³ The NAACP immediately denounced the CRC, claiming it was a Communist-supported organization. Martin indicated the NAACP cannot "be associated in any way with any organization which has been declared subversive by the United States Attorney General."⁴

Influential members of the CRC had achieved national attention and success with previous criminal proceedings. The most famous case was William L. Patterson's defense of the Scottsboro Boys. Patterson, the CRC Executive


⁴Ibid., June 14, 1949, 1:4.
Secretary, indicated the "full weight of his organization will go behind the appeal for Francis DeSales Grayson" and the "appeal would be phrased so as to be of maximum benefit to the other defendants." 5

While the NAACP and the CRC were engaged in a verbal battle for control of the appeal rights for the condemned men, a representative from a third organization arrived in Martinsville after completion of the trials. The purpose was not to help, but to report on the trials in order to show that blacks were treated unfairly by the courts in the south.

The Daily Worker, a New York City Communist publication, sent reporter Mel Fiske to investigate the arrest, conviction, and sentencing of the seven men. Fiske spent two days in Martinsville, interviewing local residents and reviewing newspaper articles. Prior to his departure, he indicated he would write a series of articles attacking the convictions. Fiske told a local reporter, "I have never heard of such a case as this and when we get through with it, you will really be on the map." 6


The *Daily Worker* was the mouthpiece for the Communist Party in the United States with a world-wide circulation. Although many residents were not familiar with the New York newspaper, they were suspicious and distrustful of Fiske. Sam Hairston remembered talking to Fiske and thought "this is going to be a mess. We don't need this guy stirring up trouble." Additionally, Hairston stated "the race issue had been played down and now this guy was going to show the court as a bloodthirsty mob who was chomping at the bit to hang these boys."  

Hairston's prediction soon came true. The first article in the *Daily Worker* accused the Circuit Court of legal lynching on an assembly line basis. Fiske further charged the jury and police officials with perfecting southern justice by handing out one-day death sentences similar to the pattern followed in the Scottsboro cases. Fiske also claimed that the "verdicts were a foregone conclusion before the trials even started" and charged that a conspiracy involving the police and court officers existed. He accused authorities of arranging a quick trial,  

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7Sam Hairston interview, August 22, 1995.  
reaching a guilty verdict, and imposing the death sentence in exchange for no mob violence. ⁹

In other articles, Fiske continued to present inaccurate information about the judicial process. One article claimed the men signed confessions under duress. Fiske reported one defendant told his mother that the police threatened to "turn them lose in a mob unless they confessed." ¹⁰ Although the confessions were read into evidence against them with no objections to admission or correctness, suggestions of police intimidation were credible. ¹¹ No evidence could be found to support these allegations. Additionally, the defendants never claimed the confessions were obtained under duress.

The claim of police intimidation is feasible given the circumstances surrounding the treatment of blacks by southerners during the late forties. In many instances the police failed to protect the civil rights of the accused. The case of Edward Honeycutt, a young black man accused of rape, illustrated this treatment. While awaiting trial, he

¹⁰Daily Worker, June 2, 1949, 4:1.
¹¹Virginia Reports, Volume 190, 534.
was abducted from his unguarded cell in Opelousas, Louisiana by three white men. He escaped lynching by fleeing while the men "were flipping a coin to decide who would kill him." Although three white men were charged, the grand jury took no action.\(^{12}\)

In another article, Fiske described the cases as legal lynching and declared that "for four months this town seethed with lynch hysteria against the Negro men."\(^{13}\) Virginia Windel said "That was totally untrue; there was not a trace of violence by anyone, white or black."\(^{14}\) In subsequent articles, Fiske sensationalized the case in an attempt to sell newspapers and tried to gain sympathy for Grayson by publishing a picture of his wife and five children with the caption: "Family of Man Doomed in Frame-up."\(^{15}\) Additionally, he charged the defense counsel with incompetence and stated they "failed in their duty to the men."\(^{16}\)


\(^{13}\) *Daily Worker*, June 1, 1949, 2:1.

\(^{14}\) Windel interview, June 22, 1995.

\(^{15}\) *Daily Worker*, June 2, 1949, 2:1.

\(^{16}\) Ibid., 4:1.
Fiske deliberately misrepresented the facts and interviews in an attempt to gain sympathy for the condemned men. Not only did he neglect to review the trial transcript, but he failed to talk to the defendants, their families, witnesses, or people with first-hand knowledge of the case.\textsuperscript{17} The reaction to these articles, that were reprinted in the local newspaper, was one of shock and disbelief. John Adams, a black resident who remembered the episode, stated "What that guy wrote was not true. I can't believe they would say that."\textsuperscript{18}

At the start of the appeal process, the residents of Martinsville faced additional stress from outside forces that continued to test the strength of the townspeople. The trial was completed and relief from tension was expected. Many wanted to return to the way things were before the trials. This did not occur. Carl DeHart stated "Things were not the same--if anything more pressure was added."\textsuperscript{19} On the local level there was still an undercurrent of tension. Robert Hairston recalled people of both races

\textsuperscript{17}\textit{Martinsville Bulletin}, June 12, 1949, 1:7.

\textsuperscript{18}Adams interview, August 22, 1995.

\textsuperscript{19}DeHart interview, October 3, 1995.
were concerned that a racially motivated incident would occur during the appeal. Although no incidents occurred during the trials and there was no historical precedent to gauge the reaction of the people, residents maintained that a minor altercation could escalate and destroy the peaceful tranquility prevalent in Martinsville. The general feeling was "to stay calm and get this thing over with."  

The residents realized state-wide attention continued to exist after the trials. This exposure increased as the state branch of the NAACP became more involved in the appeal. Additionally, the major Virginia newspapers continued to report on the events and kept Martinsville in the news.

Further stress was noted by events that occurred throughout the South. Blacks continued to be beaten and lynched for alleged crimes. Sam Hairston remembered these attacks and on several occasions heard mob stories compared to Martinsville. He stated "This did not set too well with the people--to be compared with these bad places."  

On the national scene the communist threat and


21 Sam Hairston interview, August 22, 1995.
McCarthyism were gaining attention. This increased concern, combined with the inaccurate articles published in the *Daily Worker*, elevated tensions. Virginia Windel remembered reading about the "Red Threat" and Senator Joseph McCarthy's battle to identify communists. She stated "It seemed the whole country had problems and we certainly had our share."  

Events in the Far East also caused concern among the local residents. John Adams, who was twenty at the time, indicated "I was concerned, as was the other boys, that I would have to go fight. The older men who remembered the wars did not want to go through it again."  

The residents followed these events closely and within a year Private Adams was in Korea.

These were the forces present in this small community at the start of a new decade. DeHart summarized the times by saying "We handled the stress pretty well; it was difficult with so many forces pulling at us. But most important, we maintained our poise and no racial incidents

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22Windel interview, June 22, 1995.

The adverse publicity by a Communist-supported publication did nothing to aid the CRC in its attempt to help the condemned men. Yielding to pressure by the NAACP, the CRC announced on June 5, 1949, that no further action would be taken on behalf of Grayson. Earlier that day, the NAACP announced that having two groups working on the appeals was not feasible, especially since the CRC was listed as a subversive Communist front organization.\textsuperscript{25} George Elwood, temporary chairman of the Congress, indicated his organization supported the NAACP’s appeal process and encouraged public support for a new trial.\textsuperscript{26} The CRC’s support included distribution of literature depicting the crime and trials, organizing meetings to gather sympathy for the condemned men, and advocating a nationwide letter-writing campaign. These tactics proved very successful as petitions bearing hundreds of signatures, letters, and telegrams were sent to Governor Tuck. The majority of these communications demanded that the governor

\textsuperscript{24}DeHart interview, October 2, 1995.

\textsuperscript{25}Martinsville Bulletin, June 6, 1949, 3:7.

\textsuperscript{26}Ibid.
grant full pardons or commute the sentences. 27

The CRC’s withdrawal, along with the stigma of the Communist Party, allowed the NAACP to become the principal group responsible for the total appeal process. Lawyers met with Governor William Tuck to request a ninety day stay of execution in order to review the court record and prepare the detailed appeal. The governor granted only thirty days, but hinted that the stay could be extended. Additionally, the governor stated he “did not intend to do anything that would embarrass in any way a bona fide effort to use every resource of law in these cases.” 28 Consequently, the executions were rescheduled for August 12 and 19, 1949.

Citing the need for additional time, Martin A. Martin personally delivered a letter to Governor Tuck, requesting an additional extension of ninety days. The letter outlined errors in procedures and evidence committed during the trial and identified other information to support the appeal to the state Supreme Court of Appeals. On August 3, 1949, Governor Tuck concurred, but only granted thirty days. He rescheduled the executions for September 16 and

27 Tuck Papers, Box 116, Folder 3.
Financing the appeal process required a great deal of money. Transportation costs, lodging expenses, salaries of the legal team, and administrative fees contributed to an already strained NAACP budget. Funding for worthy state projects was already scarce, and with the unexpected expenses of a lengthy appeal process, the financial picture of the organization was dismal. The main question was how to acquire the money needed to defray legal costs. Requesting the condemned men’s families to pay was out of the question as they could not afford the legal fees. Soliciting assistance from the black community in Henry County was not a feasible option as this was a poor area with residents barely earning enough to survive.

The Virginia NAACP decided to employ a state-wide appeal for assistance by designating the week of September 4-10, 1949, as the Martinsville Seven Week. The goal of this campaign was to increase awareness of the plight of the seven men and raise five thousand dollars for legal costs. The tactic of appealing to the black community

29Ibid.

(churches, clubs, and civic organizations) for funds proved very successful and became the cornerstone of the civil rights movement that began in the early 1950s.\textsuperscript{31} This financial support was essential to the civil rights process if the leaders were to have any chance of success.\textsuperscript{32}

Emphasizing that no amount was too small, W. Lester Banks, Executive Director of the NAACP in Virginia, stated this was not a new drive, but a continuation of the general appeal made several months previously. Contributions exceeded the goal and were controlled by the Martinsville Seven Defense Fund Committee.\textsuperscript{33}

Many area churches dedicated one Sunday offering to assist with the appeal process. John Adams recalled donating fifty cents toward appeal expenses. He said “It wasn’t much, but every little bit helped. Even though I believed they were guilty, maybe the appeals could get them some jail time.”\textsuperscript{34}


\textsuperscript{33}Journal and Guide, August 27, 1949, 1:8.

\textsuperscript{34}Adams interview, August 21, 1995.
The financial problems continued throughout the appeal process. The money raised during this campaign helped pay expenses but was exhausted after several months. Martin managed to secure additional funds from organizations interested in civil rights issues. These groups were soon unable to continue the support and Martin was forced to ask the state for assistance. In April, 1950 Martin requested Judge Whittle to investigate and certify the financial status of the families of the condemned men. 35 No additional correspondence could be found that addressed defraying the costs of the appeal. Oden Duncan remembered hearing the state would have to pay for the appeal and thought "Justice sure is expensive to the taxpayers." 36

The justices of the Virginia Supreme Court of Appeals met on September 5, 1949 and faced a heavy case load for the fall term. The court, however, did agree to hear the case, although scheduling proved difficult as the judges met only two or three days each week. Since the court agreed to hear the case, execution dates were postponed


until a decision was reached.

The appeal was based on seventeen allegations of error that were common to each case. These allegations can be classified into three categories: "Change of Venue," "Errors of Evidence," and "Errors in Procedure." The first three concerned the request for "Change of Venue," which was disapproved by Judge Whittle before the trial started. Martin A. Martin argued that his clients did not receive a fair trial in Martinsville because all the members of the jury knew the victim or her husband and had been influenced by articles in the newspaper. The publication of numerous articles detailing the arrests, confessions, and trials contributed to influencing anyone called to be a juror.

Virginia's Attorney General, J. Lindsay Almond, Jr., presented the state's case. He defended the denial of the request for change of venue stating that the law presumes that a defendant can receive a fair trial in the county in which the offense was committed. The burden of proof rests with the defense attorney to prove the accused cannot

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[37] Virginia Reports, Volume 190, 531-2.


receive an impartial trial. He indicated the prosecution filed 114 affidavits (one for each juror summoned), and each stated he had not formed an opinion and could render an impartial verdict. Additionally, the Attorney General cited testimony from both black and white witnesses that the newspaper articles "were published in as mild and dispassionate language as could be expected from the nature of the crimes."\textsuperscript{40}

The second group of allegations pertained to "Errors of Evidence," specifically the confessions. Attorneys conducting the appeal attempted to present the confessions as inadmissible evidence and charged they were obtained by coercion. Martin contended his clients were too scared to know what they signed. He also said police acted improperly as they intimidated the accused men to such an extent that they signed any document placed before them. Furthermore, Martin stated his clients were uneducated and too young (six were between the ages of eighteen and twenty-one) to understand what was happening.\textsuperscript{41}

Almond countered by referring to the transcripts and

\textsuperscript{40}Ibid., 532.

\textsuperscript{41}Ibid., 534.
stated that at no time were accusations made against the police. On the contrary, both black and white residents applauded the effort and fairness of all organizations involved. Additionally, there were no objections by any of the defense attorneys when the confessions were presented as evidence.

The majority of the allegations concerned "Errors in Procedure." Martin attempted to show that Judge Whittle violated procedures when he allowed the jurors to be questioned concerning the death penalty while not informing them of the minimum penalty. Another alleged error occurred when witnesses (primarily the police officers) were allowed to remain in the courtroom during the trials. Their intimidating presence, Martin argued, contributed to the quick guilty verdicts. He believed these errors, although minor when considered individually, had a significant impact on the outcome of the trials. He also questioned the scheduling of the trials on consecutive days, believing the jury was influenced by the events and verdicts of the previous day.43

42 Ibid., 544.

43 Ibid., 532.
Almond defended Judge Whittle's actions by citing Virginia statutes and previous cases. Trial judges for over one hundred years had carefully questioned jurors concerning views on capital punishment when the prosecution asked for the death penalty. It was an accepted practice to insure the accused was protected from biased jurors who regarded the death penalty lightly. The same applied to witnesses who were allowed to remain in the courtroom. They were part of the proceedings and remained available if needed. The scheduling of the cases was not a basis for appeal as each juror stated, under oath, that no opinion had been formed and the defense attorneys failed to prove otherwise.

Chief Justice Edward W. Hudgins delivered the opinion of the Court. He stated the Court found no errors by the trial judge and no mistakes pertaining to evidence or procedure. Therefore, on March 13, 1950, the judgement was unanimously affirmed. Upon learning of the decision, Martin indicated the appeal process would continue.

The NAACP was not discouraged by this setback and

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44 Ibid., 533.

45 Ibid.
continued to support the appeal effort. Work began immediately after the defeat to file a petition for a Writ of Certiorari for review by the United States Supreme Court.\textsuperscript{46} This petition used the same alleged errors as previously presented to the Virginia Court; however, more emphasis was placed on the right to receive an impartial trial and the claim that the men were coerced into signing the confessions. The U. S. Supreme Court reviewed the appeal and on June 5, 1950, declined to hear the case.\textsuperscript{47}

Martin expressed disappointment over the decision but promised to intensify the campaign to save the men from the electric chair. He announced plans to ask Governor John S. Battle to commute the death sentences based on the right to receive a fair trial. On July 7, 1950 Martin, along with twenty-one concerned Virginians, presented a Petition for Commutation of Sentence to the governor that requested the

\textsuperscript{46}A method of appeal used to correct errors of a lower court.

\textsuperscript{47}Supreme Court Reporter-Cases Argued and Determined in the Supreme Court of the United States, Volume 70 (St. Paul: West Publishing, 1950), 1013.
punishment be changed to life in prison. At the hearing he reiterated that the sentences were unjust because the defendants were "colored and the prosecutrix was a white woman and the juries were composed of all white men." The Petition also claimed these sentences were unduly harsh and extreme considering that no white man had been put to death for raping a woman.

These sentiments were echoed by prominent residents of Richmond who attended the hearing with Martin. Each in-turn called upon Governor Battle to commute the sentences of the Martinsville Seven to life in prison. Dr. John H. Marion, the white pastor of Bon Air Presbyterian Church stated that the sentences were "hardly in accord with principles of equal justice" while Dr. Gordon B. Hancock, an African-American college professor, pleaded for mercy on behalf of race relations and justice. Additionally, Martin noted that all those in attendance were concerned

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48Petition to his Excellency John S. Battle, Governor of Virginia for Commutation of Sentence, undated, Battle Papers, Box 115, Folder 1, 1.

49Ibid., 3.

50Richmond Times-Dispatch, July 8, 1950, 2:1 and the Richmond Afro-American, August 5, 1950, 4:1.
residents of Virginia and not out-of-state protesters. He also used this opportunity to issue the strongest statement to date condemning the efforts of the CRC by saying:

Some quasi-liberal and quasi-Communist groups have tried to get into this to make it another Scottsboro case. We have used every effort to keep them out. We feel that justice will be granted in Virginia.\(^{51}\)

Several family members of the condemned men attended this hearing. Mrs. Ida B. Millner, mother of Booker T. Millner, stated "We tried to teach our children the best we could but somehow they strayed from our teachings." In an emotional plea for clemency, she said "We would be the gladdest and happiest mothers in the world to know that they had life in prison." Scott Hampton, father of Joe H. Hampton and Mrs. Jennie Taylor, mother of John C. Taylor were present but did not address the hearing.\(^{52}\)

Governor Battle closed the hearing by thanking those who had spoken and said they had shown "dignity and restraint." He realized this was a serious matter and promised to give it "all the thought and study of which I

\(^{51}\)Richmond Times-Dispatch, July 8, 1950, 2:1.

\(^{52}\)Ibid.
am capable.\textsuperscript{53}

Prior to submitting the Petition, four of the seven condemned men wrote to the governor requesting a lesser sentence. Trying a different approach from the "harsh sentence" scenario used in all previous requests, the men stated that they had found Jesus Christ and wanted a chance to be better Christians. They stated that they attend bible study classes each week and prayed daily for strength and guidance. In his hand-written letter, Grayson stated he was sorry for the crime, had always been an honest and hard-working family man, and promised to lead a Christian life if the sentence was changed. Hampton stated he was not a Christian but trusted in Jesus and wanted to be a worker for the Lord.\textsuperscript{54} Governor Battle answered the letters and stated that all the seven men had been given time to appeal their sentences and future requests would be given

\textsuperscript{53}Ibid.

\textsuperscript{54}Joe H. Hampton (June 21, 1950), Frank Hairston (undated), Francis D. Grayson (June 21, 1950), and Booker T. Millner (undated) to the Governor, Battle Papers, Box 115, Folder 1.
serious consideration.\textsuperscript{55}

The governor, like his predecessor, wanted to provide every opportunity for justice to be served. He stated that he was "mindful of the grave responsibility" and had searched his conscience for a reason to set aside the findings of the Courts.\textsuperscript{56} Because the state and federal courts supported the original decision and no new information was presented, the governor saw no alternative but to deny the petition.

Reaction to Governor Battle's denial was mixed. The Richmond Afro-American condemned his refusal to commute the sentences and stated that he "missed the point of the hearing completely." The article concluded by saying that he was not asked to decide guilt; the courts had settled that issue. He was, however, asked to show mercy and "Christian compassion, not stern justice, and he let Christianity down."\textsuperscript{57} Another opinion was expressed by

\textsuperscript{55}Governor Battle to Frank Hairston, Joe H. Hampton, Booker T. Millner, and Francis Grayson, June 23, 1950, Battle Papers.

\textsuperscript{56}Statement from Governor Battle, July 24, 1950, Battle Papers.

\textsuperscript{57}Richmond Afro-American, August 5, 1950, 4:1.
Henry Jackson, a senior black resident of Martinsville. He believed that the appeals and stays were enough and "because no new evidence had been shown, it was time to execute them and get it over with." 58

Martin, Hill, and Robinson had been successful in filing stays and writs during the previous fourteen months. The appeal, however, was expensive and the NAACP was concerned over rising costs. Based on the previous success of the fundraising campaign, the NAACP asked area churches to unite to raise money for this just cause. State-wide religious groups and other organizations selected the week of August 27, 1950 as Martinsville Seven Week. Although no totals could be found, funds were collected and the NAACP continued to support the appeal process. 59

The NAACP lawyers had, during early July, 1950, filed a *Writ of Habeas Corpus* with the Hustings Court II in Richmond, Virginia. On July 26, 1950, just two days before the scheduled execution of four of the seven men, the Court

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58 Henry Jackson, interview by author, November 18, 1995, Henry County, Virginia.

agreed to review the case and postponed the executions.\textsuperscript{60} On October 7, 1950 Judge M. Ray Doubles denied the \textit{Writ} and the executions were rescheduled for November 17 and 23, 1950.

Following the rejection of the \textit{Writ of Habeas Corpus}, Martin immediately filed a \textit{Writ of Error} with the State’s highest court. He believed an error was committed when the Hustings Court failed to take into account “the contention that only colored persons are given the death sentence for criminal attack in Virginia.”\textsuperscript{61}

Chief Justice Hudgins called a special session of the Court to hear the Writ. On November 3, 1950 six justices heard Martin argue for the sentences to be set aside and new trials be scheduled. He again presented evidence that showed forty-five African Americans had been executed for rape while no whites were put to death for the same crime. Martin concluded by stating that racial discrimination was a clear violation of the equal rights clause of the


\textsuperscript{61}\textit{Richmond Afro-American}, November 4, 1950, 8:5.
Fourteenth Amendment. The Court denied the Writ and ordered the executions to proceed.

On November 10, 1950 Governor Battle granted a fourth reprieve for preparation of a second appeal to the Supreme Court. Hoping to add credibility to the case, the NAACP's Chief Counsel, Thurgood Marshall, provided assistance. Marshall reviewed the cases and concurred with the appeal process. He believed "every injustice could be redressed under the rules of law—if the NAACP could just muster up enough money and lawyers." A second Writ of Certiorari was filed in early December by Marshall and Martin.

Marshall, a successful advocate in civil rights cases had little experience in criminal proceedings. Perhaps his most notable criminal case was the defense of Walter Lee Irwin, who was accused of the kidnapping and raping of a Florida housewife. Lawyers for the NAACP saved him from

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62 Ibid., November 11, 1950, 15:7. (Actual records obtained from the Virginia Department of Corrections indicate that forty-one African-Americans convicted of rape were executed in Virginia between 1908 and 1949)


64 Rowan, Dream Makers and Dream Breakers, 81.
the death penalty and considered the life prison sentence a victory. In another criminal case, Marshall again failed to win freedom for his client W. D. Lyons, who was charged with three counts of murder. These cases, as well as the Martinsville Seven, served to strengthen his belief that blacks were being unjustly persecuted and "the death penalty is in all circumstances cruel and unusual." Marshall adhered to this philosophy after appointment in 1967 to the nation's highest court by always voting against the death penalty.

The Supreme Court reviewed *Commonwealth v Hampton*, el al. and on January 2, 1951, denied the petition and refused to hear the case. The executions were rescheduled for February 2 and 5, 1951. Marshall had not been able to dedicate much time to the appeal as he was involved with the preliminary cases that led to the famous

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66 On January 31, 1941 the white jury in Choctaw County, Oklahoma found Lyons guilty and sentenced him to life in prison. On May 24, 1965, he was pardoned. For additional information see Rowan, *Dream Makers and Dream Breakers*, 86-97.

67 Rowan, *Dream Makers and Dream Breakers*, 447.
Brown v. Board of Education of Topeka (1954) several years later.⁶⁸

The NAACP continued to support Martin’s attempt to have the death sentence reversed. The final appeal was filed with the Fourth United States Circuit Court of Appeals. Judge John J. Parker, the senior member of the court, reviewed the case and heard arguments from Martin and Almond. Finding no new information, Judge Parker declined to grant a stay and refused to halt imposition of the sentence.⁶⁹

Additional pleas to Governor Battle and President Truman for executive clemency proved unsuccessful. Although the governor received a few requests for pardons, from “some very sincere and honorable people in Virginia and elsewhere,” his decision was based on a careful review of the case. He concluded by saying:

There was no reason for a stay to allow counsel to go to the United States Supreme Court again since their identical argument—racial discrimination—had already been turned down by the high court.⁷⁰

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⁶⁸Ibid., 18.

⁶⁹Norfolk Virginian-Pilot, February 2, 1951, 1:2.

⁷⁰Ibid.
The national and international storm of protest increased as the execution date approached. On January 30, 1951 nearly thirty black and white protesters began a peaceful vigil in front of the White House. Their goal was to persuade President Truman to intervene. One member of the group, Richard O. Boyer of New York, said “the pickets were mostly New Yorkers and that the protest was initiated by the New York Council of the Arts, Sciences and Professions.”

It was unusual for northerners to participate in a demonstration in support of southern African-Americans during the late forties. This protest may be attributed to the fact that New York City was the headquarters for both the CRC and the Daily Worker. These two organizations generated a large amount of support among residents of this large northern city as evidenced by the numerous letters, petitions, and telegrams received by Governor Battle.

While demonstrations in support of the condemned men

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71 Ibid., January 31, 1951, 1:2.

72 Many of the petitions and preprinted cards in the Battle Papers were printed by the CRC and contained the organization’s local address in New York City.
occurred in front of the Governor’s Mansion, Battle met with seven people who represented a group that had traveled to Richmond to solicit leniency. The Governor listened to the delegation’s arguments and again reiterated that there was no question concerning the guilt of the seven men. He concluded by stating “The prisoners had not been convicted because they were Negroes and should not be released because they are Negroes.”

James Latimer covered the appeals process as the political correspondent for the Richmond Times-Dispatch. He believed Battle exhibited genuine concern and made his decision based on the law. Latimer stated “The Governor was, I believe sincere and gave the matter careful consideration.” He continued by saying “To have the power of life or death is a great responsibility and Battle did not take it lightly.”

Demonstrations occurred in other cities to voice support for the condemned men. Constance Montfert, a member of the CRC in Denver, stated “Prayer-vigil posts were being covered by the Norfolk Virginian-Pilot, February 1, 1951, 6:1.

James Latimer, interview by author, telephone, February 23, 1996. Mr. Latimer is retired and currently lives in Richmond, Virginia.
set up in churches . . . and would be manned around the clock." \(^{75}\) Another demonstration occurred in Capitol Square in Richmond. Participants vowed to continue the protest "until either a stay of execution is granted or the sentences are carried out at the penitentiary." \(^{76}\) Governor Battle finally agreed to meet with a delegation representing the protesters. He stated "talk of a pardon is a waste of breath" as the crime "was the most aggravated offense of its nature in the history of Virginia." \(^{77}\)

The governor's office was not only flooded with sympathizers who urged clemency, but was besieged with letters and telegrams from around the world. More than three hundred telegrams arrived on the last day of January. These were added to the over ten thousand communications already received at the capitol since the trials were concluded. \(^{78}\)

The Executive Papers of Governor Battle contain over one hundred letters, telegrams, postcards, flyers, and

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\(^{75}\) *Norfolk Virginian-Pilot*, February 1, 1951, 1:4.

\(^{76}\) Ibid.

\(^{77}\) Ibid., January 31, 1951, 1:2.

\(^{78}\) Ibid., February 1, 1951, 1:4.
petitions from around the world demanding clemency, retrials, or freedom. Tactics used by the CRC in New York City were expanded throughout the nation. Petitions, distributed by the CRC, boldly claimed credit for previous stays granted and stated that a "nationwide protest can save the men again."\(^7\)

Of all the communications filed in the Battle Papers, only two supported the findings of the court. Clyde Jennings, of Galax, Virginia, believed the men had received fair trials and urged the Governor not to delay the executions.\(^8\) M. M. Poindexter was not as polite in his support of the Governor’s decision. He accused Battle of stalling and courting the black vote.\(^9\) Battle responded that stays had been granted in order to allow the Attorney General sufficient time to prepare for the appeals. Additionally, he stated that the charge of catering to the black vote was "unmerited and . . . very near to being insulting."\(^10\)

\(^7\)Petition from the CRC in Detroit, Michigan, undated, Battle Papers, Box 115, Folder 1.

\(^8\)Jennings to Battle, May 27, 1950.

\(^9\)Poindexter to Battle, May 22, 1950.

\(^10\)Battle to Poindexter, May 23, 1950.
It is not known what process was used to determine which documents were retained but many pieces of correspondence were not available. For example, the *Norfolk Virginian-Pilot* reported that more than a dozen messages arrived from European countries such as England, France, Switzerland and Italy. Only a newspaper clipping in an envelop post-marked from London was found in Battle’s Executive Papers. Additionally, several telegrams were reportedly received from communist countries; only one, from Russia, was available. This lengthy message was signed by thirty leaders in literature, the arts and science. It condemned the trials and criticized the American system of justice. The message called the death sentence “an act of infamy and brutality inspired by race hatred.” The message concluded by stating “In the name of justice and the sacred rights of man we raise our wrathful voice in protest.”

The *Norfolk Virginian-Pilot* published another message, signed by Michael Sadoveau, President of the Writers Union of Bucharest, Rumania, that claimed the convictions were motivated by “discrimination and racial

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83 Telegram, undated, Battle Papers.
hatred . . . typical Fascist barbarity [sic].” Based on the wording of these messages, it appeared Mel Fiske of the Daily Worker was successful in reporting that race was a major issue of the trials and that he had succeeded in putting Martinsville on the map.

Governor Battle accused the Daily Worker and the CRC of spreading propaganda and attempting “to foment ill feeling between the races and to mislead those who have no knowledge of the true facts in the cases.” Furthermore, he stated:

I would be derelict in my duty if I did not brand this great mass of propaganda as utterly false. I deplore these slanderous statements but I can sincerely say they have no bearing on my decision in the case. Attorneys for the Martinsville Seven stated that every possible legal step had been exhausted, and they knew of no further action that could be taken.

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84 Norfolk Virginian-Pilot, February 1, 1951, 1:4.
86 Norfolk Virginian-Pilot, February 2, 1951, 1:2.
CHAPTER 5
FINDINGS AND INTERPRETATIONS

The trials of the Martinsville Seven are not normally found in the history books nor is the case known to many outside this small community. The process did not serve as a landmark case in the Virginia Supreme Court of Appeals or the United States Supreme Court. The attorneys were not successful in eleventh hour pleas for mercy from Governor Battle, who refused to grant clemency or a fifth reprieve. The result did not improve the social, economic, or political conditions faced by blacks. Why then was this such an important case? The answer lies at the center of the civil rights cause. This was a trial that showed discrimination toward blacks in a very subtle manner.

Seven men, some of whom could not read or write, were arrested. They signed confessions blaming each other. All were quickly tried, found guilty, and sentenced to death. Represented by court appointed attorneys who were not eager to take the case, the accused men did receive adequate counsel as evidenced by the fact that competency of the defense team was not challenged in the appeals. Had the executions been completed within the next forty-five days
as scheduled, the trials would have been another in a long series of rape incidents involving black men and a white woman. The real importance of this case, however, lies in the events that occurred after the trial and the effect upon the people of Martinsville and Henry County.

The Virginia branch of the NAACP, located in Richmond, directed its top lawyers to initiate the appeal process in order to challenge a decision reached as a result of racial discrimination. The principal goal was to win new trials or have the sentences commuted. Success in the appeal process would correct a perceived injustice based on racial discrimination. Additionally, winning the appeal would increase the reputation of the NAACP as a champion of African-American rights. Martin A. Martin, Oliver W. Hill, and Spottswood W. Robinson III were competent, well known, and highly respected. Martin thoroughly reviewed the trial transcripts and found few errors. He therefore resorted to the race issue as the primary basis of the appeal, but found that Judge Whittle was careful to keep bias out of the trials. The prosecuting attorney also avoided this matter and presented the case based on facts.

After the Sentencing Hearing, Commonwealth's Attorney
Irvin W. Cubine told reporters that he anticipated involvement by the NAACP and believed that prejudice would be the basis of the appeal. He added that he concurred with the basic principles of the organization, but disagreed with the belief that "there cannot be a fair trial if it involves the prosecution of a member of the Negro race." The NAACP, however, stated that guilt or innocence was not the primary reason for initiating the appeal. A spokesman for the organization stated "a fair and impartial trial . . . without regard to the racial identity" was the main concern.

NAACP lawyers initially investigated the possibility that the defendants did not receive adequate counsel. If poor representation occurred, this would be a major portion of the appeal. Local residents were divided on this issue. Oden Duncan recalled that the court-appointed lawyers "did not really want to take the case but had no choice. Under the circumstances they did a pretty good job." 

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2Ibid.

3Duncan interview, June 21, 1995.
Martin, however, had a different view and said "They just went through the motions and knew they [the defendants] would be found guilty anyway."  

Carl DeHart knew several of the defense attorneys and stated "This cast was a virtual 'Who's Who' of Virginia lawyers."  

Joseph H. Whitehead and S. D. Martin were distinguished attorneys from Henry County. William F. Carter and Will Joyce had successful law practices in Martinsville. Claude E. Taylor was a prominent lawyer who became mayor of Martinsville in the mid-1950s. Clarence P. Kearfott was a former Commonwealth's Attorney while Frank P. Burton was a State Senator. Kearfott, one of the two surviving defense attorneys, stated in a 1993 interview: "I did the best I could with it ... and he was executed." He also indicated that due to the brutality of the crime, the result might have been the same even if the defendants were white.

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5DeHart interview, August 21, 1995.
6Ibid.
8Richmond Times-Dispatch, June 20, 1993, 8:1.
9Ibid.
Kearfott's comments are questionable considering no white man had been executed for rape in Virginia.

After careful consideration, Martin decided not to use the competency of the defense team as a basis for appeal. Instead, he concentrated on proving that "an atmosphere of prejudice and hostility existed against the Negroes in the Martinsville community."\(^{10}\)

Martin decided to use a three-part strategy designed to overturn the verdicts and order new trials. The refusal to grant a request for change of venue was the first to be attacked. He attempted to show that the accused men did not receive a fair trial because the general discussion of the crimes had aroused great public feeling and anger toward the defendants.\(^{11}\) Court records show that twenty-five witnesses, including prominent black citizens, testified that there was no ill-feeling against the accused men. H. P. Williams, an African-American physician, testified that the nature of the crime was shocking but he believed the men could get a fair trial. D. O. Baldwin, another

\(^{10}\)Norfolk Virginian-Pilot, June 6, 1950, 1:5.

\(^{11}\)Virginia Reports, Volume 190, 543.
black doctor, concurred.\textsuperscript{12}

The second part of the strategy attempted to show that newspaper coverage denied the accused men the right to an impartial jury. Martin argued the inflammatory and harsh language used in the \textit{Martinsville Bulletin} articles affected the jury. This adverse publicity, coupled with the refusal to change the location of the trials, made it impossible for the men to receive a fair trial.

An examination of these articles concerning the incident and subsequent trials proved enlightening. The editor of the \textit{Bulletin}, K. L. Thompson, indicated that he reviewed the articles and insured they were non-inflamatory and as fair as possible without altering the facts.\textsuperscript{13} In support of this claim a review of these articles revealed that the race and name of the victim was not mentioned until January 28, 1949, when the men were charged. Additionally, the word \textit{rape} was not used until the first trial began. All articles used the phrase \textit{alleged criminal assault}. Although most of the residents of this small town knew what had happened, the \textit{Martinsville Bulletin} continued to report the

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{12}Ibid., 544.
\item \textsuperscript{13}DeHart interview, August 21, 1995.
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events of the case in a professional manner. Furthermore, the articles published during the trials did not include explicit details concerning the assault.

Conversely, the Norfolk Virginian-Pilot was not as sensitive to racial harmony as the Martinsville newspaper. When the incident was reported in Norfolk, the article was subtitled: "Six Martinsville Negroes Held, Another Sought in Rape of White Woman." The article also identified the victim by name and graphically described the attack.

The Richmond Times-Dispatch did not report the victim's race but did describe the attack by the men in an article titled: "Six Men Held in Rape Case in Martinsville." The state's two leading black newspapers, the Journal and Guide (Norfolk) and the Richmond Afro-American waited almost three weeks before publishing an account of the incident. The brief articles reported charges had been filed against seven black men accused of raping a white woman. Although her name was not published, the articles stated that she had decided to drop the charges based on religious reasons. Cubine denied this report and stated

14Norfolk Virginian-Pilot, January 11, 1949, 18:1.
15Richmond Times-Dispatch, January 10, 1949, 3:1.
she would cooperate with the prosecution.\footnote{16}

The local reporters who covered the crime and trials showed restraint and professionalism. Although many pictures of the crime scene and the defendants were available, none were used until after the trials were completed. On May 3, 1949, the day after completion of the last trial, the \textit{Bulletin} published official police photographs of the convicted men.\footnote{17}

The \textit{Journal and Guide} published an editorial cartoon that showed white mob violence and a lynching. This cartoon appeared in the same edition that announced the death sentence of the Martinsville Seven. It is unknown if the simultaneous publication of these two items was coincidental or intentional in order to protest the verdicts. The readers could, however, connect the two and conclude that the threat of violence was present in Martinsville.\footnote{18}

After the executions were completed, many people wanted


\footnote{17}Martinsville \textit{Bulletin}, May 3, 1949, 1:8.

\footnote{18}Journal and Guide, May 7, 1949, 1:3.
to "put this behind them and get on with their lives." The
Journal and Guide, however, could not resist one last attempt
to gain sympathy for the guilty men. A picture of Grayson’s
family (with the dog) appeared on the front page with the
caption: "No Father for this Family--He was one of the ‘Doomed
7’." When shown this picture, Sam Hairston stated "That’s
strange, I knew DeSales and they didn’t have no dog!" Members of both races testified that articles
published in the Bulletin were non-inflammatory and there
were no threats of violence. Chevis F. Horne, a black
minister, stated "I don’t think they have sought to make
them unduly sensational." Were the articles sensational? It is difficult to
determine where accurate reporting stops and sensationalism
begins. Carl DeHart believed the newspaper did a creditable
job in reporting the events. He stated "the Bulletin was
only accountable for what was printed and cannot be held
responsible for what people believed based on rumors,

19 Padgett interview, August 21, 1995.
21 Sam Hairston interview, August 22, 1995.
22 Virginia Reports, Volume 190, 544.
half-truths, and gossip."  

Henry Jackson, a retired African-American and lifelong resident of Martinsville, concurred. The former employee of the American Furniture Company stated "the paper did a good job with the case." Additionally he recalled that stories circulated in the Negro section of town and "the gossip-mills were working overtime but this was not because of the articles. It was because people were talking when they didn't know nothing."  

The third and most important issue of the appeal concerned race. Martin argued that a guilty verdict and the death penalty were automatic in Virginia for black men accused of raping white women. He argued that equal protection, guaranteed by the Fourteenth Amendment, was violated and the judge should have declared mistrials. On October 5, 1950 Martin, at a Show Cause Hearing before Judge M. Ray Doubles, in Richmond, presented information obtained from the Virginia State Penitentiary. Since 1908 only one member of the white race had been sentenced to death for rape and his sentence was commuted to life in prison. During that same period, fifty-three blacks were

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23 DeHart interview, August 21, 1995.

24 Jackson interview, November 18, 1995.
convicted of the same crime and forty-four were executed. The remaining nine had their sentences commuted to life in prison.25

Judge Doubles heard this evidence and decided that even though a disproportionate number of black men had been executed in the past for committing rape, jurors recommended sentences based on the crime, not on race. The judge stated that according to Virginia law, the jury must fix punishment within the bounds provided by statute. In this case, punishment ranged from five years in prison to death. The judge or court had no lawful power to change this punishment.26 Based on this logic, the verdicts were affirmed.

Martin had raised an interesting point of law and did not receive an acceptable answer. The court claimed that fifty-three different juries had rendered fifty-three verdicts based only on the evidence. The court refused to

25Commonwealth of Virginia v. Hampton, et al., Show Cause Hearing Transcript, October 5, 1950, Hustings II of Richmond, Virginia, Henry County Courthouse, Martinsville, Virginia, 2. (Actual records from the Virginia Department of Corrections indicate that forty-one African-Americans convicted of rape were executed in Virginia between 1908 and 1949)

26Ibid., 4.
speculate on the reasons past juries reached a verdict and declined to address how the Martinsville juries decided on the death penalty. The issue of seven death sentences divided the city of Martinsville in a peaceful discussion of the merits of the penalty. Many white citizens believed the trials were fair and race was not a factor, despite attempts by the defense attorneys to introduce bias into the case. Virginia Windel remembered the trials and stated "prejudice had little to do with it." In a 1993 interview, she stated her belief that justice had been done; a belief she said was shared by many of her generation.  

Black leaders, on the other hand, believed race was a part of the trial and not even a respected man like Judge Whittle could keep it out of the proceedings. William Martin stated "You have to understand the times; Jim Crow was alive and well. It was a time when if a Negro did wrong he had to pay--more so than a white man."  

These debates continued for more than twenty months while lawyers tried to save the condemned. Carl DeHart  

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28 Richmond Times-Dispatch, June 20, 1993, 8:1.  
said that almost everyone agreed that "the case must be resolved before rebuilding could start. Hopefully the wounds were not too deep."\textsuperscript{30} One resident, who wished to remain anonymous, said that she "sure got tired of all the delays. It was time to pay for the crime." This opinion was shared in an editorial in the \textit{Richmond News Leader}. The article summarized the judicial process and stated: "Due process has more than run its course . . . now the law must be permitted to exact its punishment. Justice demands no less."\textsuperscript{31}

The trials were significant because they helped bridge the gap between the Jim Crow years of the first half of the century and the infant years of the civil rights movement. A peaceful atmosphere existed in Martinsville during the fifties and early sixties, until the death of Jim Crow with the signing of the Civil Rights Act of 1964. Robert Hairston remembered "I got out of the army in '57 and things had changed. The town was better toward us."\textsuperscript{32} Sam Hairston also returned from military service and stated there were few racial problems present in the town. He said

\textsuperscript{30}\textit{DeHart interview, August 21, 1995.}

\textsuperscript{31}\textit{Richmond News Leader, September 22, 1950, 12:1.}

\textsuperscript{32}\textit{Robert Hairston interview, August 22, 1995.}
“Things were quiet here but there were some real bad problems over in Danville and up in Richmond.”

In retrospect, the trials forced the residents, both black and white to address the issue of race prejudice. It took a considerable effort on the part of white civic leaders and prominent black citizens to maintain the status quo. Clyde L. Williams, a future City Councilman, worked hard to keep the situation under control and offered a black perspective. He stated: “If the lid had come off, black leaders believed their community, already struggling under the weight of segregation, would have been pushed further under heel.”

The residents endured two years of tension that could have at any moment exploded into violence. Carl DeHart said “there was no hatred, no malice, and certainly no vindictiveness on anyone’s part. We just adopted a wait and see policy.” This incident proved that the people of Martinsville could overcome adversity by remaining calm, discussing their problems, and listening to their leaders.

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33 Sam Hairston interview, August 22, 1995.
34 Richmond Times Dispatch, June 20, 1993, 8:1.
35 DeHart interview, August 22, 1995.
The same principles that were successful during the trials were applied to the turbulent years of the civil rights movement. There were few incidents of a racial nature in Henry County because the residents had learned, from the stress associated with the trials, to work together. Conditions slowly improved because both races were willing to communicate and compromise. Many of the local leaders were progressive and realized that a new era was beginning. It was only a matter of time before equality for blacks was the rule and not the exception. John Adams believed that if it had not been for the strenuous days of the trials, equality would have been more difficult to attain. The trials proved that both races could work together to achieve racial harmony.\footnote{Adams interview, August 21, 1995.}

The peaceful atmosphere enjoyed by the residents was a result of hard work by the leaders of both races. The black leadership consisted of professionals, such as doctors, educators, and businessmen and formed the nucleus that represented Afro-Americans in the area. They were acutely aware of the racial strife that blacks faced in other southern states and believed violence could erupt
over a minor event. Believing violence was not the answer, they worked tirelessly to prevent a confrontation. This position was adopted not out of fear, but from the standpoint of common sense. Violence at this time served no purpose; negotiation and compromise were the best tools. The majority of the black residents listened to and supported their leaders.\textsuperscript{37}

On a state-wide level, the trials galvanized Virginia's civil rights effort. The appeals provided the NAACP with an additional cause that the majority of blacks supported. This translated into manpower and financial support. After the executions, this organization expanded and continued to employ the tactics that had been used in an attempt to save the condemned men. Fundraising campaigns, utilization of local black leaders, and the use of the black church as a central meeting place for rallies were all expanded to help in the civil rights movement. Carl DeHart believed that it was a logical progression to move from supporting the appeal process to supporting racial equality. He said "It was basically the same cause; fighting for their rights

\textsuperscript{37}Martin interview, June 21, 1995.
and fighting for human rights."  

38 Oden Duncan concurred and said, "All of the machinery was in place and they just shifted gears and continued with the cause."  

The trials also provided an international forum for addressing the plight of African-Americans. The cases received national as well as international attention and offered an opportunity to show how blacks were treated differently by the courts. Sam Hairston attended an NAACP rally in Texas while in the military and was surprised to hear the Martinsville cases discussed as a civil rights issue.  

40 Robert Hairston, while serving in Germany, also heard the case discussed by Europeans who were interested in the conditions blacks faced in America.  

41 Both these instances occurred five years after the executions and show that the cases were still a reference point for black equality.  

A study of Martinsville’s most sensational event would not be complete without addressing what happened to the key

38 DeHart interview, August 21, 1995.  
40 Sam Hairston interview, August 22, 1995.  
individuals after the trials and appeal. The Commonwealth's Attorney, Irvin W. Cubine, continued to represent the state for several years. Although this was his most famous case, he continued to represent the state's interest in a superb manner. Robert Padgett recalled that Cubine "always presented an excellent case and was successful most of the time."  

The defense lawyers provided the best representation possible, given the nature of the crime, the overwhelming evidence against the men, and the emotional testimony of the witnesses. All were excellent attorneys who wanted to win these cases. Carl DeHart remembered Will Joyce "used every trick in the book. In one case, prior to the Martinsville cases, he put an onion in his pocket so he could cry in front of the jury."  

There are four practical defenses to the charge of rape: 1) the "It wasn't me" theory; 2) the act did not occur; 3) the accused was not responsible for his actions;

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42 Padgett interview, August 21, 1995.

43 DeHart interview, October 3, 1995.
or 4) the act did occur but was consensual. The lawyers for the accused men realized that the first defense was not feasible as both the prosecutrix and Charlie Martin identified all seven men. Additionally, the confessions placed them at the scene of the crime. Three attorneys used the second defense and tried to prove that the act did not occur. Taylor, Martin, and Joyce argued that since their clients did not commit the act, their punishment should be less. Lawyers for James Hairston and John Taylor used the third defense and tried to present evidence that indicated their clients were not responsible and were victims of peer pressure. The last defense was used by Whitehead and Carter. They charged the act was consensual and, therefore, no crime was committed. The juries did not accept any of these defenses and convicted all seven defendants.

The man most responsible for protecting the rights of the accused was the trial judge. Twenty-two months after the completion of the trials, Judge Whittle was appointed to the Virginia Supreme Court. His selection fulfilled a

life-long ambition to serve on the state’s highest court as his father had at the turn of the century. He served with distinction and wrote many landmark opinions. Justice Whittle retired in 1965.

Governor Battle recalled in later years that he conscientiously and sincerely examined the cases in an effort to see that justice was accomplished. The governor claimed he tried to find a way to save several of the younger and less involved youths. He did not, however, want to yield to the protesters, so he did not halt the proceedings. Another reason for not commuting the sentences could be that “his own racial philosophy blinded him to the fact that the men were to be executed solely because they were black.” Regardless of the opinions expressed during the appeals, Battle continued to project the image of an honest civil servant and a celebrated statesman. When he left office in 1954, “He was the most universally popular figure in Virginia public life.”

J. Lindsay Almond, Jr., Battle’s Attorney General,

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45 Virginia Reports, Volume 209, cvii.

46 Younger, Governors of Virginia, 328.

47 Ibid., 332.
evaluated the trials in a more direct approach. He believed the men received a fair trial and deserved the punishment. In retrospect, his actions concerning the Martinsville Seven were consistent with his views on civil rights. Almond's racial ideology did not allow him to see that dissimilar sentences were imposed in such cases. This prejudice would be more evident as he became Virginia's 60th governor. His turbulent term would be concerned with school desegregation and defending the doctrine of massive resistance, adopted during Governor Stanley's term. Ultimately, Almond was forced to abandon this policy because of the success of the civil rights movement and pressure from the Eisenhower Administration.

The seven men exhausted all appeals and were transferred to death row at the Virginia State Penitentiary in Richmond. There is no record of any visitors except for several clergy and Grayson's wife who briefly visited the weekend before the executions.

In an exclusive article published by the Richmond

48 Beagle and Osborne, J. Lindsay Almond, 62.

49 David A. Bass, interview by author, August 7, 1995, Suffolk, Virginia.
Afro-American, the condemned men were characterized as model prisoners. On the night before the scheduled executions, ministers who had served as advisors to the Seven said "they were calm, composed, and in high spirits to the last minute." They sang and several offered prayers.50

The article, however, contained several statements that were inconsistent with the trial transcripts. Frank Hairston was quoted as maintaining his innocence to the end. According to Dr. Smith, the prison physician, Hairston "related the story to which he had held from the beginning. He was simply caught in the crowd and knew nothing of the attack on the white woman."51 According to his confession, he raped Mrs. Floyd and then left the scene. At his trial he did not deny having relations with her but claimed she was paid five dollars and consented.52

The article also stated that Grayson declared his innocence and claimed he was initially charged with being an accomplice. No evidence of this charge was found. Upon questioning, Grayson did confess to attempting to rape the


51 Ibid.

52 Transcript of Frank Hairston's trial, 174.
victim but admitted that he failed twice. Under Virginia law attempted rape is considered rape and the punishment is the same.\(^{53}\)

The article concluded by stating the victim was hospitalized outside the state "to keep her from talking If she had her way, the men would never have died."\(^{54}\) Commonwealth’s Attorney Cubine did indicate that Mrs. Floyd was under the care of a physician and available if needed by the state. No documentation could be found to support the claim that Mrs. Floyd disagreed with the punishment.\(^{55}\)

It is unknown if these inconsistencies were published in an attempt to sensationalize the event or the result of poor research. Other than for financial gain, it is difficult to justify the motive for publishing a front-page picture of a hooded man, strapped to the electric chair with the caption: "How Martinsville 7 Were Put to Death,"

\(^{53}\) Transcript of Francis D. Grayson’s trial, 105.

\(^{54}\) Richmond Afro-American, February 10, 1951, 1:6.

\(^{55}\) Norfolk Virginian-Pilot, January 31, 1951, 1:2.
and advertising "a full page of execution photos inside."\textsuperscript{56} This coverage of the execution was in poor taste and the readers deserved more responsible reporting from one of the leading black newspapers in the South.

Joe H. Hampton, the first of the Martinsville Seven to be executed, was strapped in the oak chair at 8:05 on the morning of February 2, 1951. He was pronounced dead seven minutes later. The executions of Howard Hairston, Booker T. Millner, and Frank Hairston followed and were completed by 9:05 AM.\textsuperscript{57}

On Monday morning, February 5th, the remaining three men, Francis Grayson, John Taylor, and James Hairston were executed. Six of the bodies were claimed by Hairston's Funeral Home of Martinsville. They were returned for burial in the pauper's section of the Martinsville cemetery. Grayson's body was claimed by his wife and transported out of the area for a private funeral. Mrs. Hairston, wife of the owner of the funeral home, indicated that her husband

\textsuperscript{56}Richmond Afro-American, February 10, 1951, 1:6. One reason for publishing this account may have been opposition to the death penalty. Research, however, failed to show that this newspaper was opposed to capital punishment. Little, if any, coverage was given to other state executions.

\textsuperscript{57}Norfolk Virginian-Pilot, February 3, 1951, 1:5.
wanted to help the families so he did not charge for the services.\textsuperscript{58}

Charlie Martin, one of the key witnesses, continued to live in the area. Although he refused to be interviewed, information from friends and acquaintances indicated that he suffered no ill effects from the ordeal. Currently, he is active in the church and is a successful businessman.\textsuperscript{59}

Ruby Floyd was not as fortunate. There are conflicting reports as to her status. Carl DeHart remembers hearing that she left town soon after completion of the trials. Before the end of the year, she was divorced and suffered a nervous breakdown. It is believed that she was committed to a state hospital in North Carolina early in 1950.\textsuperscript{60} Another story indicated her husband was fired from his job shortly after the trials, and they moved to Kentucky. Several residents believe that Mrs. Floyd, besieged by physical and mental problems, committed suicide in 1951.\textsuperscript{61}

Other accounts of her activities after the trials have

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\textsuperscript{58}Mobile Hairston, interview by author, August 24, 1995, Martinsville, Virginia.

\textsuperscript{59}Sam Hairston interview, August 22, 1995.

\textsuperscript{60}DeHart interview, August 21, 1995.

\textsuperscript{61}Windel interview, June 22, 1995.
been noted; however, none could be verified. The last report, concerning Mrs. Floyd, appeared in the Norfolk Virginian-Pilot several days prior to the executions. The article discounted the rumor that she had disappeared and quoted Governor Battle as saying "We know where she is. She is under medical care in an adjacent state." ⁶²

The executions ended two years of racial tension. Many residents wanted to put this behind them and return to the peaceful way of life enjoyed before this episode. This was, however, impossible. The city, state, and the South were about to enter the fight over civil rights and the culmination of over eighty years of discrimination. The residents of Martinsville had a decided advantage in dealing with problems of prejudice as a result of the crimes, trials, and appeals. They entered the turbulent fifties accustomed to discussion and compromise; not intimidation and violence.

In conclusion, this thesis explored the racial attitudes in Martinsville to determine if prejudice was a factor in the judicial process. A second area of research involved equal punishment for the same crime. Research suggests that the men did receive a fair trial as Judge

⁶²Norfolk Virginian-Pilot, January 31, 1951, 1:2.
Whittle was careful to insure their rights were protected. He had no authority, however, over jury decisions.

The appeal process focused on race instead of guilt. Martin, Hill, and Robinson argued that prejudice was the primary reason for the death penalty. They presented a solid case and might have been successful in saving their clients from the electric chair had outside forces not intervened. Governor Battle admitted years later he wanted to pardon several of the younger and minor participants in the crime. He refused to yield to pressure from outside agencies such as the Civil Rights Congress and the Communist Party and concluded there was nothing he would do.63 P. B. Young, the respected editor of the Norfolk-based African-American newspaper Journal and Guide concurred. He praised Martin’s efforts but believed “their good work was offset by intervention of the so-called Civil Rights Congress.” Young, like other esteemed black leaders, campaigned to have the sentences commuted, not because of disagreement with the legal process, but because of the severity of the punishment. He too believed the death sentence was reserved for black men who committed rape in

63Younger, Governors of Virginia, 328.
Although our legal system is based on high principles, it is not perfect and in some instances needs adjustment. Such was the case with these verdicts. The assumption that the jurors sent the seven men to the electric chair because they committed rape is only partly true. In reality, they were given the death sentence because they were black and raped a white woman.

In retrospect, Mel Fiske, of the Daily Worker was correct in his report that the verdicts were unfair. The information he used to support this belief, however, was inaccurate and exaggerated. He claimed the men were framed and given the death penalty to satisfy "the lynch appetite aroused among the white townspeople." Additionally, his articles maintained that angry lynch mobs gathered at the courthouse upon hearing of the crime, the confessions were obtained after guards tormented the suspects, and deals were made to appease the local residents. No evidence, of any of these allegations could

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66 Ibid., May 18, 1949, 1:2 and June 2, 1949, 4:1.
be found.

In reality, evidence does indicate that the men were sentenced to death based on an informal racial tradition that existed in Virginia and other southern states since emancipation. This code of southern justice declared that black men who rape white women will be executed. Although no reference to this code is found in the statutes or in any of the trial transcripts, the record of Virginia’s executions since 1908 offers undeniable proof. Twenty-eight African-Americans have been executed for rape and thirteen more put to death for attempted rape, while no white man had paid the ultimate price for this crime.67

Nowhere is this informal racial tradition more evident than in a case that involved two white Richmond police officers. During the early morning hours of October 20, 1946, Mrs. Nannie Strayhorn, a thirty-two year-old black mother of two, claimed she was raped after accepting a ride home from one of the officers. Charged with rape and assault were Leonard E. Davis and Carl R. Burleson. Both were indicted, pleaded not guilty, and were represented by

67Information Paper, “Brief History of Executions Conducted by the Virginia Department of Corrections.”
counsel of their own choosing. After hearing the evidence, an all-white jury found them guilty and sentenced them to seven years in the penitentiary.\textsuperscript{68}

The Virginia Supreme Court of Appeals heard J. M. Turner and M. J. Fulton, attorneys for the former police officers, present the appeal. The Justices ruled that there was sufficient evidence and the testimony of the prosecutrix was creditable. The verdicts were affirmed.\textsuperscript{69}

Initially, these verdicts may have been viewed as a victory in the long struggle for equal justice between the races. Rarely did a white jury find a white defendant guilty of crimes against a black victim. If these convictions were a triumph, the verdicts were disappointing. Only seven years in prison for a capital crime was a miscarriage of justice. If there were cause for celebration, however, it did not last too long. Less than eighteen months later interracial rape would again occur with the penalty being death.

The conviction of Davis and Burleson represented white justice and continued to uphold the southern practice of

\textsuperscript{68}Virginia Reports, Volume 186, 938.

\textsuperscript{69}Ibid, 936-7.
imposing a lesser punishment on whites than blacks for rape. This case was cited numerous times during the appeal of the Martinsville Seven and quoted when requesting stays and commutation of sentence. Unfortunately both governors refused to see the similarities and ignored inconsistencies in the judicial system.

Differences between the two cases were discussed: the Richmond victim was of questionable character, all evidence was hearsay as no witnesses could be located, and the integrity of the two policemen was above reproach. Regardless of the perceived differences, the crime was the same: a woman had been attacked, degraded and violated. Because of the racial attitude of juries in Virginia who administered justice with an "evil eye and an uneven hand,"

the severity of the punishment was determined by the skin color of both the victim and the accused. P. B. Young voiced a similar opinion on the editorial page of the Journal and Guide:

The seven men were given the death sentence because the crime was committed upon a white woman. If that were not true a jury would have sent the two white men in Richmond to

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the chair for committing a rape offense that was equally aggravated.\footnote{Journal and Guide, February 10, 1951, 14:5.}

In this regard, the verdicts of the seven Martinsville men were reached not only as a result of a brutal crime having been committed, but because the defendants were African-American and the victim was white.
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II SECONDARY SOURCES - Books


APPENDIX A

CHRONOLOGY

January 16, 1946  -  William M. Tuck becomes the 57th Governor of Virginia.

January 8, 1949  -  Mrs. Ruby Stroud Floyd is assaulted and raped by several black men.

January 9, 1949  -  Six suspects are detained. The search continues for seventh person believed to be the leader.

January 10, 1949  -  The seventh suspect, Joe Henry Hampton, is arrested at the home of a friend. All are charged with rape and assault based on confessions.

January 21, 1949  -  Lawyers are appointed by the court.

February 17, 1949  -  Preliminary Hearing is conducted. Sufficient evidence is presented to warrant a Grand Jury.

April 11, 1949  -  A seven-member Grand Jury indicts the accused men.

April 19, 1949  -  Request for a change of venue is denied by the court.

April 21, 1949  -  Joe H. Hampton is tried and found guilty.

April 22, 1949  -  Frank Hairston is tried and found guilty.

April 25/26, 1949  -  Booker T. Millner is tried and found guilty.

April 27, 1949  -  Howard L. Hairston is tried and found guilty.
April 28, 1949 - Francis D. Grayson is tried and found guilty.

May 2, 1949 - John C. Taylor and James L. Hairston are tried and found guilty.

May 3, 1949 - All seven men are sentenced die in the electric chair. Executions are scheduled for July 15 & 22, 1949.

May 12, 1949 - Martin A. Martin, Oliver W. Hill, and Spottswood W. Robinson III are selected by the NAACP to direct the appeal process.

July 5, 1949 - Governor Tuck grants the first reprieve for all seven men. The executions are rescheduled for August 12 & 19, 1949.

August 3, 1949 - Governor Tuck grants second reprieve for appeal to all seven men. The executions are rescheduled for September 16 & 23, 1949.

September 4, 1949 - The Virginia Conference Branch of the NAACP designates this week as "The Martinsville Seven Week" in an attempt to raise funds for legal expenses.

September 5, 1949 - Virginia Supreme Court agrees to hear the case. Executions are postponed until a decision is reached.

January 18, 1950 - John S. Battle becomes the 58th Governor of Virginia.

March 13, 1950 - The Virginia Supreme Court of Appeals affirms the decision of the lower court. Executions are rescheduled for May 26 & June 2, 1950.

May 22, 1950 - Governor Battle grants third reprieve for appeal to all seven men.
June 5, 1950 - The United States Supreme Court denies a petition for a Writ of Certiorari and refuses to hear the case. Executions are rescheduled for July 28 & August 4, 1950.

July 26, 1950 - Stay of Execution is granted by the Hastings Court of Richmond, Virginia, for all seven men.


November 3, 1950 - Writ of Error is denied by Virginia Supreme Court of Appeals. Execution dates remain firm.

November 10, 1950 - Governor Battle grants fourth reprieve for appeal to all seven men.

January 2, 1951 - The United States Supreme Court denies a petition for Writ of Certiorari and refuses to hear the case. Executions are rescheduled for February 2 & 5, 1951.

January 30, 1951 - Writ of Habeas Corpus is denied by Judge Sterling Hutcheson.

January 31, 1951 - Judge Armistead M. Dobie, of the Federal Court of Appeals for the Fourth District declines to issue a Certificate of Probable Cause.

February 1, 1951 - Judge John J. Parker of the Fourth U. S. Circuit Court of Appeals refuses to issue a stay.

February 1, 1951 - Martin A. Martin makes a desperate plea to the governor for clemency. Governor Battle refuses to approve the request.
February 2, 1951 - Joe Henry Hampton is executed at 8:12 AM.
Howard Lee Hairston is executed at 8:32 AM.
Booker T. Millner is executed at 8:49 AM.
Frank Hairston is executed at 9:05 AM.

February 5, 1951 - John Clabon Taylor is executed at 7:41 AM.
James Luther Hairston is executed at 8:00 AM.
Francis DeSale Grayson is executed at 8:15 AM.
January 10, 1949

STATEMENT OF JOE HENRY HAMPTON

On last Saturday evening just after dark, me, Howard Hairston, Booker T. Millner and Frank Hairston, Jr. were down on the D & W railroad below Mayor Prillaman’s place drinking some wine. A white lady and a little colored boy came by and the lady asked us where Ruth Pettie lived. Frank Jr. and Booker T. told her where she lived and they went on. We all planned to get her when she came back. When we saw her coming back we started walking real slow. I was just a little behind the others and when she passed me I grabbed her and the rest of the boys came to me. When they got to me some of them pushed the lady down. The boys were carrying on so trying to see who would be first to get it from her that they got into a little scrap. Me and some of the other boys made her walk down the ridge. She was pushing back and trying to keep us from carrying her down the ridge. Booker T. gave the little colored boy a quarter and told him to go ahead. We took the lady down the ridge.

Statement of Joe H. Hampton
(SOURCE: Transcript, Henry County Courthouse, Martinsville, Virginia)
rigge about 40 or 50 yards in the woods. When we got her down in the woods Booker T. Millner was the first one to get it from her. Then Frank Hairston, Jr. was next. I was the third one to get it from her. Then Howard Hairston was next after me and Desales Grayson was on her getting it when I left. James Luther Hairston and John Clabon Taylor were there waiting when I left. James Hairston, John Taylor and Desales Grayson came up to where we had the lady over in the woods. I don't know how they knew we were over there. When the lady started to hollow one of the boys slapped his hand over her mouth. I don't know which one it was. When we first caught her she put up a big scuffle. When we got over in the woods she was still trying to get loose from the boys. She was begging us not to do anything to her that she had children at home and she belonged to the church.

I have made this statement to Sgt. Barrow, Nance and Barnes because I wanted to tell the truth and without threat or promise of reward of any kind and after they had told me that I did not have to say anything or make any statement and they had told me what I was charged with.

10:35 A.M. January 10, 1949
Signed: Joe Henry Hampton
This above statement is the statement I made to the officers in Monterey after my arrest and signed by me that it has been again read to me this day at 11:30, and it is my statement and made by me voluntarily and without any threats or promises and after I had been told it will be used against me at my trial.

T. B. the 12th day of June, 1749 at 6:15 PM.

Witness:
R. W. Freeman

J. H. Thompson
COMMONWEALTH

VS.

JOE HENRY HAMPTON

The jury find the defendant guilty of larceny as charged in indictment, and fix the penalty at

[Signature]
Foreman

April 29, 1949

Jury Decision
(SOURCE: Transcript, Henry County Courthouse, Martinsville, Virginia)
February 2, 1951

Mr. Jesse D. Clift, Clerk
Martinsville City Circuit Court
Martinsville, Virginia

Dear Sir:

I quote below a provision of Chapter 398, Acts of the Assembly, 1908:

"The superintendent shall certify the fact of the execution of the condemned felon to the clerk of the court by which such sentence was pronounced, who shall file such certificate with the papers of the case and enter the same upon the records of the case."

In compliance with the above provision of Law, I wish to advise that Joe Henry Hampton, who was convicted in the Circuit Court for the City of Martinsville, Virginia, on the 3rd day of May, 1949, for Rape, and sentenced to be electrocuted on the 15th day of July, 1949, was executed at 8:12 A. M. today.

Joe Henry Hampton was granted four reprieves and a writ of error and supersedeas by the Virginia Supreme Court of Appeals. The final date of execution was set by Governor John S. Battle for February 2, 1951.

Very truly yours,

W. F. Smyth, Jr.
Superintendent

Notification of Hampton's Execution
(SOURCE: Transcript, Henry County Courthouse, Martinsville, Virginia)
STATEMENT OF FRANK HAIRSTON, JR.

My name is Frank Hairston, Jr., and I live down on the D. & W. Railroad track just below Mayor Frizzlemes's place.

Yesterday evening after dark Howard Hairston, Booker T. Millner, Joe Henry Hampton and myself were down on the Railroad drinking wine when the white woman and the little colored boy came by us. She asked us where Ruth Pettie lived and I told her that she lived in the second house from the first one she got to. We then went on up the track a little farther and waited for her to come back. We were walking up the track near the curve when she came up behind us. Booker T. Millner and myself walked on a little ahead of Howard Hairston and Joe Henry Hampton. As the woman paused then Joe Henry Hampton grabbed her. I guess he threw her down because when I got to her he had her down and was on her. He was doing the act when I got back to him. When he got through he took her on out across the ridge then Booker T. Millner went to her. When Booker T. Millner finished I went to her. I did not see him but I guess Howard Hairston went to

Statement of Frank Hairston, Jr.
(SOURCE: Transcript, Henry County Courthouse, Martinsville, Virginia)
her next. I left when I had finished and went on over on the Old Danville Road.

After he took her over on the ridge, James Hairston, John Clabon Taylor and a boy they call DeSales came to us. I don't know if they went to her or not but they were there when I left.

When I started back to where Joe Henry Hampton had grabbed the woman the little colored boy came past us and Booker T. Millner stopped him and was talking to him. I don't know what he told him and I did not see if he gave him anything or not. Joe Henry Hampton is the one that decided to catch the woman when she came back. Joe Henry Hampton told us what he was going to do when she went down the track and when she came back we started walking on slow and when she overtook us Joe Henry Hampton grabbed her.

**STATEMENT OF FRANK HAIRSTON, JR.**

I have made this statement of my own free will to Sgt. J. H. Barnes because I wanted to tell the truth and without threat or promise of reward of any kind.

1:45 A.M. January 9, 1949 Signed: Frank Hairston, Jr.
This above statement is the statement I made to the officers in Martinsville after my arrest and signed by me that I had again been read to me this day at Stuart, Va., and it is my intent and made by me voluntarily and without any threat or promise and after I have been told that it will be used against me at my trial.

This the 1st day of Jan., 1877, at 6:30 P.M.

Frank Aderson

Witness:

J. H. Barner
W. W. Jesse
M. W. Marion
S. R. Teclher
Mr. Jesse D. Clift, Clerk
Martinsville City Circuit Court
Martinsville, Virginia

Dear Sir:

I quote below a provision of Chapter 398, Acts of the Assembly, 1908:

"The superintendent shall certify the fact of the execution of the condemned felon to the clerk of the court by which such sentence was pronounced, who shall file such certificate with the papers of the case and enter the same upon the records of the case."

In compliance with the above provision of Law, I wish to advise that Frank Hairston, Jr., who was convicted in the Circuit Court for the City of Martinsville, Virginia, on the 3rd day of May, 1949, for Rape, and sentenced to be electrocuted on the 15th day of July, 1949, was executed at 9:05 A.M. today.

Frank Hairston, Jr., was granted two reprieves and a writ of error and supersedeas by the Virginia Supreme Court of Appeals. The final date of execution was set by Governor John J. Battle for February 2, 1951.

Very truly yours,

W. F. Smythe, Jr.
Superintendent

Notification of Frank Hairston’s Execution
(SOURCE: Transcript, Henry County Courthouse, Martinsville, Virginia)
STATEMENT OF BOOKER T. MILLNER

Yesterday afternoon I was down on the Railroad with Frank Hairston, Joe Henry Hampton and Howard Hairston, and we were drinking some wine. Around 6:00 P.M. a white lady and a little colored boy came by and asked us where Ruth Pettie lived. I told her where she lived and she went on. I went to the house and when I came back Frank Hairston told me that Joe Henry Hampton had run up the road behind that lady and told me he was going to grab her. Then Frank and myself went on up there where he was. When we got there Joe Henry Hampton had the woman down and was holding her. He went to her when he had her down on the Railroad and then he took her up the ridge. Frank Hairston, Howard Hairston and myself went out the ridge with him. I tried to go to her but I could not. Then Frank Hairston went to her. Then I left. When I left DeSales Grayson, John Taylor, James Hairston, Howard Hairston, Joe Henry Hampton were still there.

When she tried to hollow Joe Henry Hampton would put his hand over her mouth so she could not. When I saw the little

Statement of Booker T. Millner
(Source: Transcript, Henry County Courthouse Martinsville, Virginia)
colored boy named Charlie Martin I gave him a quarter and told him that he had not seen me and not to tell.

I have made this statement of my own free will to Sgt. Nance, Barrow and Barnes because I want to tell the truth and without threat or promise of reward of any kind.

3:10 A.M.
January 9, 1949
Signed: Booker T. Millner

This is a true statement of the facts and I wish to have all the facts set forth as stated without any threat or promise of reward and I voluntarily and without threat or promise and after I have been told it could be used against me.

The 12th day of Jan 1949 at 5:25 p.m.
Booker T. Millner
Commonwealth
Vs.

Booker T. Millner

The jury find the defendant guilty of rape as charged in the indictment and fix the penalty as death.

B.B. Franklin, Foreman

Jury Decision
(SOURCE: Transcript, Henry County Courthouse
Martinsville, Virginia)
Mr. Jesse L. Clift, Clerk
Martinsville City Circuit Court
Martinsville, Virginia

Dear Sir:

I quote below a provision of Chapter 398, Acts of the Assembly, 1908:

"The superintendent shall certify the fact of the execution of the condemned felon to the clerk of the court by which such sentence was pronounced, who shall file such certificate with the papers of the case and enter the same upon the records of the case."

In compliance with the above provision of Law, I wish to advise that Booker T. Millner, who was convicted in the Circuit Court for the City of Martinsville, Virginia, on the 3rd day of May, 1949, for Rape, and sentenced to be electrocuted on the 15th day of July, 1949, was executed at 8:49 A. M. today.

Booker T. Millner was granted four reprieves and a writ of error and supersedeas by the Virginia Supreme Court of Appeals. The final date of execution was set by Governor John S. Battle for February 2, 1951.

Very truly yours,

W. F. Smyth, Jr.
Superintendent

Notification of Millner's Execution
(SOURCE: Transcript, Henry County Courthouse Martinsville, Virginia)
STATEMENT OF HOWARD HAIRSTON

Yesterday afternoon I was down on the Railroad with Booker T. Millner, Joe Henry Hampton and Frank Hairston, Jr. when a white lady and a little colored boy came by and asked us where Ruth Pettie lived. I told her where she lived and she went on. A little while later they came back up the track and Joe Henry Hampton grabbed her and threw her down on the bank beside the railroad. He got on her and they were scuffling. He then took her up in the woods. I went on up in the hollow where he took her. I don't know which one was on her when I got there but all of them was pulling on each other trying to get to her next. When I got a chance I tried to go to her but I could not get it in. I tried several times to get it in but I could not.

Frank Hairston, Jr., Booker T. Millner, Joe Henry Hampton, James Hairston, John Clabon Taylor and DeSales Grayson was there with me and I guess all of them went to the lady and tried to.

Statement of Howard L. Hairston

(SOURCE: Transcript, Henry County Courthouse
Martinsville, Virginia)
I have made this statement of my own free will to Sgts. Barrow, Nance, Barnes and Trooper C. L. DeHart because I wanted to tell the truth and after I was told of my rights and without threat or promise of reward of any kind.

Signed: Howard Hairston

5:10 A.M.
January 9, 1949

This above statement is the statement I made to the officers in question after my arrest and signed by me then. It has been read to me this day at Stuart Va. and it is my statement and made by me voluntarily and without threat or promise and after I have been told it will be used against me at my trial.

This 12th day of Jan, 1949 at 6:55 A.M.

Witness:

Howard Hairston
Commonwealth  
Vs:  
Howard Hairston  

The jury finds the defendant, as charged in the indictment,  

guilty of malicious wounding and  
for his punishment, a fine.  

George M. McWilliam  

Jury Decision  
(SOURCE: Transcript, Henry County Courthouse,  
Martinsville, Virginia)
February 2, 1951

Mr. Jesse D. Clift, Clerk
Martinsville City Circuit Court
Martinsville, Virginia

Dear Sir:

I quote below a provision of Chapter 398, Acts of the Assembly, 1906:

"The superintendent shall certify the fact of the execution of the condemned felon to the clerk of the court by which such sentence was pronounced, who shall file such certificate with the papers of the case and enter the same upon the records of the case."

In compliance with the above provision of Law, I wish to advise that Howard Lee Hairston, who was convicted in the Circuit Court for the City of Martinsville, Virginia, on the 3rd day of May, 1949, for Rape, and sentenced to be electrocuted on the 15th day of July, 1949, was executed at 8:32 A.M. today.

Howard Lee Hairston was granted four reprieves and a writ of error and supersedeas by the Virginia Supreme Court of Appeals. The final date of execution was set by Governor John S. Battle for February 2, 1951.

Very truly yours,

W. F. Smith, Jr.
Superintendent

Notification of Howard Hairston's Execution
(SOURCE: Transcript, Henry County Courthouse
Martinsville, Virginia)
STATEMENT OF FRANCIS DESALES GRAYSON

My name is Francis DeSales Grayson, most of the times they call me DeSales, and I live down on the D & W Railroad.

Yesterday afternoon about 5:30 P.M. I was walking home and when I got near the curve on the railroad I saw a man and a woman and heard her begging him to let her go so that she had children at home and she belonged to the church. I went on home and John Taylor and James Hairston were there and I told them what I had seen and we three went back up there. When we got there Frank Hairston, Jr., Howard Hairston, Booker T. Millner and Joe Henry Hampton were all around a white woman. I don't know which one was on the woman when I got there but it looked like all of them went to her before I left. John Claybon was the last one to go to the woman. When he finished I tried to go to her but I could not get up a hard. I tried for two or three minutes but was unable to do the job.

Statement of Francis D. Grayson
(SOURCE: Transcript, Henry County Courthouse, Martinsville, Virginia)
I was the last one to try and I helped her up and got her things together and helped her back up the Railroad.

I have made this statement of my own free will to Sgt. Barrow, Nance and Barnes and Trooper DeHart because I wanted to tell the truth and after I had been told of my rights and without threat or promise of reward of any kind.

5:50 A.M., January 9, 1949
Signed: Francis DeSales Grayson

This statement is the statement I was asked to make to the officers in Northwells after my arrest and signed by me then. It has again been read to me this day at Stuart, Va. and it is my statement and made by me voluntarily and without any threat or promise and after I have been told it will be used against me at my trial.

This the 12th day of Jan. 1949 at 5:50 P.M.

Francis DeSales Grayson.
COMMONWEALTH

VS:

FRANCIS DESALE GRAYSON

We the Jury find the defendant guilty of rape as charged and fit his punishment at death.

P.H. Glorva, Foreman

Jury Decision

(SOURCE: Transcript, Henry County Courthouse, Martinsville, Virginia)
Mr. Jesse D. Clift, Clerk
Martinsville City Circuit Court
Martinsville, Virginia

Dear Sir:

I quote below a provision of Chapter 398, Acts of the Assembly, 1908:

"The Superintendent shall certify the fact of the execution of the condemned felon to the clerk of the court by which such sentence was pronounced, who shall file such certificate with the papers of the case and enter the same upon the records of the case."

In compliance with the above provision of Law, I wish to advise that Francis DeSales Grayson, who was convicted in the Circuit Court for the City of Martinsville, Virginia, on the 3rd day of May, 1949, for Rape, and sentenced to be electrocuted on the 22nd day of July, 1949, was executed at 8:15 A.M. this morning.

Francis DeSales Grayson was granted four reprieves and a writ of error and Supersedeas by the Virginia Supreme Court of Appeals. The final date of execution was set by Governor John S. Battle for February 5, 1951.

Very truly yours,

W. F. Smyth, Jr.
Superintendent

Notification of Grayson’s Execution
(SOURCE: Transcript, Henry County Courthouse, Martinsville, Virginia)
STATEMENT OF JAMES LUTHER HAIRSTON

My name is James Luther Hairston and I live down on the D. & W. Railroad.

About 6:30 P.M. yesterday, me, John Taylor and Desales Grayson went up on the Railroad where Frank Hairston, Jr., Booker T. Millner, Joe Henry Hampton and Howard Hairston had a white woman. When we got there Booker T. Millner, was on the woman and Howard Hairston was telling him to get up off of her. Booker T. did not get off of her for awhile. After Booker T. Millner got off of her Frank Hairston, Jr. went to her. After Frank finished Joe Henry Hampton went to her. Howard Hairston was the next to go to her. When Howard finished DeSales Grayson went to her. I was the next to go to her. After I finished John Clabon Taylor went to her. We all left except DeSales Grayson. I don't know when he left. The woman was still on the ground when I left. I was at DeSales house when DeSales came in and told us to come up on the Railroad and I went on up there.

Statement of James L. Hairston
(SOURCE: Transcript, Henry County Courthouse, Martinsville, Virginia)
I have made this statement to Sgt. Barrow, Nance and Barnes of my own free will because I wanted to tell the truth and after I had been told of my rights and without treat or promise of reward of any kind.

4:30 A.M.
January 9, 1949

Signed: James Luther Hairston
STATEMENT OF JOHN CLABON TAYLOR

7:30 A.M.
January 9, 1949

My name is John Clabon Taylor and I live at East Martinsville near the D & W Railroad.

Yesterday afternoon I was at the home of DeSales Grayson when he came home and told me that some boys had a woman upon the ridge and wanted me and James Hairston to go back up there with him. I went with them and when we got there we found Joe Henry Hampton, Frank Hairston, Jr., Booker T. Millner and Howard Hairston with a white woman. Joe Henry Hampton was on the Woman when we got there. I told the other boys that that was a Christian woman and it would cause us some trouble. I told them to get away from there. That if she was a drunk we might get by with it but I could tell from the way she talked that she was a good woman. Then the boys told me that I had might as well get it, as I was there and if we got caught I would be in it as well as the rest of them, so, I went to her too. I was the last one to get it from her.

Statement of John C. Taylor
(SOURCE: Transcript, Henry County Courthouse, Martinsville, Virginia)
I have made this statement of my own free will to Sgt. Nance, Barrow and Barnes because I wanted to tell the truth and after I was told of my rights and without threat or promise of reward of any kind.

7:30 A.M. January 9, 1949
Signed: John Clabon Taylor

This is the statement I made to the officers in Martinsville after my arrest and signed by me then. It has again been read to me this day at Stuart, Va., and it is my statement and made by me voluntarily, and without any threat or promise and after I have been told it will be used against me at my trial.

This the 12th day of Jan., 1949 at 5:10 P.M.
John C. Taylor
COMMONWEALTH
VS:
JAMES LUTHER HAIRSTON

The jury find the defendant, James Luther Hairston, guilty as charged in said indictment, and fix his penalty at death in the electric chair.

Jury Decision
(Source: Transcript, Henry County Courthouse, Martinsville, Virginia)
COMMONWEALTH
VS:
JOHN CLABON TAYLOR

We the jury find the defendant, John Clabon Taylor, guilty as charged in said indictment and the one penalty of death in the electric chair.

Jury Decision
(SOURCE: Transcript, Henry County Courthouse, Martinsville, Virginia)
February 5, 1951

Mr. Jesse D. Clift, Clerk
Martinsville City Circuit Court
Martinsville, Virginia

Dear Sir:

I quote below a provision of Chapter 398, Acts of the Assembly, 1908:

"The Superintendent shall certify the fact of the execution of the condemned felon to the clerk of the court by which such sentence was pronounced, who shall file such certificate with the papers of the case and enter the same upon the records of the case."

In compliance with the above provision of Law, I wish to advise that James Luther Hairston, who was convicted in the Circuit Court for the City of Martinsville, Virginia, on the 3rd day of May, 1949, for Rape, and sentenced to be electrocuted on the 22nd day of July, 1949, was executed at 8:00 A.M. this morning.

James Luther Hairston was granted four reprieves and a writ of error and Supersedeas by the Virginia Supreme Court of Appeals. The final date of execution was set by Governor John S. Battle for February 5, 1951.

Very truly yours,

W. F. Smyth, Jr.
Superintendent

Notification of James Hairston's Execution
(SOURCE: Transcript, Henry County Courthouse, Martinsville, Virginia)
February 5, 1951

Mr. Jesse D. Clift, Clerk
Martinsville City Circuit Court
Martinsville, Virginia

Dear Sir:

I quote below a provision of Chapter 398, Acts of the Assembly: 1908:

"The Superintendent shall certify the fact of the execution of the condemned felon to the clerk of the court by which such sentence was pronounced, who shall file such certificate with the papers of the case and enter the same upon the records of the case."

In compliance with the above provision of Law, I wish to advise that John Clabon Taylor, who was convicted in the Circuit Court for the City of Martinsville, Virginia, on the 3rd day of May, 1949, for rape, and sentenced to be electrocuted on the 22nd day of July, 1949, was executed at 7:41 A.M. this morning.

John Clabon Taylor was granted four reprieves and a writ of error and Supersedeas by the Virginia Supreme Court of Appeals. The final date of execution was set by Governor John S. Battle for February 5, 1951.

Very truly yours,

W. F. Smyth, Jr.
Superintendent

Notification of John C. Taylor's Execution
(SOURCE: Transcript, Henry County Courthouse, Martinsville, Virginia)
VITA

The author was born in Norfolk, Virginia during the summer of 1947. He was educated in the Norfolk and Virginia Beach Public School and graduated in 1966. In 1970 Mr. Plemmons earned a Bachelor of Science Degree in Education from Old Dominion University. Following graduation, he joined the military and served in various assignments throughout the world. After concluding his military career, Mr. Plemmons returned to the Hampton Roads area to pursue graduate studies.