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Douglas O. Linder

University of Missouri - Kansas City, School of Law

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Recommended Citation

Douglas O. Linder, *The Trials of the Scottsboro Boys*, Famous Trials (2007).

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THE TRIALS OF "THE SCOTTSBORO BOYS"

By Douglas O. Linder

No crime in American history-- let alone a crime that never occurred-- produced as many trials, convictions, reversals, and retrials as did an alleged gang rape of two white girls by nine black teenagers on a Southern Railroad freight run on March 25, 1931. Over the course of the two decades that followed, the struggle for justice of the "Scottsboro Boys," as the black teens were called, made celebrities out of anonymities, launched and ended careers, wasted lives, produced heroes, opened southern juries to blacks, exacerbated sectional strife, and divided America's political left.

Hoboing was a common pastime in the Depression year of 1931. For some, riding freights was an appealing adventure compared to the drudgery and dreariness of their daily lives. Others hopped rail cars to move from one fruitless job search to the next. Two dozen or so mainly male--and mainly young--whites and blacks rode the Southern Railroad's Chattanooga to Memphis freight on March 25, 1931. Among them were four black Chattanooga teenagers hoping to investigate a rumor of government jobs in Memphis hauling logs on the river and five other black teens from various parts of Georgia. Four young whites, two males and two females dressed in overalls, also rode the train, returning to Huntsville from unsuccessful job searches in the cotton mills of Chattanooga.

Soon after the train crossed the Alabama border, a white youth walked across the top of a tank car. He stepped on the hand of a black youth named Haywood Patterson, who was hanging on to its side. Patterson had friends aboard the train. A stone-throwing fight erupted between white youths and a larger group of black youths. Eventually, the blacks succeeded in forcing all but one of the members of the white gang off the train. Patterson pulled the one remaining white youth, Orville Gilley, back onto the train after it had accelerated to a life-endangering speed. Some of the whites forced off the train went to the stationmaster in Stevenson to report what they described as an assault by a gang of blacks. The stationmaster wired ahead. A posse in Paint Rock, Alabama stopped the train. Dozens of men with guns rushed at the train as it ground to a halt. The armed men rounded up every black youth they could find. Nine captured blacks, soon to be called "The Scottsboro Boys," were tied together with plow line, loaded on a flatback truck, and taken to a jail in Scottsboro.

Also greeted by the posse in Paint Rock were two mill workers from Huntsville, Victoria Price and Ruby Bates. One or the other of the girls, either in response to a question or on their own initiative, told one of the posse members that they had been raped by a gang of twelve blacks with pistols and knives. In the jail that March 25th, Price pointed out six of the nine boys and said that they were the ones who raped her. The guard reportedly replied, "If those six had Miss Price, it stands to reason that the others had Miss Bates." When one of the accused, Clarence Norris, called the girls liars he was struck by a bayonet. A crowd of several hundred men, hoping for a good old-fashioned lynching, surrounded the Scottsboro jail the night of their arrest for rape. Their plans were foiled,

however, when Alabama's governor, B. M. Miller, ordered the National Guard to Scottsboro to protect the suspects.

Trials of the Scottsboro Boys began twelve days after their arrest in the courtroom of Judge A. E. Hawkins. Haywood Patterson described the scene as "one big smiling white face." Many local newspapers had made their conclusions about the defendants before the trials began. One headline read: "ALL NEGROES POSITIVELY IDENTIFIED BY GIRLS AND ONE WHITE BOY WHO WAS HELD PRISONER WITH PISTOL AND KNIVES WHILE NINE BLACK FIENDS COMMITTED REVOLTING CRIME." Representing the Boys in their uphill legal battle were Stephen Roddy and Milo Moody. They were no "Dream Team." Roddy was an unpaid and unprepared Chattanooga real estate attorney who, on the first day of trial, was "so stewed he could hardly walk straight." Moody was a forgetful seventy-year old local attorney who hadn't tried a case in decades.

The defense lawyers demonstrated their incompetence in many ways. They expressed a willingness to have all nine defendants tried together, despite the prejudice such a trial might cause to Roy Wright, for example, who at age twelve was the youngest of the nine Scottsboro Boys. (The prosecution, fearing that a single trial might constitute reversible error, decided to try the defendants in groups of two or three.) The cross-examination of Victoria Price lasted only minutes, while examining doctors R. R. Bridges and John Lynch were not cross-examined at all. Ruby Bates was not asked about contradictions between her testimony and that of Price. The defense offered only the defendants themselves as witnesses, and their testimony was rambling, sometimes incoherent, and riddled with obvious misstatements. Six of the boys (Andy Wright, Willie Roberson, Charles Weems, Ozie Powell, Olen Montgomery, and Eugene Williams) denied raping or even having seen the two girls. But three others, all who later claimed they did so because of beatings and threats, said that a gang rape by other defendants did occur. Clarence Norris provided what one paper called "the highlight of the trial" when he said of the other blacks, "They all raped her, every one of them." No closing argument was offered by defense attorneys. A local editorialist described the state's case as "so conclusive as to be almost perfect."

Guilty verdicts in the first trial were announced while the second trial was underway. The large crowd outside the courthouse let out a roar of approval that was clearly heard by the second jury inside. When the four trials were over, eight of the nine Scottsboro Boys had been convicted and sentenced to death. A mistrial was declared in the case of twelve-year old Roy Wright, when eleven of the jurors held out for death despite the request of the prosecution for only a life sentence in view of his tender age.

The NAACP, which might have been expected to rush to the defense of the Scottsboro Boys, did not. Rape was a politically explosive charge in the South, and the NAACP was concerned about damage to its effectiveness that might result if it turned out some or all of the Boys were guilty. Instead, it was the Communist Party that moved aggressively to make the Scottsboro case their own. The Party saw the case as providing a great recruiting tool among southern blacks and northern liberals. The Communist Party,

through its legal arm, the International Labor Defense (ILD), pronounced the case against the Boys a "murderous frame-up" and began efforts, ultimately successful, to be named as their attorneys. The NAACP, a slow-moving bureaucracy, finally came to the realization that the Scottsboro Boys were most likely innocent and that leadership in the case would have large public relations benefits. As a last-ditch effort to beat back the ILD in the battle over representation, NAACP officials persuaded renowned defense attorney Clarence Darrow to take their case to Alabama. But it was by then too late. The Scottsboro Boys, for better or worse, cast their lots with the Communists who, in the South, were "treated with only slightly more courtesy than a gang of rapists."

In January, 1932, the Alabama Supreme Court, by a 6 - 1 vote, affirmed all but one of the eight convictions and death sentences. (The court ruled that Eugene Williams, age thirteen, should have not been tried as an adult.) The cases were appealed to the United States Supreme Court which overturned the convictions in the landmark case of *Powell vs. Alabama*. The Court, 7 - 2, ruled that the right of the defendants under the Fourteenth Amendment's due process clause to competent legal counsel had been denied by Alabama. There would have to be new trials.

The prosecutor in the retrials was Alabama's newly elected attorney general, Thomas Knight, Jr. Knight's father, Thomas Knight, Sr., had authored the Alabama Supreme Court decision upholding the original convictions.

The ILD selected two attorneys to represent the Scottsboro Boys in the retrials. The ILD quieted skeptics who saw the organization caring more about the benefits it could derive from the case than the Boys' welfare by asking Samuel Liebowitz to serve as the lead defense attorney. Liebowitz was a New York criminal attorney who had secured an astonishing record of seventy-seven acquittals and one hung jury in seventy-eight murder trials. Liebowitz was often described as "the next Clarence Darrow." Liebowitz was a mainline Democrat with no connections with or sympathies toward the Communist Party. Joseph Brodsky, the ILD's chief attorney, was selected to assist Liebowitz.

The Scottsboro Boys spent the two years between their first trials and the second round, scheduled to begin in March, 1933 in Decatur, in the deplorable conditions of Depression-era Alabama prisons. While on death row at Kilby prison, on the very date originally set for their own executions, they watched as another inmate was carried off to un-soundproofed death chamber adjacent to their cells, then listened to the sounds of his electrocution. Once or twice a week they were allowed to leave their tiny cells, as they were handcuffed and walked a few yards down the hall to a shower. An early visitor found them "terrified, bewildered" like "scared little mice, caught in a trap." They fought, they wrote letters if they could write at all, they thought about girls and life on the outside, they dreamed of their executions. As their trial date approached, they were moved to the Decatur jail, a rat-infested facility that two years earlier had been condemned as "unfit for white prisoners."

The second trial of Haywood Patterson opened on March 30, 1933, in the courtroom of Judge James Horton. Liebowitz moved to quash the indictments on the ground that

Negroes had been systematically excluded from jury rolls. He raised some eyebrows by questioning the veracity of local jury commissioners and many more when he insisted that prosecutor Knight stop his practice of calling black witnesses, who Liebowitz had called to show had never served on juries, by their first names. To many local observers it was one thing to defend rapists-- that, after all, is part of the American justice system--, but it was another, unforgivable thing to come to Alabama and attack their social order and way of life. Unsurprisingly, the motion to quash the indictment was denied.

On April 3, Victoria ("Big Leg") Price was called to the stand. Direct examination was brief, only sixteen minutes. Price recounted her job-hunting trip to Chattanooga, the fight on the train between whites and blacks, and the gang rape in which Haywood Patterson was one of her attackers. Prosecutor Knight's strategy on direct was to cover the essential facts in a condensed, unadorned way that would provide few opportunities for defense attorneys to expose contradictions with the more detailed (and implausible) story she told in the first trials. Liebowitz's cross-examination was merciless. His questions suggested his answers. There was no Callie Brochie's boardinghouse in Chattanooga, as Price claimed. She was an adulterer who had consorted with Jack Tiller in the Huntsville freight yards two days before the alleged rape, and it was his semen (or that of Orville Gilley) that was found in her vagina. She was a person of low repute, a prostitute. She was neither crying, bleeding, or seriously bruised after the alleged gang rape. She was fearful of being arrested for a Mann Act violation (crossing state lines for immoral purposes) when she met the posse in Paint Rock, so she and Bates made groundless accusations of rape to deflect attention from their own sins. Throughout the four-hour cross, Price remained sarcastic, evasive, and venomous. She used her ignorance and poor memory to her advantage and proved to be a difficult witness to corner. On re-direct, Price added a new dramatic and inflammatory elaboration to her previous account: while she was being penetrated, she said, her attacker told her that when he pulled his "thing" out, "you will have a black baby."

Dr. R. R. Bridges, the Scottsboro doctor who examined the girls less than two hours after the alleged rapes, was the next prosecution witness to take the stand. He turned out to be a better witness for the defense. He did confirm that semen was found in the vaginas of the two girls (more in the case of Bates than of Price). Liebowitz, however, was able to show on cross-examination that the girls were both calm, composed, and free of bleeding and vaginal damage. Moreover, the semen that Bridges examined was non-motile, even though sperm generally live from twelve to forty-eight hours after intercourse.

The prosecution's best moment came when Arthur Woodall, a member of the posse who searched the defendants at Paint Rock, was on the stand. Woodall testified that he had found a knife on one of the defendants, though he couldn't remember which one. Liebowitz asked Woodall if he had asked the boy whether it was his knife. Woodall said that he had, and that the boy said he had taken it "off the white girl, Victoria Price." The surprised look on Liebowitz's face caused Knight to clap his hands and then dash out of the courtroom to hide his glee. Liebowitz moved for a mistrial, but Judge Horton denied the motion and instead told jurors they should ignore Knight's reaction.

The prosecution's only eyewitness to the crime was a farmer named Ory Dobbins who said he saw the defendants grab Price and Bates as they were about to leap from the train. The credibility of the farmer's testimony was seriously damaged by Liebowitz on cross, when he asked how it was that Dobbins could even be sure, given the speed of the train and his considerable distance from it, that it was a woman that he saw. Dobbins answered, "She was wearing women's clothes." Everyone who had followed the case knew that Bates and Price both were wearing overalls. "Are you sure it wasn't overalls or a coat?," Judge Horton asked. "No sir, a dress," Dobbins said.

Defense witnesses were all called to serve a single purpose: to prove Price a liar and convince the jury that no rape had occurred aboard the Southern Railroad freight. Dallas Ramsey, a Chattanooga resident, testified that he saw Price in the hobo jungle she denied ever having visited. George Chamlee, a Chattanooga attorney, testified that his investigation could turn up no evidence of a Callie Brochie or the boardinghouse that Price said she owned, and in which Price and Bates allegedly spent the night prior to her return train trip to Alabama. Six of the accused testified, including Willie Roberson, who testified that on the day of the alleged rape he was suffering from a serious case of venereal disease and was so weak that he could not walk without a cane, let alone leap from boxcar to boxcar as Price had claimed. Ozie Powell proved the weakest of the accused on the stand, confused and bewildered when asked by Knight on cross to affirm or disaffirm answers he had given to prosecution questions at the first trial. In an attempt to minimize the damage, Liebowitz asked only, when Knight's barrage was finished, "Ozie tell us about how much schooling you have had in your life?" Powell answered, "about three months." Knight had considerably less luck with Haywood Patterson. In desperation Knight asked Patterson, "Were you tried in Scottsboro?" Patterson replied, "I was framed in Scottsboro." An angry Knight shot back, "Who told you to say that?" Patterson answered, "I told myself to say it."

Lester Carter, the twenty-three-year-old traveling companion of Bates and Price, was one of the defense's most spectacular witnesses. Carter, who Price had denied having known until the day of the alleged crime, testified that he had met Bates, Price, and Prices' boyfriend Jack Tiller in a Huntsville hobo jungle the night before he would travel with the two girls to Chattanooga. He told the jury that the night the four were together in the hobo jungle, and while he began making love to Ruby Bates while Price did the same with Tiller. Carter testified that two days later, on the return trip to Huntsville from Chattanooga, he jumped off the freight train when fighting broke out between blacks and the outnumbered whites.

The appearance of the defense's final and most dramatic witness, Ruby Bates, might have been taken from the script of a hokey Hollywood movie. In the months before the trial, Bates' whereabouts were a mystery. Liebowitz announced that he was resting his case, then approached the bench and asked for a short recess. Minutes later National Guardsmen open the back doors of the courtroom, and-- to the astonished gasps of spectators and the dismay of Knight-- in walked Ruby Bates. Under direct examination, Bates said a troubled conscience and the advice of famous New York minister Harry Emerson Fosdick prompted her to return to Alabama to tell the truth about what

happened on March 25, 1931. Bates said that there was no rape, that none of the defendants touched her or even spoke to her, and that the accusations of rape were made after Price told her "to frame up a story" to avoid morals charges. On cross-examination, Knight ripped into Bates, confronting her both with her conflicting testimony in the first trials and accusations that her new versions of events had been bought with new clothes and other Communist Party gifts. He demanded to know whether he hadn't told her months before in his office that he would "punish anyone who made her swear falsely" and that he "did not want to burn any person that wasn't guilty." "I think you did," Bates answered.

In the summations that followed, none was more controversial than that of Wade Wright, Solicitor of Morgan County, who was assisting Attorney General Knight in the prosecution. In a line that would move thousands of Jews around the country to protest, Wright asked the Patterson jurors "whether justice in this case is going to be bought and sold with Jew money from New York?" Liebowitz jumped up and demanded a mistrial, which Judge Horton refused to declare. Knight seemed to be embarrassed by his colleague's blatantly anti-Semitic appeal and in his own summation told the jurors, "I do not want a verdict based on racial prejudice or religious creed." Knight, however, was himself no model of decorum, referring to Patterson as "that thing."

Liebowitz, in his summation, called the accusations of Price the "foul, contemptible, outrageous lie" of an "abandoned" woman. He closed with the Lord's Prayer and an all-or-nothing appeal to the jury: acquit them or give them the chair.

At one o'clock on April 8, 1933, the jury was sent out to deliberate the fate of Haywood Patterson after Judge Horton reminded the jury that "You are not trying lawyers; you are not trying state lines." The next day the jury emerged from the jury room laughing, leading some in the defense camp to think that they must have won an acquittal. They were wrong. The jury pronounced Patterson guilty and sentenced him to death. The decision on guilt took only five minutes. The testimony of Bates wasn't even considered. Liebowitz was stunned. Safely back in New York after the trial Liebowitz said of the jury that had just found his client guilty: "If you ever saw those creatures, those bigots whose mouths are slits in their faces, whose eyes popped out at you like frogs, whose chins dripped tobacco juice, bewhiskered and filthy, you would not ask how they could do it." Ruby Bates returned East with Liebowitz, then became the leading lady at ILD-sponsored Scottsboro rallies, where she would beg forgiveness, plead for justice for "The Boys," and join in singing The Internationale.

On June 22, 1933, Judge James Horton, described as looking like "Lincoln without the beard," convened court in his hometown of Athens, Alabama to hear a defense motion for a new trial. Hardly anyone held out hope that the motion would be granted. Horton, however, had become convinced that Price was lying. Not only was her story full of inconsistencies, but it was not corroborated by other witnesses or the medical evidence. Judge Horton had one additional reason to believe that Patterson was innocent that remained a secret until years after the trial. After Dr. Bridges presented his medical testimony, the prosecution had requested that Dr. John Lynch, originally listed as a

prosecution witness, be excused from testifying. His testimony would only be redundant, according to Knight. After Horton excused the young doctor, he was approached by Lynch who said he wanted to talk privately. Horton and Lynch talked in the courthouse men's bathroom while armed guards stood outside the door. Lynch told Horton he was convinced that the girls were lying, had told them so to their faces, and that they merely laughed at him. Horton urged Lynch to testify, but Lynch, only a few years out of medical school and just building a practice in Scottsboro, resisted, saying that to do so would ruin his career. Sympathizing with Lynch's predicament, Horton withdrew his demand. Judge Horton, who had to face re-election the next year, had been warned that setting aside the jury's verdict in this case would be political suicide. Horton, however, believed one should "let justice be done, though the heavens may fall." To a stunned courtroom, he announced that he was setting aside the verdict and death sentence, and ordering a new trial. (Horton, who was unopposed the previous time he ran, lost his judgeship in the next election.)

Attorney General Knight wasted no time in announcing that the state was convinced of the Scottsboro Boys' guilt and would press ahead with prosecutions. At the next trial, Knight promised, there would be corroboration for Price's story. Orville Gilley, the one white boy left on the train when the alleged rapes took place, had agreed to testify for the prosecution. The prosecution had one additional ground for optimism. Pressure in the right places had succeeded in getting the new trials transferred out of Judge Horton's courtroom. William Callahan, a septuagenarian, no nonsense judge, would preside at Haywood Patterson's next trial, scheduled for November, 1933.

Judge Callahan was no Judge Horton. His stated goal was "to debunk" the Scottsboro cases-- to get them off the front pages of America's newspapers. To cut the trials down to size, he made it as difficult as possible for reporters to do their job, refused to ask for troops to protect the defendants or their attorneys, and set three days as a goal for completing each trial. During the trials he acted more like a second prosecutor than a judge, sustaining virtually every prosecution objection and overruling virtually every defense objection. He cut off all defense inquiry into Price's chastity, character, or reputation. When Liebowitz persisted with questioning designed to suggest Price might have had sex with someone other than a Scottsboro Boy around March 25, 1931, Callahan sternly reprimanded him. In his instructions to the jury, Callahan told them that they should presume that no white woman in Alabama would consent to sex with a black. At the close of his instructions in the Patterson trial, Callahan failed to provide the jury with the form for an acquittal until the prosecution, fearing reversible error, urged him to do so. Patterson said of Callahan, "He couldn't get me to the chair fast enough."

The undisputed star of the third Patterson trial, and the second Norris trial which immediately followed, was Orville Gilley. Gilley was a charming and entertaining witness, even offering to recite some of his poetry until the dour Callahan cut him off, saying "I don't like poetry." Gilley's account of the onboard fight and rape differed in many details from that of Price, but he corroborated her on the essential fact. Gilley claimed that the rapes ended only when he convinced the Negroes to stop before "they killed that woman." Why did Gilley suddenly appear as a prosecution witness when they

most needed him? Knight admitted that he sent weekly checks to Gilley's mother and occasional spending money to Gilley. Liebowitz contended that Gilley's reluctant lies were simply a result of the prosecutor calling in his chips.

Guilty verdicts were quickly returned by juries in both the Patterson and Norris trials. Both defendants were sentenced to death. Liebowitz angrily promised to appeal the verdicts "to Hell and back." Judge Callahan, in the interest of judicial economy, agreed to postpone the trials of the remaining seven Scottsboro Boys until the appeals of the first two had run their course.

On February 15, 1935, the United States Supreme Court heard arguments in the Patterson and Norris cases. Liebowitz argued that the convictions should be overturned because Alabama excluded blacks from its jury rolls in violation of the equal protection clause of the Constitution. The names of blacks that appeared on the jury rolls introduced in Judge Callahan's courtroom were, Liebowitz told the justices, forged sometime after the start of Patterson's trial. Chief Justice Charles Evans Hughes asked Liebowitz if he could prove that allegation. Liebowitz had a page bring in the actual jury rolls and a magnifying glass. Hughes looked at the rolls, then passed it to the next seated justice, who then passed it to the next. Looks of disgust appeared on their faces. Six weeks later the Supreme Court announced their decision in *Norris vs. Alabama*, unanimously holding that the Alabama system of jury selection unconstitutional and reversing the convictions of Norris and Patterson. Liebowitz said, "I am thrilled beyond words." He hoped that the Court's decision would convince Alabama that the Scottsboro cases were no longer worth their economic and political cost.

The state decided to press ahead with prosecutions as the defense tried to deal with its own internal problems. Two ILD lawyers in Nashville were arrested and charged with trying to bribe Victoria Price to change her testimony, infuriating Liebowitz, who said the ILD was "assassinating" the Scottsboro Boys. Liebowitz, meanwhile, was under criticism himself for having through his actions at previous trials alienated potential jurors. As Haywood Patterson's fourth trial began in January, 1936, in Judge Callahan's courtroom, Liebowitz agreed to let a local attorney named Charles Watts play the more visible role while he coached from a seat behind.

No surprise to anyone, Patterson was again convicted of rape. What was surprising, however, was that the jury sentenced him to seventy-five years in prison rather than giving him the death sentence the prosecution requested. One determined Methodist on the jury succeeded in persuading the other eleven to go along with his "compromise." The verdict represented the first time in the history of Alabama that a black man convicted of raping a white woman had not been sentenced to death.

Another surprising development occurred as the Scottsboro Boys, who had been in Decatur to testify in Patterson's trial, were being transported by guards back to their Birmingham prison. Ozie Powell, while handcuffed in the backseat of a car, managed to extract a pen knife from a pocket and slash the neck of a deputy sheriff, seriously injuring him. The sheriff, who was driving, slammed on the brakes, got out of the car, and shot

Powell in the head. The sheriff called Powell's action an escape attempt. Powell said he took the action out of a growing fear that they would be murdered on the road, and complained that his hands were raised in the air when he was shot. Powell teetered on the verge of death, but survived. He suffered permanent brain damage, however. According to Clarence Norris, Powell was never the same again.

In 1936 there was the first serious talk of compromise in what had become, in the eyes of many, the case of *The White People of Alabama vs. The Rest of the World*. Allan Knight Chalmers, head of the Scottsboro Defense Committee, eschewed diatribe and worked to build an understanding of the facts of the case among influential Alabamians by, for example, distributing copies of Judge Horton's decision throughout the state. In December of 1936, while Patterson's appeal was still pending and the other eight blacks awaited their trials, Thomas Knight met secretly with Samuel Liebowitz in New York to discuss a compromise. Knight told Liebowitz that the cases were draining Alabama financially and politically, and that he himself was sick of it all. He offered to drop the prosecutions of three, and give the others no more than ten years for either rape or assault. Liebowitz was understandably reluctant to accept any deal that included more jail time for any of his innocent clients, but Knight had a strong bargaining position: guilty or not, any trial was almost certain to result in conviction. Liebowitz agreed to the compromise "with a heavy heart." Before it could be implemented, however, the compromise was thrown into doubt by the sudden death of Thomas Knight in May, 1937. One week later, Judge Callahan announced that the next round of trials would begin in July.

Seven of the nine Scottsboro Boys had been held in jail for over six years without trial by the time jury selection began in the third trial of Clarence Norris on Monday, July 12, 1937. Trying to beat the hundred degree heat, Judge Callahan rushed the trial even more than usual, and by Wednesday morning the prosecution had a death sentence. Andy Wright's trial was next; he got ninety-nine years. On Saturday, July 24 at eleven o'clock, Charlie Weem's jury returned and gave him seventy-five years. Moments later, Ozie Powell was brought into court and the new prosecutor, Thomas Lawson, announced that the state was dropping rape charges against Powell and that he was pleading guilty to assaulting a deputy. Then came the big news. Lawson announced that all charges were being dropped against the remaining four defendants: Willie Roberson, Olen Montgomery, Eugene Williams, and Roy Wright. He said that after "careful consideration" every prosecutor was "convinced" that Roberson and Montgomery were "not guilty." Wright and Williams, regardless of their guilty or innocence, were twelve and thirteen at the time and, in view of the jail time they had already served, justice required that they also be released. Liebowitz led the four from the jail to an awaiting car, and with an escort of state troopers they were driven to the Tennessee border. Free of Alabama, but not of the label "Scottsboro Boy" or from the wounds inflicted by six years in prison, they went on with their separate lives: to marriage, to alcoholism, to jobs, to fatherhood, to hope, to disillusionment, to disease, or to suicide.

For the five Scottsboro Boys left in Alabama, they had a new demon with which to contend. Each of the five was convinced that their continued confinement bought the

freedom of the others, and they resented it deeply. They struggled with life in hellholes of prisons. Atmore Prison, near Mobile, was a desperate place teeming with poisonous snakes, sadistic guards, and rapacious prisoners. Kilby Prison, near Birmingham, housed Alabama's electric chair; one of Haywood Patterson's jobs was to carry out the bodies of electrocuted inmates. They sodomized or were sodomized; they assaulted or were assaulted. They survived, but barely.

In 1938, a pardon for all of the Scottsboro Boys left in Alabama seemed all but assured. Governor Bibb Graves was anxious to end the whole Scottsboro episode before he left office, and told Scottsboro Defense Committee head Allan Chalmers that the five would be released after he had his traditional pre-pardon interviews with each in his office. The interviews, however, could hardly have gone worse. First, Haywood Patterson was found to be carrying a knife when he was searched on his way to the interview. Patterson claimed he always carried a knife for protection, but authorities assumed the worst. Second, brain-damaged Ozie Powell refused to answer Graves questions, saying "I don't want to say nothing to you." Third, according to Graves' account, Clarence Norris threatened to kill Haywood Patterson, with whom he had been feuding bitterly, after his release. Finally, none of the Scottsboro Boys admitted any knowledge or guilt concerning a rape aboard the Chattanooga to Memphis freight--a rape that Graves still believed occurred. Graves left office without issuing the pardons.

Either through paroles or escapes all of the Scottsboro Boys eventually found their way out of Alabama. Charles Weems was paroled in 1943, Ozie Powell and Clarence Norris in 1946, and [Andy Wright](#), the last to leave Alabama for good (Wright had been paroled earlier, then returned because of a parole violation) in June, 1950. Haywood Patterson managed a dramatic escape in 1948. Patterson and Norris each went on to participate in the writing of books about their lives. Patterson's book, *Scottsboro Boy*, was published in 1950 while he was a fugitive. Shortly after its publication, Patterson was arrested by the FBI, but the Governor G. Mennen Williams of Michigan refused Alabama's extradition request. Norris published his book, *The Last of the Scottsboro Boys*, in 1979. Ten years later, on January 23, 1989, the last of the Scottsboro Boys was dead.

The story of the Scottsboro Boys lives on through the efforts of artists and scholars. Leadbelly recorded a song, "Scottsboro Boys." Dan T. Carter published his award-winning *Scottsboro: A Tragedy of the American South* in 1969. A movie, *Judge Horton and the Scottsboro Boys*, was shown on NBC in 1976. (One inaccuracy in Carter's book was relied on to the movie producer's detriment: Carter reported that Ruby Bates and Victoria Price had died in 1961, when in fact at the time of the movie's release they were both alive and well, and Victoria Price at least was ready to sue for defamation. Her suit was dismissed by a federal appeals court.) James Goodman published *Stories of Scottsboro*, a superb recounting of the Scottsboro tragedy from multiple perspectives, in 1994. At this writing, in October, 1998, a new documentary on the Scottsboro Boys is in production.

The story of the Scottsboro Boys is one of the most shameful examples of injustice in our nation's history. It makes clear that in the Deep South of the 1930's, jurors were not

willing to accord a black charged with raping a white woman the usual presumption of innocence. In fact, one may argue that the presumption seemed reversed: a black was presumed guilty unless he could establish his innocence beyond a reasonable doubt. The cases show that to jurors, black lives didn't count for much. The jurors that in April, 1933 had just voted to sentence Haywood Patterson to death were seen laughing as they emerged from the jury room. Hannah Arendt wrote of "the banality of evil." Evil rarely comes in the form of monsters, but rather in the form of relatively normal people who, for reasons of careers, ideology, or a desire for society's approval, are indifferent to the human consequences of their actions. Because of indifferent jurors and career-motivated prosecutors, the self-serving and groundless accusations of a single woman were allowed to change forever the lives of nine black teenagers who found themselves in the wrong place at the wrong time.

It is easy, especially for a Minnesota native like me, to look at the story of the Scottsboro Boys and to condemn a whole region of the country. That, however, is unfair. There were good people of the South--courageous newspaper editors, attorneys, ministers, and others-- who fought for justice for the Scottsboro Boys. One southerner's actions stand out above all others. The decision of Judge James Horton to set aside the conviction of Haywood Patterson, despite the dire consequences that decision would have for his own career, was heroism, pure and simple.

<https://famous-trials.com/scottsbtoroboy>

For a more detailed essay on the Scottsboro Boys Trials, see:

Doug Linder, *Without Fear or Favor: Judge Horton and the Scottsboro Boys*

<https://famous-trials.com/scottsbtoroboy/2387-without-fear-or-favor-judge-horton-and-the-scottsbtoroboy>