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MY REPRESENTATION OF BYRON DE LA BECKWITH OR CAN'T WE TALK ABOUT SOMETHING ELSE?

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THE PRESENTER



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JUSTICE JAMES W. KITCHENS earned his Bachelor of Science degree from the University of Southern Mississippi in 1964, and his Juris Doctorate from the University of Mississippi School of Law in 1967. He is licensed to practice law in Mississippi and in the District of Columbia, and has been admitted to practice before the United States District Courts for the Northern and Southern Districts of Mississippi, as well as the United States Court of Appeals for the Fifth Circuit and the United States Supreme Court. Justice Kitchens was elected district attorney for the Mississippi counties of Copiah, Lincoln, Pike and Walthall in 1971, 1975 and 1979. He served for nine years before returning to the private practice of law. He did not seek public office again until 2008, when he was elected to an eight-year term on the Mississippi Supreme Court (Central District, Place 3), commencing in January of 2009. Justice Kitchens is a member of the Magnolia, Mississippi, and District of Columbia Bar Associations.

MY REPRESENTATION OF BYRON DE LA BECKWITH, OR, CAN'T WE TALK ABOUT SOMETHING ELSE?

Justice James W. Kitchens

I. PROLOGUE

The "most southern"¹ of the southern states of the United States is the only home I've ever known. By accident of World War II, my parents – both lifelong Mississippians – found themselves, very briefly, but long enough for me to be born, in Memphis, Tennessee. At the conclusion of my father's military service in 1945, our little family of three returned to his hometown of Crystal Springs, Mississippi. My dad operated an old-fashioned grocery store in town, and we lived on a small farm in the country. We were in an area that was famous for the high quality of its produce, so my dad, an enterprising workaholic, raised tomatoes, cabbage, beans, peas, bell peppers, cotton, corn, and oats while he also raised cattle, hogs, and chickens. Many of the edible products of our farm were marketed in the family grocery store in Crystal Springs.

My parents had not come from wealthy families. Though they struggled financially, life was good for us, especially for me, a carefree little country boy, living in an idyllic world. It wasn't so good – in fact, it was horrible – for many dear people who were of enormous importance to me - the black people.

Mississippi, then and now, is home to the highest percentage of African-American residents of any state in America. Over half the people in my home county are black. In early childhood, and now, my closest neighbors have been, and are, black. My best friend in life, who now is deceased, was a black man. When I was a child, there were black people – men, women, and children – all around me. Many of them worked on our family farm and/or in our grocery store. Some of them were entrusted with the responsibility of taking care of me, and later did likewise for my two younger brothers, while our parents worked outside the home. Black children were my earliest playmates. Their parents, grandparents, and all the adult African-Americans in my life, were unfailingly kind and good to me, and I loved them.

For some period of years in my early life, I was oblivious to the stark contrasts in the lifestyle of the black families and that of my own family. Eventually I came to understand that all of them lived in less than substandard housing, even for that day and time. None of them had indoor plumbing. We did. None of them had electric lights. We did. None of them had a telephone. We did. Few of them had any kind of automobile and those who did rode in some kind of rickety old rattle trap. We had a decent automobile or a pickup truck, and later, both. They attempted to heat their homes – mostly pitiful, drafty little shanties – with wood. We heated ours with gas. Nobody had air conditioning then, but we had electric fans and screens on our windows. They didn't. Most of them couldn't read or write. My parents had worked their way through colleges to which the wealthiest

¹ James C. Cobb, The Most Southern Place on Earth: The Mississippi Delta and the Roots of Regional Identity (1992).

and most intellectual black person on Earth would have been denied admission. When addressing my parents or any other white person more than about eighteen years old, even the most elderly black people said Sir and Ma'am. But that courtesy was not returned by whites to blacks. The parents and grandparents of my black playmates were called by their first names by white people, and courtesy titles (Mr. and Mrs.) were never applied to them, as was rigidly required when blacks addressed their white counterparts. If a black person went to a white person's home, even if it was to bring a gift, the black person was not allowed to go to the front door. Black persons could not vote, hold office, use public restrooms reserved for whites, ride in the same rail cars or buses as whites, dine in anything other than a black-only café, drink from public water fountains, work as clerks or in other clerical positions in white-owned businesses, serve as police officers, attend white places of worship, join white civic clubs, work as fire fighters, work in courthouses or other public buildings as anything other than maids or janitors, or be educated in white schools. Medical offices, dental offices, law offices – any kind of business with a waiting room – had separate waiting areas conspicuously marked WHITE and COLORED. And there were no black physicians, no black dentists, and no black lawyers.

In 1949, at age six, I entered first grade at the all-white public school from which my father had graduated in 1935. Racial segregation was rigidly enforced everywhere in the Southern world into which I had been born, but nowhere was that enforcement exercised with greater zeal than in Mississippi's public schools. The landmark decision of the United States Supreme Court in Brown v. Board of Education of Topeka, 347 U.S. 483 (1954), stiffened the already steadfast resolve of southern officials, and of the white population in general, to maintain the status quo of strict school segregation at all costs, the supreme law of the land notwithstanding.

There was much more. Suffice to say that, in those days, apartheid was as much a reality in Mississippi as it was in South Africa. It was woven into the fabric of the state's culture and everyday life in such a way that it could be questioned only at the very real risk of the questioner's life.

Many of the rules of Mississippi's system of apartheid, alias racial segregation, were matters of statutory law, enacted by the state legislature and by local governing authorities. Thus, *de jure* segregation, such as: no black persons allowed in municipal swimming pools designated "White Only," and no blacks allowed in white-only public schools, colleges, and universities. Other aspects of Mississippi-style apartheid, which were no less tyrannical and were just as rigidly enforced as those possessing legal formality, were deeply ingrained into the fabric of the state's society by means of custom. For example, black people were required to be unfailingly respectful to whites in all circumstances (but whites were perfectly free to be disrespectful and downright insulting to blacks). Black men and boys were expected to doff, or at least tip, their hats or caps upon encountering any and all white men and women. Again, the same courtesy was not extended by white males to black men and women.

A myriad of unwritten societal rules were enforced in numerous ways: economically (firing, or procuring the firing, of violating blacks from their menial jobs, among other treacherous practices), psychologically (by cruel threats and

intimidation), and physically (by actual violence, including death). These very real rules, while legally informal, augmented the statutory ones, and amounted to *de facto* segregation, thus rounding out the double whammy of harsh oppression under which black Americans in Mississippi were forced to live, each and every day of their lives. It amounted to only slight improvement over the system of outright slavery that had brought their ancestors, in chains, to these shores.

I am not sure what happened to me, or how it happened; but somehow, on my journey from boyhood to manhood, I gradually came to understand that all of this was horribly wrong. The bizarre system which I have described seemed normal to me for quite a few of the years of my youth. It was all that I ever had known in my life. I don't know exactly how or why I began to change my mind about it, because most of my contemporaries in the white community never did. I can recall some instances, some minor and some not so minor, that influenced my evolution away from the crazy world in which almost all of the white people believed they were better and smarter than their black neighbors; but none stands out in my mind more than the process by which I became registered to vote.

In those days, one had to be twenty-one years of age to become a registered voter. In Mississippi, he or she also had to be white. However, the latter prerequisite was under attack, especially in the federal courts.

My twenty-first birthday occurred on April 29, 1964. I was a senior at the University of Southern Mississippi in Hattiesburg, which was, for me, some ninety miles from home. My father stressed that registering to vote was an important enough reason for me to come home on the first weekend following my birthday, so I did. That way, I'm pretty sure that it was on Friday, May 1, 1964, that I made the trip from college to the Copiah County Courthouse in Hazlehurst, Mississippi, birth certificate in hand, with the intention of becoming a new voter.

Under our state's law, then and now, the duly-elected Clerk of the Circuit Court in each county also serves as that county's Registrar of Voters. When I appeared at the clerk's office that Friday afternoon, the one person on duty told me she was sorry, but she couldn't register me to vote because she was only a deputy court clerk, and her boss – the Clerk – hadn't appointed her as a deputy registrar. In fact, he hadn't appointed anyone as a deputy registrar of voters; only he, the Circuit Clerk and Registrar of Voters, could register persons to vote in Copiah County. "Well, when can I see him?" I inquired. "I don't know. You'll have to get your daddy to call him at home." And that was all the information I could get from her.

The bottom line is that the clerk, who had campaigned for office on the promise that he'd never register a black person to vote – and he hadn't said "black person" – was under federal court order to register any and all county residents who were of lawful voting age, without regard to race. The clerk, in order to keep his campaign promise, hadn't appointed a single deputy register, and he remained at home most of the time, feigning illness.

That evening, my father called him. When the clerk took my white father into his confidence and smugly explained his scheme to him, my father was infuriated,

but kept his cool so he could find out what his son needed to do to get registered. "Tell him to meet me at the back door of the courthouse tomorrow morning [Saturday, when the courthouse was closed], at six o'clock."

So, I did as I was told. The next morning I got up early and drove to the courthouse, parking around back. At precisely 6:00 a.m. the clerk drove up and parked his car in a place that couldn't be seen from the street. He got out, looked all around and, not seeing anyone, beckoned for me to come to the back door. I complied. He unlocked the courthouse, rushed me inside, and locked the door behind us. Up the stairs to the clerk's office we went. He unlocked that door, ushered me in, then locked that door as well. As we had walked up the stairs, and throughout the process of registering me to vote, he proudly proclaimed his cleverness in frustrating black registration in Copiah County. As I was signing a set of rather complicated documents, he pointed out to me an obscure signature line that I'd overlooked, laughingly remarking, "Them [plural N-word] don't never see that one, and I shore as hell don't show it to 'em!"

My registration completed, he escorted me from the courthouse, opening the outer door only after he'd peered out through its glass upper portion to make sure he wouldn't be seen. I suppose he returned to his sick bed after that.

Rather than being gratified that the clerk had gone through all this chicanery on his day off for my benefit, I was utterly disgusted by it.

II. BECKWITH ENTERS MY LIFE

Now, fast forward with me more than twenty-seven years. It's October 4, 1991, and I'm called from a meeting at the Ole Miss law school² to take a phone call from a judge. "Jim, this is [Circuit Court Judge] Breland Hilburn. I want you to be in my courtroom tomorrow morning at eight o'clock."

Judge Hilburn, who had been a law school classmate of mine, proceeded to break the news that he was appointing me and another Jackson lawyer, Merrida (Buddy) Coxwell, to defend Byron De La Beckwith, the indigent defendant³ in the resurrection of an infamous but unresolved murder case from Mississippi's violent passage through the Civil Rights Era of the 1960s. He went on to tell me, as he was concluding that short phone call, "About fifty lawyers have asked me to appoint them to represent Beckwith."⁴ "Then why the hell didn't you appoint a

² The University of Mississippi School of Law, my alma mater, Class of 1967.

³ At that point in time, the public defender system for Hinds County, Mississippi, had been authorized, but was not up and running. Court-appointed counsel for indigent defendants in the Circuit Court of Hinds County were drafted by the judges from the private bar. Within less than a month – on November 1, 1991 – one of the finest criminal lawyers in the country, Thomas M. Fortner, came on board as the Hinds County Public Defender and began to establish an outstanding office. If Beckwith had been extradited to Mississippi a month later than he was, Mr. Fortner and his assistants would have been Beckwith's lawyers.

⁴ He explained that they "just wanted the publicity." I, most decidedly, didn't want the publicity! Neither did my hapless co-counsel, Lawyer Coxwell, who had established his reputation as a

couple of them?" I asked, making no effort to conceal my incredulity. "Because I don't want his conviction to be reversed because of ineffective assistance of counsel," he answered. "Oh, he's going to be convicted?" The judge quickly responded, "I mean if he's convicted." "See you tomorrow morning," he concluded. The only thing I could say was "Yes, Sir."

III. "AND WHAT HAPPENED NEXT?"

I had ridden the two hundred-plus miles to the Ole Miss Campus with a close friend, Ronnie Whittington, who practices law in McComb, Mississippi.⁵ After the meeting, I said, "Ronnie, I'm going to have to ask you to drive me home tonight."

We had planned to have a nice dinner in Oxford, Mississippi, spend the night there, and return to our homes in South Mississippi the following day. "Okay. Why?" he asked. "Judge Hilburn is appointing Buddy Coxwell and me to defend Byron De La Beckwith." "Oh, no!" was Ronnie's response. Good lawyer that he is, it never occurred to him that Buddy or I would ask the judge to give us a pass on this one, or that either of us would contrive some phony conflict of interest in order to disqualify ourselves. Ronnie wouldn't have done that, and he knew that we wouldn't either.

We did stay in Oxford long enough to have the nice dinner, but I didn't enjoy it one little bit. I knew I had to represent Beckwith, and represent him well; but the prospect made me physically ill, as Ronnie Whittington will attest. I knew Beckwith's reputation. He was for everything I was against, and against everything I was for.

The Hinds County⁶ district attorney's office had decided, apparently a couple of years earlier – in 1989 or 1990 – to reopen the murder case against Beckwith, who twice had been tried for murder in Jackson, Mississippi, in early 1964 (about the time I was registering to vote at age twenty-one) for the 1963 shooting death of Medgar Evers. Mr. Evers, an African-American veteran of World War II and a native Mississippian, was Mississippi's first NAACP Field Secretary, and he was actively working to win the right to vote for the disenfranchised black people of our state.

As he walked from his car to a door of his home on the evening of June 12, 1963, he was shot in the back by an assassin with a high-powered rifle. The bullet passed through his body and into the interior of the Evers residence, where his

superb criminal lawyer the old-fashioned way: by winning not-guilty verdicts, most often by doggedly outworking his adversaries.

⁵ I became acquainted with Ronald L. Whittington in 1976, when he, then a law student at the University of Mississippi, served as one of my many law student interns during my nine-year sojourn (1972-1981) as District Attorney for the 14th Circuit Court District of Mississippi (Copiah, Lincoln, Pike and Walthall Counties).

⁶ Hinds County is the most heavily populated of Mississippi's eighty-two counties. The City of Jackson, in the northeast corner of the county, is the capital city of Mississippi.

wife and young children awaited his return from a meeting that was about black voting rights and other civil rights issues.

Beckwith, a resident of Greenwood, Mississippi, and an outspoken segregationist, was arrested and indicted for the murder of Medgar Evers. He was tried twice in early 1964 by then-District Attorney William L. Waller, who later would serve as governor of Mississippi from 1972 to 1976.⁷ Both trials were conducted in Jackson, and both ended in mistrials, due to hung juries.

After the second 1964 mistrial, Beckwith had been released from custody on bail. Approximately five years later, when there had been no further action by the State concerning the Evers murder, an order of *nolle prosequi* (dismissal) was signed by all three of the circuit court judges then serving Hinds County. The case then lay dormant until more than twenty years later, when in December of 1990, Hinds County District Attorney Ed Peters and one of his assistants, Bobby Delaughter, sought and obtained a new indictment against Beckwith, who then resided in Signal Mountain, Tennessee, a Chattanooga suburb. It was immediately after his extradition from Tennessee, in October of 1991, that Mr. Coxwell and I were appointed to represent him on the new indictment, which was almost identical to the original 1963 version.

Buddy Coxwell and I would be Byron De La Beckwith's lawyers for the next seven years. During those years, the Beckwith case would dominate our lives and our law practices. We worked as hard for him as we worked for any other client, paying or otherwise, likeable or otherwise, popular or otherwise, that either of us, in our long legal careers, ever had. In broad summary form, our representation included:

- A. Meticulous investigation of a very stale case, which included examination of extensive discovery materials and personally interviewing witnesses in at least four states.
- B. Pre-trial interlocutory appeal to the Mississippi Supreme Court on several constitutional issues, principally speedy trial, due process of law, and bail.⁸
- C. Jury trial.⁹
- D. Direct appeal to the Mississippi Supreme Court.¹⁰
- E. Petition for *Writ of Certiorari* to the U.S. Supreme Court.¹¹

⁷ The late Governor Waller's son, Honorable William L. Waller, Jr., now serves as Chief Justice of the Mississippi Supreme Court, the Court on which I am privileged to serve.

⁸ Beckwith v. State, 615 So.2d 1134 (Miss. 1992).

⁹ February, 1994.

¹⁰ Beckwith v. State, 707 So.2d 547 (Miss. 1997); *reh'g den.*, 707 So.2d 547 (Mar. 26, 1998).

¹¹ Beckwith v. Mississippi, 525 U.S. 880 (1998) (denying petition).

IV. BECKWITH AS A CLIENT

I don't intend to talk to you today about the nuts and bolts of Beckwith's trial, our extensive preparation for it, or the appeals. Rather, I want to try to convey to you, as best I can, what it was like to represent him. In doing so, I will not disclose any privileged communications or secrets that were revealed to me by this client. In truth, Beckwith told me just about nothing that he hadn't already told anyone and everyone who would listen, including the press. His defense was alibi. Two Greenwood, Mississippi, police officers testified in the 1964 trials and in the 1994 trial (one of them by transcript in 1994) that they saw Beckwith at a gas station in Greenwood at a time when he could not possibly have been ninety-five miles away, in Jackson, when the Evers murder occurred.

Byron De La Beckwith¹² was almost seventy-one when I met him in the Hinds County Courthouse on Friday, October 4, 1991. He was born in California on November 9, 1920, but at the age of five was brought to Greenwood, Mississippi, by his mother, following the death of his father. He grew up in Greenwood, a Mississippi Delta town, and resided there until he enlisted in the Marine Corps a few weeks after the Japanese attack on Pearl Harbor on December 7, 1941. He served in the Pacific Theatre of World War II, was in combat on Guadalcanal, and was wounded during the U. S. assault on the Island of Tarawa. At war's end, he was honorably discharged in August of 1945.

Until he gained notoriety in the weeks following the assassination of Medgar Evers, he had worked principally as a salesman. He was an ardent segregationist and white supremacist, and became active in the White Citizens' Council. It was obvious to me that Mr. Beckwith was a joiner. He often recited a lengthy list of organizations in which he claimed membership, which included the Sons of the American Revolution, the Sons of Confederate Veterans, the American Legion, the Veterans of Foreign Wars, and, of course, the White Citizens' Council and the Ku Klux Klan.¹³

He also claimed to have been a Mason, but said that he had become disenchanted with that organization and ceased paying dues. I had never told him I was a Mason and never wore Masonic insignia in his presence. This was not something that I tried to conceal from Beckwith; I have never been one to wear jewelry and have never been keen on publicly displaying the insignia of organizations in which I hold membership. But Beckwith learned that I was a Mason, and urged me to stop paying my dues. Without discussing the matter with him, I declined his advice.

¹² Many people mistakenly believe that this man's surname was de la Beckwith. It wasn't. The surname is Beckwith, nothing more, nothing less. He explained, "My first name is Byron, my last name is Beckwith, and I have two middle names, De and La [the latter being pronounced lay]." Many of his friends called him "De La," which I thought somewhat ironic, given the thirty-year "DE-lay" between his second and third trials. Apparently, this is an old family name, as Mr. Beckwith's entire name was Byron De La Beckwith, VI. His son is Byron De La Beckwith, VII, and his grandson is Byron De La Beckwith, VIII.

¹³ This is the short list. The actual list is much longer; I remember those listed off the top of my head. Mr. Beckwith had an enormous ego, and loved to brag about the numerous organizational affiliations he claimed to have.

For some reason – about which I never inquired – he had very ill feelings toward the Masonic fraternity. Beckwith's telling me that he knew I was a Mason occurred early in my representation of him. This puzzled me at the time. Later, in light of other developments, it helped to confirm that he and his confederates – and I use that word in its general sense – knew a great deal about me. This didn't bother me much. What did bother me was the eventual realization that they knew a lot about my family.

On the morning of my first meeting with my new client, Judge Hilburn did little more than appoint Mr. Coxwell and me, and schedule the Beckwith arraignment for Tuesday of the following week, October 8, 1991.

On that first day – Friday, October 4, 1991 – I had not gone by my office before appearing in court at 8:00 a.m., as directed by the judge. So, my small office staff –which at that time included only two members,¹⁴ one black and one white – had no idea that I was being appointed to represent Beckwith. These two women, almost exactly the same age, had been born in October 1962. They were about eight months old when Medgar Evers was killed on June 12, 1963, and, of course, had no personal awareness of the events surrounding that tragedy. But the reopening of the case had been prominent in local news for more than a year, and they knew who Beckwith was. They also had a pretty good idea of what he was, due to his own public pronouncements.

As odd as it may seem today, I was one of the first white lawyers in Jackson, Mississippi, who hired a black secretary to work in his office. This extraordinary woman would remain in my employ for more than seventeen years, and left me, on very good terms, for a far better position with the federal government. She serves today as the courtroom deputy for a federal judge.

When I arrived at my office that morning, I told my two secretaries – both of whom later became paralegals – that I had just been appointed to represent Byron De La Beckwith. In unison, they said the same thing Ronnie Whittington had involuntarily exclaimed the night before: "Oh, no!" I asked the black lady to come into my office.

At that time, she had worked for me for approximately two years. I had come to have enormous respect for her ability, her intellect, and her integrity. I asked her to sit down, and proceeded to tell her that I knew this was an emotionally charged case and rightly so, since the assassination of Medgar Evers was one of the worst things I could remember. I went on to assure her that she would not be asked to work on this case. "You don't have to touch the file, you don't have to go to court with me, you don't ever have to see or talk to Mr. Beckwith, or have anything whatsoever to do with his case." If I had any expectation, it was that she would say, "Thank you, Mr. Kitchens." But she looked me straight in the eye, and said, "Mr. Kitchens, let me tell you something. I'm a professional just like you are, and if you can represent him, so can I. He deserves a good defense, and I'm going to help you see that he gets one."

¹⁴ For the protection of their privacy, I will not identify either of them in this paper.

I have to say that this was one of the most emotional experiences of my life. I'm a tough old bird, and I've seen just about everything one can see in the American legal system, but to this day the thought of that dear woman's extraordinary integrity brings tears to my eyes. All of us should learn from her, don't you think?

A few days or weeks later I was told that someone had come to my office to see me about the Beckwith case. I met with this man in my conference room. He was an older white man, a Mississippi Delta planter, who ran a big plantation. He got straight to the point of his visit.

"Mr. Kitchens," he said, pointing his big finger at me and looking me dead in the eye, "you're gonna have to get rid of that damned n_____ secretary!"

Putting it mildly, I was enraged. "What did you say to me?" I asked in disbelief. "You heard me," he retorted, with an angry edge to his voice. "She ain't nothing but a damned spy for the district attorney. Everything you do and say, she's telling it to the district attorney. They're all like that. You may think you can trust her, but you can't trust none of 'em!"

In no uncertain terms, I concluded our meeting right then, and ordered him to get out of my office and never come back, my final comment to him being "You go and run your plantation, and I'll run my law office."

In my hometown, and even at my church, it sickened me that many white people I'd known all my life would take me aside and express a belief that Beckwith really had killed Medgar Evers, that it was the right thing for him to do, and they were glad it had happened. This was their appalling way of cheering me on. They wanted me to win, but for all the wrong reasons.

Throughout my career, a great many of my clients have been black. I haven't kept score, but I know that there were times when over half of my clients were black. My first two trials were murder cases, unrelated to each other except in point of time, when I was not yet twenty-five. In each of those cases, I worked extremely hard and obtained acquittals. Both clients were black men. They were indigent, and I was court appointed. I was paid about \$50 for each case.

After I had won those two cases, my law practice picked up a lot. Most of my new clients were black. In fact, most of the people in my home county are black. The point is that I always had a large black clientele. But during the time that I was actively representing Byron De La Beckwith, I lost black clients and didn't get many new ones. That disappointed me very deeply, not so much because of the financial loss, but because I thought they'd lost faith in me.

One day the sheriff of Hinds County called and asked me to come and see him at his office. At that time, Sheriff Malcolm McMillin was the most highly respected lawman in Mississippi. Prior to his election as sheriff, he'd been on the Jackson police force. He served numerous terms as sheriff of our state's most populous county. He had been my friend for a long time, and I knew that he must have something important to tell me.

"Mac" is a formidable-looking man. He's a big guy with a huge, shaven head. And in that head is a very fertile mind. In addition to his law enforcement acumen,

he's a talented actor and often performs in stage productions at Jackson's New Stage Theatre. My favorite of Mac's characters is Big Daddy in Tennessee Williams's¹⁵ Cat on a Hot Tin Roof. I think that Mac's a better Big Daddy than Burl Ives was in the movie version of the famous Williams play.

"Jim," he began, "I want to give you protection." I sensed what he was getting at, but asked, "Protection from what?"

"From the Klan," said the high sheriff. "They don't trust you." "Well good," I said. "I don't want them to trust me."

"They think you're going to sabotage Beckwith's case – on purpose. They think you want him to be convicted. They think you're too cozy with the black community. They're dangerous, Jim."

I thanked Sheriff McMillin for his concern. I didn't know or care where he'd gotten his information, but I could tell that he believed it and that his concern was genuine.

I explained to him that I'd had protection before, back in the '70s when I was district attorney, after a guy had attacked me one night in the driveway of my home. I'd fought with him, physically. He got away and never was caught or reliably identified. That was in early 1974. The sheriff of Copiah County kept deputies and auxiliary officers outside my home for weeks, and they followed me around until eventually I begged that sheriff to withdraw the protection. The main reason I did was because of the negative effect it had on my family. All of the officers were fine people, but their constant presence was very unnerving to my family, especially to the youngest members.

So I declined Sheriff McMillin's offer, assuring him that I'd let him know if I changed my mind.

In January of 1994, Buddy Coxwell¹⁶ and I, in one trip, flew to Georgia, Florida, Virginia, and Tennessee, to interview a number of witnesses who had been identified in discovery by the State. Our last stop was Tennessee. A key prosecution witness lived outside a small town near Knoxville. We rented a car and drove to his home. Having completed that interview, we drove, in the same rented car, down to the Chattanooga area to see Mr. Beckwith, who lived with his wife, Thelma, on Signal Mountain, a few miles outside the City of Chattanooga.¹⁷ The night before we were to visit him, we stayed in a Chattanooga hotel. We had not told him we were coming, but called him for directions just prior to leaving the hotel. I drove.

¹⁵ Remember: Tennessee Williams was born in Mississippi, not in Tennessee!

¹⁶ He is the most focused lawyer I know! No one ever could have a better, more diligent, or more honorable co-counsel.

¹⁷ Beckwith had been free on bail since late 1991.

When we arrived, our client was standing near the road, in front of his house, awaiting us. As we were getting out of the rented car, Beckwith said, "Well hello, Jim. I see you came in your daughter's car."

As I write this, my blood turns cold – again. I do not intend to overdramatize this, but I assure you that my heart rate has quickened considerably, even now.

Mary and I have five children. Of course, they are the most precious things we have. Our youngest daughter, Rebecca, was sixteen. A few months prior to our January 1994 visit to Beckwith's home, we had bought her a new car, a Ford Probe. Not unlike most men, I don't know much about the nuances of colors; but Rebecca's car –about the same size as the one we had rented – was some shade of green. The rented car, to my color-ignorant eyes, was pretty much the same color.

I do not believe that Beckwith ever visited my hometown. At least, I didn't know it, if he did. This is speculation on my part, but I think it is much more likely that someone – most likely a Klansman – had photographed Rebecca's car and Beckwith had seen pictures of it. But, regardless of how he knew it, Byron De La Beckwith knew what color my little girl's car was!

My blood turned to ice water when he casually quipped that I had come in my daughter's car. With the hardest effort, I kept my cool. I didn't quiz him about it, or acknowledge in any way that I was disturbed by his comment. But when I got home, I took both of my daughters, and my wife, out in the country for handgun refresher classes. I had taught all of them to shoot long before I knew Beckwith. I told my sons what had happened, and appropriately cautioned them. I made sure that my daughters and my wife had handguns with them at all times.

This revelation by Beckwith, which I believe was calculated, really scared me. It took nearly twenty years for me to be able to talk about it. It's a sobering thing to realize that a terrorist organization has your family under surveillance.

Nevertheless, I gave Byron De La Beckwith the best defense I possibly could, and so did Buddy Coxwell. Even though it was extremely unnerving, the car incident made no difference in my determination to represent Beckwith to the best of my ability. Nobody has ever accused Buddy or me of ineffective assistance of counsel, not even the Klan.

The trial was hard fought. Enough said. My purpose here is not to provide a blow-by-blow description of it. We did our best. As my dad was fond of saying, "That's all a mule can do."¹⁸

After his conviction and sentence (life in prison), Beckwith's bail was revoked and he was housed in a downtown Jackson jail facility, immediately behind the courthouse in which he had been thrice tried. When all was said and done, I felt sorry for him – an emotion I just about always had for losing clients. He liked to eat fruit, so I took bananas, apples, and oranges to him. He liked ripe olives, so I took him ripe olives. He wrote constantly. To me, his writings were nutty and

¹⁸ My father, Lloyd Wade Kitchens (1916-1976).

hyper radical. At first he scrawled letters to me, and others, on the backs and in the margins of all kinds of printed material, and it was very difficult to read it. I thought that I should read anything and everything sent me by a client in jail, so I laboriously read every word. I found that it was to my advantage to take him a ream of paper every now and then; this made his epistles easier for me to read. He corresponded with a lot of people; I didn't know or care who, but he enjoyed it, so I gave him quite a few envelopes and postage stamps. This tended to keep him relatively happy. He was stoic about being in jail, thinking himself some kind of martyr.

It is no exaggeration to say that I never had a really meaningful, logical, or constructive conversation with Mr. Beckwith. He genuinely couldn't remember a lot of things that were important to his defense, such as what he'd done and where he'd been during the daytime on June 12, 1963, or anything about the day before or the day after. Without getting into a constitutional analysis of why I sincerely believe that his speedy trial rights, state and federal, were trampled, I'll say, simply, that this was one way in which he was severely prejudiced by the extreme delay in retrying him. Not only had his memory faded since 1963; everyone's had!

But the thing that kept our conversations from being productive, more than any other factor, was Mr. Beckwith's extraordinary obsession with raw, nasty, racial hatred. He hated blacks, he hated Asians, he hated just about everyone who was racially different from himself. Most of all, he hated Jews.

Mr. Beckwith actually had a rather bright mind. Every time I talked with him, I couldn't help but think what a shame, what a waste, it was for a man to expend his brain power the way that he did, dwelling, 24/7, on hatred of his fellow human beings.

In my estimation – and I'm not alone in this – he was his own worst enemy. I doubt that he would ever have been retried, but for his own boasting. He loved being the center of attention, and he actually was a hero to many twisted, hate-filled people. And he liked that. He was a blustery braggart, so much so that if one were to ask him, "Mr. Beckwith, is it true that you shot President Kennedy?" he'd say, "Well, you ain't seen him lately, have you?"

I was asked to come here, to the Kentucky Bar Convention, to tell you what it was like to represent Byron De La Beckwith. I've sat at my computer for a few hours in an effort to summarize that for you. Perhaps I've succeeded in giving you some sense of how it was.

But there are many among you who already knew. You've stepped up to the plate and represented unpopular people yourselves. Buddy Coxwell and I aren't unique in that regard. It's what lawyers are supposed to do. All of us were taught that in law school, and I think all of us believe it. Some get called upon to do it, and some don't. But we're all supposed to do it when called. We know that, if the system doesn't work for everybody, we have no right to expect it to work for anybody. We don't have to be told that if the most despicable, the most unpleasant and unlikeable human being in the United States of America can't be represented by a good lawyer and get a fair trial, then we have no right to expect

that for our own son, or our own daughter, should they be falsely accused. To this day, I do not believe that Beckwith's trial was fair in every respect. Buddy Coxwell and I raised, and lost, all of those arguments. But, that said, Byron De La Beckwith did have a couple of pretty good lawyers, who worked their hearts out for him.

He died in prison on January 21, 2001.

