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Derrick Bell: Oregon Trailblazer

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Derrick Bell arrived at the University of Oregon School of Law as the new dean in 1980 to much fanfare. Few, if any, black professors made their home in Eugene at that time and, apart from student athletes, almost no black college students or ordinary residents did either. The town greeted Dean Bell as the celebrity he was—the first black law professor to achieve tenure at Harvard.

As an Oregon undergraduate drawn by the pull of Dean Bell's star, I decided to apply to Oregon law school. Although I was born and raised in the East Los Angeles barrio and am the grandson of two Mexican immigrants, at the time I was more intrigued by black culture than Latino/a culture. I listened mostly to soul and funk music, emulated black dance moves, and befriended the few black youth I encountered in Oregon when my family moved there from Los Angeles. Perhaps I thought Dean Bell too was down with the Isley Brothers, Chaka Kahn, and Parliament-Funkadelic.

When I applied to Oregon law school I had no academic mentor to speak of and no sense of the U.S. law school hierarchies that prevailed then and now. In my senior year, I remember being ecstatic when I received my admission letter from Oregon law. Later, a friend who learned my LSAT score and knew my GPA told me I was crazy to enroll at Oregon; rather, I could attend any law school in the country. He urged me to at least apply to University of California, Hastings. I did and was accepted there, but I chose to stay at Oregon after talking with my mother, who encouraged me to remain in state.

Despite my naïve expectations as a first-year law student that I would regularly “hang” with Dean Bell, it was not until fall semester of my second year when Dean Bell was teaching constitutional law that I talked with him. Our class was filled with students excited to learn from someone who had taught Harvard students a few years earlier and whose reputation as a civil rights attorney was a novelty for us in a state where

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Robert Kennedy, campaigning for the presidency in 1968 before all-white audiences, had lamented “[t]his ain’t my group.”¹ I remember my panic at the content and style of his class. I had excelled in all my first-year classes and was encouraged to pursue teaching law by an Oregon professor who became my mentor. But he also warned me that, coming from a nontraditional feeder school such as Oregon, I had better earn straight A’s (when C’s were the majority grade for competent exams) and then hope for some magic to enter academia. Regurgitating black letter law proved easy for me, and most classes conveniently fit that mold.

But Dean Bell’s class was different. Policy mattered, and doctrine was steeped in the early threads of critical race theory and rich historical perspectives that worried me as to how I might be called upon in our exam to situate the black letter law within these important policies and histories. I knew the holdings of the *Dred Scott* and *Lochner*² cases, for example, but how might I relate on an exam that Dean Bell taught how both relied on structural rather than historical readings of the Constitution, and how the bakers in *Lochner* were just as powerless economically and otherwise as the black slave in *Dred Scott*? My worry, happily, was short-lived.

During my third year, however, Dean Bell resigned abruptly to protest the Oregon faculty’s refusal to extend a tenure-track offer to a female Asian-American candidate who had graduated from University of Texas³ rather than from one of the elite law schools. Dean Bell, having attended Pittsburgh law school, believed more in the quality of a candidate’s experience than the pedigree of her law school.⁴

Visiting the next year at Stanford Law School, Bell taught the same constitutional law course he offered at Oregon, but controversy arose as some students complained that Bell placed slavery and race in the foreground.⁵ What was intriguing in then lily-white Oregon played differently in the terrain of California where, at the time, demographic changes

1. STEVEN W. BENDER, *ONE NIGHT IN AMERICA: ROBERT KENNEDY, CÉSAR CHÁVEZ, AND THE DREAM OF DIGNITY* 93 (2008).

2. *Dred Scott v. Sandford*, 60 U.S. 393 (1856) (striking down the Missouri Compromise and ruling that African Americans, even if free, were not citizens of the United States), *superseded by constitutional amendment*, U.S. CONST. amend. XIV; *Lochner v. New York*, 198 U.S. 45 (1905) (striking down state statute setting maximum hours for bakers).

3. She ultimately enjoyed a stellar academic career elsewhere.

4. See DERRICK BELL, *CONFRONTING AUTHORITY: REFLECTIONS OF AN ARDENT PROTESTER* 45 (1994).

5. Judith G. Greenberg, *Erasing Race from Legal Education*, 28 U. MICH. J.L. REF. 51, 75–76 (1994); see also Derrick Bell, *The Price and Pain of Racial Perspective*, STAN. L. SCH. J., May 9, 1986, reprinted in MICHAEL A. OLIVAS, *THE LAW AND HIGHER EDUCATION: CASES AND MATERIALS ON COLLEGES IN COURT* 1122 (2d ed. 1997).

made race more apparent and contentious both outside and inside the classroom.

With the tutelage and support of a former Yale law professor at my Arizona law firm, Oregon hired me in the early 1990s. It was only after several schools pursued me that Oregon became interested, but I look back with some satisfaction that by elevating principle above all, Derrick Bell made it possible for me, an unpedigreed Mexican-American lawyer, to receive and accept a tenure-track offer from essentially the same faculty Bell had left five years prior. I taught my first law class in the same classroom as our constitutional law course, and it felt as if I was walking in some large footprints teaching there.

Over the years, I continued in Derrick Bell's path and orbit, writing books on Latino/a workers and immigrants—the civil rights issue of our time—that employed Bell's use of narrative and his interest-convergence theory,⁶ and serving as co-president of the progressive organization Bell had helped establish years before, the Society of American Law Teachers. I oversaw and spoke often about demographic changes and struggles in the Northwest that Bell had prepared me to both anticipate and analyze through historical and critical perspectives. I was always pleased to see him at academic conferences and gatherings, knowing that although I took his course at Oregon and not Harvard, Stanford, or NYU, I too belonged in the room.

6. See Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518 (1980). For a comprehensive collection of excerpts of Bell's influential theories and writings, see *THE DERRICK BELL READER* (Richard Delgado & Jean Stefancic eds., 2005).