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THE MARYLAND LEGAL AID BUREAU: DECADES OF SERVICE AND REFORM

JOSÉ FELIPÉ ANDERSON*

In a legal and judicial career that spans nearly five decades,¹ few issues have affected retiring Chief Judge Robert Mack Bell more than access for the poor to civil justice. As a student at Harvard University in the late 1960s, he would work at the Boston Legal Aid Society.² As a young lawyer at a prominent Baltimore law firm, he did community and poverty law work and impressed his colleagues as one “committed to the use of the law not only to serve his clients, but also to improve society.”³ The zeal of Chief Judge Bell for supporting access to civil legal services was mirrored by the growth during his career of the powerful and influential Maryland Legal Aid Bureau, Inc.

In fall of 2011, the Maryland Legal Aid Bureau celebrated its centennial.⁴ From its modest beginning in the Baltimore legal community as a charitable endeavor, to its growth into a major law office serv-

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1. Judge Robert M. Bell was appointed by Governor Marvin Mandel to the District Court of Maryland in Baltimore on January 2, 1975. At thirty-one, he was the youngest judge appointed to the court at that time. On October 23, 1996, Governor Parris Glendening named him Chief Judge of the Maryland Court of Appeals after his years of service on the state's intermediate appellate court and as an Associate Judge on the Maryland high court. He became the first African American Chief Judge in Maryland history. On July 6, 2013, his seventieth birthday, he is required to retire under Maryland Law. *Judge Robert Bell: Timeline*, BALT. SUN, Apr. 13, 2013.

2. *Chief Judge Bell Retires*, BALT. AFRO AM., Apr. 3, 2013.

3. *Id.* (quoting former Baltimore Mayor Kurt L. Schmoke who practiced law with Chief Judge Bell at Piper and Marbury shortly after law school).

4. According to an early history of the Bureau, it was founded in September 1911. An organization known as Federated Charities and a group of lawyers from a committee of the Baltimore City Bar Association established the Bureau to address a “long felt need in Baltimore by those cognizant of actual conditions for a more prompt and efficient method of giving to the city's poor the necessary legal assistance.” LEGAL AID BUREAU OF BALTIMORE, INC., FIFTY YEARS OF LEGAL AID IN BALTIMORE 1 (Daily Record ed., 1961). It handled 234 cases in its first year of operation. *Id.*

ing Maryland's poor, the agency's history is a unique story in the American legal experience.⁵

I. STRUGGLE FOR JUSTICE: THE EARLY DECADES

Although the legal profession has a tradition and obligation to provide legal service to the poor,⁶ pro bono service by the private bar has never fully met the great need for such services. A significant step toward closing the justice gap in Maryland came in 1911 when the Federated Charities founded the Legal Aid Bureau in Baltimore City.⁷ The Baltimore agency was part of a trend started in New York and other major American cities toward the end of the nineteenth century to form societies to offer legal assistance to immigrants and other poor people.⁸

The Bureau reviewed fifty applications from potential clients in its first month of operation.⁹ By the end of 1930, the Bureau's caseload had grown to 650.¹⁰ There were some unpleasant moments in the early days of the agency. For example, the Bureau referred two of its volunteer lawyers to the Attorney Grievance Committee for potential discipline because of poor treatment of its clients.¹¹

At a time when few women practiced law during the 1930s, Doris Cohn served as an assistant counsel with the Bureau.¹² She worked for

5. At its centennial, the agency has grown to thirteen offices and about 300 lawyers covering the entire state of Maryland with a budget of about \$30 million. Janet Eveleth, *Maryland Legal Aid Bureau-100 Years of Service*, 44 MD. BAR J. 44 (Sept./Oct. 2011).

6. See *United States v. Dillon*, 346 F.2d 633 (9th Cir. 1965). The court reasoned that: An applicant for admission to the bar may justly be deemed to be aware of the traditions of the profession which he is joining, and to know that one of these traditions is that a lawyer is an officer of the court, obligated to represent indigents for little or no compensation"

Id. at 638.

7. THE PUBLIC LAWYER 14 (Am. Bar Ass'n 1994).

8. *Id.* At the time of the founding of the Maryland Bureau, the organized system of legal aid in the nation was woefully inadequate and only loosely organized. One early chronicle of the legal aid experience notes that "[a]lthough a national alliance of Legal Aid Societies was formed in 1912, following the first conference of legal aid organizations, it provided for no more than a weak federation. It lacked both funds and power to provide any real leadership." EMERY A. BROWNELL, *LEGAL AID IN THE UNITED STATES: A STUDY OF THE AVAILABILITY OF LAWYERS' SERVICES FOR PERSONS UNABLE TO PAY FEES* 5 (1951).

9. *Id.* at 17.

10. *More Than 650 Cases Handled By Legal Aid Bureau Last Year*, BALT. SUN, Jan. 5, 1930, at 20.

11. *Id.*

12. Charles H. Dorsey et al., *A History of Maryland's Legal Aid Bureau, Inc.*, PUB. LAW., Summer, 1994, at 15.

the agency for seven years.¹³ Although breaking this gender barrier seemed progressive for the times, the prevailing racial climate also affected the work of the Bureau.¹⁴

The minutes of a mid-1930s meeting memorialized a discussion about an African American attorney that had volunteered to handle Bureau cases. The directors reached the conclusion that to allow the attorney to volunteer would not be in the best “interest of the Bureau” at that time.¹⁵

The Legal Aid Clinic, a program the Bureau jointly sponsored with the University of Maryland School of Law, provided the first clinical experiences for law students. The idea for student participation with the Bureau was first documented at a November 1935 board of directors meeting.¹⁶ Roger Howell, Dean of Maryland Law, approached the Bureau to work “out some form of cooperation between the Bureau and the Law School by which law students would do some work for the Bureau in exchange for instruction and direction.”¹⁷ The board took care to emphasize that students would be used “on interviewing in simple cases, but that no advice [would be] given without supervision.”¹⁸ In later years, this clinical model would be followed at the University of Baltimore School of Law.¹⁹

In November 1939, the board met to discuss whether the Monumental City Bar Association, a group of black lawyers, should be asked to review the proposed rules for legal aid cases. Judge Thomas Waxter noted that fifty percent of the “Bureau’s clients are colored” and stressed “that the Bureau was a semi-public agency and that no association could properly be excluded.”²⁰ At the conclusion of the meeting on November 21, 1939 “a motion passed providing that members of the Monumental City Bar Association should be represented not

13. *Id.*

14. The 1930s were a time of racial segregation in America. Black Codes and Jim Crow segregation laws had the purpose and effect of “keeping blacks down and depriving them of equal status.” Akhil Reed Amar, *Becoming Lawyers in the Shadow of Brown*, 40 WASHBURN L.J. 1, 8 (2000).

15. Meeting Minutes, Legal Aid Bureau, at 117 (Nov. 13, 1934) (on file with author).

16. Meeting Minutes, Board of Directors, Legal Aid Bureau (Nov. 20, 1935) (on file with author).

17. *Id.* at 126.

18. *Id.*

19. During the 1970s, the University of Baltimore would operate a clinical programs including one that would assist the elderly. Anne K. Pecora, *Lawyer and University of Baltimore Professor Devoted Her Career to Social Justice and Environmental Advocacy*, BALT. SUN, Dec. 25, 2008, at 18A.

20. Meeting Minutes, Board of Directors, Legal Aid Bureau, at 172 (Nov. 20, 1935) (on file with author).

only on the reference attorneys committee but also the policy making committee on which other associations are represented.”²¹ On August 20, 1940 Judge Waxter was elected Chairman of the Board of the Legal Aid Bureau.²² On January 15, 1942 Miss Rose S. Zitzer, President of the Women’s Bar Association was the first woman elected to the Legal Aid Bureau board.²³ It would, however, take almost another decade before the leadership of the Bureau would include African Americans.

At its June 27, 1951 meeting, the board of directors considered whether it should consider “a Negro member of the Bar elected to the Board membership.”²⁴ The minutes reflect what was described as an “extended discussion” before the matter was tabled.²⁵ At the board’s next meeting of October 16, 1951, however, it passed a resolution that as a matter of policy a Negro was not prohibited from being elected to the board.²⁶ On December 9, 1952 the nominations committee of the board of directors nominated the first Negro to the board, E. Everett Lane, President of the Monumental Bar Association.²⁷ In February of 1959, Dallas F. Nicholas became the second African American attorney to be elected to the Legal Aid Bureau board of directors after E. Everett Lane’s term ended.²⁸

II. THE WAR ON POVERTY: THE 1960S AND 1970S

Law reform efforts reached their peak in the United States during the 1960s. Federal legislation signed by President Lyndon Johnson made funds available to support many government benefit programs, including those that provided legal services.²⁹ The poverty law movement would energize reform-minded advocacy across the nation and encourage poverty lawyers to pursue relief in the sometime friendly and somewhat liberal U.S. Supreme Court led by Chief Jus-

21. *Id.* at 173.

22. *Id.* at 194.

23. *Id.* at 220.

24. Minutes of the Meeting of the Board of Directors of the Legal Aid Bureau (June 27, 1951) (on file with author).

25. *Id.*

26. *Id.*

27. Minutes of the Meeting of the Board of Directors of the Legal Aid Bureau 4 (Dec. 9, 1952) (on file with author).

28. Minutes of the Meeting of the Board of Directors of the Legal Aid Bureau 1 (Feb. 18, 1959) (on file with author).

29. ALAN W. HOUSEMAN & LINDA PERLE, CTR. FOR LAW & SOC. POLICY, SECURING EQUAL JUSTICE FOR ALL: A BRIEF HISTORY OF CIVIL LEGAL ASSISTANCE IN THE UNITED STATES 7 (2003).

tice Earl Warren.³⁰ With several war-on-poverty initiatives in place during the late 1960s, the Legal Aid Bureau of Maryland experienced growth and progress.³¹

At the beginning of the 1970s, the Supreme Court would issue its historic ruling in *Goldberg v. Kelly*,³² which held unconstitutional a New York State procedure that permitted termination of welfare benefits upon only seven days notification.³³ The state procedure did not afford a hearing before those benefits were terminated.³⁴

The Maryland Bureau had great success in the Supreme Court regarding benefits for children under the Social Security Act. In *Griffin v. Richardson*,³⁵ the Supreme Court held unconstitutional the practice of reducing Social Security benefits for certain illegitimate children who could not collect if legitimate children had exhausted the benefits.³⁶ That decision affirmed the Legal Aid Bureau's victory in a Maryland federal court.³⁷

Decisions from the U.S. Court of Appeals for the Fourth Circuit such as *Taylor v. Weinberger*³⁸ and *Cullison v. Califano*³⁹ further developed the rights of many disability claimants who endured the uncertainty of benefits hearings.

During most of the 1970s, the Bureau was led by an innovative lawyer name Joseph Matera who expanded the focus of the office to pursue high impact litigation.⁴⁰ His Deputy Director Charles H. Dorsey would continue Matera's aggressive reform-minded litigation

30. Chief Judge Warren's tenure on the Supreme Court during an era of unmatched judicial activity has been accurately described by one historian as "a liberal high-water mark in American history" JIM NEWTON, JUSTICE FOR ALL: EARL WARREN AND THE NATION HE MADE 11 (2006).

31. By 1970, the Bureau had grown considerably since the 1950s. By that time it "had become one of the largest law firms in the State of Maryland, with an average of 57 full time lawyers on its staff . . . [and] a total staff of 102 persons." LEGAL AID BUREAU SIXTIETH ANNUAL REPORT 9 (1970).

32. 397 U.S. 254 (1970).

33. *Id.* at 267–68.

34. *Id.* at 255.

35. 409 U.S. 1069 (1972).

36. *Id.*

37. 346 F. Supp. 1226 (D. Md. 1972).

38. 512 F.2d 664 (4th Cir. 1975) (finding that claimant, who was unable to return to her customary occupation as a clothes presser in a laundry, did not receive a proper hearing).

39. 613 F.2d 55 (4th Cir. 1980) (finding that the matter should have been remanded to the Secretary of the Department of Health, Education, and Welfare when claimant obtained counsel after benefits were denied who discovered additional medical reports showing a long history of treatment of serious emotional impairment and personality disorder).

40. LEGAL AID BUREAU ANNUAL REPORT (1972).

blueprint for the office until his untimely death in 1995.⁴¹ Dorsey grew up in segregated Baltimore and was the first black graduate of Loyola College in Baltimore and the first black attorney to serve on the State Board of Law Examiners.⁴² Under his guidance, Legal Aid—whose budget had grown to \$12.5 million—reached out to both the urban and rural poor.⁴³ The building that now houses the Legal Aid Bureau has been named in honor of Dorsey, who is considered by many its most influential leader.⁴⁴

III. LITIGATION PROTECTING CHILDREN

The woeful condition of juvenile detention facilities in Baltimore City led the Bureau to seek reform in federal court litigation in 1970. In *Long v. Robinson*,⁴⁵ a federal judge declared unconstitutional the exceptions to the Maryland juvenile statutory schedule that permitted Baltimore City to try sixteen and seventeen year olds as adults when nearby counties could try youths of the same age as juveniles.⁴⁶ The court explained that if these youths were unable to make bail and were treated as adults, they would be deprived of various counseling, educational, and vocational opportunities afforded juveniles.⁴⁷ The court further noted that “if convicted as adults, these children may lose the right to vote; to serve in the Armed Forces; to secure many types of government and private employment . . . ; and will carry forever the stigma of conviction.”⁴⁸

IV. PRISONERS RIGHTS

The Bureau, through its Prisoner Assistance Project, provided legal assistance to prison inmates throughout the 1970s and beyond. Prior to 1979, the Bureau served a less overcrowded prison population, concentrating much of its attention on litigating systemic violations of prisoners’ rights. In *Bundy v. Cannon*,⁴⁹ a Maryland federal court in 1971 found the State’s disciplinary procedures to be uncon-

41. Frank D. Roylance, Obituary, *Charles H. Dorsey, Jr., 64, Legal Aid Director*, BALT. SUN, Apr. 24, 1995.

42. *Id.*

43. *Id.*

44. The legal team Dorsey assembled at the Bureau rivaled that of any private law firm in the state. *Charles Dorsey’s ‘Zest for Justice,’* BALT. SUN, Apr. 27, 1995.

45. 316 F. Supp. 22 (D. Md. 1970).

46. *Id.* at 31.

47. *Id.* at 28.

48. 316 F. Supp. at 22.

49. 328 F. Supp. 165 (D. Md. 1978).

stitutional due to lack of notice of the charges and a failure to conduct impartial hearings.⁵⁰ In 1972, questionable practices at the Baltimore City jail were ordered to be eliminated in *Collins v. Schoonfield*,⁵¹ a case which attacked the totality of conditions at the jail.⁵²

V. FAMILY MATTERS

Bureau lawyers had been actively involved in protecting the fundamental rights of the family in termination of parental rights cases. In 1983, the Court of Appeals of Maryland, in *Washington County Department of Social Services v. Clark*,⁵³ found unconstitutional a statutory presumption for termination if a child was out of a parent's custody for over two years.⁵⁴

VI. HOUSING

Protecting the availability of decent, affordable housing has always been one of the highest priorities of the Legal Aid Bureau. In the early 1970s, the agency advanced this important mission by combining the expertise of its law reform and housing units in order to centralize "all new developments in the area of housing law, to provide the best possible service to the low income community."⁵⁵

In *Green v. Copperstone*,⁵⁶ one of the first reported state court decisions involving subsidized housing, Bureau lawyers established the principle that public housing tenants cannot be evicted without due process and proper cause.⁵⁷ That due process principle was reaffirmed in 1986 by the Court of Appeals in *Carroll v. Housing Opportunities Commission*.⁵⁸ The Bureau also represented thousands of ten-

50. *Id.* at 172-73 (resulting in revised procedures for dealing with adjustment violations of general rules and regulations of the Maryland Division of Correction).

51. 344 F. Supp. 257 (D. Md. 1972).

52. *Id.* at 277 (concluding that a jail is required to afford reasonable medical treatment to inmates which "includ[es] a reasonable medical examination [and] access to sick call").

53. 296 Md. 190, 461 A.2d 1077 (1983).

54. *Id.* at 196, 461 A.2d at 1080 ("[D]ue process requires that permanent termination of the parents' right to the care, custody and management of their child will not be granted except upon clear and convincing evidence.").

55. LEGAL AID BUREAU SIXTIETH ANNUAL REPORT 12 (1970).

56. 28 Md. App. 498, 346 A.2d 686 (1975).

57. *Id.* at 517, 346 A.2d at 697 (holding that due process considerations require a hearing and proof of good cause for eviction after notice of the grounds upon which eviction is sought).

58. 306 Md. 515, 510 A.2d 540 (1986) (holding that tenants of federally funded housing projects have a right continued occupancy and may not be evicted absent good cause).

ants hoping to improve housing conditions, noting the importance of decent housing for at-risk populations.⁵⁹

After Dorsey's sudden death in 1992, the agency was led by Wilhelm H. Joseph, Jr., who succeeded Dorsey as the Bureau's Executive Director.⁶⁰ In the tradition of his predecessor, Joseph was a legal trailblazer.⁶¹ A native of Trinidad, Joseph attended college in Mississippi during the height of its civil rights unrest.⁶² Under Joseph's leadership, the Bureau's budget increased. He explained: "[W]e have strengthened partnerships with the legislature, private funding entities, the private bar and the union (including finalizing a collective bargaining agreement)."⁶³ These changes provided "the ability to present [the Bureau] to [its] clientele as a source of stable, competent and zealous services."⁶⁴

VII. CONCLUSION

Despite the many challenges faced and overcome, the Maryland Legal Aid Bureau has demonstrated over the last several decades that it is a national leader in law reform, providing meaningful help for the powerless and disenfranchised. Like Chief Judge Bell, the Bureau has carried its full access-to-justice values well into the twenty-first century.

59. One Bureau attorney recently noted: "It's usually the most vulnerable who wind up getting hurt Those who are disabled, those who are elderly, those with large families." Julie Scharper, *City Moves to Take Down Troubled Complex*, BALT. SUN, Sept. 30, 2010.

60. *Id.*

61. Prior to coming to Baltimore, Joseph had been director of the Legal Support Unit, Legal Services for New York City.

62. Janet Stidman Eveleth, *Law in the Public Interest: The Legal Aid Bureau*, 30 MD. BAR J. 30 (July/Aug. 1997).

63. *Id.*

64. *Id.*