

## **More than Your Average Lawyer: Beyond the Call of Duty**

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### **ABSTRACT**

The civil rights era was a period of unveiling and combatting discrimination against, and unjust legal treatment of minorities in the United States. This article discusses how the unconventional participation of influential lawyers in the civil rights movement was necessary in counteracting these norms. It was crucial both during and after this period for these legal advocates to ensure the public of their commitment to a transformation of the justice system by connecting with the diverse members of their community. This article serves to trace the valiant efforts of such lawyers in North Carolina and the South, allowing for a better understanding of the actions that were needed to provide change that has benefitted all minorities in this country, and by extension, the world.

Keywords: Lewis Pitts, lawyers, transformation, Julius Chambers, justice, civil rights

### **Introduction**

In the midst of the civil rights movement, activists acted as the voice of oppressed Americans. However, many cases arose where activists needed the assistance of lawyers when their efforts were blocked by the legal system. This article examines how representatives of the Southern Justice Institute were not only prepared to defend activists in this situation, but were also willing to fight among them as activists themselves. It was common for many lawyers during and after this period to simply offer assistance in proving one's innocence to the court. However, this firm made an extensive effort to become involved in the movement in a way that was much larger than the courtroom. Looking at how lawyers worked outside of the normal requirements of their position raises a series of questions that demonstrate how the members of the Southern Justice Institute and other firms battled outside forces – and even some within their own legal system.

The literature that was analyzed for this research portrays the extent of direct and indirect influences that lawyers faced during the civil rights era and even beyond this period. This article asks if there is any real difference between activists for social movements and lawyers, and, if so, how do these roles differ? Finally, what were the underlying motivations for these lawyers to take on these cases? Through analyzing scholarly articles and archival sources that address the specific practices of lawyers, this article examines the unique strategies employed by those of the Southern Justice Institute and other lawyers of the period. Observing the life of lawyers outside of the Southern Justice Institute helps to create a thorough understanding of the motives behind the actions of lawyers who doubled as activists, such as Julius Chambers. In spite of the odds he faced, Chambers grew to become a dedicated lawyer who practiced putting the needs of the community above anything else. Growing up in the Jim Crow era motivated him to fight against oppressive conditions and help to provide a progressive future for generations to come.

## The Creation of a Civil Rights Ally

During the civil rights era, lawyers and law firms exposed many injustices related to human rights and had a significant impact on attempts to remedy them. The Southern Justice Institute is a unique example of the determination and effort expended by a collective group of people, in order to bring justice to those treated unjustly. The lawyers of this firm prided themselves on their commitment to revealing the unfair treatment of minorities at the local and national levels. Additionally, their efforts brought social transformation by addressing these mistreatments through the use of activism. The firm also produced skillful and effective lawyers who used varied approaches that gained them national attention, and who possessed the essential characteristics necessary for making an enduring impact on the civil rights movement. These lawyers, along with others in the southern states, demonstrate the capacity required to ensure positive outcomes in the civil rights era from a legal and social perspective. Lastly, and perhaps most importantly, they led by example, providing other lawyers throughout the south with approaches that focused on a broader goal than simply gaining victory in court.

The Southern Justice Institute began in Washington DC as the southern division of the Christic Institute, but was subsequently moved to several other locations. It was opened in 1985 under the direction of Lewis Pitts in Winston-Salem, North Carolina, as the Christic Institute South, then was moved to Carrboro in 1986, and then to Durham in 1991 (“Southern Justice Institute Records, 1978–1993” n.d.). Its first board, created in Winston-Salem in 1986, was made up of members representative of the diverse community. Over a short span of time, the board had four black members, two women members, and three who lived below the poverty line (*Christic Institute-South* n.d.). The diverse array of members illustrates the firm’s dedication to not only supporting racial equality, women’s empowerment, and income equality, but also its validation of and faith in these particular groups facing discrimination. The firm’s chosen board members had a crucial role in the firm’s mission to assist minorities in the community, and many of these members had a history of contributing to social movements. One member, Sara Nelson, served as the executive director of the firm for many years and was an essential member in fighting for women’s rights. She was greatly involved in the National Organization for Women and also the Equal Rights Amendment ratification campaign in Oklahoma (*The Christic Institute – An Interfaith Center for Law and Public Policy* n.d.). Another skilled board member and lawyer who specialized in the field of income equality and racial justice was Lewis Pitts, whose involvement and expertise in certain cases demonstrated the importance of his role in the firm and several social movements. Pitts was a longtime activist of the Southern Justice Institute and his many contributions helped it prevail as a well-known public interest law firm (*The Christic Institute – An Interfaith Center for Law and Public Policy* n.d.). While these board members were greatly responsible for the success of the firm as well as progressive role models in the community, many other factors can be considered equally beneficial to the firm.

Due to the ample outpouring of support of the board members, various organizations, and community members, the Southern Justice Institute was able to participate in many arduous civil rights cases. The firm was fortunate to have dozens of financial contributors, many of which were organizations such as foundations and churches, as well as other movements dedicated to supporting racial equality and women’s rights. The firm’s major funders in the late 1980s included the Boehm Foundation, Fund for Southern Communities, Deer Creek Foundation, News World Foundation, and J. Roderick MacArthur Foundation (*The Christic Institute – An Interfaith Center for Law and Public Policy* n.d.). These organizations and others assisted the firm in any way they could, but the funding they provided dramatically propelled the firm’s efforts to serve

justice. The financial support also helped with initiating various projects throughout the years. In analyzing the firm's finances through balance sheets and its fund balance statements, a spike in donations is evident from 1989 to 1990. At the beginning of 1989, the firm had a fund balance of \$346,741 that decreased to \$192,183 by the end of the year. However, due to an increase in various contributions from donors and revenue from special events and projects, 1990 saw an increase in the fund balance, which began the year at \$192,183 and ended the year with \$482,096 (*The Christic Institute – An Interfaith Center for Law and Public Policy* n.d.). This illustrates the support and allegiance of contributors committed to achieving the same goals as the firm.

As a public interest law firm, the Southern Justice Institute's motives and approaches can be understood as focusing on unveiling injustices and bringing attention to social issues, rather than simply seeking justice for their charged clients. The firm was adamant about representing those that truly needed their help in order to advance their cause, so to qualify to receive their representation one had to be "a leader or political activist in a local empowerment or progressive issue group" (*The Christic Institute South – Serving the Movement for Peace and Justice* n.d.). This illustrates one of their overall goals of providing equality to those affected by social issues. By providing this assistance, the lawyers were using their status to present the voices of these activists to the community. Law firms generally want the best for their client, but this law firm was dedicated to striving for a broader goal than solely winning in court. This institution also sought to use the benefits of grassroots support through educational and religious resources to gain momentum in effecting social change.

The Southern Justice Institute often used approaches such as creating media and educational resources to draw attention to topics and issues, due to the belief that increasing awareness would, in turn, create a larger support system for combatting social injustices. One way that they used the media to attain this goal was through creating magazines, periodicals, books, audio tapes, and videos that could be circulated within the community and beyond (*The Christic Institute – An Interfaith Center for Law and Public Policy* n.d.). Pamphlets and brochures were also created that included an overview of cases, lawyers, funding options, and other topics to convey their mission. The firm also had board members and lawyers speak at churches, colleges, seminars, and political organizations. In order to reach a broader audience, the firm was committed to communicating the efforts of their lawyers and their overall motives by outsourcing to international television, computer networks, and national broadcasts (*The Christic Institute – An Interfaith Center for Law and Public Policy* n.d.). These types of communication can be viewed as much more complex and extensive than those performed by most law firms in this period, but their mission was also much larger than that of a typical firm.

The firm usually only took on three or four cases a year in order to commit adequate time to each case, and its lawyers were adamant about being focused on revealing social problems. They believed that defending their clients should come second to this goal. The institution strived to address many local cases that would benefit their community because of their firm belief in creating a change at home that could eventually branch out to have a significant social impact nationwide (*The Christic Institute – An Interfaith Center for Law and Public Policy* n.d.). Aside from this belief, they also felt passionate about representing cases that would have an effect at the national level, especially with regard to empowering women and people of color (*Christic Institute South – Defending the Movement for Racial Justice and Political Empowerment in the South* n.d.). Another characteristic of the firm was its keen focus on giving the most attention to cases that would receive little attention from the press or even a fair trial in court. Cases that were thought to have little chance in making progress could often be overlooked, and the

Southern Justice Institute's lawyers felt it was their responsibility to give a voice to these community members and activists. A good example of this were the cases involving the harassment of government officials, which received much of the firm's funds and other resources. These cases received a lot of attention both locally and nationally due to their controversial nature, as they stemmed from racial biases in the government that were common during this time. The interest that the Southern Justice Institute took in their clients' cases further serves as evidence of their courageous endeavors to challenge higher powers.

### **Activism in the Civil Rights Era and Beyond**

The cases involving the harassment of government officials were rooted in racist motives, and the Southern Justice Institute sought to expose those involved who were making false accusations. The actions of the firm and its lawyers had an impact that lasted far beyond the civil rights era. Beginning in 1987, the FBI launched an investigation that brought an extensive amount of resources to bear, in order to find any information on possible illegal efforts of elected officials in Winston-Salem. In the summer of 1991, four elected officials and business people were wrongfully charged with various crimes ranging from perjury, conspiracy, mail fraud, and laundering (*Background on the Case of the Winston-Salem Four* n.d.). Coincidentally, the witnesses were comprised of white male businessmen and an undercover FBI agent. Rodney Sumler, Larry Womble, Patrick Hairston, and Reverend Lee Faye Mack were victims of the false allegations. The investigation was referred to as "Operation Mushroom Cloud," and was initiated by a white male. These victims, all prominent members of society, were coined as the "Winston-Salem Four." Rodney Sumler was a political consultant and a lobbyist for the community. Larry Womble was a member of the Winston-Salem Board of Education and a founder of the N.C. Black Elected Municipal Officials. Patrick Hairston was known for his activism and also his participation in the NAACP. Lastly, Reverend Lee Faye Mack was known for her community activism, and was "highly respected for her outspoken advocacy and action on behalf of the most downtrodden members of the community" (*Background on the Case of the Winston-Salem Four* n.d.).

The Southern Justice Institute was aware that more than just litigation was required to make progress in this case. Reverend Mack was represented by both Lewis Pitts of the Southern Justice Institute and Gregory Davis, a lawyer in Winston-Salem. Mack had a large community support system that knew these accusations were incorrect based on her years of public service and dedication to the community. Additionally, Mack's case was especially unique because, during the trial in 1992, the government dropped the racketeering and corruption counts with which she had previously been charged. The judge ordered that she be tried separately from Sumler, Womble, and Hairston on two remaining counts when their trial was over (*Background on the Case of the Winston-Salem Four* n.d.). The only two remaining counts for Mack were those of conspiracy to obstruct and perjury, and this is where the Southern Justice Institute worked to represent Reverend Mack (Folder – Harassment of Black Elected Officials (Charges) n.d.). It was noted by the government that all of the previously mentioned counts were dropped because there was not enough evidence to back up the charges. The other three accused were represented by different lawyers, but they were connected through the counts for which they were charged. In addition to Mack's counts that were dropped, the government also dropped all gambling charges for the remaining three officials, admitting that there was not the evidence required to back up the charges, "an admission that the government never had the right to bring those charges in the first place" (*Background on the Case of the Winston-Salem Four* n.d.). This

admission marked the beginning of the government's loss of credibility, even though there was little evidence from the start – to the point that even the case's prosecutor claimed there was nothing that proved any guilt on the part of the officials. The case of Reverend Mack was significant for many reasons, as were the cases of the other government officials, but the involvement of Pitts in Mack's case was one of the most striking components.

With Reverend Mack's case being tried separately, Pitts and Davis also received assistance from Gayle Korotkin. Gayle was another lawyer from the Southern Justice Institute who was determined to fight on Mack's behalf for the justice she deserved (*Christic Institute-South* n.d.). However, during the trial, Korotkin and Pitts received a scornful letter from Davis with regard to a newsletter released by the Southern Justice Institute. The newsletter updated followers of the firm on ongoing or completed cases and other events the firm was involved with, along with sections that dealt with social issues. Davis's letter expresses his frustration with the firm and their stance on the case, which he extracted from the newsletter. The newsletter included commentary that illustrated the firm's contempt for the government and its racially motivated prosecution, along with the cowardly actions of the lawyers prosecuting Reverend Mack (Davis 1992). Davis continues on, expressing his belief that taking this bold approach was the incorrect strategy, and his unwillingness to move forward in the case with the assistance of the Southern Justice Institute because of the comments in the newsletter. Additionally, Davis expressed that, while this strategy may have appealed to some of Mack's supporters who were certain of her innocence, this was not how he wished to pursue the case. This resulted in him giving the ultimatum that either he or the other lawyers had to withdraw as Reverend Mack's representation (Davis 1992). In response, Pitts and Korotkin explained their confidence in the Reverend Mack's case receiving a reversal, due to the denial of cross-examination and the lack of materiality presented by the opposing side. One of the closing sentences of the letter that can be assumed to be written by Pitts, in which the two announce their withdrawal from the case for the best interest of the client, states: "I assume the Judge will jump with joy over our departure – unless he wants to cause hardship for us" (Pitts and Korotkin 1992). This sentence highlights Pitts' acceptance of the legal system's almost antagonistic attitude concerning his advocacy for justice in this case and his disgust over the system as a whole.

### **Lewis Pitts as Activist**

The reaction of Lewis Pitts as he and Korotkin were withdrawing from Reverend Mack's case accurately depicts a recurring theme of his insight on the dynamics of lawyers and the legal system altogether. As he was the director of the Southern Justice Institute, his beliefs and actions, which were oriented around helping a larger cause, were representative of the firm and its motives. Due to his devotion to children's rights during his time at the Southern Justice Institute, he accepted the position of Legal Director for the National Committee for the Rights of the Child in the mid-1990s. Even at this time, his opposition to the behavior of lawyers was apparent. In a letter asking for a grant from none other than Bill Gates himself, Pitts states, "I do not think well of lawyers as a whole; they lack courage to stand up to the Power Structure and routinely ignore the ethical principles in the Rules of Professional Conduct which state, among other things, that we as lawyers have a 'special responsibility for the quality of justice' in our nation" (Pitts 1993). This seemingly small comment was not the first time Pitts had openly expressed his hesitance around the legitimacy of the legal system, and would certainly not be the last. Additionally, his commitment to providing justice for those he felt deserving of it is illustrated when he reiterates in the letter to Mr. Gates that he made less than legal service wages in his twenty years of being a

lawyer, a clear indication that he was not invested in the institute for his own personal gain (Pitts 1993). This supports the argument that, as an activist, his main priority was to fight for equality in all realms of life. His involvement in civil rights and passion for bringing others justice did not solely take place in the legal sector, and his distaste for lawyers acting unethically did not abate.

The work of Lewis Pitts is commendable for many reasons, but it is his mistrust of the legal system and its processes that make him a unique lawyer and activist dedicated to providing justice. Purposefully choosing to resign from the Bar in 2014, as opposed to simply retiring his membership, Pitts was adamant about completely withdrawing from the system. His feelings on this decision were reflected in his letter of resignation, where he stated that being inactive would mean that he would still abide by the rules of the Bar. He stated, “my resignation is because I see an overall breach by the Bar as a whole of the most basic notions of professional conduct and ethics such that I do not want to be associated with the Bar” (Pitts 2016). The breaches that he goes on to address in detail go against the very qualities of justice and equality that the Bar vows to uphold and provide, and Pitts suggests that these qualities are only sought in the system when those in power are able to benefit. He also attributes many unethical practices within the system as stemming from the norm of profits outweighing the importance of bringing justice. Moreover, Pitts believes the system has turned into a market where “the quality of legal representation on either the criminal or civil side depends on the amount of money one has. What a travesty: millions of people desperately need legal representation while there are a flood of lawyers who cannot find work such that bar associations discuss the crisis of too many law schools” (Pitts 2016). This emphasizes, from an intimate perspective, his strong feelings for others and also speaks to his advocacy during his time working with the Southern Justice Institute.

### **Julius Chambers as Activist**

Pitts is just one of many lawyers who faced oppression due to his stance on racial injustices and other controversial social issues. Julius Chambers, a lawyer in Charlotte, North Carolina, was unique in his many accomplishments as a black lawyer during and after the civil rights era. His involvement in many desegregation and discrimination cases earned him respect in the courtroom, even though some were against his advancement and would often attempt to thwart his progress in cases. Ignoring the many acts of terror involving bombings and fires inflicted on Chambers, his family, and his firm, his largest opposition could be viewed as his fellow lawyers and judges within the courts. In several cases, Chambers had a clear victory in sight due to the obvious discrimination exhibited by the defendants, until those within the court system attempted to impede his success. For example, Chambers was deliberately denied a fair trial in *Wooten vs. Moore* [1969], a discrimination case. In this case, a restaurant wished to not serve blacks in New Bern and was managing to avoid being made to do so because of a business loophole. During the case, judicial ethics were ignored and Chambers was conspired against by Moore’s lawyer, who discussed his case with the judge outside of the courtroom (Mosnier and Rosen 2016, 110). This blatant disrespect for Chambers and his clients reflects the overall attitude of many bar members, and the superiority that these members believed to possess over Chambers and the black community.

In another instance where Chambers filed a complaint against the Young Men’s Christian Association (YMCA), the YMCA locations in Charlotte and Raleigh both appeared to ignore the Civil Rights Act [1964] with regard to discrimination. These locations were both determined to keep some parts of the organization segregated and unavailable to blacks. Chambers quickly forced the Charlotte location to reverse their decision by filing a lawsuit. However, the Raleigh

YMCA would attempt to make concessions to the black community in various ways that could avoid their objections to seemingly concealed racist motives. This case became known as *NeSmith v. YMCA of Raleigh* [1967] (Mosnier and Rosen 2016, 119). The case was eventually ruled in Chamber's favor when it reached an upper-level court upon appeal, but not before the appearance of racial bias in the courtroom when a judge initially ruled in favor of the YMCA (Mosnier and Rosen 2016, 105). To be in favor of the YMCA in this instance represents a clear disdain for the Civil Rights Act [1964] and its implications. The judges in these cases only illustrate some of the obstacles faced by Chambers, but with his dedication to his clients and the cause, he was able to overcome them and bring justice to the black community. With these cases, Chambers became a crucial activist for blacks in the area during the civil rights period, and set an important precedent that does not accept any loopholes and that demands equality without businesses being able to intervene on technicalities.

Lawyers during the civil rights era were effective in the judicial arena, but their activism outside of the courtroom offered a holistic support system for the cause. Lewis Pitts and Julius Chambers can certainly qualify as activists for their tireless efforts to change the system, as opposed to lawyers who worked for their own economic benefit, as Pitts suggested. Another lawyer connected to Lewis Pitts, and who greatly supported equality during this era, was Alan McSurely. An attorney from Washington D.C., he and his wife dedicated a home in Carrboro, North Carolina, funded through the winnings of a prior case, where action-oriented groups could meet. The Southern Justice Institute was among these groups, which eventually led to the close relationship between Pitts and McSurely. In commenting on the generous donation provided by him and his wife, McSurely said, "we're just trying to see if we can't help organizations that are doing good work" (Trincia 1987). This act of recycling funds back into a cause that McSurely felt was essential to the fight for civil rights depicts true activism at work, and steps such as this are necessary for the advancement of certain groups.

### **Lawyers and Activists**

Many practicing lawyers during the civil rights era can collectively be assumed to have benefited the black community as a whole. However, the goals of lawyers and activists do not often overlap, as they have varying approaches and motives in certain cases. Speaking of this, Leroy Clark stated: "the lawyers understandably thought of 'winning' cases; the activists did not care if a case was 'lost' if the movement was advanced. The lawyers had experienced a progressive series of court victories and did not see the law as ultimately antagonistic to social change. The activists had known jails, beatings, and coercion – even when their cases were 'won'" (Clark 1970, 465). This stark contrast is the main difference that separates the two, and there would be some situations where these actors would remain on completely different spectrums for the goals they strived to reach. Even lawyers and activists who had the same goals could have different action plans for implementing justice, such as in the case of Reverend Mack. As discussed, Davis criticized Pitts and the Southern Justice Institute for their activism and the radical approach used in their newsletter to draw attention to the racial bias presented by the government in their inaccurate and unsupported claims (Davis 1992).

Regardless of the disconnect that may occur between lawyers and activists, the combined effort of these groups is required in order to fulfill the needs of community members struggling to obtain their rights. Activists are important for they voice their opinion on injustices, while lawyers must then bring attention to these issues and demand a change. Also, Clark argues that "on a day-to-day basis a civil rights lawyer was crucial to the momentum of direct-action

techniques, for he devised ways to quickly secure the release of demonstrators from jail so that they could continue demonstrating and keep the political and moral pressures on” (1970, 465). This emphasizes the imperative role of lawyers in this time, even if they were not considered activists.

Lewis Pitts, Julius Chambers, and Alan McSurely undoubtedly proved their activist status through their many years of hard work and commitment to the cause. The involvement of these lawyers in the community and in nationwide struggles brought much legitimacy to their firm in their unified fight to better the community and provide social, economic, and racial equality. Their assistance in this struggle from a legal perspective is admired and appreciated from an activist’s viewpoint, but this also begs the question: exactly how much did their participation in the civil rights movement really help?

## **Conclusion**

Lawyers are presented with the ability to alter a system slightly when there is an injustice, but to what extent they are able to change the system is questionable. The unique and recurring concept of preservation-through-transformation was introduced by Reva Siegal and can be attributed to the efforts of many lawyers during the civil rights period. This idea describes the process of status hierarchies being perpetuated through legal reform over the years because the change that occurs is not enough to bring about a structural change. For example, though there has been significant progress in the advancement of women’s rights and in the past 100 years, the social hierarchy has not altered much. John Calmore mentioned in regard to this theory that “legal changes have been significant, at least in formal senses, and those changes have produced real progress in improving the lives of people. Yet, because the legal changes have not gone far enough, have not been sustainable enough to resist backlash and retrenchment, those changes have not been fully transformative” (Calmore 2004, 620–21). So, how permanent were the changes brought upon by the lawyers and the legal system during the civil rights era?

Though well-intentioned, the efforts of many lawyers during the period discussed in this article were clearly temporary and insufficient as racial and even gender injustices are still exhibited in society. Herein lies the primary reason why the role of activists proved to be so necessary for the period due to their calls for a change in the system, and why they can today be perceived as equally essential. Lawyers can publicize issues in their cases when fighting for justice and potentially bring justice to their client, but this is not necessarily an act of calling for reform in the structure of hierarchies. Calmore speaks about this from a lawyer’s perspective: “sometimes, we have a tendency to focus too narrowly on the legal issue and, consequently, law reform efforts are reduced to stopgap or, increasingly, hold-harmless measures” (2004, 621). A transformation that has deeper roots in a broader change – as opposed to a focus on specific cases or situations – is required to see a genuine, permanent difference, which is what Pitts, Chambers, and McSurely exhibited through their activism.

The Southern Justice Institute was able to be so well known for its political activism because of its lawyers and the support it received. Its origins allowed it to develop above and beyond what could have been expected of a public interest law firm. The lawyers and the board members provided a solid background for the institution and proved their commitment in their time at the firm. The infamous case of Reverend Mack that was prompted by racial incentives exemplified the willingness of the Southern Justice Institute to risk withdrawing from a case in order to publicize all that was unjust about it, demonstrating what was of true importance to Pitts and the Southern Justice Institute. Lewis Pitts and Julius Chambers knew the consequences they would



face when they took on the positions of both lawyer and activist in working to ensure civil rights for the community, and they were not willing to back down or hesitate in this fight. They wanted to do whatever was necessary to bring social change, and not just keep their clients happy by winning certain cases – assuming the role of activist while being a lawyer came second. Such lawyers were trying to do more than the bare minimum, and, contrary to Pitts’ idea of lawyers, were not concerned with appealing to those in a higher position of power.

Social justice and equality for all were the primary, driving factors for these lawyers, and the standing of lawyers in this particular social construct allowed them to use their power and status to provide a more substantive support system for certain movements. The readiness of the firm to combat the legal system represents their dedication not only to their clients, but to a complete social transformation.

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