

Pennsylvania Supreme Court

Bar Admission Ceremony

GEORGE BOYER VASHON

Wednesday, October 20, 2010
801 City County Building
Pittsburgh, Pennsylvania 15219



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Proceedings

CHIEF JUSTICE CASTILLE: Good morning, Ms. Bizoso, Mr. Minner, and good morning to all who appear before the Court today.

We welcome you to this Special Session of the Supreme Court of Pennsylvania. We are sitting in Special Session on this occasion to listen to and act upon a Petition for the reform of records that reflect that George B. Vashon possessed the necessary credentials to practice law in Pennsylvania.

This Court is a historic court, and this courtroom is a historic courtroom. We are the oldest sitting Supreme Court in the nation having been founded in 1684 as William Penn's Provincial Court.

In 1722, by that constitution, we became an independent body, no longer answerable to the King of England or the Governor of Pennsylvania. We became the Supreme Court of Pennsylvania in 1722, and we have sat continuously for over 300 years as a judicial body.

We welcome everyone to this ceremony today, and I would like to take special notice of individuals here who are descendants of Mr. Vashon who appear here today: Janet G. Davis, Lee Davis, Carolyn Thornell, Richard Thornell, Paul Thornell, Nolan Thornell, Nolan Atkinson Jr., Esquire, well-known to the Court, and his wife, Elizabeth Atkinson. We welcome those family members to this historical ceremony.

This petition was brought to this Court by Mr. Wendell Freeland, Esquire, who is sitting here at the counsel table. It concerns George Boyer Vashon who was an African-American resident of Pittsburgh, son of a prominent black family, during the mid 1800s.

Mr. Vashon received his B.A. with honors and his M.A. from Oberlin College where he was the first black graduate.

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He then studied the law with the honorable Walter Forward, at that time a prominent Allegheny County Court of Common Pleas Court Judge, who later went on to become U.S. Secretary of the Treasury.

Following Mr. Vashon's mentorship with Judge Forward, he applied for admission to the Allegheny County Bar in 1847. During this era, bar admissions were made to the local county and ruled on by the local county judges.

The examining committee at that time would not consider Mr. Vashon's application citing the Pennsylvania Constitution of 1838, which only extended the voting franchise to, quote, "every white free man," close quote.

Presumably, in the minds of the examining committee, bar admissions could not be extended to a person who did not have the right to vote.

Mr. Vashon then moved from Pennsylvania to Syracuse, New York, where he took the bar exam and was admitted to the bar of New York in 1848, becoming the first black man admitted to the New York Bar.

Mr. Vashon left the practice of law in 1853 when he accepted a professorship at New York's Central College where he became active in the Underground Railroad movement.

Thereafter, in December of 1857, Mr. Vashon returned to Pittsburgh, and he became principal of what was known then as the Colored Public Schools.

Mr. Vashon went on to become president of Avery College in Allegheny County in 1863; and after the Civil War, Mr. Vashon worked in the Solicitor's Office of the Bureau of Refugees, Freed Men and Abandoned Lands in Washington, D.C., where he was then admitted to practice before the Bar of the U.S. Supreme Court.

Mr. Vashon was appointed to his position by the Bureau's head, General O. O. Howard, the founder of Howard University. Mr. Vashon became Howard University's first professor, and was instrumental in establishing its law school.

When Mr. Vashon left Howard, he became a professor of Mathematics and Ancient and Modern Languages at Alcorn

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College in Rodney, Mississippi. When the yellow fever epidemic of 1878 swept the nation and Alcorn's campus in the fall of that year, Mr. Vashon became one of its victims, and he died on October 5th, 1878, and he lies in an unmarked grave on that campus.

In 1868, Mr. Vashon had again applied for admission to the Allegheny County Bar, but once again, he was denied admission because he had not practiced law since 1853.

Historically, in Allegheny County and in Pennsylvania, generally, it is clear that there has been formal legal discrimination against African-Americans.

Indeed, it was not until 1891 that the first two African-American men were admitted to practice before the Allegheny County Bar. Mr. Vashon seems to have been denied admission solely on account of his race, an exclusion which was deemed to be lawful at that time under a close reading of the Pennsylvania Constitution.

The 1838 Pennsylvania Constitution had been specifically amended to limit the voting franchise to white males, and that was an apparent response to the hot abolitionist disputes in Pennsylvania during the relevant period and to make certain that black Pennsylvanians could not vote.

It appears that at the time of Mr. Vashon's initial application in 1847; the Allegheny County Bar relied upon this constitutional provision in rejecting his application.

While there is no question that this action was blatantly discriminatory, that stain on our Commonwealth history still remains, and as much as it may disturb our modern sensibilities, it appears that the Allegheny County Bar at that time relied upon this constitutional provision, which was obviously discriminatory, but was the law nonetheless.

Our existing standards and practices show that while discrimination may still exist in our society, it is a far cry from those ancient practices that denied Mr. Vashon his rightful place in our jurisprudential scheme.

But our action here today serves as notice of this Court's awareness of and sensitivity to the fact that those prior practices had a real effect on real people.

Who moves for the admission of Mr. George B. Vashon to the Bar of this Court?

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MR. FREELAND: I do, Mr. Chief Justice; and may it please the Court, I am Wendell Freeland, and I represent Nolan Atkinson and Paul N.D. Thornell, the Petitioners in this matter.

I point out that — first of all, I would like to introduce my colleague, Leslie Carter, who sits at the counsel table with me —

CHIEF JUSTICE CASTILLE: Welcome.

MR. FREELAND: — and who has buffeted me with many drafts and redrafts as we prepared the Petition to present to this Honorable Court.

CHIEF JUSTICE CASTILLE: This Court knows well that you probably needed a lot of help.

MR. FREELAND: I am reminded of the fact that my first matter before this Court caused the Chief Justice Horace Stern to admonish me and my colleague for not recognizing the King's Bench powers of this body. Thank heavens, I have learned of the King's Bench powers and knew to invoke them, at least some of them, in this instance.

I want to thank you for having this ceremony and for organizing it so that you could have everybody here at 9:30. Had I known you would have so many distinguished guests here and members of the Bar and members of the Bench, I would have probably written more, and I would have said more; but let me have a few words, if I may.

On May 4th, 2010, this Honorable Court entered a order recognizing that George B. Vashon possessed the necessary credentials, competency, and good character to practice law in Pennsylvania in 1847 and admitted George B. Vashon to the practice of law in the courts of this state posthumously.

The more one thinks about this action by this Court in response to our Petition, the greater its significance may be. This Court could have stated that this generation of jurists did not discriminate against the ancestor of the Petitioners.

In fact, it could have stated that this institution, this Court, is not the institution that caused the ancestor of the Petitioners to be discriminated against. It was Allegheny County, which did it.

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Some have used these arguments to rebut — to rebuff the efforts of blacks before the courts and before administrative agencies by saying that the harm inflicted upon this generation was not a harm that was — or a harm that was inflicted upon the ancestors of this generation is not a harm that is subject now to reparations or redemption.

The Court in this case, this Court, chose not to use those arguments. It stated it has the power to act and the petition of Atkinson and Thornell gives it the factual basis for using that power.

For this, Mr. Chief Justice, and members of the Court, the citizens of Pennsylvania and, indeed, the citizens of the United States should be grateful.

In your Order, you invited me and members of the Vashon family to be here for you to confirm the acknowledgment of George B. Vashon's qualifications to practice law.

If I may, I now move the granting of the Petition filed before you, and a public acknowledgment of that grant of petition; and if I may, in addition, introduce one of my clients whom you have already recognized, Nolan Atkinson, for him to appear before the Court.

CHIEF JUSTICE CASTILLE: Thank you, Mr. Freeland.

Mr. Atkinson, himself a prominent attorney in Philadelphia. We welcome you to Pittsburgh, Mr. Atkinson, and we look forward to your remarks.

MR. ATKINSON: Thank you, Mr. Chief Justice, and members of the Court.

I think we have heard all of the reasons why the petition should be granted. We thank the members of this Court for carefully reviewing the law and practices that occurred in Allegheny County in the 19th century, and we are, indeed, pleased that this Court saw fit to exercise its King's Bench powers to grant the petition filed by Wendell Freeland and Leslie Carter. Thank you, sir.

CHIEF JUSTICE CASTILLE: Mr. Atkinson is the great-grandson of George B. Vashon; and I believe is a great-great-grandson in the audience?

MR. ATKINSON: Yes, sir, and his name is also Nolan. Stand up, Nolan.

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(Young Nolan Atkinson complies.)

MR. ATKINSON: Thank you, sir.

CHIEF JUSTICE CASTILLE: Thank you very much, Mr. Atkinson.

Could we hear from Ms. Carter?

MS. CARTER: Not today, Chief Justice. Thank you very much.

CHIEF JUSTICE CASTILLE: We appreciate your work, especially your back-up for Mr. Freeland who definitely needed that.

We want to welcome — I can't name all of the Judges in the audience, but it looks like the entire Allegheny County Bench is in the audience, and if you would just raise your hand, we welcome you to this ceremony.

(All judges comply.)

CHIEF JUSTICE CASTILLE: I believe I saw one of your former members in the audience and our former member, Justice Cynthia Baldwin.

Justice Baldwin, welcome.

We will now hear words from the Honorable Kimberly Berkeley Clark of the Allegheny County Bar Association — I mean, Allegheny County Court of Common Pleas. If you would please step forward, Judge.

JUDGE CLARK: I am a member of the Allegheny County Bar Association, former president, but thank you.

Mr. Chief Justice, Justices of the Pennsylvania Supreme Court, good morning. It is an honor and privilege to be here to participate in this great ceremony of the posthumous admission of George Boyer Vashon to the admission of the Bar of Allegheny County and the Commonwealth of Pennsylvania.

I myself am a lifelong resident of Allegheny County and as a lawyer, a Judge, a woman, and first and foremost, as an African-American, I am very appreciative of the fact that the highest court in our Commonwealth has recognized the importance of acknowledging the injustice that was commit-

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ted in denying Mr. Vashon admission to the Bar of Allegheny County.

I think that we can all agree that although this injustice can never be corrected or righted, the fact that it is now being acknowledged is of great significance.

One hundred sixty-three years have passed since George Vashon was denied admission to the Bar of Allegheny County, and incredibly, we still live in a city, a county, a Commonwealth and a nation that is fraught with racism and disparity due to social and economic standing, due to race and ethnicity, and due to gender and sexual orientation; and even though we have elected our first President of color of the United States of America, the struggle is not over. Indeed, for some of us, the struggle is just beginning.

However, on this day, the acknowledgment that George Boyer Vashon was denied what he rightfully earned, speaks volumes. It tells us that those who don't look like me understand the power of acknowledgment and accountability.

It tells us that we need to work harder to ensure that the legal profession is more inclusive and less exclusive. It tells us that we all need to speak up, when we see injustice of any kind occurring.

It tells us that despite the color of my skin, that I'm really no different than you, that I am no less intelligent than you, and that we are all equals; and more importantly, it tells the boys and girls of color like the ones I see every day in my juvenile court that they are important. It tells them that their dreams can come true. It tells them that they are somebody, and that they matter.

So thank you for this acknowledgment today. The celebration today gives hope to minority law students, the young lawyers of color, and the judges to be that their time is now.

Remember, that the struggle continues and that it belongs to all of us. We all own it. I leave you with the words of my favorite poet, Maya Angelou:

“The night has been long.
The wound has been deep.

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The pit has been dark.
And the walls have been steep.
Under a dead blue sky on a distant beach,
I was dragged by my braids, just beyond your reach.
Your hands were tied, your mouth was bound.
You couldn't even call out my name.
You were helpless, and so was I,
But unfortunately, throughout history.
You've worn a badge of shame.
I say the night has been long.
The wound has been deep.
The night has been dark.
And the walls have been steep.
The hells we have lived through and live through
still
Have sharpened our senses and toughened our will.
The night has been long.
This morning, I look through your anguish
Right down to your soul.
I know that with each other, we can make ourselves
whole.
I look through the posture and past your disguise
And see your love for family in your big brown eyes.
I say, clap hands and let's come together in this
meeting ground.
I say, clap hands and let's deal with each other with
love.
I say, clap hands and let us get from the low road of
indifference.
Clap hands, let us come together and reveal our
hearts.
Let us come together and revise our spirits.
Let us come together and cleanse our souls.
Clap hands, let's leave the preening
And stop imposterism in our own history.
Clap hands, call the spirits back from the ledge.
Clap hands, let us invite joy into our conversation
Courtesy into our bedrooms
Gentleness into our kitchen
Care into our nursery.
The ancestors remind us, despite the history of pain,
We are a going-on people who will rise again.
And still we rise."

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When we leave here today let us not forget George Boyer Vashon and the important place that he has in the history of our county and our Commonwealth.

Let us not forget the battle that he fought and today has finally won. Let us not forget that without George Vashon and others like him, many of us would not be here today. Let us not forget our obligation to speak up and stand up for equity and justice.

Let us not wait until 163 years to correct injustice in America. Let us not forget that the struggle continues. Thank you.

CHIEF JUSTICE CASTILLE: Thank you Judge Clark, for those appropriate remarks.

(Applause.)

CHIEF JUSTICE CASTILLE: Thank you. We will now hear from Howard Schulberg, Esquire, President-Elect of the Allegheny County Bar Association. Mr. Schulberg?

MR. SCHULBERG: Thank you, Mr. Chief Justice, Justices of the Supreme Court, distinguished guests, and most especially, Vashon family members.

I'm honored to address this session of the Supreme Court on the momentous occasion of reversing the act of discrimination that George B. Vashon experienced so many years ago.

I speak on behalf of the officers, Gary Hunt, President, Kim Brown, Immediate Past President, the Board of Governors of the Allegheny County Bar Association, and in this instance, I think I can speak safely on behalf of the entire membership of the Allegheny County Bar Association, numbering 6,600.

We are grateful to all those who learned of this injustice and undertook with unrelenting determination the necessary efforts to bring it to the Court's attention.

We are thankful to this Court for recognizing the wrong that was committed and determining that no matter how much time had passed, it must be made right. The mere passage of time cannot erase the injustice caused by those who saw fit to deny Mr. Vashon his rightful place at the Bar.

The action the Court takes today reflects how far we have traveled over the last century and a half. We hope that in

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some small measure, today's action is a reflection of this fundamental change and helps to mend the wounds that such incomprehensible conduct must have inflicted upon family and friends.

It is interesting to remember that this was a time when there was no unified judicial system. The practice of law, as Mr. Chief Justice pointed out, was usually done on a circuit basis with lawyers traveling from town to town to represent their clients.

Every lawyer was admitted to practice before the local courts by that particular court. As a matter of fact, when Mr. Vashon first sought admission here in Allegheny County, there was no Allegheny County Bar Association. Nor in 1868 was there any type of bar association.

The ACBA was founded in 1870, and I would like to think that my colleagues at the Bar would have acted differently had there been such an organization as the Allegheny County Bar Association.

We at the ACBA are not so naive to think that by this action, all injustice and discrimination has been resolved.

We as members of this Bar will continue to fight for the rights of individuals and zealously pursue the eradication of all discrimination.

As a matter of fact, I think it is important to note that at a time when we recognized the wrong committed upon Mr. Vashon, the ACBA has a well-established diversity program meant to encourage minorities to come to Allegheny County to practice law.

Our diversity program also encourages law firms in Allegheny County to recruit and hire minorities. This program has been in place since 2004, and so far, it has had some encouraging results.

We have increased diversity of membership from percentages measured in the single digits to over 10 percent currently.

We are encouraged by these results, but we will not stop there. We will continue to provide impetus to the law firms and minorities to join us in our efforts to make this a culturally diverse and special place to live.

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It would have been so easy to ignore what happened over 150 years ago by people of a different time. We commend the Court for not closing their eyes to the issue and instead, taking action to rectify the discrimination practiced by an unenlightened group.

The legacy created by the Court's action today makes the Commonwealth of Pennsylvania a better place to practice law and a better place to live.

Today we should all be proud to say that we practice law in the Commonwealth of Pennsylvania, a place where injustice will not stand and when uncovered, will be vanquished. Thank you for allowing me to address the Court and speak on this most important issue.

CHIEF JUSTICE CASTILLE: Thank you, Mr. Schulberg.
(Applause.)

CHIEF JUSTICE CASTILLE: And we have Judge Pat McCullough from the Commonwealth Court, who is in the audience.

Pursuant to Article V Section 10 of the Pennsylvania Constitution, the Supreme Court of Pennsylvania has exclusive authority to regulate the process by which applicants are admitted to the Pennsylvania Bar.

This Court has the inherent power to reform the records of those admitted to the practice of law.

Accordingly and by unanimous agreement, this Court will reform the records to reflect that George B. Vashon, at the time of his application in 1847, possessed the necessary competence, credentials, good character, and qualifications to practice law in the Commonwealth of Pennsylvania.

Therefore, by unanimous agreement, this Court has ordered that upon the motion of Nolan Atkinson, Jr., Esquire, Leslie Carter, Esquire, and Wendell Freeland, Esquire, George Boyer Vashon shall be admitted posthumously to the Bar of the Courts of the Commonwealth of Pennsylvania.

In testimony whereof, I have set my hand and affixed the official seal of the said Supreme Court reflecting the date of admission for George B. Vashon as the 4th day of May, the year 2010, signed by Ronald D. Castille, Chief Justice of Pennsylvania.

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And if the crier would please present this Certificate of Admission to Mr. Freeland, so he may present it to the family, the members of the Vashon family.

MR. FREELAND: Thank you.

(Presentation of certificate to Mr. Freeland and then presentation to Mr. Atkinson and then presentation to family.)

(Applause).

CHIEF JUSTICE CASTILLE: Mr. Minner, you may adjourn this Special Session of the Supreme Court of Pennsylvania.

MR. MINNER: This special session is adjourned.

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