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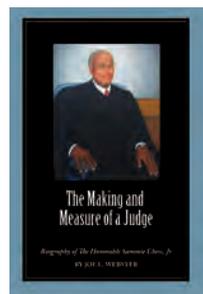
SAMMIE CHESS, JR.
SUPERIOR COURT JUDGE, NORTH CAROLINA



SAMMIE CHESS JR. VIEWS HIS PORTRAIT, WHICH IS ON DISPLAY IN THE NORTH CAROLINA SUPERIOR COURT, HIGH POINT, N.C., AND IN THE COUNTY COURTHOUSE IN ALLENDALE, S.C. PHOTO BY LAURA GREENE, *HIGH POINT ENTERPRISE*, 2015.

A giant among judges and men

by Joe L. Webster



THIS TRIBUTE IS BASED ON JUDGE WEBSTER'S BOOK, *THE MAKING AND MEASURE OF A JUDGE: BIOGRAPHY OF THE HONORABLE SAMMIE CHESS, JR.* (CHAPEL HILL PRESS, 2017.) ALL PAGE NUMBERS REFERENCE THE PRINTED BOOK, AND ITALICIZED SECTIONS ARE EXCERPTED FROM THE BOOK.

[T]here can be but few men in the society who will have sufficient skill in the laws to qualify them for the stations of judges. And making the proper deductions for the ordinary depravity of human nature, the number must be still smaller of those who unite the requisite integrity with the requisite knowledge.”

— The Federalist No. 78, Alexander Hamilton

ON A DIRT FLOOR OF A TENANT HOUSE LOCATED AT THE EDGE OF A COTTON FIELD IN THE RURAL BULL POND COMMUNITY OUTSIDE ALLENDALE, S.C., A GIANT WAS BORN IN THE MIDST OF AMERICA’S GREATEST DEPRESSION. Named after his father, Sammie Chess the junior was refined by a close-knit family, faith, and the deeply segregated south. The Hon. Sammie Chess, Jr. (“Chess”) rose to become the first African American superior court judge in North Carolina and one of the first in the United States south of Washington, D.C. Gov. Robert “Bob” Scott had the courage to appoint Chess as a special superior court judge in November 1971, at a time when previous governors had not had the courage or desire to do so.

After graduating from North Carolina Central Law School, passing the North Carolina bar exam in 1958, and serving his country in the army from 1958 to 1960, Chess, like other African American pioneer lawyers of his generation, hung his shingle. He practiced law in High Point, N.C., and, like many of his race, accepted his calling as a “social engineer” (p. 28) to take on a deeply fractured society, full of racial prejudice and invidious discrimination, which badly needed to be challenged and corrected. It was as a civil rights lawyer that Chess first made his mark on society. Chess was serious about the oath

he took to defend and protect the constitution and viewed himself as a soldier of that constitution (p. 67). His imprint was felt in numerous legal cases affecting the lives of thousands of people in High Point and beyond. As one of the cooperating attorneys of the NAACP Legal Defense Fund, Chess was an attorney of record in *North Carolina Teachers Association v. the Asheboro City Board of Education*, *Robinson v. Lorillard Co.*, and *Addison v. High Point Memorial Hospital*. He also was an attorney for the plaintiffs and the public face of the lawsuit initiated against the High Point Board of Education to desegregate the public schools. During the pretrial and trial stages, Chess, along with the lead attorney (renowned civil rights attorney and friend, Julius Chambers) and others, represented the plaintiff in an employment racial discrimination case, *Griggs v. Duke Power Co.* On March 8, 1971, the U.S. Supreme Court decided for the plaintiff and held that employment tests must be job related. *Griggs* was the first racial discrimination case brought under Title VII of the Civil Rights Act of 1964 to come before the U.S. Supreme Court on its merits and quickly became a landmark decision. *Griggs’s* author, the late Supreme Court Justice Warren Burger, identified *Griggs* as the most important case handed down by the Court in his first two full terms (p. 69).

What distinguishes Judge Chess from so many other lawyers and judges who have served our state and nation

well? He is a man of unsurpassed courage, grace, determination, and strength of character that allowed him to overcome obstacles not experienced by most other lawyers and judges of his generation. Chess is guided by a moral compass. He said,

. . . {Y}ou must have a bearing and abiding faith in your moral direction; that you can’t be a lawyer if you don’t stand up straight. There will be blows against you, but you will be a man if you take the blows. A man can do remarkable things if you inspire others. You can even disarm your opponent if you stand up straight and practice these principles. You can’t think about consequences, but you have to think about what the constitution requires. (pp. 66-67)

In the early 1960s, Chess traveled to Gastonia, N.C., to his opposing attorney’s home turf to present a civil case, the only case his father ever witnessed. The jury ruled in his client’s favor. After rendering their verdict, many of the jurors, who were highly impressed by the manner in which Chess had argued his client’s case, came down out of the jury box asking for Chess’s business card, desiring him to be their family attorney. However, whatever joy of victory Chess experienced was tempered by what he and his father experienced when they were leaving the courtroom. As Chess and his father walked some distance behind his opposing attorney out of the courtroom into the hallway lead- ▶

ing toward the exit, a man came toward the opposing counsel. The man spoke to opposing counsel and asked him,

“What in the world happened to you? You look like you have been in a fight with a bobcat.” The opposing counsel responded, “A nigger lawyer just beat the shit out of me.” Without saying a word, Chess and his father continued to walk toward the exit. (pp. 87-88)

Later as a trial judge, in many of the courts where Chess presided, the various court officials such as clerks, bailiffs, and other law enforcement had never seen a black lawyer, let alone a black judge. During one assignment, Chess traveled to a distant court and

{Chess} remembers pulling into a parking space which was marked with a sign indicating that the space was for judges only. “This deputy came rushing up to me saying, ‘Are you crazy, what do you think you’re doing?’ I didn’t say anything. He said, ‘Can’t you read?’ I said, ‘Deputy, I am the judge.’ All of a sudden, it came to him that he heard there was a black judge. I told the deputy, ‘It’s OK. This is something you have not been accustomed to.’” (p. 106)

These are but a couple of examples that prove Chess was the right person to become the first African American superior court judge in North Carolina. While many others would have been offended and ready to take measures in their own hand, Chess was not willing to bring himself to the level of a Klansman. He was well grounded and rooted in love and forgiveness, which was embedded in him by his parents and extended family. His grandmother gave him advice that served him well. She said, “You are better than nobody, but nobody is better than you.” Chess also said, “My way isn’t to get angry. If you disagree with me, I’m not going to stop talking to you.

Chess distinguished himself by carrying himself in a professional, nonconfrontational manner that undoubtedly did much to combat ignorance and prejudice. Perhaps unbeknownst to him, Chess’s manner garnered respect and promoted reconciliation among persons of different racial backgrounds and from all walks of life.

I’m going to keep talking and try to persuade you, and eventually you may come to see things the way I do.”

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Notwithstanding Chess’s manner of dealing with racial prejudice, he learned early in his career that not everyone would understand his work as a civil rights lawyer. He learned that some would despise him. During this period a white man near Chess’s office approached Chess to tell him that he saw him as being the “devil incarnate.” Later on, however, after getting to know Chess, he learned that Chess was a good man. Several years later Chess was asked to do the man’s eulogy. (p. 153)

Lest anyone conclude that Chess was a “yes man” or somehow too weak to stand up to the arduous work involved in representing clients as a civil rights lawyer during the height of the civil rights struggle, his strength of character was unquestionable. No one ever accused Chess of being weak. Strength of character includes the ability to walk away from a fight if necessary. However, Chess proved he was only human on one occasion as exemplified by the following incident that occurred at the High Point, N.C., courthouse in the early 1960s, a rare occasion in Chess’s professional life where his always calm-and-collected demeanor was challenged. Chess described the incident:

A number of attorneys, including myself, had “shucks” (court files) in our hands waiting in line to discuss dispositions with the prosecutor. All of a sudden the prosecutor reached up from his seat and snatched the shuck from my hand. I immediately reached over and pulled him up from his seat, cocked my fist and looked him in the eye and told him, “If you ever snatch anything from me again, I’ll crack your jaw.” (p. 61)

JUDICIAL WISDOM

Chess says, “my agenda is to be open and do justice in every case that comes before me as God and conscience show me what justice is in that matter. That’s all I

take with me on every case.” As a private lawyer and then judge, he advocated for “justice for all people, regardless of race, societal background, or education. I think of myself as just a man and now a judge. I’m going to try to do justice in every case that comes before me.” Chess saw the absolute need to treat all who came before him with respect. He said, “The court must always stand high in the opinion of the populace. The governmental system must show respect for every citizen. If it can do that, it can survive.” (pp. 105, 115)

Judge Chess understood the great responsibility of being a trial judge; that the role of judge is, in some respects, like that of being an umpire. However, Chess’s judicial philosophy was much more than one that called upon him to call balls and strikes. He said,

Judges have a greater responsibility than to just sit there and rule; judges have a responsibility to make sure that defendants make an informed decision; to make sure that it is not the time constraints of counsel that are the basis of the defendant’s decision. Defendants are at a disadvantage of expressing themselves. They have had conferences with their counsel; they don’t want to anger their counsel. The defendants know they are at the hands of their counsel and that after the judge is gone they are in the hands of their counsel. As judge, I had a responsibility to take that weight off of the defendant. (The judge) says, “I’m not there to protect lawyers. I have a duty to see to it that the atmosphere is proper, that the conditions are appropriate for a defendant getting a fair and impartial trial; if the judge fails in this regard then he or she has engaged in a major failing.” My concern was to pierce the veil and see that the conditions exist to best insure those concerns. (p. 111)

In December 1971, shortly after taking the oath of office, Judge Chess was

interviewed by a newspaper reporter. In response to the reporter’s questions, Chess acknowledged that many across our nation were questioning the legitimacy and fairness of our justice system, and whether it could be saved. His solution, that of placing competent people in all levels of our courts who have the requisite integrity and knowledge, no doubt would go a long way toward mending our justice system today.

“There is nothing wrong with the system.” . . . What the courts need, says Judge Chess, is a better implementation, more dedicated people who will inspire confidence and “devotion to try to effect a good system.” Judge Chess said, “It seems we are not meeting the great needs of the people.” He points to what he describes as “dissatisfaction among various age and racial groups.” Young people are asking questions like, “Can it endure?” “Does it meet the needs?” The judge says young people are accusing the establishment of hypocrisy and notes that “we do not live up to the principles of our government.” “They’re asking questions about whether or not government is meeting its responsibilities” . . . “My feeling is that we have got to have people in the system who can inspire confidence in the system from the magistrate’s level to the Supreme Court.” (p. 104)

Chess has commented on another huge problem facing the courts today: the very large number of pro se litigants who seek redress in the state and federal courts.

The United States system of justice, whether involving criminal or civil cases, is an adversary system. There is no exception to this rule. Therefore, many cases are won or lost because of the skill or lack of skill of the lawyer representing the parties. Even worse are situations where one side is represented by one or more skilled lawyers, and the other side has to rely solely upon laymen’s knowledge in repre-

senting themselves in the pursuit of justice. Chess saw many such cases as a Superior Court judge and as an Administrative Law judge. (p. 123)

Related to the pro se litigant problem facing our courts, Chess also pondered a question that has vexed many judges that care about fairness throughout time. To what extent should a judge seek to level the playing field, and thereby promote justice, which is the ultimate end of all civil disputes or criminal prosecutions? Chess resolved the issue by stepping into the fray when necessary to promote justice.

“How does the judge try to see that a fair and just trial takes place without tipping the scale to one side or the other?” Chess believes strongly that indeed it is the job of the trial judge to see that the game is played fairly without having the tremendous power of “undue influence” affect the outcome of the case. While a judge is an independent arbiter, Chess also believes strongly that the judge’s role includes a duty of making sure that there is not a miscarriage of justice. The judge plays a unique role. He or she is in a tenuous position. There is no need for a judge to enter the fray when the adversaries are equal. Equal adversaries can take care of themselves. If the judge sees that an injustice is taking place, then the judge should step in and make sure that injustice doesn’t continue. As soon as the problem is corrected, then the judge should step back and allow the litigants to continue. (pp. 123-24)

Judge Chess was not the kind of judge that would never admit error. Neither was he ever offended or opposed if the losing party gave notice of appeal in open court as some other judges seemed to disdain.

He agrees that he and all judges have failures and, like the most respected judges in American history, commit error from ▶

time to time. Judge Chess, like most judges who have tried many cases over their career, has had the court of higher authority reverse his decision. However, Chess is confident that, with regards to all the failures or mistakes he made as judge, he tried to admit them and go about correcting any error in judgment immediately. Chess says, I tried to proceed honestly and honorably in all of my doings. Whatever I've done did not vary far from who I am. My idea was that I wanted to be accurate and if I was in error in some way, I wanted to be corrected. I welcomed being corrected because in my error I might do injustice in some way. I believe that is why the system is tiered so you will have many eyes. I never made a lawyer think I would be offended by any appeal. Any injustice done would not be intended. I tried to get for an individual the fairest trial possible. I wanted any error in the facts or law to be brought up and corrected so that the individual would get the fair trial to which he is entitled. I have no ego that transcends that responsibility. My responsibility is to ensure an individual a fair and impartial trial. I have no personal interest in the case. I'd rejoice if someone points out something that was contrary to a fair and impartial trial. To do otherwise would be subverting rather than upholding those principles. (pp. 111-12)

Chess also has offered advice to the highest courts in the land. He spoke to the division and lack of comradery that affects not only our society in general, but our court system as well. The division and lack of respect for those even on the same court is evident in the dissenting opinions of various courts.

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that the court's decision is a fair and just result. If there is no finality, then friction continues. This continued friction will be like a scab on the skin of our system of justice. It will continue to fester. (p. 122)

In our still deeply divided America and world today, we can learn so much from Judge Chess. In a time of many voices who are the purveyors of hate and further division in our society, we need to hear more from voices of reason and moderation. For over a half-century, Chess was and remains such a voice. Lawyers and others can learn from his example that you can be an advocate and agent for change designed to make this world a better place. Chess proved, like others among his contemporaries, that you can be an agitator and go against the system in an attempt to seek fairness and justice, and still gain the respect of others, including your adversaries. A man of integrity, Chess has carried himself in a dignified man-

ner in and out of the courtroom, which allowed him to stand out among lawyers and judges of not only his time, but also the generations before him and after his retirement. His rise to prominence gives hope to those among us who have lost hope and been denied respect because of poverty, race, or other circumstances beyond our control.

Chess is a shining example to others of how, with hard work and perseverance, one can rise above his or her circumstances in life. Indeed Chess is "among those few men in society" who possessed an abundance of the "requisite skill in the law, integrity and knowledge" that Alexander Hamilton wrote about centuries ago as being integral to qualifying for the station of a judge. Because of this, Chess commanded the respect of all who appeared before or got to know him. Perhaps retired Judge W. Douglas Albright of North Carolina's 18th Judicial District Superior Court said it best: "We are all better off as a result of Sammie Chess, Jr., being among us. . . . When his time comes, he will have left this world a better place." (p. 158)



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