

Pioneers In Law



*Judge Hayzel Burton Daniels
December 7, 1907 - March 7, 1992*

The Days of “Haze” A Personal Journey Down the Back Road to *Brown v. Board of Education*

by Linda C. Boone

He was an upstart, brash, outspoken and courageous with the impatience of his youth. He had worked his way through school, receiving a bachelor of arts degree in social sciences in 1939 and a master’s degree in education in 1941 from the University of Arizona. He taught school at Ft. Huachuca where his father had been stationed with the Tenth Cavalry, but then joined the army during World War II. Returning to Tucson from overseas in 1945, his wife encouraged him to go to law school on the G.I. Bill. He graduated from law school in an accelerated course at the University of Arizona in 1948 and planned to move to his home state of Texas or California to start his law practice. He did not believe he would be accepted by the Tucson community as a new attorney because too many people remembered him as a busboy, handyman and switchboard operator at the Old Pueblo Club. However, law school classmates Morris and Stewart Udall argued that Arizona needed him and he should try Phoenix. Hayzel Burton Daniels decided to take a chance. That same year—1948—he became the first African-American to pass the Arizona state bar examination and opened a law office in Phoenix.

Wasting no time, H. B. or “Haze” Daniels, as he was known, became involved in politics and the NAACP. Running unopposed in their Democratic districts, in 1950 he and Carl Sims became the first Black elected state representatives in the Arizona legislature. At that time public schools in Phoenix were segregated by law. Sections

54-416 and 54-430 of the Arizona Code Annotated provided that where 25 or more Negro children were in attendance, segregation was mandatory in the elementary schools and discretionary at the high school level. The Phoenix Union High School District had the only segregated, separate high school in the state: Carver High School at 415 E. Grant St.

Haze took on the battle for integration in the Phoenix public schools in that time-honored political practice of horsetrading. A certain legislator wanted to be Speaker of the House and asked Haze and Sims for their votes. Haze offered to give him their votes if he in turn would help push through legislation to integrate the schools. In a 1983 interview Haze quoted the soon-to-be Speaker as responding: “Is that all you want? You don’t want no money?” Assuring him that they wanted support for the legislation in exchange for their votes, not money, an agreement was reached. Surprisingly, the new House Speaker kept his word and pushed House Bill 86 sponsored by Haze and Sims, out of committee. Despite overwhelming public and media opposition, in March 1951 Haze obtained enough support to pass House Bill 86 by garnering the votes of legislators from outlying districts. His most persuasive argument turned out to be the effect of segregation on taxes. Because there were so few Blacks elsewhere in the state, outside of the Phoenix metropolitan area school segregation would require maintaining two separate school systems. It was a costly burden to the taxpayers. In the final

analysis, money talked.

House Bill 86 involved simply deleting the word “Negro” from the existing school segregation statutes. Some of Haze’s constituents criticized him for sponsoring a bill which allowed any segregation. However, as Haze explained in a 1983 interview, he was taking a suggestion from federal district court judge David Ling to “get like the Mexicans.” A lawsuit filed in 1951 on behalf of Mexican schoolchildren claimed that segregation of Mexican children in Arizona public schools was illegal because there was no law specifically allowing segregation in schools on the basis of Mexican ancestry. The federal court agreed. Therefore, in

getting the legislature to amend the law by deleting all references to “Negro,” Haze left Arizona without any standard for segregation in the schools. The law said simply that school districts could segregate and discriminate, but not “who, what, where or when.” As in the case for the Mexican children, the planned strategy was to initiate a lawsuit on behalf of Black children attacking the constitutionality of the statute. For this step, he went to the NAACP.

Haze’s career involvement in the NAACP was based on his belief that the NAACP’s stand on racial integration, like his own, was uncompromising—contrary to some of the other civil rights organizations of the time, such as the Urban League and Council for Civic Unity. As president of the state NAACP chapter, Haze met with the leadership of the other organizations to discuss initiation of a school desegregation lawsuit. Some leaders opposed the timing; that Haze was moving too fast just after the negative publicity over House Bill 86. Now faced with opposition from other civil rights organizations, but steadfast in their own convictions, the local and state chapters of the NAACP decided in August 1952 to proceed with initiation of the lawsuit on their own. They had neither a

Phoenix lawyer to take the case nor any money. Dr. Robert Phillips, a Black dentist and then president of the local NAACP chapter, did not want to trust the relatively inexperienced Haze with the case. It was decided that Haze would try to find a lawyer in Los Angeles. He was able to convince attorney Loren Miller to take the case.

Loren Miller had made a name for himself by successfully battling against segregation in California public housing all the way to the Supreme Court. Miller came to Phoenix and was in charge of developing the legal

**“There are no second-class citizens in Arizona”
—words from Judge Struckmeyer’s opinion.**

strategy for the lawsuit. The NAACP held meetings to inform the community, urge support and raise money needed for expenses. Dr. Phillips signed a contract for \$5,000 to retain attorneys Miller and partner Al Wirin of Los Angeles, who then associated with attorneys Haze Daniels and William Mahoney of Phoenix. After innumerable hours of work and personal struggle, the case was finally filed on behalf of three students from Carver High School who had been denied admission to an all-white high school: Robert B. Phillips, Jr., Tolly Williams and David Clark.

Phillips v. Phoenix Union High School District was originally filed in federal court. There was some disagreement among the lawyers on whether federal court was the proper place to start. However, knowing that several school desegregation cases were working their way up to the Supreme Court, they pushed forward, hoping to be part of a landmark case. As some had feared, the case was eventually dismissed for lack of jurisdiction because the state court had not been given the opportunity to construe the challenged statute. The attorneys would now have to start all over again in the Arizona Superior Court. In the aftermath of this blow, attorney Miller withdrew in frustration, argu-

ing that he was not an Arizona attorney. William Mahoney, who became the Maricopa County Attorney, also withdrew. There was no more money to hire anyone else. The only one left was Haze.

At this depressing juncture, fortunately Herbert B. Finn, a Jewish lawyer and a member of the Council for Civic Unity, volunteered to work with Haze on the state case. “Volunteering” was the true situation because neither of them was paid for any of their work and, in fact, Haze paid the court filing fee out of his own pocket. It turned out to be a wise investment. The case

had been assigned to Maricopa County Superior Court Judge Fred C. Struckmeyer, Jr. More than 30 years later, in a 1988 interview Haze vividly recalled being summoned before Judge Struckmeyer to discuss the opinion: “The man was crying. He actually was crying when he wrote his opinion... and he said ‘Fifty years of this is too long.’” It was February 10, 1953 and they had won!

The victory was sweet, but not savored long. Although some members quietly agreed with the ruling, the Phoenix Union School Board voted to appeal the decision.

According to newspaper reports of the day, in July 1953 with its appeal still pending and the start of another school year approaching, the Phoenix Union School Board then voted to desegregate with little fanfare and no public discussion. All students could now attend high school in the district where they lived regardless of race. On the basis that the case was now moot, the Arizona Supreme Court dismissed the Phoenix Union appeal on November 10, 1953. However, although Judge Struckmeyer had ruled that there was no lawful statutory authority for segregation of Black children in Carver High School, he had not ruled that segregation itself was unconstitutional, nor did his ruling directly apply to elementary schools.

Pressing forward, on November

12, 1953, Haze and Finn now filed suit against the Wilson Elementary School District. The named plaintiffs in this case were Carl and Frank Heard, plus Cynthia, Myrna Ruth, Pearlle Mae and Flenoy Williams, Jr. They claimed again that the Arizona law under which school segregation existed did not permit segregation on the basis of race, and regardless, the law violated the United States and Arizona constitutions. Everyone knew that the issue would soon be decided by the U. S. Supreme Court and it would be easy to just sit on the case until then. But Superior Court Judge Charles C. Bernstein did not do that. In a bold and direct decision, he ruled that segregation in public schools was a violation of the 14th Amendment. It was an historic moment in the state of Arizona for all concerned.

Although there were members of the Wilson School Board who were not strongly opposed to integration, it is believed that the Board voted to appeal so that if Judge Bernstein's decision was affirmed, Board members could argue that the state Supreme Court had forced their hand. While the Arizona Supreme Court purposefully sat on the Wilson School District appeal, the U.S. Supreme Court requested that a copy of Judge Bernstein's opinion be sent to Washington, D.C. We will probably never know how much the Court was influenced by the Wilson School District case. However, when the landmark decision of *Brown v. Board of Education* (argued by Hon. Thurgood Marshall, among others) issued on May 17, 1954, striking down the concept of "separate, but equal," the Supreme Court had concluded just as directly as Judge Bernstein that racial segregation in public schools was unconsti-

tutional. The vision, courage and hard work initiated by Hayzel Burton Daniels on these desert roads had been fully vindicated.

The far-reaching implications of the *Brown v. Board of Education* decision only served to spur Haze on. To Arizona's credit, desegregation of the Phoenix schools was accomplished with much publicity, but minimal incidents. Haze continued to work toward his vision of a fully integrated society for all people: from behind-the-scenes coordination of peaceful sit-ins at public accommodations, representation of criminal defendants against civil rights violations, or in his subsequent six years service as an Assistant State Attorney General, another first. In the spotlight once again, Haze made national news when he was appointed as a Phoenix City Court Judge in 1965, becoming the first African-American judge in the history of the state. Well-respected, he served with distinction for 13 years, receiving numerous awards and accolades, including the Alumni Distinguished Citizen Award from the University of Arizona. Over his long career, Haze belonged to many civic and professional organizations, including the Arizona Black Lawyers Association, which officially changed its name on February 5, 1993 to the Hayzel B. Daniels Bar Association in his honor. 🏛️

Linda C. Boone is an Assistant U. S. Attorney and President-Elect of the Hayzel B. Daniels Bar Association. Ms. Boone is indebted to the widow of H.B. Daniels for allowing her access to Mr. Daniels' personal papers and memorabilia, and to the many people whose first-hand memories contributed to the preparation of this article.

Each year the Hayzel B. Daniels Bar Association awards scholarships to minority law students attending Arizona law schools. This year the 10th Annual Martin Luther King, Jr. Scholarship Banquet was held on February 5, 2000 at the Hyatt Regency. All proceeds benefit the scholarship fund. As part of a major fund raising campaign, tax deductible contributions are encouraged year 'round. Contact Yvonne Hunter at (602) 250-4520 or Linda Boone at (602) 514-7633.