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STEPHEN BRIGHT INTERVIEW

TRUE JUSTICE: BRYAN STEVENSON'S FIGHT FOR EQUALITY

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STEPHEN BRIGHT

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Interviewed by Trey Ellis

Total Running Time: 1 Hour 17 Minutes

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01:00:00:00

SPEAKER 1:

Stephen Bright interview take one marker.

01:00:03:14

TREY ELLIS:

We'll don't you start earlier, like how did you come to this life's work? It's an unusual path.

01:00:08:22

STEVE BRIGHT:

Oh, I think when I was about 10 or 12 years old, I realized that I was strongly opposed to the death penalty. Of course, I thought that the death penalty had

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been declared unconstitutional in 1972, and I would never have to deal with it as a lawyer, but when I was practicing law in Washington, DC as a public defender in the 70s, I became aware of the fact that the death penalty had been reinstated and that it was being imposed in the Southern states.

01:00;33;12

TREY ELLIS:

And then why are you so against the death penalty?

01:00;38;00

STEVE BRIGHT:

I don't know, it just seemed to me even as a child when I heard about it for the first time, it seemed amazing to me that a modern society would have such a primitive kind of punishment. It just didn't make any sense to me. I don't really have any other explanation for it, but I found it to be very distressing. I didn't know that necessarily that's what I'd end up doing, but as it turned out, it was.

01:01;03;21

TREY ELLIS:

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Wow. You talk about how the criminal justice system has been the least effected by the Civil Rights Movement.

01;01;11;22

STEVE BRIGHT:

Right.

01;01;12;06

TREY ELLIS:

Talk about that.

01;01;13;11

STEVE BRIGHT:

Sure. In the practice I've had over the last pretty much 40 years, most of it has been in the Deep South. You see lots of changes in the Deep South. John Lewis, who was once beaten to within an inch of his life as a Freedom Rider and was beaten again at the Edmund Pettus Bridge, he's my congressman. So we made some progress there in the City Council here in Atlanta, and if you go around the South, you'll find that on county commissions and city councils that there's a great change in terms of there's at least African American representation.

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01;01;41;15

STEVE BRIGHT:

And in some places here in the South where we have a very substantial black population, there may be a very strong representation of people of color. But when you go to the courthouse, nothing has changed. It's like we're back in 1940 or 1950. The judge is white. The prosecutors are white. The court appointed lawyers are white. Even in communities that have fairly substantial African American populations, the jury will be all white. So the only person of color in the front of the courtroom is the person on trial, the African American defendant who's charged with murder and facing the death penalty.

01;02;21;02

TREY ELLIS:

In terms of a jury of their peers, how is that possible?

01;02;25;14

STEVE BRIGHT:

Well, it's not a jury of their peers. Of course, this is where the Supreme Court has done one of its sort of artful dodges to make it seem like it is when it isn't. The court has said that only the jury pool has to be representative, the pool

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from which the jurors who come to the courtroom are chosen, and out of those from which the 12 who ultimately sit are chosen. There's no requirement that either of the group that comes to the courtroom for jury selection or the 12 that are ultimately chosen in a case, that those people have to be representative of the community and quite often they're not. In fact, almost always they're not.

01:03;04;20

TREY ELLIS:

You know, Bryan and you talk about how the early Supreme Court decisions, they failed African Americans. Can we talk about specifically the history of like from Cruikshank and the slaughterhouses and how those kind of cases set a precedent and set the courts on an off track perhaps?

01:03;27;10

STEVE BRIGHT:

Well, the great promise after the Civil War, of course, was the Fourteenth Amendment, and the Fourteenth Amendment provided that there was to be equal protection of the laws, and the purpose really was to protect the freed slaves and to protect the people during Reconstruction from being detained and imprisoned and otherwise dealt with by Southern communities. But

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almost immediately, the Supreme Court turned that around by saying it required state action, and therefore, the people who participated in the Colfax massacre were not entitled, in fact that the law protected the Ku Klux Klan from the government, not the people who were victimized from the Ku Klux Klan.

01;04;06;18

STEVE BRIGHT:

That's remarkable. Then later, the court said you had to prove motive that if you were denying people the vote or denying people their rights in some way, you had to prove the motive and the intent, which is almost impossible to prove. And so basically, you have, and this is something that I try to get across to my students, you have these laws and cases that sound very good on the face of it. When you look at what you actually have to prove, it's a very hollow promise. It doesn't live up to what we say we have in this country when we say equal justice under law.

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01:04;47;22

TREY ELLIS:

It's always been for some people new to the idea of justice, it's understanding this idea of lynching. The idea that if murder is illegal, how is lynching possible as a practice, and what, if any, were the repercussions? How was it allowed to live, these two side-by-side judicial systems, one legal, one extrajudicial?

01:05;14;03

STEVE BRIGHT:

Well, lynching was allowed to go on because very often, the most prominent people in the society were involved in the lynchings and were supportive of the lynchings. And so, you had pictures of lynchings where you can identify some of the prominent people in the community, sometimes even the law enforce people and the judges. The community is participating in the lynchings, and yet the papers would often say, or the coroner's report would more often say that the person died at the hands of people unknown. Actually, the people were quite well known. But the culture at the time was that after the Civil War, when slavery ended, instead of people getting on their knees and begging for forgiveness and saying, "How do we make sure

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this never happens again," the commitment in the South and the governments of the South and the officeholders was to perpetuate racial or white supremacy over African Americans. Many things were done, convict leasing, arresting people, leasing them out to the plantations and the turpentine camps and the railroads. Lynching, which was just, you know, racialized terror, which not only kill the people who were lynched but also terrorize the communities that they were from. All of this to perpetrate this racial difference and Jim Crow and that kind of culture and law at the time.

01:06;49;12

TREY ELLIS:

From lynching to capital punishment, there's sort of this transition from this lynching under the cover of law. Can you talk a little bit about that?

01:06;58;04

STEVE BRIGHT:

Yes. Well lynching always got a bad press in some parts of the country. Richard Russell in Georgia, the senator from Georgia, was a big defender of states' rights and federalism and always opposed any anti-lynching law from being passed. In fact, the Senate of the United States never passed, even though President Truman later on asked for an anti-lynching law, there was

never an anti-lynching law passed. At the same time, lynching began to give the South a very bad press to put it mildly. Dan Carter, a historian who wrote a book about the Scottsboro case, the young men in Scottsboro, who were arrested and in a very perfunctory way sentenced to death, pointed out that the perfunctory death penalty trial replaced lynching where the mob would just be told, "Let the law take its course."

01:07;45;17

STEVE BRIGHT:

Of course, everybody knew what that meant. We're going to have a very perfunctory trial. The person's going to be represented by lawyers that are just sort of standing in for the purpose of not really defending them but just standing in during the trial. They'd be sentenced to death by all male, all white juries, and promptly executed right after the trials. There was one trial in Kentucky, which lasted an hour, and the fellow was executed right after the trial that very same day. The Courier-Journal said, "Well, it was pretty fast, but at least he wasn't lynched." This was seen as some sort of improvement over lynching, when in fact, it just simply replaced the mob with the legal system prostituting itself to the mob's demands.

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01:08;34;07

TREY ELLIS:

Can we talk about a little of Bryan and EJI specifically, a little bit of how he came to Alabama and then what EJI has meant for the landscape of jurisprudence and law in the South?

01:08;56;18

STEVE BRIGHT:

Sure. I first met Bryan Stevenson in January of 1984. He was a student at Harvard Law School. And he came to spend the January semester with us in Atlanta and did. He came back that summer of 1984 as a student intern and was with us that summer. Then the next year, in May of '85, he graduated from law school and came here as an attorney. We worked together very closely during that time, and at some point, Bryan began to take on more and more of the cases from Alabama. We were doing cases in Mississippi and Louisiana and Florida, South Carolina, Georgia, and different people in the office had responsibility for different states. Bryan was heavily involved in Alabama, and at some point, it made sense to set up an office there in Montgomery. And we did, and he did. Of course, it turned into eventually the

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Equal Justice Initiative. It has just played an incredible role in being a voice for justice in Alabama and being a witness to injustice in Alabama.

01;10;05;18

TREY ELLIS:

That's great. As we're talking about first meeting him, what did you think when you first met him in person? Did you have a feeling that he would, of all the people that come through your office, that he would do as well as he's done?

01;10;21;17

STEVE BRIGHT:

Yes. I met Bryan, we both flew to the same place, and then caught a connecting flight to Atlanta. We met there at the airport, flew back together. I think I knew by the time we got here that this was an extraordinarily gifted young man who was going to do great things and that if we got him involved in this work or he got involved in this work, it would be great for what we were trying to do in terms of getting justice in the criminal justice system.

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01;10;48;10

TREY ELLIS:

Why'd you think that? What on that flight, like is there anything specific on that flight? Did he order peanuts in a way? What did he do?

01;10;55;18

STEVE BRIGHT:

No, we had a very animated discussion of the death penalty and what was going on and the injustice of it. Bryan clearly cared about that and about using his abilities in a way to help people. That's not always the case. Many students come. They get a great experience. They help us quite a bit, but then they may go on to a law firm or something else. Certainly, many of them have done great work, but Bryan, I think right from start, it was clear that he was a quick study, that once he got aware of these things, he became very passionate about them, and that pretty much, I think, he decided somewhere in there that this was what we were going to dedicate his life to. Thank goodness.

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01;11;36;20

TREY ELLIS:

That's great. He talks about how he wasn't totally sure that he was going to make this. You have a choice with law school debts, and it's a tough decision to make ...

01;11;52;11

STEVE BRIGHT:

Right.

01;11;52;16

TREY ELLIS:

... to forgo the salaries. Can you talk about that decision? In some ways, did you trick him into saying, "Hey, it's going to be like bread"? You need people to help doing this work. Was there ever a sense that he was wavering? How do you get someone to—let's say it's a priesthood. You're giving up a lot, and it's emotionally draining work as well.

01;12;23;02

STEVE BRIGHT:

Right, right. Bryan and I lived together in January when he came down, and so we saw each other all the time, both at work and at home. We would talk

often about what the needs were, how few resources there were for those needs, and about the pull that people in law schools had, that people go to law schools very idealistic, very much determined to do something good with their life but so often are pulled in another direction to go with the big money and to go with the prestige and to go in government service or something like that, as opposed to ministering to the poorest people in the society. At the time, when Bryan was with us, we really were poverty lawyers. We were dealing with people who were poor and representing them in a case.

01;13;12;08

STEVE BRIGHT:

Bryan and I were pretty much living in poverty ourselves in a two-room apartment. We were driving around in an old car that had been given to us by the homeless shelter. You know you're pretty far down the philanthropic food chain when you're getting donations from the homeless shelter. We were operating on the proverbial shoestring. It was clear that for us to go forward, we had to have people who were pretty much willing to renounce a lifestyle that involved money, I guess you would say. I think Bryan was very, very much into that in a lot of different ways.

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01;13;51;05

TREY ELLIS:

That was great. What happened to that couch?

01;13;56;05

STEVE BRIGHT:

Well Bryan and I, we had a two-room apartment. Bryan slept on the couch in the front room. I slept on a bed in the second room. I never heard any complaints about the couch while he was there, but later, he said it was lumpy, so I don't know. He was there for quite a while because when he came back as a lawyer, we lived together again for some period of time. It was marvelous because we really had almost on a day to day basis heart-to-heart talks about what are we doing, what are our lives about, what are we going to accomplish, where are the needs, where are the greatest needs, where can I go, and then some, I think, dismay about the failure of the legal profession and people graduating from law schools to deal with some of the most urgent needs in our society and particularly the needs of people who were charged with crimes and convicted and sentenced to not only the death penalty but to any kind of sentence.

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01;14;52;20

TREY ELLIS:

You talked about it a little bit, Bryan's legal mind. What does that mean to have a legal mind and being a good lawyer, the stuff for this kind of job? What do you think?

01;15;03;15

STEVE BRIGHT:

Bryan had a remarkable ability to size up legal issues and create arguments or see issues and problems with things that had happened. Some people have that more than others. I think Bryan is such a brilliant person in terms of just his overall brilliance that he's able to do things that might take some people, including myself, a longer period of time to do it, that he can seize it up, or size it up quite clearly and then decide where to go with it.

01;15;35;13

TREY ELLIS:

That's a good trait to have.

01;15;36;14

STEVE BRIGHT:

Yes, very good trait to have. Critical.

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01;15;40;17

TREY ELLIS:

Bryan jokes a little bit about how you were good at shaving people, like in just the system, like fiery. Even now he talked about ministering to poor people. Do you see your job as more than legal work?

01;15;57;07

STEVE BRIGHT:

Oh certainly. I think that what I have been drawn to in this work and probably what Bryan's been drawn, and I know he's been drawn to, has been the desperate needs that people have, that people who are facing death and who have a warrant that says at some point "You will be strapped down and put to death," that those people have the most compelling need for legal assistance of anybody in our society.

01;16;20;12

STEVE BRIGHT:

Not only is part of the work to represent those people and do everything possible to prevent that sentence from being carried out but to also to minister that person, to comfort that person, to support that person, and that person's family and to lift them up as they go through this valley of death in

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their life. We are going to be able to get some people over to safe passage to prevent the death penalty, but there are going to be other people that that's not going to happen. We have to be there for those people and for their families and the people that love them and know them as they go through this process.

01;17;01;00

TREY ELLIS:

Can you talk us through McCleskey camp and the work you guys did together then and then the hope and then the obviously the opposite?

01;17;11;13

STEVE BRIGHT:

One thing that's immediately apparent with the death penalty in the South is that it's about race and place. It's about race more than anything else that the fact that the victim is white is going to propel a case into being a death penalty case, all other things being equal. That an interracial case, an African American charged with a crime against a white person, that's going to ratchet it up several degrees more. If there's an allegation of any kind of sexual encounter, rape, or any other sexual offense, that's going to ratchet it up another notch or two. If you're just doing the work on a day to day basis, you

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can't help but see how much race is a part of it and so many of the actors that we see.

01;17;54;11

STEVE BRIGHT:

And saw at that time when Bryan came to us, I think when he was here, he filed a motion to recuse a judge on the basis that the judge could not be fair to our client, who was African American, because the judge was a racist. The judge used the n-word when he talked about people of color. The judge had supported a candidate for governor who ran on the platform of no, not one, not one black child in the public schools in Georgia. The judge had an amazing history on the record of racial bias, of being prejudiced, of being a white supremacist. Our argument was that the judge could not be fair to our client because of his racist attitudes. We actually had a hearing. Bryan actually testified in the hearing because we had some statistical evidence that he interpreted and testified about to the judge. That really laid it out. Not many people were willing to do that, to actually say, "This judge is a racist," and to put on the record, a weeklong evidentiary hearing, all the things that showed the racial prejudice of that judge.

01;19;03;10

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TREY ELLIS:

And was that successful?

01;19;08;12

STEVE BRIGHT:

Well, the trial court ruled against us, but we appealed to the Georgia Supreme Court. It held that the judge had become so embroiled in the controversy because the judge had his own lawyer, and he was defending against us, and so the court said, "Well, there's no way he can be fair now because you're in an adversarial relationship." The court delicately avoided the race issue and decided it on other grounds. This is something we see courts do all the time, avoid the race issue, don't even mention it. If you read that opinion, there's no mention of the fact that the issue in the case was the racial bias of the judge.

01;19;46;01

TREY ELLIS:

Why is that? Why does the court avoid that?

01;19;48;13

STEVE BRIGHT:

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I think the court avoids it because the courts, both the federal courts and the state courts, are basically just trying to be in denial with regard to race. You just see time after time where the core issue in a case is race, and yet the courts will find some other way to reject the claim or even to grant on some other grounds but to avoid race.

01;20;25;00

TREY ELLIS:

Bryan talks about the McCleskey decision being one of the kind of breaking his heart. In terms of his love, I assume as a lawyer, both of you, you have a love for the law. There are times when the law breaks your heart, and was that one of those cases for you as well?

01;20;41;05

STEVE BRIGHT:

During the time that Bryan first came here, we were having pretty remarkable success in the courts challenging death sentences. About somewhere in there, the NAACP Legal Defense Fund started putting together the evidence showing just what we were seeing every day in our work, which was these grave racial disparities and the infliction of the death penalty in Georgia, that you were 4.3 times more likely to get the death penalty in a case

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where you had a white victim and a black defendant. All that was presented in the case of Warren McCleskey. That ultimately was appealed to the United States Supreme Court.

01;21;19;13

STEVE BRIGHT:

I would say the decision in McCleskey, sort of like the Dred Scott decision, was one of the most dismaying decisions in the history of the United States Supreme Court. The court said that racial disparities are inevitable, and that there was no need to deal in any depth. The court made several very disturbing findings. One, it was inevitable. Two, that if we got into the racial disparities for the death penalty, we would have to look at the racial disparities with all other kinds of sentencing, what Justice Brennan in his dissent called, "the fear of too much justice."

01;21;57;06

STEVE BRIGHT:

The other that there were procedures in place that were supposed to minimize the risk of race discrimination, but the court never examined the procedures to see if they actually worked or not. This is something only

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lawyers could come up with to say, "We'll have procedures to minimize the risk of race, but we won't ask whether those procedures first of all were even employed, and secondly, whether they worked or not." In McCleskey, one of the procedures they pointed to wasn't even adopted until long after Warren McCleskey's trial. It's a 5-4 opinion, very close and a very, very dismaying opinion for anybody who trusted the courts to come through in a situation like that.

01;22;42;10

TREY ELLIS:

Were you and Bryan together when you heard the ruling?

01;22;46;21

STEVE BRIGHT:

You know, I can't tell you that. I'm sorry. I can't remember. I remember we talked about it, but whether we were actually together, oh boy, that was a long time ago. Sorry.

01;22;55;10

TREY ELLIS:

Personally, what happens to your body? What do you feel like when you hear that? How does that come to you? How do get that decision?

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01;23;03;02

STEVE BRIGHT:

Well, I had been to the argument in McCleskey, and I had seen the argument and the way the court received it. I had hope that the Supreme Court would recognize these racial disparities, which they did, but then secondly, that they would say that Georgia cannot carry out the death penalty when it's that racially biased in terms of how it's carried out. It was devastating to get the news that the court had decided by 5-4 to ignore the race disparities and to allow Georgia to continue to carry out the death penalty even though it was racially biased.

01;23;37;16

TREY ELLIS:

We're talking about in terms of the South, like the idea of poverty and race working together in this world in the work you do. I'm trying to figure out how to say this. When Bryan will say that "If you're poor and innocent you have ...

01;24;03;16

STEVE BRIGHT:

You're better, right.

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01;24;05;02

TREY ELLIS:

... rich and guilty."

01;24;05;06

STEVE BRIGHT:

Rich and guilty, yeah.

01;24;06;10

TREY ELLIS:

Has that always been the case? In terms of where we are now from the work you've been doing in the course of your career, what is your feeling about the work you've done, your life's work, the EJI's work, the LDF? Is the moral arc bending?

01;24;27;15

STEVE BRIGHT:

The criminal courts in the South have throughout our history played a role in racial oppression in the United States. There's no getting around it, enforcement of slavery, convict leasing where you brought people into court

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on some minor charge like loitering, and then leased them out to the plantations and the turpentine camps and the coal mines around Birmingham, whatever. Jim Crow, enforcing Jim Crow, that a black person could be shot dead by a white person and would probably never be tried for that. Mass incarceration, where we are today. Lynching and terrorism, in which the perpetrators of these murders were never tried or brought to justice at all.

01;25;09;22

STEVE BRIGHT:

And this was going on on a grand scale in the South. So the courts have really been used to perpetuate white supremacy and to disenfranchise black people. I've been to courts where you see black people pleading guilty, getting probation in felony cases, because they know this is disenfranchising all these people. Of course, you're taking a huge number of people out of the population, 2.2 million, and that's destroying people. It's destroying families, and it's destroying communities. Yet that's what the criminal courts in the Southern part of the United States, generally all over the country, but particularly in the Southern part of the states have been carrying on.

01;25;54;05

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TREY ELLIS:

And again, as a lawyer in the sense of justice and blind justice and truth and justice, how do you keep going in that sense knowing that things are so unequal?

01;26;07;08

STEVE BRIGHT:

Well, there's a huge difference between law and justice. Law says that "If a person misses a deadline by a day even though it's an innocent mistake, that person is going to be denied any relief in the court." That's not justice. Justice would say, "Let's look and see what happened and do the right thing." Law says, the Supreme Court says, "No, that person's out of luck. We will never look at what happened in that case." Law says that "We allow prosecutors to strike black people in picking juries and try cases to all white juries." Justice would say, "The jury would be representative of a community and would be a diverse jury." The law doesn't say that. You can look at time after time, the law says that, "We're going to have prosecutors who are absolutely immune from any misconduct while they're in office." Justice would say, "We'll look at those things and do whatever's appropriate to deal with some of the really

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egregious prosecutorial misconduct we've seen and particularly in death penalty cases."

01;27;10;09

TREY ELLIS:

You brought up this idea of the finality. You talk about how your students have a hard time understanding that. Can you talk a little bit about that and how did you first understand? It must've been surprising to you as well as a young law student.

01;27;21;23

STEVE BRIGHT:

Well, what evolved in the courts after very good success in challenging death sentences, and the courts were setting aside a number of death sentences. Both the United States Supreme Court and also the regional court that covers Georgia, Alabama, and Florida was setting aside a number of cases. Increasingly as that happened, the Supreme Court led by Justice Rehnquist, later with the help of Justice O'Connor started adopting, excuse me, all of these procedural ways of avoiding reaching the merits of issues in these cases. The court kept, as Justice Marshall pointed out, this became just an

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airtight way of avoiding looking at the issues. That increased the number of executions because increasingly, people were being denied a hearing in the courts because of some procedural rule that the Supreme Court had made up.

01;28;17;13

STEVE BRIGHT:

This is not the work of Madison and Jefferson and those folks. This is the work of Rehnquist and O'Connor and other people on the Supreme Court and Scalia and so forth at that time. Increasingly, as Justice Stevens said at one point, "The court had lost its way in a procedural maze of its own making." That's exactly what happened. Unfortunately, Congress then got in on the act and passed a law to make it even harder for the courts to examine issues and decide them. The result now is that very much of the fighting in court is about whether you can even get to the issue and decide it on the merits.

01;29;02;12

TREY ELLIS:

Is that uniquely American? Do other countries have these same rules? There's all this exculpatory evidence that even fighting, let's say an Anthony Ray Hinton case to get a ballistics expert or the case now in California, just retesting for example. Is that uniquely American?

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01;29;21;00

STEVE BRIGHT:

Well, it's not only uniquely American, but it's uniquely criminal courts. In civil cases, there's extensive discovery before two people go to trial or two sides go to trial in a civil case. There's depositions. There's exchange of documents. There's all of this effort to find out what the cases are about, so that when you actually have the trial, it's really about what the case is about. In the criminal courts, it's trial by ambush. In most states, not every state, but in most states, the prosecution doesn't really reveal most of its case until actually at the time of trial.

01;29;56;04

STEVE BRIGHT:

So the ability of the defense to investigate and test the prosecution's case is just simply not there. Unfortunately, very often in the cases, particularly in Alabama but in many other states as well, the lawyers appointed to defend the cases are not up to the task of representing somebody in a capital case. They just don't have the training, the resources, and often, the inclination to handle the cases well. The courts are imposing these very tight procedural

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rules on people that may not even lawyers, who may not even know how to comply with them.

01;30;32;03

TREY ELLIS:

Wow. That's depressing.

01;30;34;15

STEVE BRIGHT:

It is depressing.

01;30;36;21

TREY ELLIS:

Ya know, Bryan talks about how the North won the Civil War but lost the narrative war. That sense of as attorneys, you're telling stories. Here's the story of the truth, and there are competing stories. Which story is more true? Which I think led him to do this work with the memorial and the museum. Can you talk about the sense of is there a possibility of changing the narrative of the South and maybe is that museum and the memorial a step in that direction?

01;31;13;05

STEVE BRIGHT:

Well, very much what lawyers are doing in cases on behalf of their clients is telling their stories. You're telling the story and hopefully a judge is going to find it compelling and prevent the execution of that person. The injustices in these cases literally jump out at you when you look at them, the race discrimination, the trial by ambush in many of these cases, the terrible quality of lawyers that many people who are sentenced to death get so that really, their trial is just a legal lynching. It's not really a trial because there's no adversarial testing. They've got a lawyer who's incompetent. They've got a judge and prosecutor who are bound and determined to convict them and sentence them to death.

01;31;54;11

STEVE BRIGHT:

And it can be done in a very short time. We see cases in which somebody will go from the presumption of innocence to being on death row in a day from 9:00 in the morning till 12:00 at night, or one of my cases, 9:00 on Monday, death sentence by noon on Tuesday. These are very perfunctory trials quite often. One of the things that unfortunately is the case here in this country I think is the failure to look at our history is I started doing the work and seeing the racism that was in these cases and started looking back. You could

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see this very clear line. One of the judges on one of my cases, his father had been involved in two lynchings in that community, been on the front page of the newspaper, and now he's presiding over a death penalty case, my African American client accused of a crime against a white person, all white jury, white lawyers, white prosecutor.

01;32;46;23

STEVE BRIGHT:

Basically this was a legal lynching. It was the same thing his father had done as part of mob rule, he was doing as a judge. You don't have to look very far to see that. Then you start reading Dan Carter's book about Scottsboro. You start reading about convict leasing. There are excellent books, David Oshinsky's book, Blackmon's book about Slavery by Another Name in Alabama. Alabama actually perpetuated slavery up until World War II through convict leasing. In my class that I teach, we start with slavery. Then we go to convict leasing, and we go to terrorism and lynching. We go then to Jim Crow and then to mass incarceration.

01;33;26;05

STEVE BRIGHT:

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And we see this unbroken line in which the criminal courts have been a part of perpetuating this racial discrimination against African Americans since the start of the country, and there's no change. There's no break. There's no coming to any reconciliation and going forward with it. I think what's so important about the memorial and the museum is that it's going to take many people through this history and require them to come face to face with what has happened in the country. That is very important because we just are too indifferent to our history and too indifferent to looking upon how history affects us now. It corrupted our courts, and we haven't seen a change in the customs from what had happened back in the years past.

01;34;16;20

TREY ELLIS:

Wow, amazing.

01;34;19;03

STEVE BRIGHT:

Can I say one other thing about that? Can I do it?

01;34;20;04

TREY ELLIS:

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Yeah, of course, whenever.

01;34;21;13

STEVE BRIGHT:

Ya know, one of the things my students tell me in my class is after we have conflict leasing is I've had students come up after class and say, "I majored in American history as an undergraduate. I've never heard of convict leasing." Now how could that be? There's no study of lynching in any depth. Theodore Roosevelt talked about lynching in his State of the Union address when he was President of the United States. It was that prominent an issue in this country, and the history of Richard Russell, the Senator from Georgia, who managed to keep the federal government from passing any anti-lynching law by talking about federalism and states' rights and respecting, we ought to let Georgia handle Georgia's problems, when in fact, Georgia was not handling its problems at all.

01;35;08;18

STEVE BRIGHT:

They were lynching people right there in Richard Russell's hometown at the time he's telling the Senate, "You don't need to do anything about this." That's an important part of our history. The museum and the memorial bring

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that home to people. What I think is so important is there are going to be schoolchildren from all over Alabama that are going to be going there, and all over the country for that matter. They're not going to be able to avoid this history anymore. They're going to have to look at it and factor it into the way they see the world and the way they see where we are today.

01;35;42;18

TREY ELLIS:

Is that going to make a difference?

01;35;44;11

STEVE BRIGHT:

I hope it'll make a difference. I certainly think knowledge is critical to how you behave. I think one of the things that pulls many people towards us, including Bryan Stevenson, myself, is this is one of the great racial issues of our day. The criminal courts are the part of society least affected by the Civil Rights Movement, actually unaffected by the Civil Rights Movement. That makes it compelling that we deal with these issues and we come to grips with them. I think when the Montgomery Advertiser looks back at its history and starts an editorial by saying, "We were wrong. We were wrong in the way we covered lynching. We were wrong in the way we covered Civil Rights," that

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kind of reckoning, I hope there'll be judges making that kind of reckoning. I hope there'll be courts making that kind of reckoning and that we can go forward in a more positive way from that. I don't know if that'll happen, but I certainly hope that it happens.

01;36;39;20

TREY ELLIS:

I was thinking about the Senate, the recent election in the Alabama Senate election and how Roy Moore talking about slavery then. There's still so many, that attitude. We passed a place in Alabama on the way into Birmingham, the Dixie General Store. It was just a store that just sells Confederate everything. Those two worlds that could exist in the same state as the EJI Museum, two competing narratives.

01;37;08;01

STEVE BRIGHT:

Well, one of the things we've seen here in the South in addition to the discrimination in the courts has been the celebration of the Confederacy as if it won the war. We see schools named for Jefferson Davis and Robert E. Lee. They still are named for them today. Stone Mountain in Georgia has a carving of Robert E. Lee and Stonewall Jackson up there in the granite. One person

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said, Georgia passed a law that said, "It will never be changed." They'll never change that. There are Confederate flags and monuments all over the South that's really just remarkable when you consider the fact that this was a rebellion against the government, and this is the side that lost.

01;37;50;20

TREY ELLIS:

Yeah, it's kind of crazy.

01;37;53;01

STEVE BRIGHT:

It is kind of crazy. I had a friend of mine come to town who was a professor at Yale. He said he didn't understand from being on the grounds of the Georgia capital, how there were statues to people who were in rebellion against the country. Well, that's the culture here that the Confederate generals and segregationists like Richard Russell and Herman Talmadge and Gene Talmadge are memorialized on the grounds of the Georgia capital.

01;38;25;09

TREY ELLIS:

We shot a bunch of them. It's almost like the Soviet Union when they take the statues down but then as if they put them back up. You know what I mean?

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01;38;34;06

STEVE BRIGHT:

Well, look at that huge statue to Gene Talmadge. Gene Talmadge was as racist as you could get. There was no subtle about Gene Talmadge. He was as racist as you can get. There's nothing positive to be said about him. And Richard Russell. Richard Russell, of course, the Senate Office Building is named after him. The courthouse here in Atlanta is named after him. His history with regard to this is just indefensible.

01;39;08;18

TREY ELLIS:

You've been doing this for a while. We have some footage of you and Bryan on Firing Line. What was that like? What did you learn from that experience, the melee there?

01;39;23;10

STEVE BRIGHT:

Well, I think one of the things we learned early on was these stories had to be told not just to the courts but to everybody because it's everybody's business.

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If the state is coming together and saying in the name of Georgia, the name of Alabama, or the name of Mississippi, "We are putting you to death," then the people of Georgia or Mississippi, Alabama, people of the nation need to know what's going on. I think it's very important, and we've always tried to share what we know because if you're dealing with this day in and day out every day, you know some stories that might not ever come to light otherwise.

01;39;59;07

TREY ELLIS:

So specifically, do you remember anything? We might have footage of that. I'm wondering if you remember anything about that show.

01;40;06;00

STEVE BRIGHT:

Sure. And again, that's a real tribute to Bryan because at that point, Bryan was an incredibly young lawyer, but obviously he held his own with William F. Buckley and Susan Boleyn, the attorney general from Georgia and the other people that were on the panel. So often people just assume that everything is as it should be in the court system, and it's very important that people understand that it's not. I think that and other opportunities that we've had

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to tell these stories to a larger audience have been very important. Of course, the ultimate telling of these stories is with the memorial and the museum.

01;40;49;19

TREY ELLIS:

And then Bryan, we're moving to the work with juveniles in Graham versus Florida and Miller versus Alabama. There's already a lot of work to do. When he pivots to this new subject, how did you feel about that?

01;41;11;11

STEVE BRIGHT:

Well, one of Bryan's great gifts is to be able to see how you can take one body of law and apply it somewhere else. It was really Bryan who started challenging and EJI that start challenging these incredible life without parole sentencing for children. For people who are like 13 years old and were told that their whole life, no matter what happened, they were going to be in prison for the rest of their life and use the death penalty law, the law that had developed with regard of the proportion of the sentence to the crime to challenge that in the Supreme Court and say that we really cannot give up on children when they're 13 years old. Secondly, that no matter what somebody does, you have to take into account their youthfulness, their lack of maturity,

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lack of judgment and all those things in trying to come up with a sentence that's proportionate to the crime.

01:42;08;17

TREY ELLIS:

After that success, he's using that same type of argument in the fall to the Supreme Court. Can you talk about in terms of the being if you're older and incompetent to stand trial?

01:42;24;21

STEVE BRIGHT:

Like Vernon Madison's case. Of course, the issue with Vernon Madison is whether he's competent.

01:42;31;08

STEVE BRIGHT:

Well, we increasingly see these elderly people on death row. Alabama carried out an execution of a man who was 80-some odd years old. A person like Vernon Madison, whose case Bryan will argue, who is older, who's had strokes, who's incontinent, who's suffering from dementia is not really in touch with reality much of the time. Really, are these the people that we're putting to death, these older people who sometimes are not even with it

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mentally and who are falling apart physically? That's what's going on in the country today.

01;43;10;12

TREY ELLIS:

In terms of being against the death penalty, it seems like they're using that, the barbarity, the *prima facie* barbarity of that situation. Is that a tool that you can use? 'Cause you believe that eventually the death penalty, that we'll look back at these days and regret it.

01;43;36;00

STEVE BRIGHT:

The execution of an 82-year-old man points out about as well as anything the total pointlessness of the death penalty.

01;43;45;07

STEVE BRIGHT:

Alabama has rushed to put people to death before they die on their own. They put Doyle Hamm in the execution chamber and spent quite a bit of time sticking him over and over again with needles trying to execute him but were

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not able to. They ultimately had to take him out of the execution chamber not having succeeded on the execution because his veins were so compromised that they weren't able to insert the lethal poisons into his system and kill him. That's what we're doing today in the death penalty, and I think many people are saying when you see an 82-year-old person sentenced to death, this is completely pointless. This makes no sense. This person's going to die anyway in a very short period of time.

01:44;45;21

TREY ELLIS:

In terms of this sense of moving towards a Vernon Madison and the mentally ill, is that a new frontier of the law? Do you think that's going to be productive?

01:44;57;21

STEVE BRIGHT:

I hope that dealing with issues of mental disorders and so forth will be a place where the Supreme Court looks hard at where we've been and where we're going because increasingly, we're seeing people who are very mentally ill who are being sentenced to death. Some of that is just simply because when there are plea offers made in these cases, when these cases could be

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resolved for sentences less than death, people who don't think well or don't have good judgment, who are impaired because of a mental illness in their thinking will reject that and get sentenced to death when the state didn't really want to kill them to begin with.

01:45;37;22

STEVE BRIGHT:

And then of course, we also see many people who de-compensate on death row. They start off maybe slightly mentally ill but have been there for 20, 30 years. They may have strokes, or they may have other problems, or they may just because of the awful conditions of death row have very, very serious mental illnesses. Unfortunately, many people who are very mentally ill have been and are being put to death in this country.

01:46;05;18

TREY ELLIS:

Can you go back to when Bryan first talked to you about, "Look, I'm a lawyer, but I'm going to do this first as reports and then the reports and then turning into this millions of dollars to build these memorials," which is not typical legal work. Could you walk us through those discussions you had with him?

What are your feelings about that?

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01:46;30;08

STEVE BRIGHT:

Well, one of the things we both talked about at times was how we get these stories out to a larger audiences. Do we use billboards? Bryan at one point put up billboards in Montgomery after there had been a big campaign about what would Jesus do? They put up some billboards said, "The death penalty. What would Jesus do?" To bring the people who are very religious and who were thinking that with regard to other things, bring thinking of that with regard to the death penalty. I think it's very important to think outside the narrow confines of just a legal case because the courts are great at taking a lot of issues and burying them so that nobody really knows what happened.

01:47;09;04

STEVE BRIGHT:

It's very important that even if we can't succeed in our cases that we bear witness to what we are seeing. Some of the greatest injustices I have seen have been in cases where ultimately clients were put to death, but we have to bring those out. We have to tell people about them in the classrooms, in meetings, in opportunities in the media, and certainly the great, great example of that is with regard to the memorial and the museum.

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01:47;36;10

TREY ELLIS:

Like can you go back to the billboards you talked about? How were they received? Talk about the creation of the billboards and what was their reaction in Alabama.

01:47;46;08

STEVE BRIGHT:

Well of course, there were several things that Bryan did in Alabama. One were the billboards that of course got some backlash when they were put up. The others, which really was the precursor to the memorial and the museum were the markers with regard to slavery. All these markers, all over the South, you can hardly drive anywhere in the South there's not a marker where some Confederate general spent the night or some Confederate general got their troops organized or whatever it may be. Now, there are those markers in Alabama, "This is where the slave ship docked. This is where the slave block was. Here's where children were auctioned off apart from their parents. People who were married were auctioned off separately. This huge slave trade that came through Montgomery." All those things

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critically important to bringing us face to face with these issues now but also with regard to our history.

01;48;40;21

TREY ELLIS:

Can you talk about Sia Sanneh and how did she came to EJI?

01;48;46;13

STEVE BRIGHT:

Sia Sanneh was one of my students at Yale. I had her in class the first year she was there. She was my research assistant the next two years. She had indicated over that time, much like Bryan had when he was with us, a commitment to do this work. Fortunately, when she was casting about, I happened to have lunch with Bryan and walked him to his car. He mentioned he needed someone at EJI. I mentioned I knew someone who might be interested and put the two of them together. I couldn't be more proud of anyone than I am of Sia. She's just been a great force for justice since she's been at EJI.

01;49;27;20

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TREY ELLIS:

Did you feel a little bit like another Bryan? Do you have a sense of when people come to your door?

01:49;33;05

STEVE BRIGHT:

Yes, right, right. Just truly remarkable person with the ability to, like Bryan, the ability to anything anywhere. Is going to be a success no matter what she does, he's going to be a success no matter what he does. Choosing to do this work and to lift up people facing the death penalty to represent these children in cases and spread the message about that is just tremendous.

01:50;02;05

TREY ELLIS:

Thank you. What's your relationship with Bryan now in terms of having known each other for so long and done all this work together? What is it now and then what do you see next for Bryan after this?

01:50;20;10

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STEVE BRIGHT:

Well, I would say over the years, Bryan and I have gotten together all the time to check on thing, talk about things and see what's going on. Less and less frequently more recently just because of all the things that he's been involved in with regard to the museum and with regard to the memorial. I teach at Yale, so I'm in New Haven a good bit of the year. He's at NYU. We occasionally get together in New York and talk about things there. I think going forward, Bryan is in a position to be a very great spokesperson on these issues. I think now with this backdrop of the memorial and the museum with all that he's done, the book that he's written, the recognition that he's received, I would hope that people would embrace Bryan as one of the people who can take them on a journey through the criminal courts that they would not know of otherwise.

01;51;16;12

TREY ELLIS:

Back to these giant projects, what do you see him doing, I don't know, 10 years from now?

01;51;23;02

STEVE BRIGHT:

50

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I don't expect that what he'll be doing 10 years from now is that different except that I think as he has more and more invitations or more and more need to speak to people, there may just be too much that he's got to make some decisions about what he can and can't do.

01;51;45;17

TREY ELLIS:

I just wonder. You can think about it. I know when students start law school, it's not to think, I think, about the Supreme Court. Could you imagine a world where, I don't know, there's a President Elizabeth Warren or Cory Booker and you see Bryan on the other side? Would he want that?

01;52;13;22

STEVE BRIGHT:

You're better asking him than me about that. I would be surprised, but I don't know that I can speak for Bryan with regard to that. I think the great gift that we have, that the American people have is that Bryan is a marvelous storyteller and a person who can take audiences all over this country through this history and through the present and through what's happening in the courts and can touch people in different ways. Law students, get involved in this work. It's that important. We need you to come where the needs are to

the South, to Texas, to Alabama, to Mississippi, to Georgia, wherever it may be and all over the place. We need people to care about poor people and poor people in the criminal justice system. To other audiences, here's what you can do with regarding injustices that are going on.

01;53;10;12

STEVE BRIGHT:

Some of that has an influence on the courts because increasingly as these injustices come to light, the courts are going to be more responsive to them than they are now. The courts have been just whistling past the graveyard with regard to racism. I hope they will someday come to grips with racism and start dealing with it in their decisions, much more than they do today.

There are people that can come in all different sorts of ways.

Ultimately, I think we're going to see states repealing their death penalty statutes. I don't know when it will be, but I think we're well on the way to the time in which the death penalty will just simply be seen as a historic relic of a bygone era, and we will no longer have it in the United States. We're not far from that.

01;53;57;06

TREY ELLIS:

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Why do you think we're not far from that? What makes you hopeful?

01;54;00;00

STEVE BRIGHT:

Well, in the 1990s, about a decade after Bryan came, and he's in Alabama, and I'm here. We're just fighting the death penalty, hand-to-hand combat all the time, 315 death sentences imposed across the country in 1996. Last year, 39 imposed in the entire United States of America. The year before that 35. When you go from 315 to as few as 35, obviously things are changing dramatically. Actually, we only have now a handful of counties which sentence these people to death. There are just not that many people being sentenced to death.

01;54;42;06

STEVE BRIGHT:

We're having more states that are abandoning the death penalty. We're having courts that are sometimes requiring states to abandon the death penalty, like the New York court really declared that state's death penalty unconstitutional. We don't see a great movement to reinstate the death penalty. I think we will. I just think the evidence is so overwhelming that once we get past the cultural and demagogic way in which the death penalty

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is used, it really will make sense to everybody to just put it behind us and go on to a more enlightened system of justice and one particularly where we can always correct our mistakes. You can't do that with the death penalty.

01;55;24;19

SPEAKER 1:

Take two, marker.

01;55;32;01

TREY ELLIS:

We covered everything that we need to cover, I just want to go back sort of ask some questions again ... Some choices. In terms of this work that you've chosen to do, what makes it, there's the two sides of it, difficult and rewarding. Can you talk about the rewarding part and then the difficult part and then if you can, if there are any specific stories of when it was very rewarding or when it was very difficult.

01;56;01;21

STEVE BRIGHT:

Maybe I should start with it being difficult. You know, Elie Wiesel said our lives are not our own, they belong—

01;56;08;20

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TREY ELLIS:

Who said that?

01;56;09;19

STEVE BRIGHT:

Elie Wiesel said our lives are not our own, they belong to those who need us desperately. That's always seemed to me to be a pretty good way to decide what to do. I came to the Southern Center a time when it was pretty much financially bankrupt, when it had cases in some disarray and it seemed like the need to go there was pretty great because of the compelling needs of the clients, the people on death row and the fact that there were not lawyers available to those people at that time, that many people were under death sentence without lawyers, hard to believe. That was in fact the case. Taking on that work just seemed like the most compelling work to do.

01;56;57;09

STEVE BRIGHT:

And that's what I did. Of course I had a strong feeling about the death penalty, that it was wrong and that we shouldn't be doing it and therefore that I should have more of a motivation to try to help people than otherwise. It's been fairly rewarding in terms of the number of people that we've saved

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from execution. I mean there are many of them. They're people that I represented when they were on death row that I not only got them off death row but in a few cases even we won parole. I go out and have a barbecue with them now. One of the first case I argued in the Supreme Court was a young man named Tony Amadeo who had been sentenced to death at 18 years old in Putnam county, Georgia. After he was resentenced to life imprisonment I went down and watched his graduation from Mercer University, summa cum laude, later we won him parole. Now he lives in Texas with his family. Of course that means everything to be able to intervene in a case like that and not only save Tony's life but get him back home to his family where he's a useful and productive citizen.

01;58;15;10

TREY ELLIS:

Have you ever lost a client that was innocent?

01;58;20;03

STEVE BRIGHT:

I think in terms of clients that have been executed there are times, at least in my experience, I have had clients who I thought the question of whether they did the actual thing they were accused of or not was not resolved or was

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resolved erroneously, that they were accused of something much worse than what they may have actually done, that they may have been tangentially involved in something but they were tried as the central person.

01;58;52;15

TREY ELLIS:

How do you go on from that? How do you ...

01;58;56;11

STEVE BRIGHT:

Well I just talked to the other day to one of my students who had had her first client sentenced to death. We had a very long conversation about what that's like and how you continue to carry on the work when you have to deal, no other lawyer has to deal with that. You may lose a lot of money, you may lose somebody's freedom but seldom does a lawyer and particularly represent somebody for maybe 15, 20 years and then stand by and watch that person's life taken away from them. It's an extraordinarily difficult thing to do. The part that I emphasize is that we have to minister not only to our clients but to their families, after an execution I have to put my arm around mama and tell her that her son held onto the end. I have to describe what happened, I have to reassure her. I have to talk to girlfriend, I have to talk to family, friends,

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other people. I participated as pallbearer in funerals for my clients. I have given eulogies for my clients. I realized that if you do this work day in and day out there are going to be those times when just everything you try to do is not going to prevent the state from carrying out an execution, as tragic as that is.

02;00;20;12

TREY ELLIS:

In terms of watching—going back to Bryan and his skill as a lawyer, you've seen his skill mature from a young law student to now and if you have any kind of concrete stories of that, of sort of his, Bryan in the court room or in general about his legal mind and are there any sort of anecdotes about that you thought were, you'd like to share.

02;00;50;10

STEVE BRIGHT:

Well as I was saying Bryan is a very quick study. Most people who do this work, my recommendation, what I did was I was a public defender for a number of years in the District of Columbia. I tried a lot of cases, I examined a lot of witnesses, argued a lot of cases to judges. Bryan did not have that background. He came to our office straight out of law school, spent a few

years here and then went to Alabama. Yet, he's handled evidentiary hearings, he's argued at the United States Supreme Court. I've seen him at the court. He's a gifted advocate before the Supreme Court of the United States. That's the major leagues of legal practices. He's now done that a number of times. He's very comfortable before the court. He answers their questions well. He advocates well. He's just really a very effective advocate. I think that's improved over time. I think he's always been a very gifted advocate.

02;01;53;02

TREY ELLIS:

You talked about the importance of a narrative to an attorney, is that, telling your story, is that how you start building a case, you talk about sort of how a lawyer's also a storyteller.

02;02;09;11

STEVE BRIGHT:

Sure, I think you start building a case by looking at the story that the prosecution told and seeing whether or not it's accurate or not. Very often you find that it's not. You find that their witnesses are turned states evidence and agreed to get themselves out of trouble to testify against your client may be a pack of lies, is what they said. You got to find that out. There's other

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ways as well. Then also and particularly in death penalty cases, we want to tell the story of how did this person get to this place in life. What happened to them, what shaped them, nobody is nothing but the worst thing that they ever did. There's much more to a human being.

02;02;47;05

STEVE BRIGHT:

If you go back and talk to their family and you talk to their friends, you talk to their school teachers, you really as they say walk a mile or two in their moccasins and get a feel for their life, so many of my clients had been punished since the day they were born. They were abused, they ran away from home to get away to get away from just horrific abuse that the average person can't imagine being inflicted on people. Many of them have serious mental disorders. Some are intellectually disabled. Theoretically the Supreme Court has said that you can't execute a person who's intellectually disabled, what we used to call mental retardation. But in fact, many people who are on the borderline, the courts will say they're not so disabled.

02;03;35;06

STEVE BRIGHT:

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I mean, this is where we get in such a crazy thing with the courts, is this person so intellectually disabled that we're not going to execute them at all or are they not quite intellectually disabled enough so we are going to go ahead and execute them. What kind of question is that? Very often we end up representing people who are intellectually disabled. There are certainly questions like Walter McMillan's case that Bryan handled where there's serious and Anthony Ray Hinton's case, serious questions of the guilt of the person in finding out about the case and going through everything about it, we find out that the person really is not guilty of the crime they were convicted of. Whatever the story is, we have to find it. We have to find out what that story is, we have to document it. Then we have to tell it in as compelling way that we can.

02:04;37;02

TREY ELLIS:

When, we talked a little bit at the memorial about when Bryan first came to you and said I'm going to build this giant, this memorial, can you talk about how that landed with you?

02:04;52;05

STEVE BRIGHT:

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Sure, Bryan and I had coffee near NYU law school. I was in New York for some reason. He was there at the law school. We went and had coffee. He said I'm trying to raise so many million dollars and we're going to build this memorial and we're going to build this museum. The number, the amount of money he was talking about raising just was staggering for me at least. Of course, the great thing about this is Bryan I think with the recognition, with the MacArthur award, with the great reception of his book, Just Mercy, the fact that it was on the New York Times bestseller list had put Bryan in the situation where he could bring together the people who had the funding and so forth and the architects and the people that helped with the museum to build this remarkable memorial and museum. I thought it was amazing and great idea. I couldn't imagine how he would ever get the money for it but obviously he did.

02;05;57;02

TREY ELLIS:

Were you a little skeptical when he said, when he first...

02;06;00;15

STEVE BRIGHT:

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Well I wasn't skeptical because I think by then I recognized Bryan could do just about whatever he set his mind to. I think the question really was more how long would it take. He said here's how many million dollars I need to raise for this. He told me about this plot of land there in Montgomery that they were going to put the memorial on. Of course, by then he'd already gotten the markers up for where the slave ship docked and where the slave auction block was and all that. It seemed like the next natural progression but of course this was a much bigger undertaking than putting up a marker.

02;06;36;08

STEVE BRIGHT:

It was quite something. I think the real question was just how long is this going to take. I immediately thought the fact that there's going to be this memorial, the way that the memorial is done, listing the counties and the lynchings in those counties, the museum, which is going to take us from slavery to convict leasing to terrorism to lynching to Jim Crow to mass incarceration, desperately needed. There's no museum like that in the country. I thought it was a great idea and great undertaking. I'm just so glad to see that it didn't take all that long for Bryan to bring it into reality.

02;07;18;06

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TREY ELLIS:

When you finally saw it, when you were there and saw it, what was your feeling when you walked through it and saw the reality of it?

02;07;27;10

STEVE BRIGHT:

I think the memorial is very, very moving. No matter how much I had seen the pictures or whatever with regard to it, it's nothing like when you're actually there, when you go down, the things listing the counties and all that go up. You sort of feel like these are people in the trees around you. It's very compelling. Then just the sheer number, the numbers of those metal things that they had, it just really, I think it makes the point that this was not just some small thing where a few people went out and did something terrible, this was a cultural phenomena that went on for years and years and years in the United States, these terror lynchings that had happened.

02;08;18;21

TREY ELLIS:

Some people when they talk about how lawyers are trying to get people off through technicalities, will say they see you, the work of you and Bryan in death cases and other cases as sort of getting guilty people, trying to finagle

the system and get guilty people off, there's this sort of resistance to defense attorneys. Can you talk about sort of that sort of battle here?

02;08;46;11

STEVE BRIGHT:

Well in many death penalty cases the real question is what sentence is imposed on people. I don't think there's any case that automatically calls for the death penalty. It's always a question of whether someone should be sentenced to death or not. There are a number of factors that have to go into play there. The problem is that so often all of those things were not taken into account. The problem is that often the decision to impose death was influenced by race and the person would not have received the death penalty were it not for the race of the victim and the race of the defendant. Those are the kinds of things that go to fundamental justice, that often influence who's sentenced to death and who is not. Backing up and away from that, the question of technicalities, more people are executed on a technicality than are, have their convictions reversed because of one.

02;09;45;11

STEVE BRIGHT:

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All of these procedural rules that the Supreme Court adopted are technicalities. They're just judge made rules, made by Chief Justice Rehnquist and others on the Supreme Court to trip people up and to keep people out of court. You have cases, almost a hundred in this country where lawyers didn't even file their papers on time. The courts never looked at the case. Those people are being executed even though their lawyers missed a critical deadline. Now my question has always been why aren't those lawyers disbarred, why do they continue to practice and yet the courts continue to appoint those lawyers case after case. They continue to miss deadlines. Their clients are executed while the lawyers go on to even collect money for representing the clients in those cases. Those are the technicalities that are resulting in people being executed in this country.

02;10;38;16

TREY ELLIS:

We covered everything sort in terms of the nuts and bolts of the legal parts. Are there any kind of even funny or personal anecdotes you have of your career and your career with Bryan? We talked about the [Inaudible] but is there anything else? You guys both seem like you work all of the time, you work a lot. There's ever just sort of, if there's something you can think of that

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would sort of, it's easier, you both of you guys are workaholics, it's easier for us on the outside to think we're not that person so we're not going to work that hard. It disempowers us in some kind of way, the work. We see the human side to Bryan and you I think that, in the film that might be something positive especially for younger people. If you can think of anything that you haven't said before, did you come to for example, when you went to Alabama did you go to his apartment there? His life, the fact that he's still driving a little Nissan Altima... after all the successes he's had says a lot about him.

02;12;00;07

STEVE BRIGHT:

Right, I think people who do this work if they're going to do it for as long a time has Bryan and I have, have to take the work very seriously but not take themselves very seriously. Bryan and I have always found a lot of humor in just the complete absurdity of the work that we do, of things like the state of Alabama when there was a Supreme Court hold on executions while they decided about lethal injection. The attorney general of Alabama asked for an exception because they said the defendant or the person sentenced to death was going to die of natural causes during this time.

02;12;40;07

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STEVE BRIGHT:

And they wanted to go ahead and execute them. Of course the court said no, that's absurd. The person did die and when the moratorium was lifted, the attorney general said shows just what we said, the guy died of natural causes, we didn't get to execute him. You really have to wonder about that or about airlifting someone from death row to a hospital to patch them up so you can airlift back to death row and kill them, really. This is what we are doing. I remember when Bryan had been in Alabama for just a little bit of time, I went down to see him, to see how everything is going. I went to his apartment, which was not that different than the one he and I shared in Atlanta.

02;13;26;06

STEVE BRIGHT:

As I recall it had a mattress on the floor where Bryan slept. It had a keyboard where he played music. I don't remember any other furnishings in that apartment. He was really so busy in what he was doing with the program there and getting it going and keeping it up and running and recruiting people and representing people in cases and all the things that he was doing, that as usual he had not worried about any sort of creature comforts for himself at the place where he was living at that time.

02;14;01;07

TREY ELLIS:

That's great. His new place is not that different. We were just there. Anything else about sort of the work or this that, again we like this to feel like sort of an official record of this social justice work, anything else that issues that you'd like to ...

02;14;23;20

STEVE BRIGHT:

Give me a minute I guess to think about that. I don't have anything too specific. I would say this that at times that Bryan and I have ever since I've known Bryan until today whenever we talk it's often about a wide range of things from sort of the pressures on law students and where they're being channeled by the law schools and how unfortunate it is that so many are being taken away from the idealism and the commitment that they had when they came to law school and are going somewhere else at the end of it, on the other hand all the people that are joining EJI or coming to Southern Center for Human Rights and how amazing people like Sia Sanneh and other people are that are coming.

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02;15;16;02

STEVE BRIGHT:

Then of course endless things to discuss in terms of what different states are doing with regard with to the death penalty, what Alabama particularly is doing with the death penalty, the sort of trends that we see and what's happening the other issues that have come up and children and how we deal with children. I think Bryan and EJI have just made a tremendous difference with regard to the way children and people who were children, people who are 65 years old now but were 13 years old when they got sentenced, how they're being treated in the courts. All of this is probably the most difficult time imaginable in terms of the harshness and the severity of what's going on in the criminal courts.

02;16;03;14

TREY ELLIS:

Great. And what do you think you're going to do when you hear, if there's a ruling that says now and forever the death penalty is abolished in the United States just like most every other country in the world, what are you going to do? Have you thought about that?

02;16;20;07

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STEVE BRIGHT:

Well I think if the death penalty is ever abandoned or dies on the vine, which is basically what's happening right now or is struck down which I think is less likely but who knows ten, 15 years from now what may happen, I think all these issues are still there in the criminal justice system. The entire system is infected by racism and racial discrimination. We have people serving life without parole, basically a death sentence, people sentenced to every day of their life they'll be in prison no matter what they do, how well they adjust any of those kinds of things. We still have children and the way they're being treated both in the juvenile courts and the adult courts that need to be addressed.

02;16;59;11

STEVE BRIGHT:

There are innocent people who are being convicted and being sentenced to prison, many of those cases are being overlooked because there's just not the people and the resources to take them on. There's a full docket of things to be done in the criminal courts if we can ever get past the death penalty. In fact one of the things that's most unfortunate about the death penalty is that it distracts us from these other compelling issues that we ought to be worried

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about, racism in the courts, innocent people being convicted all of those kinds of things.

END: 02;17;31;07