

Robert L. Carter, an Architect of School Desegregation, Dies at 94



Associated Press The lawyers for the NAACP Legal Defense and Educational Fund Inc. From left, Louis L. Redding, Robert L. Carter, Oliver W. Hill, Thurgood Marshall and Spottswood W. Robinson III.

By ROY REED Published: January 3, 2012 [The New York Times](#)

Robert L. Carter, a former federal judge in New York who, as a lawyer, was a leading strategist and a persuasive voice in the legal assault on racial segregation in 20th-century America, died on Tuesday morning in Manhattan. He was 94.

The cause was complications of a stroke, said his son John W. Carter, a justice of the New York Supreme Court in the Bronx.

Judge Carter presided over the merger of professional basketball leagues in the 1970s and was instrumental in opening the New York City police force to more minority applicants. But perhaps his greatest impact came in the late 1940s and 1950s as a member of the NAACP Legal Defense and Educational Fund Inc., led by [Thurgood Marshall](#).

Often toiling behind the scenes, Mr. Carter had a significant hand in many historic legal challenges to racial discrimination in the postwar years. None was more momentous than *Brown v. Board of Education*, the landmark case that led in 1954 to a Supreme Court decision abolishing legal segregation in the public schools.

Mr. Carter's well-honed argument that the segregation of public schools was unconstitutional on its face became the Supreme Court's own conclusion in *Brown*. The decision swept away half a century of legal precedent that the South had used to justify its "separate but equal" doctrine.

Mr. Carter and his underpaid, overworked colleagues at the Legal Defense and Educational Fund argued before the court that the South's schools rarely offered anything like equal opportunities to black children. But that was beside the point in any case, they said. Segregation itself, they argued, was so damaging to black children that it should be abolished, on the ground that it was contrary to the 14th Amendment, which guarantees equal rights to all citizens.

Mr. Carter spent years doing research in law and history to construct that legal theory before it reached the Supreme Court. Though aspects of segregation law had been struck down before [World War II](#), Mr. Carter's task was still daunting. His challenge was to persuade the Supreme Court to overturn, finally, a looming obstacle to equal rights, the court's 1896 decision in [Plessy v. Ferguson](#). That ruling upheld a Louisiana law requiring racial separation on railroad cars. The South used that decision to justify a wide range of discriminatory practices for years to come.

"We have one fundamental contention," Mr. Carter told the court. "No state has any authority under the equal protection clause of the 14th Amendment to use race as a factor in affording educational opportunities among its citizens."

Mr. Carter insisted on using the research of the psychologist [Kenneth B. Clark](#) to attack segregated schools, a daring courtroom tactic in the eyes of some civil rights lawyers. Experiments by Mr. Clark and his wife, Mamie, showed that black children suffered in their learning and development by being segregated. Mr. Clark's testimony proved crucial in persuading the court to act, Mr. Carter wrote in a 2004 book, "A Matter of Law: A Memoir of Struggle in the Cause of Equal Rights."

As chief deputy to the imposing Mr. Marshall, who was to become the first black Supreme Court justice, Mr. Carter labored for years in his shadow. In the privacy of legal conferences, Mr. Carter was seen as the house radical, always urging his colleagues to push legal and constitutional positions to the limits.

He recalled that Mr. Marshall had encouraged him to play the gadfly: "I was younger and more radical than many of the people Thurgood would have in, I guess. But he'd never let them shut me up."

Robert Lee Carter was born in Caryville, in the Florida Panhandle, on March 17, 1917, the youngest of nine children. His family moved to New Jersey when he was 6 weeks old, and his father, Robert L. Carter, died when he was a year old. His mother, Annie Martin Carter, took in laundry for white people for 25 years.

Mr. Carter recalled experiencing racial discrimination as a 16-year-old in East Orange, N.J. The high school he attended allowed black students to use its pool only on Fridays, after classes were over. After he read in the newspaper that the State Supreme Court had outlawed such restrictions, he entered the pool with white students and stood up to a teacher's threat to have him expelled from school. It was his first taste of activism, he said.

He attended two predominantly black universities: Lincoln University in Pennsylvania, where he enrolled at 16, and Howard University School of Law in Washington. He then went to Columbia University as a

graduate student and wrote his master's thesis on the First Amendment. He used parts of the thesis in preparing for the school segregation cases in the 1950s.

Mr. Carter joined the Army a few months before the United States entered World War II. His military experience made a militant of him, he said, starting with the day a white captain welcomed Mr. Carter's unit of the Army Air Corps at Augusta, Ga. The captain, Mr. Carter said in his memoir, "wanted to inform us right away that he did not believe in educating niggers."

"He was not going to tolerate our putting on airs or acting uppity," Mr. Carter said.

In spite of repeated antagonisms, Mr. Carter completed Officer Candidate School and became a second lieutenant. He was the only black officer at Harding Field in Baton Rouge, La., and promptly integrated the officers' club, arousing new anger. He was soon transferred to a training base in Columbus, Ohio, where he continued to face racial hostility.

He left the service in 1944 and got a job as a lawyer at the Legal Defense and Educational Fund, then the legal arm of the National Association for the Advancement of Colored People. (It later became an independent organization.) He had become Marshall's chief deputy by 1948, and soon became active in school segregation cases, notably [Sweatt v. Painter](#), in which the Supreme Court ruled in 1950 that the University of Texas Law School had acted illegally in denying admission to a black applicant.

Mr. Carter was also involved in housing discrimination cases, the dismantling of all-white political primaries in several Southern states and the ending of de facto school segregation in the North.

Mr. Carter was disappointed when Marshall passed him over and chose a white staff lawyer, Jack Greenberg, to succeed him as director-counsel of the fund in 1961. Mr. Carter moved to the N.A.A.C.P. — by then a separate entity — as its general counsel. He considered that a demotion, and resented what he saw as Mr. Greenberg's undercutting him.

Mr. Carter resigned in protest from the N.A.A.C.P. in 1968 when its board fired a white staff member, Lewis M. Steel, who had written an article in The New York Times Magazine critical of the Supreme Court. After a year at the Urban Center at Columbia, he joined the New York law firm of Poletti, Freidin, Prashker, Feldman & Gartner. President Richard M. Nixon nominated him to the federal bench for the Southern District of New York in 1972 at the recommendation of Senator Jacob K. Javits, Republican of New York.

On the bench, Judge Carter became known for his strong hand in cases involving professional basketball. He oversaw the merger of the National Basketball Association and the American Basketball Association in the 1970s, the settlement of a class-action antitrust suit against the N.B.A. brought by [Oscar Robertson](#) and other players, and a number of high-profile free-agent arbitration disputes involving players like [Marvin Webster](#) and [Bill Walton](#).

In 1979, his findings of bias shown against black and Hispanic applicants for police jobs in New York City led to significant changes in police hiring policies and an increase in minority representation on the force.

Mr. Carter, who lived in Manhattan and died in a hospital there, married Gloria Spencer of New York in 1946. She died in 1971. Besides his son John, Judge Carter is survived by another son, David; a sister, Alma Carter Lawson; and a grandson.

Well into advanced age, Mr. Carter retained the fire of a civil rights agitator who believed that much remained to be done in the pursuit of racial equality.

“Black children aren’t getting equal education in the cities,” he said in [an interview](#) with The Times in 2004. “The schools that are 100 percent black are still as bad as they were before Brown. Integration seems to be out, at least for this generation.”

But, he said, “I have hope.”

“In the United States, we make progress in two or three steps, then we step back,” he added. “And blacks are more militant now and will not accept second-class citizenship as before.”

Dennis Hevesi contributed reporting.