

### **“BEYOND THE RHETORIC”**

**Harry C. Alford** □

#### **How to Trump a Jim Crow Supreme Court**□

Who would have thought we would be back in this situation? After Brown vs. Topeka and the rule making of the Civil Rights Act of 1964 we are then assaulted from a Supreme Court that is starting to emulate decisions like Dred Scott. We are in subtle shock and are moving to hysteria. We have what may be minds of bigotry on the highest court in the land. That, coupled with the “spook” who sits on the bench leaves us wondering “what can we do?” Do we ride it out for the next few decades, take our lumps and start over again as second class citizens or do we fight? How do we fight?

There is a movement coming out of Congress that I believe is the answer. Recently, this retro Supreme Court decided to limit the time an employee has to file a discrimination case regardless of the situation or circumstances. This was clearly a direct assault on Title VII of the Civil Rights Act. It involved a case concerning an employee named Ledbetter and none other than Goodyear Tire & Rubber Co.

Goodyear is certainly capable of discrimination. The NBCC had a fight with them a few years ago over their racist advertising in South America. They were running television ads that stated “Goodyear tires are as strong as a Black man’s lips” replete with Step’n Fetch It type actors. We had to expose this through the Black press and on TV’s New Edition to get them to stop it. They are on the dark side.

With the Ledbetter case the Court said he waited too long to file his complaint. End of story and you are out of luck. This is unrealistic as you may not be aware of the damage being done until after the fact. The Court’s decision provides cover for employers who discriminate and trivializes the damage being done. According to Congress, “The limitation imposed by the Court on the filing of discriminatory compensation claims ignores the reality of wage discrimination and is at odds with the robust application of the civil rights laws that Congress intended ... The

Supreme Court in *Ledbetter v. Goodyear Tire & Rubber Co.*, No. 05-1074 (May 29, 2007), significantly impairs statutory protections against discrimination in compensation that Congress established and that have been bedrock principles of American law for decades. The *Ledbetter* decision undermines those statutory protections by unduly restricting the time period in which victims of discrimination can challenge and recover for discriminatory compensation decisions or other practices, contrary to the intent of Congress.”

On June 22, 2007, Congressman George Miller (Democrat –California) introduced H.R. 2831 known as the ‘Ledbetter Fair Pay Act of 2007’. This amends Title VII of the Civil Rights Act to allow more and reasonable time to decide on filing a discrimination complaint against an employer. This makes it law and brings equal opportunity back into the workplace despite the Jim Crow Supreme Court. This bill has three Black co-sponsors: Eleanor Holmes (Democrat-DC), Danny Davis (Democrat – Illinois) and Yvette Clarke (Democrat – New York). There are twenty other co-sponsors.

Of course, we are going to need at least 218 members of the House of Representatives to support the passage of this bill. Then we are going to need 60 Senators to avoid filibuster and passage. Then, there will be a big challenge: The signature of the President. As this president has voiced his pleasure with this Court, in fact, has appointed two of the adversaries it doesn’t look positive at this point. However, we can defeat his veto with 66 Senate votes. That will be the key for now.

Ultimately, we can correct this situation through the ballot. As Malcolm X said, “We have two choices – the ballot or the bullet”. We aren’t going back to Jim Crow. So, there is no other positive option but the ballot. From here on, while there is a Jim Crow Supreme Court, we must set a priority in choosing or voting for those who support the tenants of the Civil Rights Act of 1964. Let us make it clear to each and every candidate for federal office – Congress, Senate and most of all, the Presidency.

There are three entities of government – Judiciary, Legislative and Executive. No one entity is king and any two can over rule the third. Thus, we have to ensure that the Legislative (House and Senate) have a majority in our favor. Equally important we must have a President who is of modern thinking and supports Civil Rights versus a Supreme Court that longs for the days of slavery, sexism and white supremacy.

This is the hand that has been dealt to us. It is up to us to win despite the odds. Clever thinking, coalition building and the will to not step back will be the keys to the freedom castle known as Modern America.

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