



Transcript
October 8, 2019

Michigan Radio Stateside Interview with Kimberly Ann Ward and Terrance A. Keith | D. Augustus Straker

Cynthia Canty: You're listening to Stateside, I'm Cynthia Canty. It is Wednesday, and you know what that means. It's time to talk our state's history with help from our partners at the Michigan History Center.

Cynthia Canty: This week marks the anniversary of a very important case in Michigan history: *Ferguson v. Gies*. This case coupled with the hard work of attorney D. Augustus Straker made huge steps in advancing civil rights in 19th-century Michigan. Joining us to talk about this is the president of the D. Augustus Straker Bar Association, Kimberly Ann Ward, and one of the original founders of this bar association, he also sits on the Wayne County Probate Court, Judge Terrance A. Keith. Welcome to both of you!

Terrance A. Keith: Thank you for having us.

Kimberly Ann Ward: Thank you, thank you for having us.

Cynthia Canty: Kimberly, I want to start with you. Tell us about this case. What was *Ferguson v. Gies* about?

Kimberly Ann Ward: So, this is a very significant case, which is considered the great Michigan civil rights case. And it's significant for us specifically as a bar association for several reasons. One is because the bar association was named after David Augustus Straker, who is the attorney that handled the case. He was the first African American to appear before the Michigan Supreme Court, and he appeared before the Michigan Supreme Court arguing this case that we're talking about today. And thank you so much for recognizing this case on the anniversary of the decision.

Cynthia Canty: Absolutely! So what happened to William Ferguson?

Kimberly Ann Ward: So in the case of *Ferguson v. Gies*, Ferguson actually entered into a Detroit restaurant, attempting to have a meal, a lunch meal. And he was seated of his own volition. He actually was not served. So the wait staff refused to serve him. He spoke to the manager, requested service. The manager advised that the wait staff was correct in refusing service, because they required him to sit in a separate section, which was considered the "colored" section.

Cynthia Canty: And what year was this? When did this happen?

Kimberly Ann Ward: So this was in 1890.

Cynthia Canty: Okay. So it's a story that certainly echoes things that we heard throughout the 20th century, reminds me of the lunch counter protests in 1960. So what happened, Judge Keith? The lead attorney, D. Augustus Straker, what did he argue?

Terrance A. Keith: Well, he put several things in context, and the significance of the case to be looked at in the context. Because he really argued an equal protection argument, suggesting that one, race can not be treated differently than the other. And bear in mind that from a historical context, in 1857 you had the Dred Scott decision saying that blacks had no rights that a white man need recognize, followed by the 15th amendment being adopted, giving black folks their rights under the constitution. Then more significantly, the state of Michigan in 1885 had adopted a revision guaranteeing the rights of all people regardless of race. Equal protection under the laws. So this case before the Supreme Court in 1890 was the first case brought under the newly adopted revision of the state of Michigan, as well as the 15th amendment. And so Straker made the argument, essentially, that under the equal protection revision that was just adopted by the state of Michigan five years earlier, and this being the first case brought to the Michigan Supreme Court, that Ferguson was being denied equal protection of his right to access the restaurant to be served. The restaurant was trying to make a distinction that one side of the restaurant was equal to the other in terms of service, but this is really the first case, and the first major statement, of the Supreme Court adopting and recognizing the equal protection revision.

Cynthia Canty: Because of the fact that we're saying that means that he won!

Terrance A. Keith: Correct.

Cynthia Canty: And boy I stop and I think that *Gies* was 64 years before *Brown v. Board of Education*, which is the case that is kind of seen as launching the modern Civil Rights era. Why is it that this case, *Gies*, has been so overlooked in the 129 years since this decision?

Kimberely Ann Ward: Well the *Gies* case was a Michigan Supreme Court case and was absolutely ahead of its time. So our Michigan Supreme Court really did set the pace and the trend for all the other Supreme Court's decisions within the United States. One thing that our Supreme Court Justice mentioned in his ruling was that there must be absolute, unconditional equality of white and colored men before the law. That was the language that he used. And he stated that there can be no separation in public places between people on account of their color alone. That ruling was quite significant, as Judge Keith just mentioned in reference to equal protection under the law. And the arguments being also with the 13th amendment and the 14th amendment as well. However, *Brown v. Board of Education* was, as you mentioned, 64 years later. That was a United States Supreme Court case.

Terrance A. Keith: We tend to think of racial issues, civil rights cases, on a national level as opposed to a state-wide concern. We tend to identify the racial issues by the decisions of U.S. Supreme Court. *Plessy v. Ferguson*, which came down just six years after, pretty much supplanted the significance, in one sense, of what the Michigan Supreme Court had held.

Cynthia Canty: An exact opposite direction, didn't it?

Kimberely Ann Ward: Yes.

Terrance A. Keith: Absolutely.

Cynthia Canty: Separate but equal, yeah.

Terrance A. Keith: Correct.

Cynthia Canty: But as you say, when it's done on a state level then that takes the state. Did that put Michigan kind of in the forefront of a civil rights movement in this country?

Terrance A. Keith: At the time, yes. Because it came at a time when the doctrine of "separate but equal" was emerging rapidly through the states, which began essentially in South Carolina. But there was a case just prior to the *Gies* case, which was *Cumming v. Board of Education* out of Georgia, which was one of those first cases that said that the rights of African American students could be denied in favor of other decisions that the school board could take. So, this is a significant that he was able to get this kind of ruling out of the Michigan Supreme Court. The chief justice of the Supreme Court of Michigan, Justice Morse, was a general in the Union Army, and he lead the colored troops during the war. And after the decision was issued, he wrote a private letter to Straker, in which he said, and underscoring the prose, the beautiful prose that he wrote in his opinion, "as having watched colored troops die so gallantly for a nation that guaranteed them nothing, I could not help but find that they were entitled to the same rights as any white man in the country."

Cynthia Canty: Those are powerful words. And I know after this landmark case William Ferguson went on, made more history at the state capitol and became the first African American to serve in Michigan's legislature. So Kimberely, what did D. Augustus Straker do following this case?

Kimberely Ann Ward: Well, following this case, D. Augustus Straker, he did become the first African American jurist in the state of Michigan, which was also significant. He served two terms as Wayne County Circuit Court Commissioner. He was very active in the political arena, in the civil rights arena, even collaborating with individuals such as W. E. B. DuBois.

Cynthia Canty: Kimberely, you're the president of the D. Augustus Straker Bar Association. What's the mission of the group?

Kimberely Ann Ward: So the mission of our bar association is to increase minority representation in the legal profession, supporting and encouraging legal practice opportunities for minorities. And also facilitating equal justice for underserved members of our communities, specifically the Oakland County community in which are our association is based.

Cynthia Canty: Kimberely Ann Ward is president of the D. Augustus Straker Bar Association and Judge Terrance A. Keith sits on the Wayne County Probate Court. Sharing the story of attorney D. Augustus Straker and his landmark civil rights case in Michigan, *Ferguson v. Gies*, decided on October 10th, 1890. Thank you so much for being part of our Michigan History Center segment. It's great talking with you.

Kimberely Ann Ward: Thank you.

Terrance A. Keith: Thank you for having us.