

Genesis Teaching All Men Are Children Of Our First Parents Central in the Civil Rights Movement

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Introduction

When Martin Luther King, Jr. Day comes around each year, I often think of a distant relative, Walter Gerald Bergman (he went by Gerald; I go by Jerry). Our families had much in common. As Scandinavians, both Walter's and my father's families were originally Lutherans, but both my father and Walter converted to Unitarianism as adults. (Former Vice-President Walter Mondale's brother, Unitarian minister Lester Mondale, married my father and step-mother.) Walter and my father were both very active in the Michigan American Civil Liberties Union (ACLU)—Walter was actually a founder of the Michigan ACLU chapter.

Walter's father, Oscar Bergman, a Swedish immigrant, was described as a devout Free Methodist (Kaufman, 1989, p. 12). In 1895, Oscar married school teacher Lizzie Brown, and Walter, their second child, was born in 1899.

Walter attended Free Methodist Greenville College. Raised in a strict Free Methodist home, he acted on what he learned in Church about the brotherhood of humankind, all children of our first parents, Adam and Eve. The Free Methodists separated from the Methodists over slavery; hence the name "*Free Methodists*." They felt it was their Christian duty to fight for their Black brothers' civil rights. Two other participants on the Freedom Ride were likely creationists or at least rejected human evolution because the colleges they attended were very committed to the creation worldview. They openly rejected the idea that some races were superior to other races. In short, their motive in fighting for the civil rights of Blacks was influenced by the Genesis teaching that there is only one race, the human race. Rejection of scientific materialism and the influence of the Bible's teachings were very important in Martin Luther King's life long support of civil rights for Blacks (Bergman, 2023; King, 2010. pp, 37-38; 69-71).

In 1929, Walter earned his Ph.D. from the University of Michigan for his 335-page dissertation. Dr. Bergman later completed an important study titled *Results of Achievement Tests Given in 1926-1927 in the Elementary and High Schools of Michigan* (1927) which initiated the Michigan statewide testing movement. Dr. Bergman taught at the University of Michigan and later became a full professor at Wayne State University in Detroit, where I earned my bachelor's, my first master's, and my first doctoral degrees.

His claim to fame, however, was not due to his many academic achievements, but to his civil rights activities, which made Dr. Bergman his share of enemies (Bergman, 2011). During the Red Scare, the State Department was informed that Bergman was a "closet Communist," a common accusation leveled against civil rights workers then. As a result, while on a research sabbatical in Denmark with his wife, the couple's passports were revoked without explanation for six weeks, stranding them 2,000 miles from their Detroit home. A headline in the *Detroit Free Press* of April 30, 1953, which read "Call City Teacher Red," was typical of the slander they faced. The Bergmans were forced to move into the homes of friends in Copenhagen until they could leave Denmark. Dr. Bergman, then director of research for the Detroit Board of Education, was also terminated. When the State Department could not produce evidence that Walter was a Communist, he was reinstated (Kaufman, 1989, p. 75). The State Department returned their passports several months later without explanation. They likely realized the closet Communist charges were totally false.

The Freedom Ride

"Always passionate people, the Bergmans have always had passionate foes," wrote a *Parade* article about Walter by Paul Magnusson (1976, p. 22). One example occurred in the 1950s. Of all Bergman's civil rights battles throughout the years, none was more significant than the one that took place in a Trailways bus in the tiny town of Anniston, Alabama. For his stand, Walter Bergman spent almost half of his life in a wheelchair after suffering a brutal beating during the famous 1961 Freedom Ride that began the modern American Civil Rights Movement. Bergman became involved as a result of the civil unrest existing in Detroit, where he was living and working. He later moved to Farmington Hills, Michigan, after he was injured (Covell, 2012, p. 2).

The large influx of Blacks from the South to work in the then-booming Northern industry resulted in race conflicts and, at times, physical assaults against Blacks. One day, Bergman noticed a crowd of Whites chasing a Black man near Woodward Avenue in Detroit. He stopped his vehicle, opened his car door, told the man to get in, and, as Bergman sped away, the mob followed closely behind. After racing through stop lights, he dropped the man off at the police station (Pflug, 1981, p. 36). Bergman noted that Blacks and Whites worked side by side in Detroit's factories with few problems, but once outside of the factory, irrationality and at times violence took over.

In 1946, the Supreme Court outlawed segregation on interstate buses and trains (Sargent, 2004). In 1960, the Supreme Court extended the ruling, to include all interstate buses, bus stations, restaurants, and restrooms. Many southern states openly ignored the court ruling. James Farmer of the *Congress of Racial Equality* (CORE) decided to test the enforcement status of the Supreme Court's decision. To do this, he sent an interracial team of civil rights workers on two commercial buses into the Deep South to patronize what were supposed to be racially-integrated facilities (Kent, 1993, p. 7). They called their team of volunteers *The Freedom Riders*, a name they have been known by ever since (Farmer, 1995).

Dr. Bergman had been active in CORE since 1958, picketing segregated hotels and other segregated establishments (Arsenault, 2006, p. 100). The fourteen CORE Freedom Riders—both Black and White—included Dr. and Mrs. Bergman. All were going to sit together on the bus and eat together in restaurants to test the local compliance with the court's ruling. Some of them paid dearly for this simple non-violent act.

Fourteen people volunteered to go on the Freedom Ride: seven Whites and seven Blacks. The group included, ministers, college students and a Harvard-trained architect (Pflug, 1981, p. 42). On May 13, the Freedom Riders had dinner with Martin Luther King before the Freedom Ride began (Branch, 1988, p. 416). Dr. King demanded non-violence from all of those involved with him. One college football player was not sure he could remain non-violent, so he was asked to leave.

Of the 14 Freedom Riders, Dr. Bergman, then age 61, was the oldest. He was only 5'7" tall and of medium build. Bergman's wife, Frances, a former elementary school teacher and assistant principal, was then 57, the second oldest (Arsenault, 2011, p. 66). Dr. and Mrs. Bergman met when both of them were employed in the Detroit

public schools. Francis, whom the family called Fran, was impressed with Walter's dedication to improving the lot of the downtrodden. After a short courtship, they married, and she wholeheartedly joined him in his civil rights activism (Covell, 2012, p. 1).

Of note about the Bergmans is the comment of John Lewis. Lewis, a Baptist Minister, was the U.S. Representative for Georgia's 5th district from 1987 until his death on July 17, 2020, at age 80 from stage-4 pancreatic cancer. He served a total of 17 terms in Congress, approaching a record. Lewis, who was on the Freedom Ride with the Bergmans, observed that "Watching Walter and Frances Bergman together, sharing each other's food at our communal meals, gave you all the faith in the world about the possibilities of lifelong love between a man and a woman. You could see how much these elderly people enjoyed and simply *liked* each other" (Lewis, 1998, p. 134; emphasis in original).

The Fateful Ride

A Parade magazine article, titled "*The Fearsome Freedom Ride of Walter Bergman: A Nightmare Recalled*," wrote that shortly after Walter had dinner with Dr. King, he began his bus ride with a small group of people. Paul Magnusson added that Bergman, a "veteran liberal scrapper, paid dearly for his May 1961 efforts to bring civil rights to the South" (1976, p. 20).

Two buses left on the trip from Washington, D.C., into the deep South, a Greyhound and a Trailways (Kaufman, 1989). The Greyhound bus encountered a mob of Ku Klux Klan members and other racists in Rock Hill, South Carolina. They first attacked the bus, beating on the bus sides with iron bars, slashing the tires, and breaking its windows. In spite of the damage, the bus drove on with about fifty cars containing as many as 200 persons following the injured bus like sharks (Branch, 1989, p. 418).

When one of the slashed tires went flat, the driver struggled to change it. The mob then demanded that the Freedom Riders exit the safety of the bus. Next, the mob used bricks and a large axe to smash several of the bus's remaining windows. Then they threw an incendiary bomb through a window, forcing the Freedom Riders to crawl out through the windows and doors to escape the inferno that was now raging inside the bus. Fearful that the bus would explode, the KKK fled to their cars and drove away (Kaufman, 1989, p. 4).

In Danville, a small town 65 miles south of Lynchburg, the Freedom Riders in the second bus also faced open hostility, but it was not until the Trailways bus arrived in Anniston, Alabama, that they faced open violence (Arsenault, 2011, p. 77). The driver stood glaring down the aisle at the seven Black college students and three White riders who alone occupied the bus then, telling them, "You've got to observe the customs of this state. All you niggers get to the back of the bus. White people go up front." One of the attackers added "All you niggers get back. You ain't up North. You're in Alabama and niggers ain't nothing here" (Arsenault, 2011, p. 101). None of them moved, and no one spoke.

The bus doors then burst open, and eight White men toting paper bags pushed their way past the driver to the four Blacks sitting in the front row seats. After removing iron bars and chains from their paper bags, the eight KKK Whites pulled the four Blacks from their seats and pushed them to the back of the bus towards the three White Freedom Riders sitting at the rear of the bus (Peck, 1962). James Farmer (1920-1999) describes the event as follows:

The thugs then got up and began beating the Black Freedom Riders who were seated up front. Doctor Bergman and Jim Peck tried to intervein. "Here, you stop that! One of them said. "These men haven't done anything to you." "they have a right to sit where they want to, the other one said. "You leave them alone." Peck was hit with an uppercut that lifted him off the floor and deposit him unconscious in the aisle. Bergman was knocked down and repeatedly kicked in the head. As his wife, who was also on the bus, described it, "They used my husband's head for a football." Dr. Bergman later suffered a cerebral hemorrhage, which put him in a wheelchair permanently. His doctors agreed that he stroke was a direct result of the beating he had suffered (Farmer, 1986, 202).

Another eyewitness to the attack added a few other details to it: New Yorker and veteran civil rights worker James Peck, a former Harvard University student, pleaded with the attackers, saying, "Wait, can we talk about this?" Before he could say another word, a fist crashed into his face, dropping him to the floor. A beating followed, leaving him a bloody mess. Pictures of Peck's battered and bloody face soon appeared in newspapers and magazines throughout the world in the 1960s, which invigorated the Civil Rights Movement as never before.

Walter Bergman, then 61, and described as a 5'7"-tall frail man, was also pushed to the floor and repeatedly kicked in the head (Arsenault, 2006, p. 150). Blood spurted from his face. As Bergman tried to shield himself with his hands, he was pounded "into a bloody mess" (Arsenault, 2011, p. 101). Behind them, Bergman's wife, Frances, 58, for the first time in her life, heard the sound of human flesh being brutally beaten. When she pleaded with the men to stop, they taunted her and looked at her with hate in their eyes, yelling "nigger lover" (Arsenault, 2006, p. 150). The court described the beating that occurred on May 14, 1961, in Anniston, Alabama, as follows:

Walter Bergman was beaten into unconsciousness by a group of attackers who entered the bus carrying brass knuckles and clubs. Dr. Bergman recalled being floored by blows to the head and face, but once on the floor of the bus, he quickly blacked out. Other witnesses provided details of the severe beating Bergman sustained [579 F. Supp 911 (1984), p. 914].

Furthermore, because Bergman was committed to nonviolence, according to the court testimony at the trial, he

offered no resistance to the blows, but Isaac Reynolds testified that it "took something for them to beat him down to the floor where they began to kick and stomp him" (TR L 89). Herman K. Harris testified that there were "two main guys" kicking Dr. Bergman, and that they "just kicked him and kicked, just kicked him ... up his head and shoulders in the back. I thought maybe they would ... bust his head ..." (TR L 168).

Another Freedom Rider named Ivor Moore got on top of Bergman in an attempt to protect him,

and he was also kicked and stomped. According to Reynolds, the beatings lasted a total of maybe seven or eight minutes, then Bergman was picked up and thrown over several seats to the rear of the bus. At the time of the incident, Bergman was 61 years old [579 F. Supp 911 (1984), p. 914].

When Bergman regained consciousness, "the bus was moving on its way to Birmingham. Both of his eyes were blackened from the blows he had received, and his jaw was so sore and swollen that he had to live on a liquid diet for several days"

[579 F. Supp 911 (1984), p.914]. The effects of the injuries began to appear soon after the beating. As a result, he dragged one of his feet slightly. His medical records document

this “foot drop” and that Bergman had been acting somewhat “hazy” and had shown some personality change during the summer ... in one notation, a doctor states that “this peculiar demeanor was noticed by the physicians and later confirmed by the patient’s wife” (Ex. 2., p. 201). A history taken by Dr. Mogill on September 16, 1961, noted that after the beating in Anniston, Bergman “was somewhat dizzy for sometime” (Ex. 2, p. 197).

Francis later said, “I had never before experienced the feeling of people all around hating me so.... I kept thinking, ‘How could these things be happening in 1961?’” Fortunately, one of the more humane Klansmen realized the defenseless Bergman “was about to be killed” and called a halt to the beating (Arsenault, 2011, p. 102). A Black reporter on the scene, Simeon Booker of *Jet* magazine, wrote of the beating: “Bergman was battered into semi-consciousness and as he lay in the aisle, one of the Whites jumped up and down on his chest with his feet.... Bergman lay lifeless on the floor. Peck’s face and head bled profusely, making the aisle a slippery, bloody path of tragedy” (Booker, 1961, pp.16-17).

All of the Freedom Riders adhered to Dr. King’s guidelines and refused to fight back, a response that only seemed to encourage the mindless hate- driven attackers (Arsenault, 2006, p. 149). Arsenault described the situation as follows:

Although Walter Bergman’s motionless body blocked the aisle, several Klansmen managed to drag Person and Harris, both barely conscious, to the back of the bus, draping them over the passengers sitting in the backseat. A few seconds later, they did the same to Peck and Bergman, creating a pile of bleeding and bruised humanity Content with their brutal handiwork, the Klansmen then sat down in the middle of the bus to block any further attempts to violate the color line. At this point, a Black woman riding as a regular passenger begged to be let off the bus, but the Klansmen forced her to stay. “Shut up, you black bitch,” one of them snarled. “Ain’t nobody but Whites sitting up here. And them nigger lovers ... can just sit back there with their nigger friends” (2006, p. 150).

Only when all of the Freedom Riders had been physically forced to the back of the bus did a policeman step on board the bus. The first thing he said was “You can sue if you want to, but I didn’t see a thing” (Pflug, 1981, p. 46). The court record added that Dr. Bergman testified shortly before he was beaten that he had noticed “uniformed officers outside the bus, and noted that they had made no movement to halt the violence that had”

already begun. Witnesses testified that Frances Bergman tried to come forward to protect her husband as he was beaten and thrown down the aisle of the bus. She was screaming for the police and imploring the attackers to stop (TR L 90, 138, 169). Only after the beatings did a policeman step into the doorway of the bus. He told the Freedom Rider that he’s seen nothing and could prove nothing. Although Dr. Bergman was unconscious at the time, Frances Bergman must have been aware of this demonstration of a total lack of concern on the part of the local police [579 F. Supp 911 (1984) TR L 553].

The Bergmans then faced a two-hour bus trip to Birmingham in the company of their attackers, and many of those who were part of the violent crowd were still aboard the bus. Although no overt violence existed after the initial beatings, as they rode toward Birmingham, Dr. Bergman had a legitimate fear of further beatings and even death. The Bergmans did not even know their Freedom Ride destination, and wondered if they would end up in Birmingham or

some side road where out of the sight of the public eye, the people who were riding with us and brandishing those Coke bottles—or colleagues that they might have had a rendezvous with—would attack us and we would receive ... fatal beatings that they were threatening with their constant waving of those Coke bottles [579 F. Supp 911 (1984) TR L 553].

In Dr. Bergman’s words, the “trip lasted by the clock about two hours. Psychologically, it lasted far longer” (TR D 24a, pp. 932-933). For Bergman, the beating he received on the freedom ride didn’t end there. When the bus stopped,

Frances Bergman, at her husband’s insistence, boarded a city bus moments after their arrival, but Walter himself was unable to escape the

mob's fury. Still woozy from his earlier beating, with blood still caked on his clothing, he bravely followed Peck and Person into the White waiting room. After witnessing the initial assault on his two colleagues, he searched in vain for a policeman who could help them, but soon he too was knocked to the floor by an enraged Klansman. When Simeon Booker entered the terminal a few seconds later, he saw the bloodied and defenseless professor crawling on his hands and knees (Arsenault, 2006, p. 156).

The mob tried to block the exits to prevent the Freedom Riders from leaving the building, but, fortunately, state trooper E.L. Cowling brandished his revolver, forcing the attackers to move back. Soon, the Alabama state troopers arrived, forcing the mob to retreat (Branch, 1989, p. 418). That ended the Bergman's Freedom Riders sojourn, but not their painful ordeal. Both Peck and Dr. Bergman had to get to a doctor as fast as possible to treat their serious wounds. They looked "as bloody as a slaughtered hog," yet it took about an hour to locate an "ambulance company willing to have anything to do with the Freedom Riders" (Arsenault, 2011, p. 111).

In the evening, the Freedom Riders attended a meeting at a church that was forced to last late into the evening for the reason that a mob of around

"5,000 people surrounded the church. Finally, they left nearly midnight, and we crossed the street to the Shuttlesworth home" (TR L 529-30). The next day, the Freedom Riders were unable to find a bus driver willing to carry them, and after trying futilely for some two hours to continue their trip by bus to Montgomery, they gave up and went to the airport (TR L 530). There, the Freedom Riders did finally receive protection and were able to leave for New Orleans, accompanied by a federal agent [579 F. Supp 911 (1984 p. 933)].

Worldwide Publicity

The day after the buses were attacked, pictures of the "burning Greyhound bus appeared in practically every newspaper in the world," drawing the world's attention to the racial brutality in the supposed land of freedom and the American Civil Rights Movement (Pflug, 1981, p. 59; Branch, 1989, p. 420). After the photograph of Peck being beaten by Klansmen ran in newspapers throughout the world, the world press

editorialized about the major gulf between the American freedom ideal and the ugly reality of American racism. Peck was on the operating table for eight hours and required 53 stitches to close the wounds that resulted from the beating (Alberts, 1966, p. 56).

For Bergman and his wife, the beating was much more than merely one day of terror. According to the doctors who testified at his lawsuit against the government, Bergman was beaten so badly by then that his brain was damaged. Soon after, Bergman had to have an appendectomy, possibly a result of the beating. At this time, he suffered from a cardiac arrest. If he didn't recover, the doctors were "prepared to request the Alabama police ... to file murder charges against the Ku Klux Klan" (Pflug, 1981, p. 53). The next day, September 15, 1961, Frances Bergman contacted Dr. Mogill and informed him that her husband

had diarrhea and abdominal pain ... a post-operative report confirms that his appendix was indeed inflamed (Ex. 2, p. 222). ...Toward the end of the operation, Dr. Bergman suffered a drop in blood pressure, and for some period of time between 5:50 and 6:00 p.m., his heart stopped. ...although Dr. Bergman's vital signs returned, he remained in a coma for several days, and suffered severe and permanent damage to the portion of his brain that controls muscle coordination [579 F. Supp 911 (1984), p. 915].

In addition, the hospital progress record notes

that Bergman suffered convulsions and had problems with muscle coordination both while comatose and after he regained consciousness. Bergman testified that for fully a month after the operation, he had to be tied down when on a stretcher or in a wheelchair because of the intensity of the shaking in his limbs, and his bed had to have sideboards to keep him from falling out. He began physical therapy on September 29, making ... minimal progress. By November 11, he was able to get in and out of bed, and by December 15, he could feed himself [579 F. Supp 911 (1984), p. 915].

When Bergman woke after several days in a coma, he could not move a muscle. "Learning to just sit upright took me months," Bergman recalls. He had to learn to write again, starting with the alphabet—it required eight to ten strokes just to make

the letter 'o.' His entire verbal daily output then was a mere six words. Magnusson (1976, p. 22) claims that, with much work and a lot of time (which he now had), Bergman's mind eventually regained its ice-pick sharpness.

Francis' Struggle

The struggle for Francis to manage her husband's injuries and ordeal was described to me by her uncle, John Covell. Covell wrote that it was shortly after Walter and Fran moved to Farmington Hills, Michigan, that

they both took part in the Freedom Ride, and as a result, Walter was stricken with a stroke. They sold the house in Farmington [Hills, Michigan], and moved to Grand Rapids. My aunt Fran was a changed person from then on. She rarely smiled and devoted the remainder of her life to Walter's rehabilitation. The emotional strain that she was under resulted in a complete breakdown for her, and she died in a nursing home. Walter had her remains cremated (Covell, 2012, p. 2).

For the next forty years, Bergman had to be strapped into a wheelchair. Although he could never walk again, Bergman continued his "fight against racial hatred and government complacency" until he died at age 100 on September 9, 1999, in a Grand Rapids, Michigan, nursing home.

The Court Case

Seeking justice, Dr. Bergman's lawyers brought suit against the Federal Bureau of Investigation for its role in the beating. Bergman was able to prove in court that an agreement had been reached between the Birmingham police and the Ku Klux Klan. FBI informer Gary Thomas Rowe, Jr., testified in his deposition that the FBI knew that the Klan and "Alabama law enforcement officials had conspired to 'beat, stab, maim and terrorize' White and Black" Freedom Riders and others who refused to follow the Southern segregation rules (ACLU, 1980, p. 1).

The U.S. Department of Justice even refused to release their own report on the case, claiming executive privilege (ACLU, 1980, p. 1). It revealed that the police agreed to remain in their headquarters two blocks from the Birmingham Trailways' station to give the Klansmen 15 unmolested minutes to brutally beat the Freedom Riders. A

Senate investigating committee learned the police also promised the Klan time to beat up the Freedom Riders (Sargent, 2004, p. 56).

Rowe also testified that a high-ranking police official told him to “Burn’em, bomb’em, maim’em, kill the bastards, I don’t care.” Not only had Birmingham police agreed to allow the beatings, but the Alabama State Police cooperated by keeping the KKK advised of the bus’s location (Pflug, 1981, p. 44).

Said Rowe, “We had baseball bats, clubs, chains, and pistols sticking out of our belts.” Yet the Birmingham Police did nothing to prevent the tragedy. FBI agents witnessed the beatings and even took photographs of the brutality, but not only refused to stop the violence, they even attempted to cover up their part in the crime. In his book on his six years with the FBI, Rowe admitted that he became an FBI informer and joined the Klan because he “always enjoyed cracking heads” (Rowe, 1976).

The second Freedom Ride bus was forced to end in Birmingham, Alabama, because it was too dangerous to continue. Mississippi Governor Ross Barnett warned of even more trouble if the riders passed through his state on their way to New Orleans, their original destination. Alabama Governor John Patterson, a militant segregationist elected with Klan backing, said he could not guarantee the Freedom Riders’ safety, meaning he would do nothing to prevent the violence against the Freedom Riders (Booker, 1976).

Bergman Goes to Court

Dr. Bergman’s trial commenced in December of 1982, after years of pre-trial wrangling. Bergman was 82 at the time, and his wife had died in 1979, three years earlier. The FBI actually maintained it had “no legal duty to enforce, to arrest, or to prosecute” those who beat up Dr. Bergman! (Judge’s decision, file no. G 77-6 p. 2.) In other words, the government implied in *Bergman vs. United States of America* that it was perfectly proper to do nothing while the Klan kicked Walter in the head so furiously that he suffered permanent brain damage, forcing him to spend the rest of his life in a wheelchair!

The court also blocked Bergman’s ability to obtain numerous critical documents. Nonetheless, U.S. District Judge Richard A. Enslin ruled the FBI was responsible for protecting citizens and was wrong to cooperate with thug vigilantes (Bergman,

2001, p. 162; Kaufman, 1989). Bergman's attorney proved beyond doubt that the U.S. government failed to do anything to help the Bergmans, "despite knowledge that the law would not be enforced. These failures were violations of the Defendants' duties as federal officials required by the Constitution, federal statutes, and federal regulations to protect the constitutional rights of United States citizens, including those engaged in interstate travel." Judge Enslin wrote:

The record is arguably sufficient to establish a conspiracy among members of the KKK, local and state officials, and law enforcement officers, and the individual Defendants. Secondly, it is apparent that this conspiracy was inspired by a racially discriminatory animus for the purpose of depriving Plaintiffs and their fellow "Freedom Riders" of the equal protection of the laws and of their rights to interstate travel. Thirdly, proof that the Plaintiffs were assaulted, beaten, and threatened establishes the requisite "act in furtherance" of the conspiracy. Finally, there is evidence of personal injury, economic loss, and a deprivation of rights and privileges accorded to a citizen of the United States. Having met the *Griffin* test, Plaintiffs 1985(3) claims should be resolved at trial [Bergman v. USA 551 F. Supp 407 (1982). p. 415].

Furthermore, the willful failure of

Defendant Kelley (and his predecessor Hoover) to deter or to report the existence of the conspiracy and planned violence to persons in the Department of Justice other than FBI personnel, was a wrongful omission in derogation of their duty as federal law enforcement officers to prevent crime and to protect United States citizens from known attempts to deprive them of their civil rights, in violation of Plaintiffs' rights under the First, Fourth, Ninth, Thirteenth and Fourteenth Amendments to the Constitution [551 F. Supp 407 (1982) Bergman v. USA, p. 416].

Amazingly, the Defendants, in response to Judge Enslin, asserted "that no statutory or regulatory duty is imposed upon the FBI to protect individuals since: 'Nowhere in those sections is there a suggestion that the FBI is a peace-keeping force.'" (p. 416). Judge Enslin wrote in response to this claim that

“it cannot be denied that the government has a duty to maintain law and order ...” *Redmond v. United States*, 518 F.2d 811, 816-817 (CA 7 1975) and to desist from condoning and assisting criminal activity. Here, if the allegations of Plaintiffs’ complaint are sustained, the government not only failed to prosecute the criminals when it had the opportunity, but aided and furthered the criminal enterprise [551 F. Supp 407 (1982). p. 418].

The Judge also wrote, “Plaintiffs Walter and Frances Bergman have alleged real injuries arising out of the sudden and brutal attack on May 14, 1961. These resultant injuries cannot be termed hypothetical or speculative [551 F. Supp 407 (1982). p. 426].

It was also proven in court that, in 1961, “close collaboration between the Ku Klux Klan and law enforcement officials was a fact of life” (Arsenault, 2006, p. 151). One of Bergman’s witnesses at the trial, a leading Michigan orthopedic surgeon, testified that Bergman was beaten on the back of his neck, which released minute particles that found their way into his brain and contributed to, or caused, his stroke.

Dr. George Mogill, for many years the family doctor of both Walter and Frances Bergman, testified in support of the Bergmans. To prove a causal connection between the beating and Bergman’s brain damage, the plaintiffs also relied heavily on the testimony of their expert Witness, neurologist Dr. John Gilroy. Dr. Gilroy was Professor and Chair of the Department of Neurology at Wayne State University and Chief of Neurology at both Harper Grace Hospital and Detroit Receiving Hospital in Detroit.

The plaintiffs also introduced the testimony of anesthesiologist Dr. Raymond Sphire, who was involved in Bergman’s 1961 appendectomy [551 F. Supp 407 (1982), p. 913]. Dr. Gilroy researched the vertebral basilar system to determine the mechanism responsible for Bergman’s condition, and concluded that the cause of the problem was a vertebral artery blockage. The Doctor argued that Bergman would have survived the occlusion without major problems if he had a “marginally sufficient blood flow through the second vertebral artery,” but when Bergman suffered an

episode of hypotension during the operation, the reduced efficiency in circulation of the damaged arterial system resulted in inadequate blood

flow to the cerebellum, causing permanent damage, while the normal carotid system continued to supply the cerebrum ... Dr. Gilroy concluded that the damage in the cerebellum was then compounded by the cardiac arrest, which was too short in duration to affect the cerebral hemispheres [551 F. Supp 407 (1982) pp. 918-919].

In short, Dr. Gilroy theorized that the beating injured the vertebral artery, which caused the condition that led to his stroke and inability to walk again until he died. One major reason he concluded this was because “there was no other explanatory cause of vertebral basilar insufficiency in Bergman’s medical history” and also because Bergman was very healthy prior to the Freedom Ride beating event [551 F. Supp 407 (1982). pp. 918-919].

Furthermore, neither Dr. Gilroy’s examination of Bergman nor his medical history revealed any indications of vascular disease that

might have explained the posited vertebral artery occlusion. Prior to May 1961, Bergman’s health had been good, and he led an active life. During 1959 and 1960, the Bergmans lived in Austria, where Dr. Bergman did a considerable amount of walking on a daily basis. Bergman testified that his health was excellent when he left Detroit to join the freedom rides [551 F. Supp 407 (1982). pp. 918-919].

Later, Dr. Gilroy testified that the vertebral artery injury could

not have caused damage during the period of hypotension unless the autoregulatory capability of the vertebral basilar system had been severely impaired. Autoregulation refers to the ability of the brain’s circulatory systems to maintain the proper blood flow despite variations in blood pressure. With impairment of autoregulation, a drop in blood pressure is accompanied by an equivalent diminution of blood flow through the arterial system. Consequently, perfusion of the brain by an arterial system with impaired autoregulation is affected at higher pressures than if autoregulation were functioning [551 F. Supp 407 (1982). pp. 918-919].

Gilroy concluded that,

in this case, there was, in addition to occlusion of a vertebral artery, a loss of autoregulation in the vertebral basilar system, and that it was this combination of factors that made Bergman's cerebellum susceptible to damage during the period of hypotension. Since, in his opinion, a vertebral artery injury could have caused the impairment of autoregulation, he felt that the validity of his theory of causation remained intact [551 F. Supp 407 (1982). pp. 918-919].

As expected, the government took exception to every point of Dr. Gilroy's theory. For example, both Drs. Reinmuth and Victor contradicted many of Dr. Gilroy's medical conclusions and claimed there existed a

lack of objective evidence of vertebral artery injury and brainstem damage. They rejected Gilroy's conclusion that the picture of predominantly cerebellar syndrome could not have been produced by cardiac arrest alone, and they directed the court's attention to indications in the medical record of "mild but definite" cerebral deficits. Dr. Reinmuth testified ... that autoregulation is not controlled by a center located in the brainstem, and opined that damage to the brainstem would have been severe to impair autoregulation. Both Dr. Reinmuth and Dr. Victor were of the opinion that injury to a vertebral artery during the beating was highly unlikely and that if there had indeed been such an injury, it would have been accompanied by symptoms [551 F. Supp 407 (1982). p. 920].

Furthermore, the government contended "the most reasonable explanation for Bergman's" health problems was their contention that the medical record inaccurately reflected

the length of the period of anoxia, and that in fact Bergman must have suffered cardiac arrest for at least three to five minutes. Drs. Reinmuth and Victor believe that the cerebrum suffered the same lack of oxygen as the cerebellum during the operation, causing severe damage in a diffuse fashion. In their opinion, Bergman's concededly excellent cerebation can be attributed to a strong recovery in the cerebrum and to the great redundancy of cell function within that portion of the brain [551 F. Supp 407 (1982). p. 921].

In short, after reviewing the evidence, the judge ruled that the plaintiffs' theory

fails to persuade me that the proofs tip in favor of Plaintiffs on this factual issue. Specifically, I am unconvinced that it is more probable than not that Bergman sustained a vertebral artery injury from the beating, which was capable of seriously damaging autoregulation in the vertebral basilar system without manifesting itself until four months later [551 F. Supp 407 (1982). p. 921].

Yet, the judge added that he was

convinced that the injury *possibly* occurred as hypothesized by Plaintiffs. But this simply is not enough. Moreover, I find that evidence of a mild cerebral deficit, and questions concerning the length of the cardiac arrest, cast serious doubt on the factual premises of a one minute, 45-second period of anoxia, and of isolated cerebellar injury, from which Dr. Gilroy's entire theory proceeds. This is critical, since Plaintiffs' argument is that Dr. Gilroy's theory should prevail because it is not only possible, but the only possibility that fits [551 F. Supp 407 (1982). p. 925].

In short, he alleged that even though Dr. Miller's medical records stated that the anoxia that occurred during the appendectomy was one minute and 45 seconds long, it was in fact much longer! [551 F. Supp 407 (1982). p. 928].

Bergman had asked for a settlement of one million dollars for himself and one million for his wife, who was not severely beaten but suffered from the same threats as her husband and was forced to care for her invalid husband until her death (*Bergman v. USA* 579 F. Supp 911 (1984), p. 913). The two million dollars plus costs is fair compensation, yet he received only a token \$35,000 compensation for his injuries—an amount that covered only a fraction of his legal expenses. His wife received only \$15,000 [579 F. Supp 911, p. 936]. The court even refused to award Bergman attorney costs. Understandably, they appealed on several grounds, including the fact that the United States government refused

to comply with a discovery order to produce specified documents. Instead, the government submitted an ex parte letter to the Court signed by the Deputy Attorney General stating that the documents would not be

provided to the plaintiffs because the Deputy Attorney General had determined that their release would be “inimical to the public interest” [Bergman, 565 F. Supp. at 1362].

The “inimical to the public interest” claim is irresponsible in a case of assault and battery and attempted murder. The documents involved people who saw, or were part of, a vicious assault. Revealing this information was clearly in the public interest. The plaintiffs also argued that “the United States’ actions in refusing to comply with the order demonstrated bad faith, and consequently it should be liable for attorneys’ fees.” They lost on both counts. Specifically, the plaintiffs argued “that they are entitled to attorneys’ fees under 28 U.S.C. Sec. 2412(b) pursuant to the common-law principle that allows the awarding of attorneys’ fees against a party [only when they] willfully disobey a court order” (*Bergman vs. United States of America*, 844 F. @d 353, line 13). Even if the stroke did not occur, the undisputed events that occurred on the Freedom Ride would fully justify prevailing in the court case.

Surviving After the Court Case

In a 1983 interview, Dr. Bergman said in a voice made husky by his stroke that “I don’t have any regrets. I think that I did the proper thing a person in my situation ought to have done in 1961” (1983, *Kalamazoo Gazette* interview). Dr. Bergman spoke widely about the case, concluding that he would do it all over again, knowing that his involvement in the Freedom Ride helped change America for the better. One of many small examples is that the signs saying “Colored” and “White” were removed in the South (Kaufman, 1989, p. 125).

After the court case, Walter married Pat Verdier. Both remained very active in civil rights causes until declining health prevented their joint and individual involvement (Ford, 1988, p. 5). Walter also became a law professor at Wayne State University in Detroit (Lessenberry, 2013, A7). He died in 1999 at age 100 in a Grand Rapids, Michigan, nursing home, and his third wife died in 2002.

Implications of this Case

Some have interpreted the outcome of Walter’s court case as tacit approval of what the FBI and the police did, not only allowing, but actually encouraging, the brutal

beating of people acting in a lawful manner for quietly riding in a bus with their Black friends on a trip down south. Walter's experience was on my mind when I taught corrections and related classes at several local universities. When I worked in research for the circuit court in Michigan, I became aware firsthand of guilty persons allowed to walk, and clearly innocent persons who were convicted.

One study by Northwestern University law professor Larry Marshall determined that *about 1 out of 7 people on death row* since 1973 alone (a total of 75 people) were found innocent by DNA testing and other conclusive evidence. [1](#) As of 2012, 111 inmates on death row have subsequently been found innocent! [2](#) Also, so-far over 2,000 inmates were found innocent due to DNA testing alone, many who had served long prison terms.

The widespread criticism of the American justice system today exists for good reasons. If doctors accidentally killed 1 out of every 7 patients, a national outcry would surely ensue. In Florida alone, 25 death-row inmates have been freed in the past 30 years. [3](#) In Illinois, since the death penalty was reinstated in 1977, 12 men were executed, and, so far, 17 men have been exonerated (four were pardoned), motivating conservative Republican Governor Ryan to conclude that the court system "has proved itself to be wildly inaccurate, unjust, unable to separate the innocent from the guilty and, at times, racist." [4](#)

As of 2013, a total of 482 prisoners have been executed in Texas alone, making it the state with the highest execution rate. There have been over 2,000 executions in the United States since the Supreme Court reinstated capital punishment in 1976. Texas continues to lead the nation in executions, accounting for over one-third since 1976, despite the fact that there were 41 DNA exonerations there from 2002 to 2011.

When I worked for the circuit court in Oakland County, Michigan, as a correctional researcher, what I saw bothered me, both then and now. The court still routinely condones gross violations of civil rights, just as they shamefully did in the Dr. Walter Gerald Bergman case.

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- [1](#)

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