

Legal Knowledge
Episode 2, Season 2 Interview
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Guests: Risa Goluboff and Biruktawit Assefa

—Musical Intro—

Risa Goluboff 00:11

And I pulled over, and I went over to her and I said, Are you lost? And she said, I am. She was frazzled, and she said, I'm supposed to be going to a public commemoration of my uncle, Gregory Swanson, who was the first Black law student at the University of Virginia. And I said, Excuse me? What are you talking— I've never—I say to her, I, in fact, said, I've been on the faculty for X many years. I'm a civil rights historian. I have never heard of him. I knew nothing about this. Get back in the car and tell my family that. And they say, Well, we have to go. Let's go. We go to the library and I learn about Gregory Swanson. And I'm thinking the whole time, How is it that I didn't know this story?

—Musical Break—

Loren Moulds 00:59

Hello everyone, and welcome back to *Legal Knowledge*. I'm one of your hosts, Loren Moulds.

Randi Flaherty 01:04

And I'm your other host, Randi Flaherty. In this episode, we are stepping into 1950s Virginia to tell the story of Gregory Hayes Swanson. He was a Danville, Virginia native and a graduate of Howard University School of Law, who in 1950 became the first Black student to attend the University of Virginia and the UVA School of Law after he successfully sued for admission and won his case in federal court.

Loren Moulds 01:28

You just heard from former UVA Law School dean Risa Goluboff who reflected on how, even after years on the faculty at UVA and as a civil rights historian, she had never heard of Swanson's name when she became dean of the Law School in 2016.

Randi Flaherty 01:43

And this year actually marks the 75th anniversary of Gregory Swanson's enrollment at UVA Law. And the situation, I'm happy to say, is much different, in large part thanks to the initiatives that Dean Goluboff put in place, and for our book on legal education, I co-wrote a chapter on Gregory Swanson with Risa and with Birdy [Biruktawit] Assefa (2024), and they'll each talk later about their work on the chapter later on in this episode.

But to frame all that, I wanted to talk now about who Gregory Swanson was and what his experience was like at UVA. So on September 15th, 1950, Gregory Swanson arrived on the grounds of the University of Virginia and enrolled in the Law School to begin work on an LLM or a Master of Laws graduate degree. And this is one thing that many people don't realize about Gregory Swanson. He didn't come to UVA to get a JD, he came for graduate work—he wanted to teach law.

When Swanson applied, his qualifications were really unquestionable. He had graduated from Howard University School of Law. He had passed the Virginia bar. He had worked at the famed civil rights firm of Hill, Martin and Robinson in Richmond. He had clerked with civil rights attorney Jerry Williams in Danville, and he had actually just opened his own law practice in Martinsville, Virginia. And despite those credentials, the Board of Visitors at UVA rejected Swanson's admission for one reason: he was Black. So Swanson sued in federal court under the Fourteenth Amendment, and he won. And on September 5th, 1950, a federal court ordered the University to admit him, making Swanson the first Black student to break UVA's color barrier.

Loren Moulds 03:13

And we're going to hear more about that from Risa Goluboff in a later segment. And that's a pivotal moment, not just for UVA, but in the broader wave of higher education cases challenging segregation in the 1950s.

Randi Flaherty 03:25

So what was life like for Gregory Swanson in Charlottesville? Swanson, when he arrived, took up residence at the Carver Inn in the Rose Hill neighborhood of Charlottesville, which was a hotel and a boarding house that served as a real cornerstone in the local Black community, and one of the few places in the city where Black travelers could find accommodation. You can actually find it listed in the *Green Book*, which was a travel guide for Black road trippers at the time. So each day, Swanson walked more than a mile from the Inn to Clark Hall, then the home of the UVA Law School on UVA Grounds. He actually wrote to his family about that daily journey and how people took note when he passed. As he put it, quote, “It is difficult to stop realizing that I'm on the spot as well as a stranger in this town.” End of the quote. He said that he walked to school and back each day, and as people stop to stare at him, he wished he could read their minds. It's a really powerful letter.

Loren Moulds 04:17

You can hear the weight of his experience of feeling constantly on display, and one can understand the pressure he might have felt.

Randi Flaherty 04:25

When Swanson enrolled at UVA Law, He enrolled on an integrated basis, and this was really important. This was a shift after the results of the Sweatt [v. Painter, 339 US 629 (1950)] and McClaurin [v. Oklahoma State Regents, 339 US 637 (1950)] cases decided just that

summer, because the pathbreakers before Swanson, like Silas Hunt in Arkansas and Ada Fisher and George McClaurin in law school in Oklahoma, had all been physically segregated from their law school classmates when they had enrolled. So the spaces of UVA were legally open to Swanson, and he deliberately threw himself into student life. He wrote to his family that he was “endeavoring to participate [in the] University activities as much as possible” so that the student body could get used to the idea of Black students being part of this community.

Loren Moulds 05:05

I'm struck by how intentional that was. He was actively trying to change what belonging at UVA looked like.

Randi Flaherty 05:11

Yes, though it's also important to note that some elements of social life within the University community did remain largely closed to him. So, he wasn't allowed into private clubs, for example, where events like the Law School's spring dance were held. Academically, Swanson immersed himself in tax and corporate law, which were his interests. He actually took eight classes over the course of his year in residence at UVA, even though LLM students were not required to take any classes. And he also began work on his graduate thesis that year.

Loren Moulds 05:41

And the fact that he took eight classes, even when he didn't have to, really says something about his seriousness of purpose.

Randi Flaherty 05:48

Absolutely. And after he left UVA, he reopened his law practice. He later joined the IRS as counsel in Washington, DC, and he remained a leading voice on matters of civil rights. Gregory Swanson passed away in 1992.

Loren Moulds 06:03

So first up in this episode, we'll hear from Birdy, who'll bring us through Swanson's experience at Howard and his legal work immediately afterwards. And then next we'll hear from Risa Goluboff, who will put Swanson's court case in context within the landscape of desegregation cases at the time.

Randi Flaherty 06:19

It's a really fascinating story and one that we're always learning more about. It's a story that really asks us to reconsider how institutions remember the past, and also one that calls on us to see Gregory Swanson as the legal professional that he was, as well as an important symbol of change, especially in the cases that led up to *Brown v. Board [of Education of Topeka, 347 US 483 (1954)]*.

Loren Moulds 06:40

Great. Let's listen to Birdy and Risa.

—Musical Break—

Randi Flaherty 06:47

I am here today with my co-author, Birdy. Could you introduce yourself to the listeners?

Biruktawit Assefa 06:52

Thank you for having me here, Randi. It's such an important story to talk about and I feel honored to be invited. I'm Biruktawit Assefa, I go by Birdy. I went to UVA Law for my law degree and I graduated in 2024. And as a law student, I served on the board of the Black Law Students Association. And I was also the editor-in-chief of the *Virginia Law Review*. And I got to co-author this chapter with you and Dean Goluboff. So, a packed but really exciting three years I had at UVA.

Randi Flaherty 07:21

Could you tell us a little bit about what you're up to now after you've graduated?

Biruktawit Assefa 07:25

So I'm currently working as an attorney at Williams & Connolly, which is a firm in DC, and I will be going on to clerk for the Maryland Supreme Court and for Judge [Carlton W.] Reeves (1989) on the United States District Court for the Southern District of Mississippi. So, I'm very excited about both of those opportunities.

Randi Flaherty 07:41

Yes, that's fantastic. It was so wonderful to write this chapter with you, Birdy, and I was hoping to talk with you today about Gregory Swanson before he got to UVA, really. I think one, so much of his story is often wrapped up in a UVA story that we sort of can lose sight of Gregory Swanson as his own human being. And I think it's really important to remember who he was. But also, one thing that often gets lost about his story is that when he came to UVA, he was already a lawyer. He was already a practicing lawyer. So he came as an LLM, as a graduate student. He wasn't a JD student. So the first question, just to set some context for us, could you tell us what was happening in legal education in the 1940s?

Biruktawit Assefa 08:24

Yes. As you can imagine, the 1940s were a time of great tumult for the country and for the world. There was the Great Depression, we were coming off the heels of two world wars. So there was a lot of unrest and a lot of social relationships, economic relationships were being questioned. And so that flowed into the legal academy. And how we taught the law. In the 1920s, in the 1930s, the kind of ascendant form of legal pedagogy was the case method, which was kind of developed at Harvard. And, you know, it was a very kind of rules and principles and, you know, studying law in a vacuum type of focus on legal education. But as the kind of 1900s went on and as these kind of big world events, national events were occurring and we were questioning these social relationships, there was a different

form of legal pedagogy that was kind of coming onto the scene, and that was legal realism and functionalism. And the point of it is that, you know, there were professors and students who were arguing that law should not just be taught and considered in a vacuum, but rather also should be measured by its effects on society, and that we need to understand, you know, the factual context and the socioeconomic consequences of the law in both teaching it and in the way we practice it. It flows naturally that the ascendancy of legal realism ultimately had an effect in the way we thought about civil rights and civil rights law as well.

Randi Flaherty 09:49

We know that Gregory Swanson attended Howard University for law school in the 1940s. Can you tell us what was happening at Howard during this time in terms of its law curriculum?

Biruktawit Assefa 09:58

One story that tends to get lost in the conversation about the inception of legal realism is that Howard was cutting edge in terms of translating legal realist theoretical principles into actual legal litigation, doctrinal victories. And so really leading the charge on how do we—okay, we have all these, you know, grand theories about how we should think about social context, about how we should use functionalism, how we should use the law towards democratic ends, but how do we change them into litigation victories? And Howard was at the forefront of that. Though legal realism, at least, is often associated with Yale and Columbia, and those are schools that were obviously really important to the history and development of legal realism, Howard also has a big role to play in that in its own right.

And in fact, Howard's kind of relationship to this at least understanding of the law as a way to achieve these civil rights and democratic ends goes all the way back to the 1920s under the leadership of civil rights lawyers like Charles Houston, who was a Harvard Law School graduate and who was taught under proto legal realist professors like Roscoe Pound and Felix Frankfurter. And then he then went on to become vice dean, then dean of Howard Law. And so Houston became involved with the NAACP, and he pulled in Howard law students to work on cases with the NAACP towards the struggle for Black equality, and more largely to promote the Democratic goals of the nation. By the late 1930s and certainly into the 1940s, Howard Law was the home of the civil rights lawyer, and they were kind of pioneering impact litigation. And Howard introduced its first formal civil rights course in 1936 under the leadership of James Nabrit Jr., who also actually went on to teach Gregory Swanson. So, you know, you see that through line running throughout the several decades.

—Musical Break—

Randi Flaherty 12:00

Diving down to Gregory Swanson, we know that he attended Howard Law School, graduated in 1948. What do we know about Gregory Swanson's law school experience at Howard?

Biruktawit Assefa 12:11

We know that Swanson was steeped in this history of using the law for purposes of equality, for purposes of democratic ends. He took Constitutional Law and Civil Rights with Nabrit. He also took Conflict of Laws with Professor Herbert [O.] Reid [Sr.], another civil rights lawyer. And like you said, he graduated in 1948 with his LLB. His application to UVA included a recommendation by Professor Nabrit, who, as I said, was one of the pioneers of this civil rights and constitutional law curriculum. And so he was very much steeped in that history. It's no surprise to see where his trajectory led him, and that he also made history in his own right.

Randi Flaherty 12:50

And following that trajectory on from Howard—after he graduated from the law school in 1948—what did he do in the immediate years after graduation?

Biruktawit Assefa 12:58

In his first year out of law school, he worked for the famed civil rights law firm Hill, Martin, and Robinson in Richmond, Virginia, and the firm served as counsel for the NAACP of Virginia in challenging racial segregation in all its forms throughout the state, but with a particular kind of focus on public education. And in September 1949, he returned to his hometown, Danville, Virginia, and a few months later he began clerking for Jerry L. Williams, who was also another civil rights attorney, a prominent civil rights attorney in the state, and so he continued that commitment to civil rights. That didn't end at Howard Law. It continued to inform the steps he took right after he graduated as well.

Randi Flaherty 13:41

I was curious, a question for you as an author, over the course of your research for this chapter, did anything surprise you?

Biruktawit Assefa 13:49

Yes, I mean, a few things, starting with Gregory Swanson himself. Initially, when Swanson and his team, you know, brought the suit challenging UVA to—UVA Law to admit him, the preliminary injunction was initially written to all Black citizens and that are duly qualified to be admitted to UVA. And it was actually in the litigating negotiations that became kind of narrowed to specifically all qualified Black citizens that would be duly qualified to be admitted to UVA Law. It was important to—that we included this fact in the chapter, but it was also important, you know, for me to learn that as well, that, yes, he saw himself qualified and wanted to attend UVA, and he obviously was somebody who took his education very seriously, his career very seriously. But he—it wasn't about just him. He had a larger goal of desegregating. Another thing that also surprised me is how integral law schools were to the desegregation conflict, specifically admissions to law school and the roles that the deans of law schools were playing in kind of desegregating public education. Obviously, I knew that lawyers played a role, but I didn't realize how law schools themselves were kind of battlegrounds.

Randi Flaherty 15:04

Thank you for sharing those. I think those are both really important insights. By way of conclusion, I wanted to ask you, how would you describe the importance of Gregory Swanson? To you, and in the grander scheme of civil rights?

Biruktawit Assefa 15:19

The importance of what he did in his story cannot be overstated. Obviously, to me, it has deep personal meaning. I wouldn't have gone to UVA Law, I wouldn't have had a law degree if it wasn't for Gregory Swanson and for the people who came before him as well. So I feel this indebtedness and also great admiration, appreciation that he did this not just for himself, but also for all student—Black students and all students, really, that came after him. And so I feel kind of a deep affinity for his story because of that. On top of that, this kind of fight for providing equal access to public education, whether it be at UVA in Virginia or more largely, it continues today. And questions about the affirmative action, questions about diversity and all these sorts of questions are, in my opinion, still kind of different modes of working through those questions that were coming up in Swanson's history. And so to me, his story is so important, but it's—I think it still continues.

Randi Flaherty 16:24

Birdy, I really enjoyed learning this story with you and doing the research and the writing for this project, and I thank you so much for spending your afternoon with us today.

Biruktawit Assefa 16:34

Thank you so much. Thank you so much for having me.

—Musical Break—

Randi Flaherty 17:02

I'm here today with Risa Goluboff, distinguished professor of law and professor of history at the University of Virginia, of course, the former dean of the UVA Law School. Thank you so much for talking with me today.

Risa Goluboff 17:12

Thank you. It's my pleasure.

Randi Flaherty 17:13

Risa, it was such a pleasure to co-author this chapter with you and also with Birdy Assefa, our third co-author. You are a legal historian, but also specifically you're a historian of constitutional and civil rights law. And so one of the many things you could bring to this chapter was just putting Gregory Swanson's story in context, especially in the context of what was going on with the legal challenges to desegregate American higher education. So, I'm really looking forward to talking about that with you today. Let's start with Gregory Swanson's application, 1949. He applied to the UVA Law School to join the LLM or the

graduate program in law. Can you just briefly describe for us UVA Law School at the time and its LLM program?

Risa Goluboff 17:57

Absolutely. So the LLMs were fairly new at the time and they were something that the best law schools across the nation, the Harvards and the Yales, were engaging in and setting up and UVA—this is in another chapter that [G. Edward] Ted White has written—you know, UVA really understood itself as both being a premier regional school of the South and a premier national law school. Creating master's programs in law were a trend at the time among elite national law schools. And UVA was definitely part of that. So in 1945, UVA set up its LLM program. So at the time that Gregory Swanson is applying, this is a pretty new program. It's only been in place for four years.

Randi Flaherty 18:46

And so when Gregory Swanson applied to UVA, he wrote in some letters to a mentor that he expected to hear what he called the usual answer, requiring segregation and referring him elsewhere for his education. And I'm wondering, how did Virginia uphold segregation, or separate but equal in its institutions of higher education?

Risa Goluboff 19:05

In many of the southern US states, there were white graduate programs, white law schools, white medical schools, white graduate schools of French, whatever it might be that did not admit Black students and a number of states, including Virginia through the Dovell Act, passed a law that said if there is no program for Black students of a particular type, that they would pay to send those students out of state to get their degree someplace else. A Black student named Alice Jackson applied to graduate school in French at the University of Virginia and the University of Virginia did not want to accept her. Their reading of the applicable laws of Virginia was that they prohibited integration in education. I think later it became more questionable whether that applied to higher education, but that was the way that they had read it and they rejected her. They passed the Dovell Act—the legislature passed the Dovell Act in 1936, and Alice Jackson goes on to study at Columbia University and get her degree at Columbia University. Thousands of Black Virginians, starting in 1936 with the Dovell Act, are given funds to go study elsewhere. And that includes many who applied to UVA Law School and other graduate programs at UVA who were then given funds to go elsewhere. So I think when Gregory Swanson says he expects the usual answer, he expects to be told that, you know, he can't study at UVA, but he can have funds to go elsewhere.

Randi Flaherty 20:35

And what had been going on in terms of legal challenges to segregation in higher education in this time?

Risa Goluboff 20:42

There are two cases: one in 1936, that's a state case in Maryland, and then a Supreme Court case in 1938 that are really the beginning of legal desegregation of higher education. And, the 1936 case is in Maryland, a guy named Donald Murray who wants to attend the University of Maryland Law School, which is all white. In that case, they say it's actually not enough to provide funding to go elsewhere. You're entitled to an educational program in your state. Two years later, in this case called *Missouri ex rel. Gaines v. Canada* [305 US 337] in 1938, the Supreme Court essentially agrees with the Maryland Court and says it's not compliant with *Plessy v. Ferguson* [163 US 537 (1896)]. It is not creating equal educational opportunities if you are just providing funds to go elsewhere. You actually have to provide either a segregated option in your state or integrate your white educational facilities. That said, there's no litigation for another decade and a half until really 1949, 1950, the court kind of stays out of the fray. States like Virginia and other southern states are constantly sending their Black applicants to programs outside of their state. The norm is really noncompliance with this constitutional doctrine that the court announces in 1938.

Randi Flaherty 22:07

Can you frame for us what the NAACP strategy was around education litigation at this time?

Risa Goluboff 22:14

A big part of their strategy at this time was to make *Plessy's* promise of separate but equal either real or so expensive that integration was a better option. There were three main kinds of cases that they were taking. One were school equalization cases where they went into court and said look at the Black school and look at the white school. These are not at all equal. The white school has school buses and new textbooks and beautiful facilities and all of these resources. And the Black school is a one-room schoolhouse, and they get the old textbooks from the white school, and they don't have school buses, and—. To make the claim that *Plessy* really wasn't being upheld on its own terms. And I think that was partly about getting better educational opportunities for Black students, and partly about showing how expensive it really would be to maintain a truly equal dual education system with equal Black schools to white schools. A similar strategy was teacher salary equalization suits. So Black teachers were receiving much lower salaries than white teachers and trying to get those salaries brought up again, one, to get Black teachers the salaries they deserved, but two, to make it really hard for school districts and states to continue to segregate and to make it more expensive to do so.

And then the third piece is the one most germane to what we're talking about now, which is the higher education cases. And they were doing a similar thing there, which was if you take *Gaines* on its terms—what is required is equal educational opportunities, not necessarily integrated, but equal—then they should be setting up a law school. When a Black applicant applies and there's no Black law school, they should be setting up a law school. How can it possibly be equal? Can you prove that it's not equal? And, and and go from there.

Randi Flaherty 24:07

And Gregory Swanson, who of course, is a lawyer at this time and he's working in the major civil rights law firm in Richmond. We know that he was watching all this happen. He was participating in it. And he's particularly watching the time of his application the Sweatt and McClaurin cases. Could you talk us through those two cases?

Risa Goluboff 24:23

Yes, absolutely. And I will say just just to emphasize what you said about the major civil rights law firm. I mean, the folks that he was working for were the lawyers for the NAACP in Virginia. They were the ones who were really doing all of these different education cases in the state. And so he was part of it, right? He was a civil rights lawyer. He was an activist. He was absolutely thinking about the whole litigation strategy, not just his own, you know, educational desires, which are part of it as well. There are two cases that are up at the court right around the time that he is applying to the Law School. One is Sweatt v. Painter. Heman Sweatt was an applicant to the University of Texas Law School, a Black applicant. They did create a Black law school that he could enroll in. It had none of the attributes of the University of Texas Law School, which was then, as it is now, the flagship law school of Texas and a very prominent and prestigious place. It did not have its own library. It had almost no faculty. I mean, it had no alumni network, right? It had no other students, right, for him to interact with and engage with. The argument there was this is really not an equal law school. And it's not only not equal in all of the tangible resources, but it's not equal—and this is a really important part of a case—in the intangibles of what make a successful legal education. So that was Sweatt v. Painter.

And then McClaurin v. Oklahoma is a case in which George McClaurin was admitted to the previously white law school at the University of Oklahoma. But when he gets there, he is segregated. There is an assigned desk for him to sit at. He is not allowed to sit with other students. He is not allowed to eat with other students. And so he makes the claim that he's not actually being given an equal educational opportunity because even though he's there, he can't actually engage on equal terms with other law students. This is all happening at the time that Gregory Swanson is applying to the University of Virginia.

Randi Flaherty 26:30

And so Gregory Swanson submits his application to the UVA Law School in the winter of 1949. What happened next?

Risa Goluboff 26:39

So what happened next is, uh, complicated. The Law School admissions committee, there's a committee that—this is very different now than it was then, we've become much more professionalized. But at the time, faculty played all of these roles. So the faculty admissions committee unanimously voted to accept Gregory Swanson's application. He had graduated, he had his LLB, which was what we now call a JD, the first law degree, from Howard University. He had done well there. He had great recommendations from his faculty members there. He was a great candidate. And UVA Law School was really aware of itself as a national law school, really wanted to be a national law school. They were thinking

about their national reputation and they said yes, right? They wanted to admit him. The faculty then voted and there was only one dissenting vote on the faculty, but the faculty overwhelmingly voted to admit him. And then the application goes up to the president of the University and the president of the University at the time, Colgate [W.] Darden [Jr.] (College 1922), rejects the application. The approach to Swanson's application was, we've long said that integration is against—is in violation of our statutes. Even though I'm not sure it ever was—integration in higher education. I don't think it was covered actually by the statutes, which were about K-12 education. But really what was going on was the University, unlike the Law School, was really much more attached to Richmond, to the Byrd machine in Richmond, to segregationist politics in Richmond. And I think they might have been aware that they were not on great legal doctrinal ice. And yet it was clearly their preference that a court order the University to desegregate rather than the University choose voluntarily to do so. The Law School said we want to voluntarily desegregate, but the University said we're not going to do it ourselves. If we do it, it will be at the point of a court order.

Randi Flaherty 28:45

And the timing here, I think, is also really interesting to your point, because the Sweatt and McClaurin cases had been decided in June, and then Gregory Swanson doesn't receive his rejection until, until July. So it's even after those cases have been decided on a federal level that UVA is still saying no, we need to wait for clarity.

Risa Goluboff 29:04

Right, absolutely. And Swanson applies while the cases are still pending, and the University in fact waits until the cases are decided before dealing with Swanson's application. So they wait a number of months. And then once the decisions come down which say, by the way, these are both illegal ways of handling your Black applicants. University of Texas, you have to create a truly equal law school, or you have to admit Heman Sweatt to your white—previously white law school. And Oklahoma, you may not segregate McClaurin once you're there. Both of these are very striking decisions. After the Supreme Court says all that, the University of Virginia still says no.

—Musical Break—

Randi Flaherty 30:15

So then, after the Board of Visitors denied Gregory Swanson's application to the University of Virginia, Swanson turned to the federal courts that summer in 1950, and he was backed by a legal team that included major names: Thurgood Marshall, it includes Spottswood [W.] Robinson [III], Oliver [W.] Hill [Sr.], Martin A. Martin, George [M.] Johnson, dean of the Howard—of Howard Law School, James Washington from—also from Howard. And so really part of this NAACP strategy that you're talking about. So he turns to federal court. Can you talk us through that court case?

Risa Goluboff 30:45

He turns to federal court and they write a complaint. And in the complaint, he sues on not only his own behalf, but on behalf of all similarly situated Black Virginians applying to graduate school with no programs for them in the Commonwealth of Virginia. It's clear throughout this that this case is going to be settled fairly quickly. It's clear that the University of Virginia is resisting, but not fulsomely. They understand what's going to happen at the end of the case. One of the big pieces that they negotiate over is how big of a ruling is this going to be, and who's going to be included. And what the University really wants is that it gets limited to the Law School and is not for all graduate programs in Virginia, in part because there are some Black graduate programs. And so they don't want to have to allow students who do have access to Black graduate programs into the University of Virginia. So the NAACP and Gregory Swanson agree that they'll limit the case to law applicants and not all graduate applicants in the Commonwealth. There is a hearing that takes place at what was then the federal building. It was the post office and the federal building in downtown Charlottesville and is now the public library. And there's actually a plaque upstairs in the room, which is now a kind of multi-purpose room. It's now the Swanson Room. It was the courtroom at the time where this oral argument happened. And there's also a historical plaque outside the building. So you can go see it. It was a very quick hearing. The professor who was in charge of the graduate program was a professor named Leslie Buckler. He was the person Swanson had been in conversation with. They were so certain of the outcome of this hearing that they had had meetings before the hearing even took place about the classes that Swanson would take, etcetera. Everyone kind of knew where the hearing was going, but the University wasn't going to act until after the hearing. So on September 5th, they had this hearing and the court issues its order. And ten days later, on September 15th, Swanson registers as a graduate student at UVA.

One other thing to note that is, I just think, a fascinating little piece of history is that after the hearing, after Thurgood Marshall and the other lawyers and Gregory Swanson, after they win this historic hearing, really, they go outside the courthouse and they go into what was then Lee Park, and they take photos, celebratory photos, standing in front of the Robert E. Lee statue in Lee Park. Today, obviously, that statue is gone. That park has been renamed Market Street Park and obviously was one of the catalysts for the, you know, terrible white supremacist violence that occurred in Charlottesville in 2017. But there's a real disjuncture of the first Black law student at UVA with his Black legal team standing proudly in front of the statue of Robert E. Lee. From there, they then went to the Lawn at UVA and they took pictures of all of them at the base of the statue of Thomas Jefferson. So much history, complex legacies of history. And yet Gregory Swanson would say in interviews, my being here is actually the fulfillment of Jefferson's vision, right? He—whether he believed this deeply in his heart or not, the way he talked about it publicly was that he was the embodiment of Jefferson's democratic vision of service for his University.

Randi Flaherty 34:23

I want to transition to Gregory Swanson's legacy and his history here at the Law School, but also broadly at the University and in Charlottesville. You joined the UVA Law School faculty

in 2002, and you became the dean of the Law School in 2016. You served until 2024. Before becoming dean, I'm curious what you knew about Gregory Swanson.

Risa Goluboff 34:44

Nothing. Zero. I had never heard his name, which in retrospect seems just crazy and a real injustice. It's a real travesty that, you know, as a member of this faculty for so long and as a member of this faculty who studies civil rights history, you know, he was just not part of my understanding of our history. I later learned that he really had been part of the legacy of our Black students and our Black alumni, that there was a real oral history tradition that was passed down from generation to generation. And so our Black students knew about him. Our Black alumni knew about him, but I don't think most white people did. And I certainly did not.

Randi Flaherty 35:29

And so how did you come to learn his story?

Risa Goluboff 35:34

This is a crazy story. So in the fall of 2015, while I was in the dean search process but was not yet dean, but was thinking deeply about our institution and what I would—how I would think about it, what my vision was for it. I was in the car with my family, driving my husband to a soccer game at Charlottesville High School, and I'm known in my family as being aggressively friendly. You know, if I see someone who looks lost, I like to stop for them. So I was driving and there was a woman standing outside of a car right near the high school with a map in her hands, looked like a rental car. She didn't—she looked confused, and I pulled over. And I went over to her and I said, Are you lost? And she said, I am. She was frazzled, and she said, I'm supposed to be going to a public commemoration of my uncle, Gregory Swanson, who was the first Black law student at the University of Virginia. And I said, Excuse me? What are you talking—? I've never—I say to her, I, in fact, said, I've been on the faculty for X many years. I'm a civil rights historian. I have never heard of him. And so she told me a little bit about him, and she told me that there was a commemoration happening at the library, which I didn't know at the time, had been the federal building where the hearing had taken place, and that there was a committee that had been created to commemorate him. I knew nothing about this. It turned out that the Law School was a sponsor of this event, and that one of our faculty members, Alex Johnson, was speaking there, but I didn't know any of that. And so she she tells me this, I give her—she says, I thought it was at the high school, but it's at the library. And I give her directions to the library, get back in the car and tell my family this. My kids are, I don't know, twelve and nine or something like that. And they say, Well, we have to go. Let's go. So we drop my husband off, we go to the library and I learn about Gregory Swanson, and I'm thinking the whole time, how is it that I didn't know this story? How, how is it that he is not a common name in the history of the University of Virginia, and in the specifically in the history of University of Virginia Law School? I immediately start thinking, we have to rectify this, and we have to make him a household name in our history and in our community.

Randi Flaherty 37:53

How is it that we didn't know this name? That—I mean, you make the point that not everyone had forgotten this story and that's really important. But how is it that so many had—did not know this name?

Risa Goluboff 38:04

So, I think the reason has a lot to do with how Gregory Swanson left the program. And how people told stories about how he left the program. So the myths that had circulated about his time here were either a myth that said that he somehow failed out, that he left without getting his degree, and that was a failure. And it had been a failed experiment, and he in particular had not done well and had not finished. There was a second competing myth that said he had finished and he had handed in his thesis, but the University had refused to accept it. Neither of these stories was a good story, and people don't like to tell stories that are the bad stories. A few years later, a student named John [F.] Merchant (1958) became the first Black student to graduate from the Law School and that is a story that we know, that is a name that we know. I'm not sure he was celebrated as much as he should have been, but certainly he was part of our historical canon. People would just start the story with John Merchant, because the story about Gregory Swanson was not one that seemed attractive to anyone.

So as we delved into this history, and particularly my late colleague Gordon Hylton (1977), who sadly died too young and before being able to finish his research into this, he realized that our LLM program had started in 1945. So Swanson was here five years later, very early into the program. It turned out the program wasn't that well thought out. How it was organized was that a student would come. They would be in residence at the Law School for a year, and then they would go back to their practice or whatever else it was that they were doing, and they would write their master's thesis while in practice and submit it. And it turns out that this was not a good program, because [Flaherty laughs] when you're in practice, you're in practice and you don't have time to write a master's thesis. So Swanson came. He took many classes. You didn't have to take any classes during your year in residence. Swanson took multiple classes very successfully. We have a letter of him talking about his first, what they call then recitations, we would call Socratic method, being cold called. And he was proud. He was nervous and he was proud of his performance. And he did well in his classes. He had really good relationships with his faculty members. He took a couple of classes with Mortimer Caplin (1940), who was the first Jewish professor at the Law School and would go on to be the IRS commissioner under President [John F.] Kennedy, and ultimately hired Gregory Swanson later in his career to work at the IRS, and he had every intention of writing his thesis. He remained in contact with Leslie Buckler for the next couple of years. We found a draft of his thesis, not finished, but a pretty substantial draft. So he was working on it. At the same time, he had a law practice he was running. He was a real civil rights activist. When he was a student, and after, he became a speaker on the civil rights circuit. He was a pathbreaker. He was very much in demand. He was very civically oriented. He lived a rich, full life as a practicing lawyer. Buckler actually wrote to him. He said, Have you made any progress or has practice intervened? He said,

quote, “I am quite in sympathy with people who find after they have finished their residence at UVA that they are carried into new activities to an extent which precludes their ever completing their graduate work.” And this, in fact, was what happened to Gregory Swanson. Of the five LLM students who started with Swanson in 1950, none of them finished their degrees. And of the 29 LLM students at the Law School during the 1950s, only six received their degrees, right? So less than a quarter. The fault did not lie with Gregory Swanson, the fault lay in the structure of an LLM program that was created for other reasons that I don't think necessarily cared whether its students really finished or not.

Once that was uncovered, not that we couldn't have told the story otherwise, but once this became a story not about failure, there was so much success here. I mean, he came here and he integrated this place and he took classes and he made some friends, and he succeeded in doing what he came there to do. And I will add one more detail, which is he no longer needed this degree to get the job that he wanted. He was no longer on a path toward law teaching. He was in a career. He was practicing law. He didn't need it. It was hard to do. He was super busy. No one ever finished it. And that kind of opened up the ability to tell his story, not determined by the myths of this terrible ending. Even if there had been a terrible ending, you could still tell the story. But we were no longer burdened by that ending, and it was really possible to celebrate how much he had done for Black Virginians, for Black Americans, for the civil rights struggle.

Randi Flaherty 43:00

So, so fast forwarding to today. How does the Law School remember and memorialize Gregory Swanson?

Risa Goluboff 43:06

The Law School, alongside the University, has an annual Martin Luther King Day commemoration. We usually have some kind of speaker or a panel talking about the civil rights movement or equality more generally. And as part of that event, since 2018, the Law School tells the story of Gregory Swanson. In addition, we also created a Gregory Swanson Award that is given out to a student, sometimes two students, at that event for courage, perseverance, and a commitment to justice. So it means that his story is told on a yearly basis, and every new group of students, faculty, staff get to hear it as well as alumni. In addition, we are identifying students who are walking in his footsteps, meaning that he's not only a story of the past, but continues to be relevant for our students today and how they think about the future. In the spring of 2018, we had an event at the Law School. There had been the event at the library, but the University had never commemorated Swanson, and we had an event at the Law School that was attended by the rector of the Board of Visitors and the president of the University. And because Swanson was not only the first Black law student, he was the first Black student at the University of Virginia. Period. Full stop. His integration of the University was significant not just for us, but for the University. One of the things that was really important at this event was making sure that his family wanted it, felt comfortable with it, felt good about how the Law School and the University were treating his legacy, and I don't think he was thrilled with how he felt about his time

here and how he felt about his treatment after. And I think his family imbibed that. Working with them to try to show that our intentions in honoring him were honorable and good. And Professor Kim Forde-Mazrui was the director of the center for the Study of Race and Law at the time, and played a crucial part in those conversations. I will say, you know, I think the family really came to feel that we had honored Gregory Swanson in a fitting way. And that meant a lot to us. I forgot to mention, in addition to telling his story and the and the Swanson Award, we commissioned a portrait of him. It now is, amongst other trailblazers and deans in the front hall of the Law School, including him in the canonical historical story of, of the Law School. Not just the stories we tell, but how our landscape and our historic landscape reflects, you know, who we are and who made us who we are today.

Randi Flaherty 45:53

By way of conclusion, I wanted to ask, where does Gregory Swanson's story fit into the larger story of desegregation in American higher education?

Risa Goluboff 46:06

Swanson is an important part, not just of the Law School's history and not just of the University's history, but in my view, is one of the unsung heroes of the civil rights movement nationally. I think there are many such unsung heroes, and I think Gregory Swanson is definitely one of them. The first reason I think he's so critically important is he was the first student to attend any law school in the former Confederacy that had been white on an integrated basis, and he was one of the very first to attend any university in the former Confederacy on an integrated basis. When we think about who are pathbreakers, we think about the names in the Supreme Court cases, and they are. And, you know, those are super important cases. And the people who are brave enough to put their names on them and to put themselves in the line of fire by bringing those cases are incredibly courageous, but they're not always the ones who end up going to law school or walking the path eventually. And Gregory Swanson's enrollment and his presence at the University of Virginia really were pathbreaking. It's the lived experience of being the person who actually integrates that I think is so important for our civil rights history. And then the second way that I think his case is so important, and these higher education cases more generally is because up until 1950, 1951, the NAACP had not fully committed to a desegregation strategy. It was really still thinking about separate but equal versus desegregation, separate but equal as a way to get to desegregation. But it hadn't really—and this something I talk about in my first book—it hadn't really said we are going to attack Plessy v. Ferguson head on. Their success in these higher education desegregation cases was what gave them both the doctrinal tools and the momentum and the strategic ability to really start on the path that leads them toward Brown. Swanson's case is a part of that story. And and I think his name and his case and Charlottesville and the University of Virginia really should be part of the national story that we tell about desegregation in America.

Randi Flaherty 48:30

Risa, thank you so much for talking through Gregory Swanson's history with me today.

Risa Goluboff 48:34

It was a pleasure. Thanks for having me.

—Musical Break—

Blake Cabral 48:44

Legal Knowledge is a product of the University of Virginia Law Library special collections team. Randi Flaherty, head of special collections and legal historian, and Lauren Malt, head of digital scholarship and preservation, served as interviewers. Music and production by me, Blake Cabral, with editorial contributions from Addie Patrick and Jane McBrien. The *Legal Knowledge* podcast features interviews with contributors to our book, *Legal Education at the University of Virginia: Tradition and Transformation*, published by University of Virginia Press. You can listen to season one online at legalknowledgepodcast.com or wherever you get your podcasts. Join us next time as we continue to explore the history of legal education at the University of Virginia. Thank you for listening.

—Musical Outro—