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Curt Flood and the Show Me Spirit

Introduction

Joshua C. Devine

My dad loved the law and baseball. He also loved to combine the two.

His first love was baseball. He grew up in New Jersey and quickly became a Brooklyn Dodgers fan after attending numerous games with his father, Dick. He was heartbroken when his beloved “Bums” left Brooklyn for Los Angeles when he was 10 years old. I don’t think he ever got over the loss.¹ However, he did find some comfort in his loss with the formation of the New York Mets, which promptly became his new favorite baseball team. He shared his passion for the Mets with his mother, Lucy, until his death on May 12, 2010.

He found additional comfort in his loss upon marrying his true love, Sharon, who encouraged him to attend law school and to become a lawyer. Following his graduation from law school, my dad’s legal career quickly morphed from private practice to teaching after the birth of his first son, Zach. He was faced with new obligations, including scholarly writing. Unlike many of his colleagues, who focused on “high-brow” subjects like torts, contracts, and real property, my dad combined his love of the law with his first love, baseball.² Using baseball labor strife as cover to write about his non-scholarly interests, my dad published numerous legal articles about baseball. His writing focused on labor issues involving his Brooklyn Dodger hero, Jackie Robinson, as well as other baseball legends.³

1. In fact, in the summer of 2002, he named his dog “Dodger” – a true testament to his long-felt loss.

2. Not to underplay his contributions to the law, my dad wrote numerous scholarly articles and publications on various “high-brow” legal subjects including professional responsibility, insurance law, civil procedure, and trial practice. He was considered one of the foremost experts in the country on legal ethics, and his *Professional Responsibility* casebook was used by many hundreds of law students. JAMES R. DEVINE, ET AL., *PROFESSIONAL RESPONSIBILITY: PROBLEMS, CASES, AND MATERIALS* (3d ed. 2004). He was also the “go-to guy” when Missouri lawyers encountered ethics questions. He enjoyed few things more than picking up the phone to help a former student work through a complicated ethical issue.

3. He wrote about Jackie Robinson in *The Past as Moral Guide to the Present: The Parallel Between Martin Luther King, Jr.’s Elements of Nonviolent Civil Rights Campaign and Jackie Robinson’s Entry onto the Brooklyn Dodgers*, 3 VILL. SPORTS & ENT. L. J. 489 (1996). He also wrote about the 1919 Chicago White Sox, Ty Cobb,

My dad's shift to teaching also caused a shift in his baseball paradigm. No longer an east-coaster, he took up the St. Louis Cardinals as his new favorite team upon moving to Missouri. This is not to say that he gave up his love for the Mets. Rather, it was unclear which team he preferred, a fact for which my brothers and I gave him substantial grief during the 2006 National League Championship Series when his Mets were pitted against his/our Cardinals. While he shared in our excitement when the Cardinals won the series, he lamented the Mets' loss with his mother. He generally took the same approach when my little brother, Noah, and I attended a Cardinals/Mets game with him on April 17, 2010 – the last such game we would attend together. The game resulted in a heartbreaking 2-1 loss for the Cardinals after twenty innings. My dad conveniently focused on what he called “a great game” instead of the painfully tragic loss suffered by the Cardinals at the hands of the vastly inferior Mets squad.

Although I never did determine which team he preferred, his admiration for the Cardinals was apparent. He loved the Cardinals storied history, and most of all their fans, whom he referred to as the “best fans in baseball” and “true scholars of the game.” Given his admiration of and respect for the Cardinals, it is of little surprise that my dad eventually decided to turn his law-related efforts to Curt Flood, the former Cardinal who struggled to obtain contractual freedom from the organization in the late 1960s.

His article about Curt Flood's labor dispute has been in the making since my childhood. As a young boy, my dad took me and my brothers to a Cardinals game – one of many such outings. Prior to the game, we toured the Old Federal Courthouse, which stood just several blocks from Busch Memorial Stadium, the location of Cardinals home games from 1966 to 2005. During the tour, my dad told us that we were standing in the location where Dred Scott originally petitioned for his personal freedom and was wrongfully denied such right. My dad then told us the story about Curt Flood's struggle to become a free agent baseball player. At the time, Flood was subject to Major League Baseball's “reserve rule,” which essentially made him property of the Cardinals, the team with which he originally signed a professional contract.⁴ Although their struggles were different in degree (personal freedom versus contractual freedom), my dad was clearly moved by the thought of Curt Flood playing center field as Cardinals' property in the shadow of the courthouse in which Dred Scott was declared property 100 years before. I hope that you enjoy reading the article as much as he enjoyed writing it.

Joe Dimaggio, and two of his other baseball heroes, Sandy Koufax and Don Drysdale. See, e.g., James R. Devine, *The Legacy of Albert Spalding, the Holdouts of Ty Cobb, Joe Dimaggio, and the 1994-95 Strike: Baseball's Labor Disputes Are as Linear as the Game*, 31 AKRON L. REV. 1 (1997); see also James R. Devine, *Baseball's Labor Wars in Historical Context: The 1919 Chicago White Sox as a Case-Study in Owner-Player Relations*, 5 MARQ. SPORTS L. REV. 1 (1994).

4. See James R. Devine, *Curt Flood and a Triumph of the Show Me Spirit*, 77 MO. L. REV. 9, 14 (2012).

This Article would not be possible without the substantial assistance of the *Missouri Law Review*, which graciously agreed to publish my dad's last article, or without tremendous aide from my dad's former colleagues at the University of Missouri School of Law. The efforts of several of his former colleagues must be mentioned specifically. Dean Dessem, Dean Bailey, Professor Abrams, Professor Easton, and Professor Freyermuth were lifelong friends to my father and also shared his love of baseball. He was truly proud to call each of these persons his "colleagues" and publication of this article would not have been possible without their friendship and assistance. Professor Abrams deserves special acknowledgement for proofreading the Article when my dad was preparing it – as he did with many of my dad's articles – and for heading up the effort to get the same published. Special acknowledgement is also owed to the Law School staff with whom my father worked for nearly 30 years. My dad had the utmost respect for the Law School staff and thought of them as family. Their many "behind the scenes" efforts undoubtedly gave my dad the time he needed to prepare this Article.

This Article would also not be possible without the love and affection of my mother, Sharon; my brothers, Noah and Zach; and my dad's parents, Lucy and Dick. Each of these persons provided my dad with unfaltering and unconditional love during his lifetime. Without this love, my dad would have never become the kind and caring teacher that we all knew him to be. Dad, we miss your wisdom and kindness every day.

