

James Gay awaits kidney transplant, chance at new life

By EARL SWIFT, The Virginian-Pilot, © January 7, 2007

In the bungalow's front room hang badges of a public life: a law school diploma from the University of Virginia. A photo of the young lawyer shaking hands with President Jimmy Carter. Another showing him with Harold Washington, the first black mayor of Chicago.

The man in the pictures sits a few feet away. He is no longer young. What remains of his hair is cropped close and graying. He tires quickly, moves unsteadily; two strokes and bad kidneys have all but stilled him. "Yep," he sighs, nodding to a cane propped beside the front door. "I need that to keep from falling."

He is no longer a lawyer, either. His framed membership in the Virginia Bar is worthless. His status as community leader, his reputation as a sharp-minded irritant, his role in remaking Norfolk politics - all of that has passed.



This room, this little house, is James F. Gay's world today. It squats among other ragged little houses on a South Norfolk side street. Out the window behind him, trash litters a ditch bordering the yard. Neighbors pass around a 40-ounce beer.

History will remember James Gay as an early black graduate of U.Va.'s law school. It will recall that he was a contender for the Norfolk City Council. That he led the National Association for the Advancement of Colored People's Norfolk branch for four critical years. That, most memorably, he played an instrumental part in a lawsuit aimed at junking Norfolk's at-large voting system, under which elections were long dominated by whites from a cluster of comfortable west-side neighborhoods.

History will relate that after an eight-year battle that often seemed at the brink of failure, Gay and his confederates prevailed - and that Norfolk was carved into seven geographic wards, with a council member elected from each and black voters a majority in three.

Any complete history will include a sad postscript: that at the zenith of his influence, James Gay lost his home, his career and his health in a tumble quick and deep.

Such destruction, so close behind victory, prompted a good many conspiracy theories, not least those offered by Gay himself: "They couldn't beat me in court," he says, "so they took away my license."

But history will show, too, that as attractive as some might find those theories, when it came to doing himself in, James Gay didn't need much help.

Few figures in the story of modern Norfolk elicit such range or ferocity of opinion. Jesse Allen, a former assistant schools superintendent, calls Gay "a fighter for justice like Martin Luther King."

Norfolk City Councilman W. Randy Wright credits him "more than any one single individual" for the city's current political landscape. "All the groundwork was laid by James Gay," he says. "And God bless him for it."

Harold P. Juren, a retired assistant city attorney who represented the defendants in Gay's "ward suit," says he "never trusted him" and "wasn't particularly impressed with him."

The Virginia State Bar says worse: that Gay "committed deliberately wrongful acts and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation."

He drew notice early on. Born in December 1942 to a Norfolk barber, raised in a now-bulldozed downtown neighborhood he describes as "the ghetto," Gay was a star at Booker T. Washington High School - editor of the newspaper, member of the National Honor Society, captain of the varsity tennis team.

"I was smart," he says now. "Thank heaven, God gave me a little bit of wisdom."

His stature grew at what's now Norfolk State University, where he majored in chemistry and helped found a fraternity. He spoke several times before the Norfolk City Council; by his 1965 graduation, Gay was an emerging spokesman for young blacks.

After NSU and a cultural exchange in Brazil, U.Va. came as a shock. "I could go all day," he says, "and not see another black."

Out of school in 1968, Gay went to work first for Allied Chemical Corp., then for an organization that trained local blacks for the business world. He was working for the group's national counterpart when he became a director of Coastal Pharmaceuticals Co., a Norfolk company that bought drugs wholesale and repackaged them under its own name. He so impressed the investors that when the company reorganized in January 1970, he was named president.

Over the following year, Gay turned Coastal's "yearly deficit into a profit of \$30,270," The Virginian-Pilot reported. In his resume, he took credit "for expanding the business from a small company employing one person to one which employed approximately 75 people."

Soon, as The Pilot announced in a 1976 story, he was "being promoted behind the scenes as a successor on the City Council to Vice Mayor Joseph A. Jordan Jr."

Jordan was not just the only black on the seven-member council, he was the only one since Reconstruction. Had the council reflected the city's racial makeup, blacks would have occupied three seats. But Norfolk's at-large voting system allowed candidates to seek office regardless of where in town they lived, and white voters, outnumbering black, held the key to any win. Blacks had never been able to win a second seat, let alone a third.

So to be named a contender for the lone black seat, at a time when a vacancy seemed imminent - Jordan soon became a judge - was a measure of the regard in which the 34-year-old Gay was held.

As it happened, he didn't get the nod, and that news item proved ironic: A few years later, Gay would embark on a campaign to upend the very system in which he'd shown such early promise.

In the meantime, there was trouble at Coastal. In March 1977, the board of directors fired Gay over his business practices; for one thing, a company headed by his father had bought some air-conditioning gear at discount, then resold it at a higher price to a Coastal subsidiary.

Gay shrugged off the dispute as "a difference in philosophical approach." Of the air conditioners, he said at the time: "There's no harm in making a profit."

He opened a full-time law practice.

In 1982, Gay ran for City Council with Herbert Collins, a Ballentine grocer. They were handily defeated. "It confirmed in my mind," Gay says, "that we had racially polarized voting." So he mustered the NAACP's Norfolk outpost and seven individuals, among them Collins, to sue the city in federal court, arguing that the at-large system diluted black voting strength and thus violated the Voting Rights Act.

Key to the effort was his alliance with a Washington, D.C.-based nonprofit group, the Lawyers' Committee for Civil Rights Under Law. Their fight opened at the U.S. District Court: A black candidate won only if the white majority willed it so, they argued - and backed up the assertion with the results of election after election.

The court was unconvinced. Gay and company appealed to the 4th Circuit U.S. Court of Appeals. They lost again. To further complicate matters, the city's political bosses backed the election of a second black to the council.

To W. Randy Wright, a white populist who'd tasted defeat under the old system, victory seemed in doubt, but Gay "never got off track. He was so confident. He truly believed they were going to win."

Those were good times for Gay. His law practice appeared to be doing well. He owned an office building on Brambleton Avenue, along with much of the adjacent block. He lived in a big house in Elizabeth Park.

And the ward suit's prospects leaped in 1986, when the case came before the U.S. Supreme Court and the plaintiffs' arguments finally gained traction. The justices sent the case back down the system for another look.

Gay was elected president of the local NAACP, a post in which his touch for gadfly theatrics came into bloom. In speeches, he likened the city to a plantation and labeled some black leaders "house negroes." In 1988, he threatened a protest over the presence of the Confederate battle flag in the council's City Hall chambers.

Today, he sounds almost disappointed that the flag was removed beforehand; he'd planned to take it down himself while the council was in session. "I thought it would be real interesting to see if they'd fight for the thing," he says. "That would have made the national news."

The suit pinballed in the federal courts until 1990, when the 4th Circuit decreed that the at-large system had to go. Gay had little time to bask. That August, he wrote a bad \$605 check. By year's end, he'd been indicted for insufficient funds with intent to defraud, a felony, and had resigned as head of the NAACP.

The timing of the charge smelled fishy to Gay's supporters. "That was the payback for him," says his son, James Gay Jr. of Virginia Beach. "He really didn't do things too much differently from the way most lawyers do."

"He does have a sincere belief that the powers-that-be brought forces against him," Wright says. "I don't know about that."

"But he had enough of a history that they were able to pile on."

In truth, trouble had been coming for years. In 1982, the bar had reprimanded Gay for neglect in his handling of a lawsuit. In 1989, the bar had found him guilty of misconduct for his treatment of a Norfolk woman's trust fund: Gay diverted thousands of dollars from the trust to another client, and to the same family company that had been involved in the air-conditioning sale. The bar suspended his license for three years.

The bad check earned him an additional 120-day suspension. And more was on the way. Early in 1992, with five additional charges hanging over his head, he told the bar he was depressed and requested that his license be suspended for disability. When he reclaimed it in 1993, the five charges were waiting. One was that he'd taken control of his dead brother's estate in Maryland, claiming to be a resident there, and had mishandled money his niece and nephew were due.

The Rev. Joseph N. Green Jr., Norfolk's retired vice mayor and Joe Jordan's successor on the council, says Gay asked him to testify to the bar on his behalf. "And I did," Green says. "I think one of the things I told them was that, in terms of the needs of the black community, James Gay was a much more important figure than I'll ever be."

The bar revoked Gay's license just the same, citing "repeated instances of inexcusable neglect, outright deceit and dishonesty and misappropriation of monies."

"After years of being at odds with the disciplinary system," the bar found, "and despite several findings of misconduct against him in the face of simply irrefutable facts, he continues to refuse to accept responsibility for his acts, continues to contest facts which are incontestable and continues to assert that he is the victim."

His troubles didn't end there. Gay's practice included collecting debts for several retailers; that folded. He owned an outfit that cut the grass on interstate highways. "At one point," Gay says, "I had nine tractors." That work disappeared. He gave up his house. His marriage broke up.

"I was bitter," James Jr. says. "Not toward my father, but about the scenario. It was a time we should have been celebrating."

And it got worse. In July 1996, Gay found himself "a little woozy" after a Friday lunch. He suspected the broiled fish he'd eaten, but the feeling persisted over the weekend; it wasn't until three days after the fact that he sought a doctor and learned he'd had a stroke.

He lived with friends for the next few years and was further slowed by a second stroke in January 2000. "I was at the Janaf movie theater," he says. "I got ready to go out, and I couldn't move."

A couple of years after that, a former client found him immobilized in his bedroom and called for an ambulance. Gay's kidneys had failed.

Three mornings a week, Gay endures dialysis. His blood is withdrawn from his arm, filtered of its accumulated toxins, and pumped back into his system. Each session lasts more than three hours. He usually sleeps through it.

He sleeps often, he says. He appears healthy - he's kept himself trim on a portable trampoline, wears a tie around the house, comes across as upbeat. But conversations weary him. Tasks involving details or complex thought are exhausting. Some are simply beyond his capabilities.

"I don't drive anymore," he says. "All I do is watch the TV, read the paper, go out for dialysis."

He has plenty of time, alone in his bungalow, to savor his legacy - what his hometown has become under wards, how the system has brought change to the physical landscape, as well as the political, what with downtown's resurgence, the reconstruction of Ocean View, the transformation at Broad Creek. "Night and day," he says.

He has plenty of time to ponder what might have been, too. "I was somebody they should have been proud of," he says, nodding to the Jimmy Carter photo. "Here was a guy who'd made national contacts. Made Norfolk look good."

He sighs. Maybe his time will come again. He's waiting for a kidney transplant. He has a friend who's willing to donate, and whether or not the kidney's a match, the donation puts Gay on a waiting list. He's eager to get on with it.

"I'd be back to my old self," he says.

He chuckles.

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