

Tuesday, May 6, 2008

### Thanks, Mildred and Richard Loving.

Â Bill of RightsÂ (From public domain.)Â Growing up in southern Connecticut, I recoiled in horror over the blatant, violent, and rampant racism that overtook so much of the South right into the 1960's. Confronting such a reality made me also recognize all the more the substantial extent of racism right in my Northeast United States backyard -- and, sadly, even my local backyard --Â without the South's then-recent Jim Crow laws. Â Mildred and Richard Loving were a low-key counterpoint to myÂ numerous strongly-worded responses over timeÂ to people saying words that at best have been racially insensitive, with some speakers admitting their racism outright, and withÂ mostÂ of themÂ denying being racist and sometimes trotting out that one of their best friends is this or that race or religion. Â Appropriately surnamed, Mildred and Richard Loving were in love and wanted to marry, having no Jim Crow-busting agenda beyond that. However, as an interracial married couple in 1958 Virginia, they were prosecuted and convicted for violating the state's law criminalizing interracial marriage (with the case having moved so quickly, apparently to get released from pretrial detention, that it seems doubtful that they even had a lawyer when entering their guilty pleas).Â As the New York Times reports, the Loving's sentencing judge "Judge Leon M. Bazile, in language Chief Justice Warren would recall, said that if God had meant for whites and blacks to mix, he would have not placed them on different continents. Judge Bazile reminded the defendants that 'as long as you live you will be known as a felon.'â€•Â In 1967, the Lovings overturned Virginia's marriage miscegenation law out of the ballpark with a unanimous United States Supreme Court. The racist judge Bazile died less than a month before the case was argued before the Supreme Court. which decided the case in two months flat. In overturning the Loving's conviction, Chief Justice Earl Warren declared: "There can be no doubt that restricting the freedom to marry solely because of racial classifications violates the central meaning of the Equal Protection Clause." Loving v. Virginia, 388 U.S. 1 (1967).Â Â Only eight years after this Supreme Court victory, Richard Loving died in a car accident.Â Last Friday, Mildred Loving passed away at sixty-eight.Â These two apparently otherwise very private peopleÂ became permanent public figures through their last name, which will remain synonymous with smashing racism not onlyÂ with interracial marriage butÂ as another nail in the coffin of Jim Crow.Â Â As an aside, one of the Loving's two Supreme Court lawyers, obtained through the American Civil Liberties Union, was the now-retired Philip J. Hirschkop, just around two years out of law school when he argued the case, with lawyer Bernard Cohen arguing in rebuttal.Â Read this colorful account of this lawyer who is very colorful, to say the least, and who has apparently never shied away from defending the most controversial of clients.Â What a counterpoint:Â the salty-tongued Phil Hirschkop representing the low-key Lovings. Perhaps it was yin and yang; perhaps not. Â Thanks, Mildred and Richard Loving, for staying true to yourselves, and forÂ having stepped out of the shadows of anonymity to advance this essential fight against racism and for justice. Jon Katz

Posted by Jon Katz in Constitutional Law at 00:00

From the NYTimes article about Mildred Loving:

"...Mrs. Loving and her husband, Richard, were in bed in their modest house in Central Point in the early morning of July 11, 1958...when the county sheriff and two deputies, acting on an anonymous tip, burst into their bedroom and shined flashlights in their eyes. A threatening voice demanded, 'Who is this woman youâ€™re sleeping with?' Mrs. Loving answered, 'Iâ€™m his wife.'"

Do you think she knew, at the time, that saying "I'm his wife," could be incriminating? It seems that, quite literally, anything you say can and will be used against you. While the Lovings eventually received justice from the Supreme Court years later, I imagine that not everyone can catch such a lucky break. Better just to ask for an attorney and remain silent until one arrives - even if all you want to say is something as simple as, "I'm his wife."

Anonymous on May 6 2008, 12:59