UConn Law honors John Brittain, original Sheff lawyer, 33 years after school desegregation suit was filed

By SEAMUS MCAVOY

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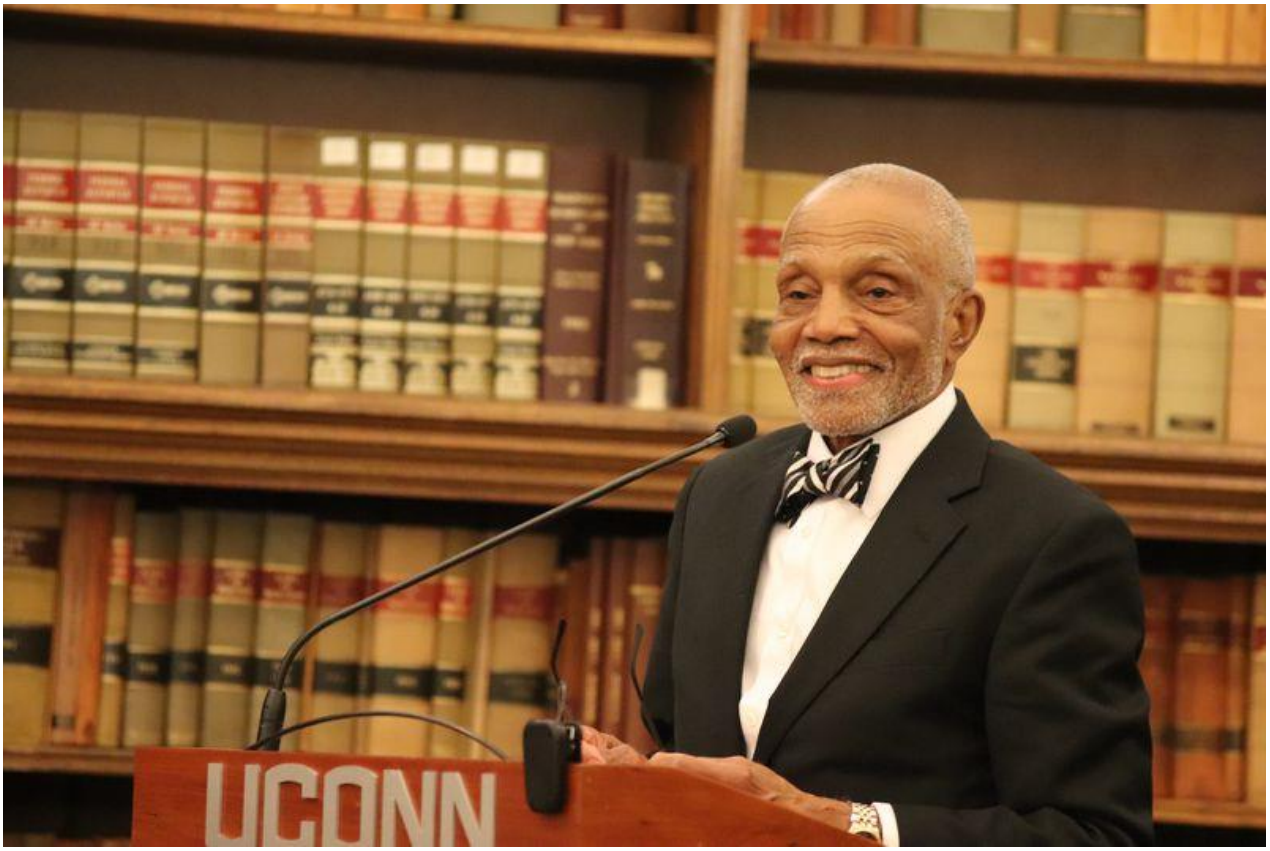

John Brittain, civil rights attorney and former UConn School of Law professor, speaks during an event honoring his achievements as a faculty member, including the 1996 Sheff v O'Neill school desegregation case. (Courtesy UConn Law) (Molly Sullivan)

Friends, colleagues and former students of John Brittain gathered Thursday evening at the UConn School of Law to celebrate the achievements of the longtime professor who focused closely on education and equity.

Fewer than two weeks earlier, one of Brittain's most enduring legacies became final: The landmark **Sheff v. O'Neill settlement agreement**, born out of a

lawsuit brought in 1989 on which Brittain was a member of the original legal counsel, received final court approval on March 21.

“Professor Brittain’s commitment to impactful teaching, advocacy, and service has served as a role model for me throughout my career in the academy,” said Eboni S. Nelson, dean of the UConn School of Law. “He epitomizes the values held by UConn Law faculty, both past and present.”

“Thank you for 33 years of teachable moments,” said Elizabeth Horton Sheff, lead plaintiff in the Sheff v. O’Neill case. “[Brittain] is the type of person who, if you ask him a question, he’s going to give you a lecture.”

With about 100 guests tucked in the UConn Law’s Starr Reading Room, it was a time to reflect not only on Brittain’s life, but also the school desegregation case that has come to represent desegregation litigation for the 21st century.

“[Sheff v. O’Neill] is the most important school desegregation case nationally,” Richard Kahlenberg, director of K-12 equity and senior fellow at The Century Foundation, said during a panel discussion Thursday. “And it has created the most important interdistrict school integration effort anywhere in the country.”

Brittain grew up in Norwalk and later attended Howard University, where he received his bachelor’s and law degrees. It was there he met his best friend, Sanford Cloud Jr., former state senator and member of the UConn Board of Trustees.

Brittain and Cloud parted after graduation, as Brittain headed first to Mississippi to litigate school desegregation cases and later to work for a private practice in San Francisco in the early 1970s.

Cloud was soon approached by former UConn School of Law Dean Phillip I. Blumberg, who was looking for candidates to help increase faculty diversity.

“There’s only one person I had in mind,” Cloud remembers thinking. “I knew that [Brittain] was the right person because he could fill the level of excellence with integrity that I knew Dean Blumberg demanded, and was required.”

“I said ‘John, it’s time for you to come back home to Connecticut,’” Cloud said.

Cloud’s message to Brittain was to keep “one foot in the classroom and another in the courtroom,” borrowing a phrase from mentor and civil rights leader Herbert O. Reid, who taught law at Howard University.

Brittain joined the UConn Law faculty in 1977. In the classroom, he was known as demanding but encouraging. Brittain became dean of the Thurgood Marshall School of Law at Texas Southern University in 1999.

And in the courtroom, Brittain’s work on school desegregation continued. He joined the preparations of the Sheff v. O’Neill case, despite the awkward position of being a University of Connecticut law professor suing the state of Connecticut.

But for Brittain and the other civil rights attorneys, the fight was necessary. Kahlenberg said the state of school desegregation lawsuits before Sheff vs. O’Neill “was a depressing scene.”

“The federal courts had given up on school desegregation. They were moving backward,” he said.

According to Philip Tegeler, executive director of the Poverty & Race Research Action Council, Milliken v. Bradley (1974) made for especially difficult precedent.

In Milliken v. Bradley, plaintiffs originally argued that the Detroit public schools system under former Gov. William Milliken were racially segregated — not explicitly, but rather as a result of policies like exclusionary zoning and redlining. A lower court agreed and drew up a desegregation busing plan that involved more than 50 surrounding school districts.

The case eventually reached the Supreme Court of the United States, which ruled 5-4 in favor of Milliken. The court deemed the lower court's desegregation plan was "wholly impermissible" because it could not be proven that the school districts surrounding Detroit were deliberately segregated.

The decision affirmed the federal courts' reluctance to act on de facto segregation and dealt a blow to advocates of metropolitan, interdistrict remedies.

It also underscored the difficulties, even after 20 years, of implementing the historic Brown v Board of Education case.

So what made the Sheff case different? Civil rights lawyers looked at the state constitution instead.

Connecticut and New Jersey are the only states with constitutions that include an equal protection clause in addition to a fundamental right to education.

The Connecticut Constitution also explicitly bars segregation "in the exercise of a fundamental right," Brittain said.

Sheff's legal counsel, including Martha Stone, executive director of the Center for Children's Advocacy, combined these protections to create a single constitutional provision, arguing that every student has a right to an integrated education.

"Sheff vs. O'Neill was the only case that ever found that the cause of the segregation, particularly in urban districts in comparison with suburban districts, was the boundary line between urban and suburban schools," Brittain said. "Therefore, that led to a remedy that we call interdistrict desegregation."

The interdistrict program is now known as the Choice program, which allows some Hartford students to attend suburban schools or a growing network of magnet schools.

Under the most recent agreement, finalized in March, the state of Connecticut promises to meet 100% of demand for Choice seats among Hartford students.

Kahlenberg said the decision to appeal to the state constitution was "ingenious."

"I'd love to see it spread to all the other states," he said.

In some places, it already has. A New Jersey judge recently heard **oral arguments** in a similar school desegregation case. In Minnesota, a school desegregation case was **sent to appeals court** in December.

David Scharfenberg, an editorial and staff writer for the Boston Globe's Ideas section, **recently argued** for a Sheff-style lawsuit to be brought against Massachusetts to address the segregation in Boston schools.

Asked if there was anything she would do differently about the case, Stone said she would have perhaps pushed harder for housing equity and regionalization — the plaintiff's first-choice remedy.

The housing claim was in the original complaint, but the attorneys had to remove it before trial, Tegeler said.

"But it still is there to be filed by someone else," Tegeler added.