

# Shirley Sherrod on *Screws v. United States*, in 1945, Today and Tomorrow

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On March 27, 2010, Shirley Sherrod, the United States Department of Agriculture's Director of Rural Development in the State of Georgia, gave a now-famous speech before the National Association for the Advancement of Colored People (NAACP) chapter of Coffee County, Georgia.<sup>1</sup>

Ms. Sherrod, before getting to the segment of her speech that became the subject of media and government attention (first critical, then admiring) in July 2010, began her remarks that evening with very powerful autobiographical material. In one part of this opening segment, she mentioned a 1945 decision by the United States Supreme Court, *Screws v. United States*.<sup>2</sup>

The *Screws* case began in the early 1940s with a horrible crime of violence. Late one evening, three white men—Sheriff Claude Screws of Baker County, Georgia, accompanied by a special deputy sheriff and a city policeman—arrested Robert Hall, a Negro, at his home on the charge of stealing a tire. They handcuffed Hall, drove him to the county courthouse and then beat him to death with their fists and a steel bar.

In response, the United States government brought criminal charges against the three men under a civil rights law that was enacted following the U.S. Civil War. The indictment charged that Sheriff Screws and his co-

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<sup>1</sup> A videotape of Ms. Sherrod's March 27, 2010, speech is available at [http://www.naacp.org/news/entry/video\\_sherrod/](http://www.naacp.org/news/entry/video_sherrod/). This version, which runs about 43 minutes and has one break (around the 21:00 mark), is apparently the most complete video of the speech that is available.

<sup>2</sup> 325 U.S. 91, available at <http://supreme.justia.com/us/325/91/case.html>.

defendants, acting under color of Georgia law, had willfully caused Hall to be deprived of his rights under the Fourteenth Amendment to the U.S. Constitution. The indictment identified three specific constitutional rights that had been violated: (1) Hall's right not to be deprived of life without due process of law; (2) his right to be tried, upon the charge on which he was arrested, by due process of law; and (3) if found guilty, his right to be punished in accordance with Georgia laws.

At the federal trial, an all-white, all-male jury convicted each defendant. The judge sentenced each to prison and to pay a fine. The court of appeals subsequently affirmed these judgments.

In *Screws v. United States*, a deeply divided Supreme Court, confronting a range of very complex constitutional, statutory and trial procedure issues, reversed those convictions. The justices split as follows:

- Only one, Associate Justice Frank Murphy, voted to affirm the convictions and sentences unequivocally.
- Three—Associate Justices Owen J. Roberts, Felix Frankfurter and Robert H. Jackson—dissented across the board; they disputed that this gruesome crime, which they called at least manslaughter, perhaps murder, and urged for local prosecution, constitutionally could be or statutorily had been criminalized for prosecution in federal court.
- Four other justices—Associate Justices William O. Douglas, Stanley Reed and Hugo L. Black and Chief Justice Harlan Fiske Stone—held that the federal law was facially constitutional and that the law-breaking Georgia law enforcement officials had acted under color of Georgia law, but that the trial judge had erred fundamentally by not instructing the jury that it could find “willful” criminality only if Screws, et al., had beaten Hall with intent to deprive him of a constitutional right.
- The ninth, Associate Justice Wiley Rutledge, was inclined to agree with Justice Murphy but voted with the Justice Douglas group so as to create a majority to vacate

the convictions while permitting retrial with a more demanding jury instruction on the criminal intent required for conviction.

In her Coffee County speech last March, Ms. Sherrod mentioned that “Bobby Hall,” the victim of the crime that gave rise to *Screws*, “was a relative.” (*N.B.* The killing of Mr. Hall predated by a few years the murder of Ms. Sherrod’s father, which she also described powerfully in her speech.) She also recounted being told that the *Screws* “case is studied by every law student” in the United States.

I am skeptical that that report from legal academia, which might have been accurate in the 1950s or 1960s, is true today.

It might turn out, however, to be a good prediction. In the next law school year, renewed attention to *Screws*, and more broadly to issues of constitutional power, protection and justice, could be among the benefits that are flowing from Ms. Sherrod’s powerful words and her exemplary life.