

More on *Screws v. United States*

John Q. Barrett*

Copyright © 2010 by John Q. Barrett.
All rights reserved.

On July 25, 2010, I sent a Jackson List post, now archived on the web at the site that is linked below, about Shirley Sherrod's March 2010 speech to a NAACP Georgia chapter and her connection to and remarks about *Screws v. United States*.¹

Screws was a 1940s lynching case. Three white men—Sheriff M. Claude Screws of Baker County, Georgia, a deputy sheriff (Jim Bob Kelley) and a city policeman (Frank Edward Jones)—beat Robert Hall, a Negro, to death with their fists and a steel bar in January 1943. In response, the United States government prosecuted the three for criminally violating Hall's civil rights. At trial later that year, the jury convicted each defendant. A federal judge then sentenced each to prison and to pay a fine. In *Screws v. United States*, however, a deeply divided Supreme Court of the United States, including Justice Robert H. Jackson, reversed the convictions and remanded the cases for retrial.²

* * *

In response to my post, many wondered what happened to the federal criminal cases against Screws and his co-defendants on remand from the Supreme Court. I had similar questions and started digging.

I first located a 2004 encyclopedia entry by Professor Dan Coenen, University of Georgia School of Law, reporting that the defendants were acquitted on retrial.³

* Professor of Law, St. John's University School of Law, New York City, and Elizabeth S. Lenna Fellow, Robert H. Jackson Center, Jamestown, New York (www.roberthjackson.org). An earlier version of this text was posted to my Jackson Email List on July 29, 2010.

For an archive of selected Jackson List posts, many of which have document images attached, visit www.stjohns.edu/academics/graduate/law/faculty/profiles/Barrett/JacksonList.sju.

To subscribe to the Jackson List, which does not display recipient identities or distribute their email addresses, send a note to barrettj@stjohns.edu.

¹ See the videotape of Ms. Sherrod's March 27, 2010, speech at http://www.naacp.org/news/entry/video_sherrod/.

² 325 U.S. 91 (May 7, 1945), available at <http://supreme.justia.com/us/325/91/case.html>

³ See <http://www.georgiaencyclopedia.org/nge/Article.jsp?id=h-2937>.

I later made contact with Dr. George Lovell, a political science professor at the University of Washington. He is writing a book about the first two years of the Civil Rights Section (CRS) at the United States Department of Justice (focusing mostly on its correspondence with the public, not its appellate advocacy). According to Dr. Lovell,

Scraws was tried again for the federal offense but was acquitted by the jury. That is why the case is not reported. My guess is that the acquittal did not have anything to do with the new jury instructions ordered by the Supreme Court, but instead with the low chances of drawing two straight fair juries for the case in Georgia at that time.

Scraws remained Sheriff and was later elected to the Georgia state legislature but only served one term.

Before the first trial, the United States Attorney as well as Department of Justice officials from Washington tried very hard to get Georgia officials to prosecute the case. Their response was to claim that they could not prosecute the case because they did not have any institutional capacity to investigate crimes, other than relying on sheriffs, which obviously would not work in this case. (There is some information about this negotiation in ROBERT CARR, FEDERAL PROTECTION FOR CIVIL RIGHTS: QUEST FOR A SWORD (1947), a book which tells the broader story of the CRS. Carr was executive secretary of President Truman's Committee on Civil Rights just before writing the book.[⁴]) The claim about the inability to investigate was partly just an excuse, but there was some truth to the underlying institutional claim. In some states, the structure of state and local government made it very difficult to go after crimes of this sort. That may have partly been by design or, at least, the design was not corrected in order to preserve the policing practices in use at the time.

⁴ See also Robert K. Carr, *A Southerner and a 'Yankee' Review 'Negro in America,'* WASH. POST, Dec. 5, 1948, at 5B. Dr. Carr, who in the 1940s was a professor of government at Dartmouth College, later became president of Oberlin College. He died in 1979.

There were many similar cases that the federal government did not prosecute. Often, U.S. Attorneys and the FBI were much more reluctant to pursue cases than was the case here. Sometimes, state government officials or U.S. Senators would object effectively to federal efforts to intervene. My sense is that such objections did not occur in this case because Screws had a lot of enemies and was seen as a problem, and thus he was not protected.

Justice Department policies at the time required that before any federal criminal prosecution for civil rights violations could be brought, efforts had to be made to convince state officials to bring prosecutions. Only after state officials refused to take action could the federal case proceed. There are cases in Justice Department files where states effectively blocked federal intervention by conducting their own very cursory (or in some cases drawn out) investigations.⁵

* * *

I have located no information on any State of Georgia prosecutions of Screws, Kelley or Jones in the 1940s,⁶ or on any modern era effort to open a state-level investigation of their crimes.

I do not know whether any of these men is still living.

⁵ With thanks, I have quoted the above with Dr. Lovell's permission. He can be reached at geolovell@earthlink.net.

⁶ Cf. Milton R. Konvitz, *Anti-Lynching Bill Upheld*, N.Y. TIMES, Apr. 7, 1948, at 24 (letter to the editor) (stating that in the *Screws* case, "[t]he State of Georgia refused to take any steps against the lynchers").