

Anita Earls Oral History Transcription

Abstract

This oral history follows the life of Anita Earls, a mixed race woman who grew up in the 1960's. Her family background and the environment she grew up in are first explored to shed light on her career trajectory, one dedicated to the furthering of civil rights. She is an experienced civil rights attorney with a wide range of experiences which has culminated in her foundation of the Southern Coalition for Social Justice. She has particular expertise in Voting Rights and speaks to some of the issues surrounding voting rights in North Carolina and then nation around the 2010s.

Key Terms

Mixed race families, race relations in the 1950's and 1960's, racial identity, Williams College, Yale Law School, Ferguson, Stein law firm, Julius Chambers, Lawyer's Committee for Civil Rights, Center for Civil Rights at UNC, Law, lawyer, attorney, litigation, civil rights, Supreme Court, courts, Department of Justice, Civil Rights Division, federal government, Deputy Assistant Attorney General, Section 5, Voting Rights Act, advocate, advocacy, Southern Coalition for Social Justice, legal system, social science research, community organizing, media, community-based organization, community lawyering, community-focused, community-driven, voting rights, criminal justice reform, environmental justice, human rights, educational issues, housing discrimination, economic justice issues, employment discrimination, police misconduct, racial discrimination, public accommodations, criminal defense, integration, racially polarized voting, majority and minority districts, Swann versus Charlotte Mecklenburg, Capachione, Gingles versus Thornburg, Shaw versus Reno, Shelby v Holder, Montravius King, Citizens Against OLF, Elizabeth City, NAACP, 2010 Census, Tom Hoffler, voter ID, Section 5, Moral Mondays, Kinston, Laroque v. Holder, Justice Sotomayor, Justice Kagan, Justice Scalia, polarization of supreme court, Beaufort county, Columbus county, Alberta Currie, Pinehurst, New Southern Strategy, SOLVE, Anita Earls

(0.00.00) ESTHER KIM:

Thank you for coming to speak to us today. Could you please state your name for the record?

ANITA EARLS:

Anita Earls

KIM:

Where did you grow up?

EARLS:

I grew up in Seattle, Washington.

KIM:

Could you describe the area you grew up in and your environment there?

EARLS:

Well, I grew up in the city. I lived there until I graduated from high school. This was very much Seattle before Microsoft, so it was a very different place than it is today. But also a very diverse place, racially I would say. My parents, an inter-racial couple, came out to the West because where they met each other in St. Louis, it was still at that time in the late 50's illegal for them to be married. So they moved to a place where they could legally live together. But it was still somewhat segregated. For the first 6 or 7 years in my life, we lived in a black neighborhood, and then we integrated to a previously all white neighborhood. So that was a challenging experience, even in the Pacific Northwest in the late 60's. Culturally, it was a really rich environment. I think Asian population was probably even a greater percentage than the African American population. Some Native American population, some Hispanic. There's a lot more Hispanic population there now. So it was a very culturally rich area. And, of course, the natural beauty, the mountains, the ocean—that was a great environment to have as well.

KIM:

Could you describe a little bit more about your family and your siblings in that time period?

[2:00]

EARLS:

I have one brother who is two years younger than I am. And my mother, my mother's white, she worked as a nurse. She worked nights, so that she could be home with us. This was a time when it wasn't common for women to work. So she always felt she had to be with us during the day to be a good mother. And then my father worked also in a hospital. He was a urological technician. So both my parents worked. They wanted the best for us. For the first two years of my schooling, I went to a private school. But they couldn't afford that for very long. So I went to very good public schools. They always tried to give us the. I mean. My brother and I were both adopted, I guess I didn't put that part in there. I was actually a year old when they adopted me. At that time, mixed race kids, they would only place them with mixed race families. So it took them a long time to find a mixed race family for me. Because my parents had adopted us, they felt like having children and having a family was the most important thing to them. They really did all they could to give my brother and I what they felt they didn't have. They both grew up during the Depression. My mother was even younger during the Depression than my dad. So they really knew hardship. They both came from families that farmed on the land, and they knew what it was like to go without a meal. Well, we were not poor, but we were not well off by any means. My mom would pay some bills some months and other bills other months. As kids, we were, you know, don't answer the phone because it might be the bill collectors. They were always going to have food on the table. My dad would say, you're never going to go to sleep hungry, because he did know what it was like to go to sleep hungry.

KIM:

Interesting. Could you describe a little bit more how that transition from your predominantly black neighborhood to the predominantly white neighborhood was for you when you were a child?

[4:30]

EARLS:

I was pretty young, so my memory of it is more about how it affected me. I think I was probably six or seven. I guess the two things that I remember most. When we moved, there was one woman on the street who didn't want us there. She turned her garden hose on us as we would ride our bikes down the street. Which just seemed, from a child's perspective, as just an absurd thing to do. It just made no sense. But certainly it made us feel unwelcome and wary. And the other thing I remember is once, that my brother. You know, kids. We played with kids in the neighborhood. It's not like no one wanted us there. There was some incident, and my brother got hurt by

another kid. And my father went over to talk to the family, and I was very, very afraid because I thought they were going to hurt him. I mean this was a time, late 60's, when there were riots in the streets in some communities and there were marches. I don't think there were ever riots in Seattle. But I always had this great fear that because my family looked the way we did, with my brother looking more black than I did, that if we were ever in a neighborhood and a riot broke out, people wouldn't know that we were a family. And it felt like the wrong people would be trying to hurt us. So as a child and trying to live in those dynamics of a very personal, your neighbors don't want you on your street, kind of environment, it was frightening, personally.

[6:30]

KIM:

Would you say then that your family history and your family background and the environment you grew up impacted the work you do now?

EARLS:

Well, definitely. I would say that, early on, I saw the challenges my dad faced at his work. He was paid less than white. He was a urological technician. There were white urological technicians who were earning more than him, and there was no explanation. And it really challenged him. So, my mother's family totally rejected us, so I grew up in the environment of my father's family. And in that era, it was sort of, you should be a doctor or a lawyer. You should be a professional; that was kind of how you proved yourself. And I thought that if I became a lawyer, I could try to help other people who were facing discrimination on the job. So in that sense, I think it definitely influenced what I'm doing today.

KIM:

So moving on, you went to college in Massachusetts, correct?

EARLS:

Right.

KIM:

How did you decide to move from the West back to the East Coast for college? Could you describe the kinds of things that you did in your undergraduate career?

[7:55]

EARLS:

I came to the East Coast because it seemed like my only chance to see another part of the country. I went to Williams because there were at least some mountains around. Not nearly as high, but a few mountains. In college, I faced a really new situation in that my racial identity had been a huge part of who I was growing up. But when I went to college, people didn't, just by looking at me, really know my background. Often, people would say, where are you from? Which really was code for what's your racial background. So people knew I wasn't quite white, but they didn't really know what I was. And growing up, passing was just one thing I vowed I would never do. I remember my grandmother talking to me about how. My grandmother worked as a maid the whole time that I knew her growing up. And she used to say, when you grow up, you're going to see me walking down the street, and you won't acknowledge me. Passing would have been the worst denunciation of my family that I could have ever done. So to me, it was really important to never do that. So when I went to college. Williams at that time had done this experiment, this was you know 1977, where they admitted several African American students from inner city schools in New York City to try to integrate the campus, I guess I would say. There was this huge culture clash going on. So you pretty much had to decide, were you going to sit with the black kids or were you going to sit with the white kids. That was a challenge. I didn't even know what a preppie was when I went to Williams College, which was a pretty huge mistake, because there were plenty of them there. There was a socioeconomic culture shock that I went through. I got involved with the Student Anti-Apartheid Coalition. And in my junior year, we sat in at the administration building with a demand that the college divest its holdings in companies that do business in South Africa. Fortunately, I was able to do that and still have the respect of my professors. So it didn't lead to adverse academic consequences. I would say the two most significant things I did while I was in college was negotiate this challenging cultural situation I found myself in without leaving. I so often thought that I should go somewhere else where there would be more diversity and it would be easier to be who I am. So to negotiate that environment and then to find a cause that I felt deeply about and have a sense that I had done something positive in that regard. The college didn't divest but it did agree to not hold its money in banks that were operating in South Africa. So there was this partial, small victory that we could claim. And I learned a lot. I obviously learned a lot about movements and a little bit about organizing from that experience.

[11:31]

KIM:

Could you speak a little bit more about how you were able to negotiate your identity in your time in your undergraduate career? It was a difficult time for you, but how exactly did you find that place of identity?

EARLS:

I think there were a couple of people there who at least had some understanding of what that might mean for a mixed race person. I'm thinking for example of a professor who was very instrumental in allowing me to explore those issues, giving me things to read and introducing me to other. I remember he told me to read Nella Larsen's book, *Passing*, that's a novel. One or two people in that regard. They had a Center for Development Economics, and twelve or fifteen students from Africa were there in Williamstown, which is this really rural town out in the Berkshire Mountains. So I hung out with them a lot. And they had some cultural issues as well, so I could identify with that. That really led to me doing a Watson fellowship in Tanzania after college. There were only a few, but finding people who could relate to what I was going through. I think that it's something that ultimately you end up negotiating your entire life, figuring out who you are with all the different elements that go into that. It's not just racial identity, but gender identity and the socioeconomic background you come from. I don't feel like I solved that in college, I think that was just one stage in working through all those issues.

[13:50]

KIM:

Great. You said you did a Thomas J. Watson fellowship after you graduated?

EARLS:

That's right.

KIM:

And you went to Tanzania?

EARLS:

I did. It was my intent to study in Tanzania the entire year. And my topic was Ujamaa villages and the role of women, which was kind of a combination of two interests. I'm very interested in cooperative work organizations and the notion of how do you democratize the workplace. I was a Political Economy and Philosophy major, and I had written a thesis in Political Economy on worker managed enterprises and the theory of whether you could have an economy built of worker managed enterprises and would

that deepen the democracy. Can you have political democracy without economic democracy? That was all very theoretical, and it was great to have the chance to go Tanzania and see how that country was trying to implement economic democracy. The role of women wasn't completely tied to the concept of Ujamaa villages, but I also wanted to be looking at how women's roles in east Africa had evolved over time.

[15:15]

KIM:

Great. After your Watson fellowship, what did you decide to do?

EARLS:

I was in Tanzania for only 6 months because I got malaria three times. I was very, very sick basically. It was an extremely poor country at the time. Just basic things like milk or meat, anything with protein, you really couldn't get that. Cooking oil, toilet paper, just all these basic things they didn't have. You went to the stores, and the shelves were just bare. It was a very hard place to get well again. I left there and went to Italy, and I was there for a couple months. And then I went to England. And I ended up staying in England for three years, and I got married. I worked in a solicitor's office. I worked in a pub and a few other things, but eventually I worked in a solicitor's office.

KIM:

What made you decide to return to the United States?

EARLS:

Well, I had this burning desire to be a lawyer and to try to bring about change. My first husband was an Englishman. I think he would have been happy to stay in England, but I was insistent that I wanted to become a lawyer and I wanted to work on issues of racism in the US. And I felt that as an expatriate, well there's racism everywhere in the world, and you don't have to come back to US to fight it. But I felt that I needed to be in the culture where I grew up to have a stake in it and to have a say. That's why I came back.

[16:57]

KIM:

Then, you went to Yale Law School?

EARLS:

I did.

KIM:

Did you know going in that you wanted to do civil rights work, or did you explore different options for your legal career?

EARLS:

I knew that I either wanted to do civil rights work or criminal defense. The other thing I did when I was in Williams was I did this project. They have this winter study period, in the month of January, where you do independent study projects. For two of my four years, I did winter study projects involving prisons. It's kind of ironic to me, because the rate of incarceration that has happened since then has just been exploding. But even at that time, it seemed to me that we were incarcerating too many people and too many people of color. If I wanted to have the biggest impact, I thought trying to address inequities in the criminal justice system could be a place to start. So those were the two ideas I explored while I was in college and law school.

KIM:

After law school, you decided to go work at a law firm, correct?

EARLS:

Right, at Ferguson, Stein law firm in Charlotte. While I was in law school, it seemed to me that the person who had done the most to advance civil rights law was Julius Chambers. Reading the opinions and the cases that he had argued in the Supreme Court, he struck me as a really brilliant thinker who had used his intelligence to come up with ways that the law should be expanded to create greater opportunities. Basically, I wanted to go and be Julius Chambers.

[18:58]

KIM:

Did you get to work directly with him?

EARLS:

Not initially because he actually had left the law firm in '86 and I graduated in '88. Later in my career, I did work directly with him. One of his law partners at the time, Mel Watt, came to Yale, and he was recruiting. He talked about the firm and talked about their civil rights practice and what

they were trying to achieve, and it was very much what I wanted to do with my career.

KIM:

Could you describe a little bit the work you did with the law firm?

EARLS:

For ten years, I feel like I was the utility player on the team. Whatever civil rights case came in, I was happy to work on it. A lot of what I did was police misconduct work, so representing to a large degree was the families of individuals who had been killed by police. Some of it was people who'd been injured in encounters with police that used excessive force and some of it was just false arrests. But mostly it was wrongful death cases involving the police killing, and almost without exception, people of color. I did a lot of voting rights work from the beginning. I also did employment discrimination, housing discrimination, some public accommodations cases, so really the whole gamut of civil rights cases. I also did criminal defense work, and initially when I went there, I did domestic work as well—family law, child custody, domestic violence. But I pretty quickly, like in the first three years, just did not want to do domestic law anymore, so I got out of that business. I had the opportunity to work on some really fascinating cases. The firm's model was really to do personal injury cases as well as civil rights cases, so they did medical malpractice. I didn't do any medical malpractice. I did work on a really fascinating plane crash case, representing the family of two people, a husband and wife, who died in the crash. But it was a great opportunity to be in a general practice, small firm and have a statewide civil rights practice. I had cases all over the state from Asheville to Hyde County and got to really learn a lot of the state. My current husband, who grew up in Raleigh, I often tease him because I know North Carolina a lot better than he does, and I've seen a lot more of the state as a result of that ten years.

[21:52]

KIM:

Was being a lawyer all that you had imagined and hoped for?

EARLS:

No. I think for a couple of reasons. Primarily because I had the misfortune to be practicing in an era when the courts were getting increasingly conservative and the courthouse doors increasingly being closed to the claims of the people in the communities that I wanted to represent. I found myself time and again defending, and ultimately unsuccessfully, the gains that Chambers had achieved. So he won the SwSwann versus Charlotte

Mecklenburg case, which said, in essence, a school system should use public bussing if necessary to achieve integration. I worked on, and ultimately left before it was finished, the Capachione lawsuit, which said school districts no longer can use student assignment policies to achieve integrated schooling. He won the Gingles versus Thornburg case that said you need to draw majority and minority districts when African Americans can't get elected because of racially polarized voting. I defended the Shaw versus Reno and the associated cases, the case went to the Supreme Court five times, which basically limited and narrowed the instances in which majority and minority districts could be used. In a host of other ways, I was really trying to prevent a backlash rather than achieving positive steps forward. So that's been a huge disappointment. I think the second thing, which I wasn't completely naïve about. I mean it's wonderful to be young and idealistic and enthusiastic, but I had this notion about the ability to use law to achieve structural and social change that has just time and again proven to be much more challenging than I ever anticipated.

[24:12]

KIM:

Is that what made you decide to work for the federal government afterwards, or how was that transition from the Ferguson law firm to working for the Department of Justice?

EARLS:

Well, that was really a unique opportunity to do civil rights nationwide, and to see how the Justice Department carries out its mandate to enforce civil rights laws. It was a short period; I was only there two and a half years. I will say the other thing, maybe this is the third way in which practicing law is not what I anticipated, it is incredibly demanding on your time. I had a child after my first semester of law school, so my son was three years old when I started practicing law, and I was committed to the notion that my job would be forty hours a week and I would be a good mother. And that was impossible; it was never true. Except when I worked for the federal government. For those two and a half years, I could reliably be home around 6:30-7 and have most weekends off. Not every weekend, sometimes there was travel. But when you're only working one weekend out of eight instead of six weekends out of eight, it totally changes your quality of life. I had had ten years of really grueling private practice, trying to be a mom and a lawyer. It was a wonderful opportunity to actually have a little bit of a life for two and a half years being at the Justice Department.

[26:03]

KIM:

Could you describe a little bit the work that you did with the Justice Department?

EARLS:

I was the Deputy Assistant Attorney General, which means I was a political appointee in what is called the front office, the part of the administration that's appointed by the President to carry out policy. I worked directly below Bill Lee, who was the Assistant Attorney General for Civil Rights, and I had several of the sections. The Civil Rights Division has twelve different sections, and I was responsible for three, and at one point four, of them. So, I had both managerial and supervisory responsibility for section chiefs who reported to me, but also policy responsibilities, charting out what they were supposed to achieve and accomplish in their work. There were major policy initiatives that I worked on. There wasn't so much litigation. I did get to argue one case in the eleventh circuit while I was in the Justice Department. It wasn't so much doing the day-to-day work, but really managing and directing policy.

KIM:

Did you find that type of work more fulfilling in terms of achieving structural changes nationwide?

[27:30]

EARLS:

Well, I think that there is definitely a sense that you're having a bigger impact. Sometimes it was impact in deciding what cases the Department should pursue. For example, there's a voting rights case out of Louisiana. They had lost in the court below, and the Department wasn't sure if they were going to appeal it to the Supreme Court. I had thought it was an important case to appeal to the Supreme Court, so I advocated to make that happen. It was under Section 5 of the Voting Rights Act, so it didn't impact the entire country, but it impacted all of the states covered by Section 5. We worked on issues ranging from what policies should the Department of Education apply to charter schools, because a lot of charter schools wanted to operate as same sex schools and, in some cases, they would be single race schools as well. And so, would there be an exemption in the civil rights enforcement for those charter schools. I was there from '98 until 2000, and there was a question of how the census at that time was changing from check one box to allowing people to check more than one box. Big question about how you would then aggregate and tabulate people who checked more

than one box—the multi racial respondents. We had meetings amongst all the federal agencies and the Office of Management and Budget. They ultimately issued a policy guidance about how to account for mixed race people in civil rights enforcement that is still followed today. So there's a sense that you have a big impact, but the other thing about working in a huge bureaucracy like that is that it was really amazing to me about how so much of it was internally focused. I kind of made myself remember that my office has windows, and that looking out of the windows is the real world, and that's what I should care about because there was so much concern about who went to what meetings and who said what and who undercut who and who had what power. It was very much an internal-focused office politics, internal politics place. I had not experienced that before coming from a work environment, ten years in a small private law firm. Every place has its office politics, but I was not at all anticipating the extent to which in the bureaucracy in the federal government, there is so much focused internally.

[30:29]

KIM:

Did you find that the same type of pushback of conservative leanings was also occurring in that office in the government?

EARLS:

Well, I think there's a challenge amongst the career ranks of attorneys in the Justice Department, and I don't think this is unique to the Civil Rights Division. I constantly felt myself wanting to say to them, you're advocates, because they didn't see themselves as advocates. It's almost like they thought of themselves as the judge, and they were going to decide what was right and wrong and then proceed accordingly. And I wanted them to think of themselves as charged with enforcement of the civil rights laws and advocates for people who were victims of civil rights violations. So many people thought about, if I take this case and I don't win, it'll hurt my career. So, they would only take the sure things. They would only take the cases that they felt like they had 110% chance of winning. And while if the entire country is the pool that you're drawing from, sure there's the low hanging fruit. There are the cases that have 110% chance of winning, but that's not every case. And there are valid and meritorious cases that should be brought. And I came from the perspective of, I was in this small firm. We had 12 attorneys doing every type of lawsuit you can think of. You've got 40 attorneys just doing voting rights. Take all the cases! Take the tough ones—you have the resources of the federal government behind you. You should be taking the tough ones and leave the private attorneys the low hanging fruit. Within the administration, of course there are more progressive voices

and more conservative voices, but I wasn't there quite in the era that I think occurred after I left the Justice Department. So I was in the Clinton Administration, it was the end of the Clinton administration. I remember seeing the journalists camped outside Monica Lewinsky's attorney's office. I mean, sure, there was all that going on, and that really did impede our ability to advance a positive agenda. What I struggled with most in leading the divisions that I did was getting the attorneys there, who were very smart people, to be aggressive in enforcing civil rights rather than focused on their own careers and what would advance their careers.

[33:15]

KIM:

So, your career since the Department of Justice has been much more North Carolina-centered.

EARLS:

Well, I was at the Lawyer's Committee for Civil Rights Under Law for another two and a half years in D.C. I got to litigate voting rights cases in Florida, in Rhode Island, in Virginia, so beyond North Carolina. Then I came back to North Carolina in 2003.

KIM:

What made your decision to return to the area and not to return to the private sector?

EARLS:

Two reasons to come back to North Carolina. One, I really felt that I could be a better lawyer and, ultimately, obtain better outcomes if I was closer to my clients. I really didn't like flying in for meetings and flying home, and flying down for court hearings and flying back. I really didn't like the way in which I was not a part of the community that I was working with. I saw it have a lot of different types of impacts, but it just didn't seem to be the best model. But then the other thing is actually much more of a personal reason. At that time, I was a single mom. My son was just graduating from high school, and he wanted to go to college and I needed to pay for his college. Being a civil rights attorney has not been remunerative, particularly. I mean right now, I think I earn less than most graduates who go to big firms in New York and D.C. That's someone with over 25 years of experience, it's always been the case that I've earned less than people who are at my level of experience. It was a challenge with the cost of living in D.C. to be able to afford my son's education. Coming down here, much lower cost of living and I could do civil rights work and still help my son get his education.

[35:29]

KIM:

Since the Lawyer's Committee for Civil Rights, what are some aspects of your work that you have found particularly impactful, or the kinds of things that you did after you left D.C.?

EARLS:

I think what I have seen have the most impact is when I'm working with an organized community group, and they are able to see that they have the power to impact their conditions. I think what's most gratifying is to see a group start with one issue, achieve a victory, sort of get what they wanted and then move to the next issue that seems important to them, and to sort of keep on advocating for their communities. It's wonderful to see groups leave just issue-focused, and really be community-focused. So an example of that would be, I worked with a group in southern Moore County, and it was really a coalition of community-based groups. There was an umbrella group called Voices for Justice, a grassroots volunteer advocacy group, and then there was the Jackson Hamlet Community Association, the Midway Community Association and the Wanor Road Residents Association. These were three different black neighborhoods in and around Pinehurst, Southern Pines and Aberdeen, which are three towns in southern Moore County. What they all had in common was that they were not incorporated into the towns that basically surrounded them. So they didn't get water, sewer, police, fire, garbage collection; all the municipal services—they didn't get that. That had impacts for their property values and their ability to keep their community together. They had been advocating for being annexed and getting public services long before I went there in 2003. In fact, when I was in private practice at the law firm, they had called and wanted assistance. When you're in private practice, you can't just say, oh, I'll go do that for free. I had met with them and done a little bit, but I hadn't really been engaged with them. Through a long campaign, 2 or 3 years, Midway has now been incorporated. Wanor Road and Jackson Hamlet have gotten sewer service and are in the process of getting their water service. And they started to look at issues of affordable housing. In Midway, there was this big track of land that was state owned. It was going to be auctioned off. Midway Community Association worked with Habitat for Humanity and Self-Help Credit Union to get the land and have affordable housing built on that land. So now there are Habitat for Humanity homes built there. So that's to me an example of how they started with one issue and have just continued to advocate for their communities. And that to me is a real success because it's structural—we're not just solving one person's problem. We're changing structures that

create greater equality, and as long as you have people that continue to be active, it will be sustained over time.

[39:04]

KIM:

That's really wonderful. Would you say that that type of community organizing and coalition building is what led you to form the Southern Coalition for Social Justice?

EARLS:

Yeah, absolutely.

KIM:

Could you describe exactly how creating the Southern Coalition for Social Justice began, and how you initiated that process?

EARLS:

I had been in really four different types of civil rights practice. I'd been in private practice, I'd been in a government entity, I'd been in a large, national non-profit and I'd been at the Center for Civil Rights at UNC, which was a university based project. In each of those settings, I felt like I did not have all of the resources that my clients needed. I take very seriously the concept that we are general counsel for community-based organizations, and the role of a general counsel is to bring to their organization all of the different skills and resources that that organization needs to thrive. So, what I think some of the core things that groups need are, in addition to legal advice and the capacity to access the legal system, they also need good social science research. They know what's happening to them but documenting it is often very, very important. They need community organizing support skills—how do you sustain a community organizing effort over time. And then they need to be able to use the media, whether it's print media, social media. That's an important way to tell their story and an important way to influence decision makers. I couldn't find a place where all four of those resources were made available to the clients. In national civil rights organizations, they do have a media person, but the media person is really more about promoting the organization itself, not necessarily the clients. So when I was at UNC, I just felt these constraints that were keeping me from being able to do what I felt that needed to be done, most importantly for my clients. I left UNC, and I had a six month planning grant from the Ford Foundation to put together the resources and the concepts and the body of work, I guess I would call it, that the organization would carry out. That gave me the chance to really get things off the ground. I

have a great founding board—young people with vision and enthusiasm, and predominantly people of color and people from impacted communities as well, working together to found the organization. The community lawyering model, I didn't make that up, it's not my idea, but there are only a handful of places where it's being carried out. Mostly there's a whole body of academic work around it in law schools, not so much practical, on the ground, carrying it out. I think, in part, because the big challenge is how do you pay for it, how do you fund it. Some of the people that talk about community lawyering are legal services attorneys because the federal government. The Legal Services Corporation can't fund organizing, but the community-based approach to poverty law is one that legal services attorneys have done some work on and development. I looked around the country and looked for models where advocates have been trying to pursue this type of lawyering and fortunately was able to convince primarily some foundations, we don't have much funding from individuals, to give us the chance to do this in the south.

[43:36]

MICHELE SPENCER:

Could you tell me a little bit more about the actual work that you do at the Southern Coalition for Social Justice?

EARLS:

We represent community-based organizations in a wide range of issues. We try to be community-driven, meaning that we pursue the priorities that communities have rather than us as attorneys sitting in our offices and deciding what issues they should work on. Having said that, there are some areas we have expertise in so that kind of naturally leads groups to contact us in the first place. Right now, our biggest program area is our voting rights and criminal justice system reform and environmental justice. We have a fourth program area that we call human rights which is really just the general category—educational issues, housing issues, economic justice issues, pretty much everything else would fit in the human rights categories. We do a mix of advocacy; sometimes it's litigation, but sometimes, for example in Durham, around policing issues. We're working with the City Council and the Durham Human Relations Commission to try to correct what's a glaring problem in Durham with a disproportionality in how law enforcement deals with African American and Latino residents in Durham. It's a mix of types of advocacy and a range of issues.

SPENCER:

Is there any issue that you particularly focused on?

[45:15]

EARLS:

I have most expertise in the voting rights area. Right now, I am in the middle of litigating an employment discrimination case, so it varies what I've been working on. I've had some experience with environmental justice issues as well. For a while, we were doing immigration work. It is important to us to work with communities in the South, because we are regional, and to be diverse in that work. Immigration work was an opportunity to reach out to other communities, and it was really too much of a challenge for us I would say. We're so small and developing an immigration practice is like a whole other area of law with a different court system that you go to, and that's one area that I have no experience in. I think that's probably another reason why we did that for a while, but we're not doing so much of that. We have one immigration matter right now where we're advocating on behalf of undocumented children who have been denied the right to enroll in public school in North Carolina, and we're doing that with the Southern Poverty Law Center and the Justice Center and Legal Services of Southern Piedmont. So we're doing a little bit, but mostly we're not doing so much immigration work. And our goal is to get a little bigger; we're still not, in size, large enough to have the impact that I think we could have if we could have a few more attorneys. Ultimately, the vision is to be like the Southern Environmental Law Center or the Southern Poverty Law Center. Those are two organizations that have been around a lot longer than we have. They have offices regionally, so they have offices throughout the South. They have bigger budgets, bigger staff, and I think there's real value in being able to learn from what's going on in other Southern states. And if we could have that kind of structure to do the community advocacy across issue areas that we're trying to do, I think we could really make a difference.

[47:30]

SPENCER:

Do you think your current trajectory is placing you on that path? Do you think you're in a good place to do that?

EARLS:

I'm a little impatient. After about 3 years, we did a feasibility study to open an office in Atlanta. There's so much potential in Atlanta in terms of the need. That is to say, community groups that are organized that want the kind of mix of services that we offer. There's a huge need in Atlanta. Being in Atlanta would help us do more work in Florida and Louisiana and other places as well. The challenge is raising the money. The limit on what we've

been able to do has been the fundraising limit that we face. My short answer to your question is, no. I would say that right now, we're struggling to maintain the base of operations that we have in Durham, and we're going to really need to vastly improve the way we raise money if we're going to be able to expand.

SPENCER:

Do you have any particular plans for that?

[48:48]

EARLS:

We're doing some efforts around an individual donor base. I can't tell you the number of people who meet us, and they're like, "Oh, we give you money every year!" They think that we are the Southern Poverty Law Center, and so then I kind of talk a little bit more. And they're like, "Oh no, I get the mailings from Morris Dees." And I'm like, "No, no, that's not us. We're the Southern Coalition for Social Justice, and we're in Durham." My point there is not that I want to take money away from any other organization. But just that, I do think that we can expand our grassroots fundraising. There's a couple of other possibilities that we've tried to explore for funding, so not just being dependent on foundations. There's a lot of talk about social entrepreneurship, and Duke, actually, is kind of a center for research and study and thinking about how to encourage social entrepreneurs. I've taken some workshops, I've really done a lot of reading, and that's potentially down the road, I think, an avenue that we can explore to fund our work, so that we can expand. Part of my goal is to make sure that we don't take resources away from the communities that we work with. I want to be in the position of bringing more resources to them. So that's why I don't go to concerned citizens of wherever, and say, "You need to pay us to come work with you" because that's taking resources away from them, and I want to put resources back into their communities.

SPENCER:

Okay.**[50:37]** Going back toward the issues that you guys address, what are some of the more successful campaigns within the organization?

EARLS:

[50:45] Early on one of our first clients was a group in northeastern North Carolina called Citizens Against OLF. And they were facing the Navy building an outlying landing field in their community, which would have not only caused a lot of noise with the Super Hornet jets landing and taking off but also it would have thwarted any economic growth. And they were highly

motivated and really strong community organizers. It was several years campaign, and there was the potential for litigation if the Navy had moved forward **[51:30]**. But fortunately the Navy announced, I think now about a year ago, that they are not going to pursue placing an outlying landing field in northeastern North Carolina **[51:41]**. So that was a victory by the community with our support. We did everything from spokesperson training, so they could talk to the media to community organizing support, a little bit of research, we also brought in other researchers because part of the issue was to show environmental impacts from the building this big concrete landing field in that part of the state **[52:08]**. So we didn't have on staff an environmentalist who could research that but we were able to bring resources to that community and get a foundation grant to pay for a study that identified what some of the negative environmental consequences would be **[52:23]**. So that, I think, was a good example of the success of our model early on. Another big high profile success was the Montravius King case **[52:36]**. And Montravius King is a senior at Elizabeth City state University and this past fall he wanted to run for city council **[52:47]**. And the local board of elections-- he filed for office and the local board of elections decided that because his residence, his campus address was his residence address for voting purposes, that that was not legitimate **[53:00]**. And that since he didn't live there all year round, he didn't live in the summer, they said you're not really a resident at your campus dorm. So you're not a resident of Elizabeth so you can't vote here you can run for office here **[53:11]**. And that was contrary, we believe, to state law, contrary to Supreme Court precedent and the local board made that ruling and they appealed to the state board **[53:21]**. And again this was an example of our model working because it wasn't just the fact that we appealed **[53:27]**. We went and represented him at the first hearing, where we lost, we appealed to the state board, we represented him at the state board **[53:33]**. So we did all those traditional lawyer things but there was also huge media effort which brought national attention and I think had an impact on the case and there was large scale organizing around that case **[53:49]**. So students were organizing. NAACP was organizing. There was a big demonstration outside the state board of elections the day of his hearing-- just made clear to the state board that a lot was at stake because, in fact, it was **[54:04]**. Every student who registers using a campus address would've been, if that had been upheld by the state board, every student would've been disenfranchised and not able to vote if they'd registered here where they go to school **[54:21]**. So we were able to marshal all of that in a fairly short period of time and the state board ruled the right way, thank goodness, and so that was important victory **[54:33]**. And he went on to win his election which I think was actually a testament to him. What an amazing young man of courage and conviction and character that led to him convincing the

citizens of Elizabeth city to vote for him and he's now on the city council. And so that's a more recent example **[54:52]**.

BRUCE ORENSTEIN:

Can you just talk a little bit more about the resources you brought to that then to that case [54:58]?

EARLS:

Well part of it was our legal capacity and part of it was really coordination because we don't -- I would love to have a full time media person which we don't yet have [55:15]. We contract for some of our media work and I am actually not completely sure how the national-- MSNBC first took hold of the story how they learned about it [55:30]. My sense is that the NAACP played an important role. They actually have as their community based group, they have chapters throughout the state but they also have capacity at the state level and great media experience. So I'm the first one to say we did not tell-- we didn't advise NAACP on how to organize. We coordinated with them, And we as lawyers understood and appreciated and incorporated into our client's strategy the value of community organizing which is something that I think traditional lawyers may not have done **[56:08]**. And we helped Montravius a little bit with some of his statements how to word them, how to make sure that what he was saying to the media would complement and enhance whatever testimony he might need to give in the case [56:31]. So that kind of coordination role was I think the most important thing that we did in that case [56:39]. Whereas with some other community groups that don't have media experience at all we might be more actually providing the resources and capacity as well as the advice and coordination [56:53].

SPENCER:

You've done a lot of work with voting rights, could you speak to more of what you've done with voting rights in relation to the organization **[57:00]**?

EARLS:

Voting rights has been a huge part of what we've done and we started actually-- so we were founded in 2007 and started in 2009 with an effort to make sure that everyone was counted in the Census [57:25]. And one of the things I'm actually more proud of is the way we did that. We were fortunate to get grants from both Open Society Institute and Ford that allowed us to do what we called a mini grant program with community based groups. And some of them were not necessarily organized into 501(c)(3) organizations but they were volunteer community based groups that, in our view, the best way to get everyone counted in the Census was to get the word out through

local trusted messengers [58:00]. And so the mini grants were a way to say if you could get the word out to your community whether it's in rural North Carolina or its urban Charlotte or its metro Atlanta because we did this project throughout five or six states in the South [58:16]. Whether it's New Orleans, whether it's Miami how do you best reach. It's not a one size fits all approach. How do you best reach the population that's most likely to be under counted **[58:31]**. And that's certainly minority populations but it's also disproportionately poor populations, homeless people, frequently not counted at all in the Census. And when they're not counted that has implications both for money that the community gets from the federal government but also for redistricting purposes and political power and influence that the community then doesn't have because their real numbers are not being counted [58:56]. So I would say, as an organization, our voting rights really started with the 2010 Census and trying to minimize the undercount of those particular communities in the Census [59:12]. And we had a couple of regional conferences as well. And we did a study by zip code of the areas where we had provided mini grants and what the undercount was estimated in 2000 versus 2010 [59:32]. And we really were able to demonstrate that almost without exception the count was better in 2010 in the areas where we had provided funding. That's a correlation not causation but we think that that had an impact. So we built on that when it came time to get involved in redistricting by going back to those same community groups and saying that well now that you have everyone counted let's make sure that districts are drawn in a way that's fair to those populations. And we have a demographer on staff who drew a lot of plans for a lot of different community groups, for school boards and city councils and county commissions as well as state legislative plans, although not so many of the state wide plans **[1:00:15]**. In North Carolina we organized an effort to have citizen involvement in the redistricting process. And I actually feel that we've learned some important lessons about the limits of citizen involvement because of what happened with our North Carolina legislature in the 2010-2011 redistricting process [1:00:36]. But that's in litigation now so you have to understand I represent a bunch of plaintiffs who are challenging how the state wide plans in North Carolina were drawn. The litigation over the state legislative maps and congressional maps which we contend are the worst racial gerrymander that we've seen in this country. The map drawer, Tom Hoffler, stated in depositions that he intentionally started with a quota **[1:01:09]**. He said here is the percentage that black are in the population that means I need twenty-three House districts and I need ten black Senate districts. And then he set about and drew nine black Senate districts and twenty-two black House districts and that's ultimately what was enacted. And our contention is that the political life in North Carolina has evolved somewhat since the days when that might have been necessary to empower black voters [1:01:37]. That there are more and more white voters that will

vote with black voters for the same candidates. And while there is still racial polarized voting and parts of the state for certain offices that there isn't so much white crossover there's a lot of places in the state where you don't need majority black district in order to elect the candidate of choice of black voters **[1:01:58]**. So we've challenged those plans in court. We've lost in the trial court, we've appealed to the state supreme court. Oral arguments were in January, we don't have a ruling yet I expect we'll lose and we will seek a review by the Supreme Court **[1:02:14]**. That case has taken up huge amounts of our resources and efforts but I think it's a really important principle about recognizing the progress that we've made and essentially by packing black voters, diluting their influence and destroying the black white coalitions that have been built over time **[1:02:36]**. The other voting rights work that we do is around vote suppression. So the other thing that's happened recently are bills to limit the ability of certain populations to be able to cast a ballot and we have challenged in state and federal court **[1:02:55]**. We challenged the voter ID requirement in state court and some of the other measures including cutting back on early voting ending same day registration not counting out of precinct provisional ballots **[1:03:07]**. I'm kind of rattling off a bunch of things which may not all be immediately intuitively obvious but what we did do is during the legislative process we showed the legislators how these measures that empower voters, make it easier for people to vote, disproportionately were used by African American voters in North Carolina **[1:03:31]**. And so by that I mean more blacks used early voting, more blacks used same day registrations, and to eliminate those had a disproportionate impact **[1:03:41]**. The voter ID measure we think not only hurts African American voters but also women, elderly, students, because student ID doesn't count under North Carolina's law, and homeless people. There's certain populations that may only be ten percent of the overall voter population but certain populations either don't have the right ID or have significant barriers to getting it **[1:04:09]**. And that that's also a discriminatory measure. So now I would say our voting rights work is both making sure people have--everyone has access to the ballot and then secondly once they cast their ballot making sure that the districts are drawn in a way that their votes are counted equally and counted fairly **[1:04:27]**.

SPENCER:

How do you feel that the Shelby v. Holder case that was recently decided impacted some of that work? **[1:04:35]**

EARLS:

It had several different important impacts. It means that discriminatory changes at the local level can't be stopped before they are put into effect **[1:04:48]**. And we've had a couple of examples of local school boards,

county commissions in North Carolina that have proposed going back like not using districts anymore or making other changes that might make it harder for, in the local community, for black voters to elect their candidate of choice **[1:05:10]**. I don't think anything's passed yet but it's one thing that we said before the court in our amicus curiae brief was the deterrent effect of that law. That even though there weren't a whole lot of objections, it kept jurisdictions from doing things that they knew wouldn't pass anyway and that break is no longer there **[1:05:32]**. There's a valuable reporting function as well but I think the biggest impact is not being able to stop discriminatory changes before they go into effect **[1:05:44]**. All of those vote suppression measures that I've just talked about: the strict voter ID law, ending same day registration. All of those things we would have had a strong argument that those violated Section 5. Under Section 5, the part of the act that was declared unconstitutional in Shelby county, the burden is on the jurisdiction, on the entity that wants to make that change to show that it won't have a discriminatory impact **[1:06:10]**. And they couldn't show that about those measures. So we won't be doing this litigation, this big federal and state lawsuit over voter ID. We probably won't even had to file any of that if Section 5 had been in place **[1:06:24]**. And these lawsuits are time consuming and costly. We've been pushing the federal court for an early hearing date but we won't have a trial until 2015 in that case. So we're going to have a May primary in North Carolina with those restrictions in place. That is less opportunity for early voting, no same day registration, not counting out of precinct provisionals. All of that's going to be put into effect from May of this year and we can't stop it whereas Section 5 would have stopped it **[1:06:59]**.

SPENCER:

Given that what were some of the on the ground reactions, maybe within the community that you work with or the state legislature, that you can speak to **[1:07:14]**?

EARLS:

Well I think the Moral Monday's protest is probably the most visible and best example of the fact that people care about voting rights and are worried about the direction North Carolina's going in **[1:07:31]**. There's some great pictures of students in the gallery with black tape over their mouths the day that the general assembly passed the vote suppression measure. And what they were saying was that these laws are silencing them and preventing them from being able to exercise their right to vote **[1:07:56]**. This is the first time in my career that I have seen people go to jail because they, there's a lot of reasons, there's issues about education, there's issues about healthcare, but some people who have come to the Moral Mondays protests

and gotten arrested say that it's because of what happened with voting rights and that's the first time I've seen people get arrested over voting rights in recent times **[1:08:24]**. I think the Shelby County case you might ask ten people on the street and only two of them have heard about it, so I don't know that necessarily people understand all of the legal framework that's impacting the changes that they're seeing [1:08:40]. I do think that we'll hear a lot more about it in the next few months as Congress considers amendments to the Voting Rights Act that might partially fix what the Supreme Court did. But, generally, I would say that people are angry about what they see as attempt to take away their right to vote **[1:09:03]**.

SPENCER:

And then could you speak a little bit to your direct involvement? I know you submitted an amicus curiae brief but did you directly see some of the action either in the Supreme Court or in the state legislature afterward [1:09:25]?

EARLS:

Well, we actually represented interveners in a case that was being litigated at the same time that came from Kinston, North Carolina [1:09:38]. And there was some possibility that that case would be in the Supreme Court either with or before the Shelby County case. And so we litigated that case and we argued why the Voting Rights Act is constitutional in the context of that Kinston, North Carolina case. Laroque v. Holder is the name of that case [1:09:59]. It ultimately was dismissed and so it kind of went away, if you will. In the Shelby County case we did write an amicus brief, we went to the oral arguments but we didn't have the same kind of direct involvement as we had in the Kinston case **[1:10:17]**.

SPENCER:

Could you describe what the feel was like when you went as saw the oral arguments? [1:10:24]

EARLS:

For me it was quite interesting because it was the first time I'd seen this court in a Voting Rights Act case [1:10:31]. When I say this court I mean Justice Sotomayor and Justice Kagan that's the first time I'd seen them on the bench on a voting rights case [1:10:40]. And I was very encouraged by their questions and their understanding of what the struggle in the Voting Rights Act was for. That's the sense I got. [1:10:50]. It was quite stunning to hear some of the statements that Justice Scalia made from the bench during the course of those oral arguments **[1:11:01]**. Sort of implying that that Congress would never -- that once -- he sees the Voting Rights Act as a

racial entitlement for blacks, which is just completely contrary to my view of what the Voting Rights Act is **[1:11:19]**. And his notion is that Congress-- once you create these entitlements they never go away you can never get rid of them and so even though Congress reauthorized the act in 2006 with overwhelming -- and I think it was unanimous in the Senate and overwhelming vote in House -- that that didn't really mean anything **[1:11:42]**. That that wasn't a reflection of the considered judgment of the elected representatives of the people of this country, in Scalia's view **[1:11:50]**. That was just a reflection of the fact that once you get these racial entitlements you can't get rid of them and so it was really up to the Supreme Court to take this action **[1:11:59]**. And you could see him sort of talking to the other justices. That was an argument where I felt the justices were talking to each other much more than they were talking to the advocates who were arguing in front of them and it just to me highlighted the polarization that we have on this court **[1:12:17]**. The five to four split. And you can read New York Times article after New York Times article, this is the most conservative Supreme Court we've ever had in this country and the arguments that they were advancing in this particular case is, I think, one example of that **[1:12:38]**.

SPENCER:

What would say is the future for voting rights either in the nation as a whole or in North Carolina specifically? **[1:12:46]**

EARLS:

I think in our nation as a whole we have to continue to push to expand the franchise **[1:12:52]**. By that I mean there is so much attention on these vote suppression measures and stopping them. And that's really important **[1:13:02]**. And that's actually what will get the general public's attention. If they understand that their right is being infringed then they want to fight to keep it. But I think, at the same time, we have to continue to look for ways to. And we know what they are. We know that same day registration works. we know that in North Carolina the percentage of the population that participates in elections went up dramatically when we started making it available for people to register and vote at one stop early on in the process **[1:13:34]**. We know that people don't pay that much attention to elections a month in advance and that by having the opportunity to register three days in advance of the election you make it easier for people to vote **[1:13:47]**. States like Washington and Oregon that use mail ballots, almost a complete mail-in system also. There are just a number of examples of ways to make it easier for voters to vote **[1:14:00]**. And part of it is a resource question: how much money are we willing to invest in having a well-functioning democracy **[1:14:11]**? And I think as we go to other

countries and hold ourselves out as a democratic country that we've got to continue to pay attention to investing in the infrastructure of democracy in our own country **[1:14:28]**. We have to have the value that it's the government's role to make it easy for every citizen to vote rather than the citizen's responsibility to jump through all these hurdles [1:14:39]. I mean if you ask an ordinary person on the street they have no idea what voter ID, which types of IDs qualify [1:14:45]. There's a great story on NPR where the reporter went out into Bertie County in northeastern North Carolina. And I think she just went up to some person who was out working in his field literally and she said: Do you have ID? Can you vote? [1:14:59] He's all like oh yes, of course. So he pulls out his wallet and says 'Well here's my Medicaid card' and she said 'No that won't work' 'Well here's my social security card' 'No that won't work'. **[1:15:07]**. He didn't have on him a photo ID that would have allowed him to vote and a lot of elderly people don't realize that under North Carolina's law if your driver's license was valid when you were 70 years old you can use it even if it is expired. People don't know that [1:15:25]. They've put in place all these hurdles and all these technicalities that make it-- try to selectively pick who's going to vote and that's just not what our democracy should stand for [1:15:40]. So, to me, the important thing to focus on for our future is not only fighting the battles against restrictive measures but being smart about what works and continuing to promote the policies and structures and procedures that will make it possible for everyone to vote **[1:16:00]**.

ORENSTEIN

Let me interrupt...

EARLS:

So why is this happening in North Carolina? I think there's a couple of reasons. The Republican Party, I'm working for a nonpartisan organization but they're the ones who are in power and passing these laws [1:16:16]. They've looked at who votes for them and who votes for Democrats. So I would say at one level it's just an intensely partisan calculation and just as crass as that **[1:16:39]**. That they figured out that students not exclusively, not everywhere but that in the aggregate, overall more often vote democratic, so they want to make it harder for students to vote [1:16:53]. And they certainly know that African Americans vote, not monolithically, it's not 100 percent but some 80-90 percent vote democratic [1:17:04]. So anything that makes it harder for them to vote is better for their party [1:17:08]. I think a couple of other things that are going on are-- look at what the electorates -- how the electorate in North Carolina is changing and the fact that going forward they're not going to be able to maintain. The party in power right now is not going to be able to maintain their power and

maintain their majorities. As our population gets-- in North Carolina, as is true in much of the South, if you project out ten and twenty years-- our population is growing relative to the rest of the country. So we will probably get another congressional district next time or the time after that for sure **[1:17:50]**. And its increasingly a population of color. The Hispanic population is growing rapidly. It's not completely a citizen population but its increasingly a citizen population [1:18:05]. And the other thing to know is that youth are more diverse racially. So if you look at the younger population its more people of color of all races and more mixed race people [1:18:23]. So if the very population that's growing is the same population that isn't supporting the Republican Party then they need to take these measures [1:18:37]. Another reason is the fact that we are a swing state so the vote is close here. And that's another reason why they get benefit out of suppressing the vote because they only have to suppress a little bit to actually make a difference for them [1:18:56]. So I think those are some of the factors that made these provisions happen in North Carolina. It's very disheartening as someone's who's been working here for so many years but I also know that-- I have to say when I talk to my colleagues in Mississippi and Mississippi's been able to get their administration to agree that Medicaid cards are an acceptable form of voter ID under Mississippi's law. In Texas, I think, a student ID is one form of ID that works **[1:19:37]**. And so it is quite stunning that it will be easier in Mississippi and Texas than North Carolina for people from the communities that we work with to be able to vote [1:19:49].

SPENCER:

Given those changes what do you see the role of the Southern Coalition for Social Justice in this sort of arena? [1:19:57]

EARLS:

Well I think that we have to continue to be a voice for why these systems and methods are bad. I think we have to do everything we can to put forward the evidence for the court [1:20:12]. I'll tell you that I'm not optimistic at the trial court level in the federal court case because of the politics of the court **[1:20:21]**. But I think our role is to make it possible for these legal battles to be fought. And there's a lot of people who would say well if you can't win in the courts don't even bother. Why spend your resources and time and effort there? Try other avenues [1:20:38]. And I struggle with that a lot because I think that's a valid question. You let me graciously talk about my victories and sometimes I think I should talk about our defeats because we have a lot to learn from those as well [1:20:55]. And it's a valid question to us if the courts are conservative, if the doctrine's not on your side, if you still only have four votes in the US Supreme Court

why are you bringing these cases right now? [1:21:08] And the only answer that seems right to me is a strongly held belief from experience that we are better off, we get further down the road if we continue to advocate on all fronts and not give up one entire branch of the government **[1:21:28]**. The courts are supposed to work for people of color just like the administration should work for them and Congress should work for them and we can't just give up and leave the courts out of it [1:21:40]. We may not win but there'll be another battle ten years from now and if we keep fighting we'll get to a point where we'll have some victories [1:21:49].

SPENCER:

Given that can you to speak to more to some of what has happened? Could you go into some of the detail in the cases that you fought in? [1:22:04]

Anita

Well I can. I mentioned we should learn from our losses. We started this organization with the belief that if a community is engaged and organized around a case that that will generate media coverage, it'll generate publicity, it'll create pressure for decision makers at whatever levels, to make the right decision [1:22:36]. And I think I have -- there's some examples of it working that way but I've also seen some example of I guess what I would call a backlash **[1:22:48]**. So in cases where our clients have organized the community to advocate for a particular outcome or a particular result and-- it can sometimes polarize the community and actually make it harder to get the progressive resolution in the courts [1:23:18]. And so I think we have to continue to just always be strategic [1:23:26]. So what that says to me is not that we should never bring a lawsuit but that we should always be assessing what's happening on the ground-- Are we making things better for people? Are we going to get into place structures, procedures, process, ways to improve justice on this issue? And to always have a vision of how we ultimately do that **[1:23:53]**. So I know that's kind of general. I'm a little nervous to talk too much about specific cases that are maybe ongoing still. But I think you can talk to any lawyer about cases that they've lost and won and sometimes the cases that meant the most to them are the ones that they lost [1:24:10]. So I don't think that's unique to civil rights' work but I do think that in the environment where we're trying to convince foundations to fund this litigation, because the client's always want you to bring the case but we have to convince a foundation to bring a lawsuit, that sometimes they need to give us to space to talk about why even if we lose the case we've advanced the cause for civil rights and for social justice. And we've helped the community stay mobilized. We've at least given a voice to people who would otherwise be silent. We've set the stage for the next battle [1:24:49]. That we need to talk in those terms because we're in a

challenging time both in terms of legal doctrine-- I went to law school believing that if you controlled legal doctrine-- if you had an influence on how legal doctrines developed then you can improve the chances of marginalized and oppressed communities receiving justice and that's a tough proposition to uphold but I haven't completely given up I guess. **[1:25:28]**

SPENCER:

Given your experience and your goal to make it easier for people to advance their civil rights what would you say in your career has been the most impactful work that you've done for that? [1:25:46]

EARLS:

Well that's a good question. I do think that the voting rights work-- I mean obviously that's what I done the most in [1:25:56]. But in the police misconduct work, you're dealing with really tragic situations, families who've lost a loved one and sometimes by bringing that type of case you can get police departments to be better at their training of officers in their use of force **[1:26:12]**. But in voting rights when you get a county commission that's never been-- I mean I did this work in the 90s in places like Columbus County, North Carolina that never had an African American on a county commission and as result of a lawsuit that I brought they expanded to seven and had one African American and one Native American on the county commission in Columbus County [1:26:38]. When you can impact governing bodies in that way, they then place in place policies that benefit their communities. I also had a case in Beaufort County, which I'm really proud of [1:26:54]. They used limited voting to elect the Beaufort County board of county commissioners and so they're not dependent on residential districts [1:27:03]. Limited voting is a -- sometimes they're called modified at large or semi proportional election systems, but it's a way for a minority group to have the ability to elect a candidate of their choice to a local governing body without drawing single member districts **[1:27:22]**. And I remember in 2008 going to the Democratic Convention and I met a woman who was on the Beaufort County board of county commissioners and she talked about how, she's African American, but she talked about how she was instrumental in opposing an effort that they had there to remove all the Spanish language signs in their social services department [1:27:46]. And it meant a lot to me to see that the work I did resulted in people from communities that had previously had no voice, having a voice on the county commission and impacting policies that protected those communities [1:28:07]. So I think the voting rights work and keeping the voices in government, keeping the voices of people of color in the government has been the thing that has had the most impact **[1:28:18]**.

SPENCER:

Obviously as a lawyer you've had a lot of legal experience but can you speak to, I know your organization is also very multidisciplinary, can you speak to the other work that you guys do besides the legal? [1:28:35]

EARLS:

Yeah I think that organizing work is vitally important and that lawyers in social change efforts sometimes take on that role as organizer, calling the meetings and trying to get people to have a strategy that makes sense and we're not well suited to it **[1:29:00]**. It really should be people who have training in organizing. So I'm really committed to trying to increase our staff -- having on staff. We have one person right now who's kind of half time paralegal half time organizer. And the other thing I'll say about organizing is we really need directly affected people doing the organizing or at least involved in the organizing [1:29:28]. So our criminal justice organizer is a person whom himself was involved in the criminal justice system, spent time in prison [1:29:35]. He can go out and talk to people and relate to people in a way that I can't. So having directly affected people involved in the organizing is really important and we really need to improve our capacity have more staff that do that **[1:29:53]**. The media work is a key component and it's both promoting what the organization does but then also helping communities we're working with learn how to navigate media and get messaging out there and be effective with media [1:30:18]. So vitally important work and again just something we need more resources for. We have a full time researcher on staff, he has GIS skills as well as general social science research skills. So sometimes he's helping us find other researchers [1:30:39]. But the other thing we do is we hire a lot of expert witnesses. We spend a lot of money on expert witnesses and those are basically social scientists who-- or political scientists, historians who are doing research related to the legal claims we're bringing **[1:30:53]**. And that's a way that we end up doing a lot of research about the voting right arena for example, a lot of research about who has IDs and who doesn't and the political history of communities, how they've not had representation in the past. So there's a lot more work that needs to be done and we're doing our best while at the same time trying to do what we do which is be lawyers [1:31:26]. I mean communities also need lawyers. And if I'm right that going to court is an important tool in a wide range of tools. The court system, and I've seen this in the 25 years that I've been practicing law, it is becoming increasingly difficult to mount an effective lawsuit. The average person can't afford to pay a lawyer what it takes to take a case to court [1:31:52]. And it's because of how the doctrine has developed but it's also because the people who do have money and power in the system that is businesses basically corporations are always like David and Goliath **[1:32:10]**. They're always the one with lots of attorneys and associates and paralegals and legal secretaries all able to generate literally thousands of

pages. Hundreds of thousands of pages of documents have been produced in our vote suppression lawsuit [1:32:27]. You have to have sophisticated software to review all those documents and more attorneys to spend hours and hours reading through them to find out what's relevant. Just doing the lawsuit part, just doing the legal part is a huge challenge so it remains to be seen whether we'll be able to accomplish our vision of bringing all those resources to communities and fund it over the long haul [1:32:57]. I think overworking my staff and making them work longer or them feeling that they have the responsibility and the requirement to work longer if they're going to be effective for their clients than is sustainable in the long term is a challenge that we face **[1:33:17]**. And I think all of us feel like we're compelled to do this work and we'll do the best we can [1:33:24].

SPENCER:

Can you think of a specific example in how your community organizing and work with media has enhanced your legal work? [1:33:34]

EARLS:

Well I'll talk about two examples. One is our plaintiff in the voter ID case. Alberta Currie has told her story now to CBS News and NPR radio and a couple of newspapers. And by being the face of what it means to not have an ID I think she's changed some public opinion about why the voter ID law is a difficult thing [1:34:15]. Her story is that she was born at home with a midwife and can't get a photo ID. She's 78 years old she's voted almost every election since she first became eligible in 1956. And African American woman, great granddaughter of slaves, she, her parents, her daughters all worked in tobacco cotton fields and it means a lot to her to be able to go and vote in person **[1:34:41]**. So being able to put a face and a name and a human person behind why it's hard to get an ID I think has been valuable [1:34:55]. I mean that case isn't over yet so I can't tell you what end we won but I think that's made a difference [1:35:00]. A second example would be the case I've spoke of early in the Pinehurst area. Our clients decided that-- and this was a case that didn't involve a lawsuit but involved pressure or advocating for inclusion with local governance, local governing bodies 1:35:20 city council in Pinehurst, Aberdeen, Southern Pines [1:35:26]. In 2006 the US Open was played in Pinehurst and our clients decided that they would do a media effort to-- so the national sports media but nevertheless that national media attention's would be on that region while the US Open was there. And they were able to get a story in the New York Times and they had wanted the New York Times Magazine they didn't quite make it to that **[1:35:54]**. But there was a front page story in the New York Times about the need-- how these all black neighborhoods were on the edge of Pinehurst and the luxury and wealth that exists in that area for the resort community

right alongside homes that didn't have public water and sewer and that had a huge impact on changing the political will in Pinehurst to incorporate these communities and to make sure that they had equal services [1:36:30]. So that was a really successful media campaign that involved organizing and the other unique thing that I'll say really quickly about that campaign is we connected with communities in Modesto, California that were experiencing the same problem. Latino communities-- but in Modesto if you look at the town boundaries it looks like Swiss cheese and all the holes are Latino neighborhoods that similarly don't have water and sewer **[1:36:53]**. And so our clients we went out to Modesto and met with those folks and talked about their strategies and then they came to Pinehurst and met with our clients. And we invited some public officials in to meet with them as well to kind of show that this was not only something that happened in southernmore North Carolina but also to show that communities can organize and be effective and that was a really great community organizing strategy [1:37:24]. My clients were so energized by going out and they didn't speak Spanish this was not a natural-- they would have never otherwise met folks in Modesto and a couple of people stayed in touch long after this exchange program [1:37:42]. They made some friendships as well as learned about each other's struggles and were supportive so that's an example of both a media campaign and an organizing strategy that really made a difference in achieving what we were trying to achieve [1:38:00].

SPENCER:

Would you say the Southern Coalition for Social Justice collaborates with a lot of other organization in the work that they do? **[1:38:07]**

EARLS:

Oh absolutely. We are a part of several regional groups so in our criminal justice work we're in a collaboration called New Southern Strategies that works with groups from Texas, Georgia Mississippi -- I think there's someone from Tennessee. There's a variety of groups trying to collaborate [1:38:35]. Most of the issues that they're looking at are how to mitigate the collateral consequences of a conviction. So what state policies can be put in place to make it not so damaging when someone serves their sentence and is back out trying to get a job and rent an apartment and possibly get an educational loan **[1:38:58]**. So New Southern Strategy is an example of a regional collaboration. Another regional collaboration is called SOLVE it's southern leadership for voter engagement [1:39:10]. And that's a set of organizations around the South that are mobilizing to share strategies around how to respond to the fact that Section 5-- the Shelby County decision and the fact that we no longer have Section 5 of the Voting Rights Act [1:39:24]. So we work in regional collaborations, we have a large

number of partners around the state. In North Carolina we're partners with Blueprint North Carolina which is a group of nonprofit groups in the state that work together. So sometimes we're working kind of as co-collaborators and sometimes we're working as kind of a lawyers and client relationship with other groups [1:39:52].

SPENCER:

Going back to the Shelby v Holder case I've asked you about the impact on North Carolina and the nation but what was your personal reaction to the case? **[1:40:07]**

EARLS:

Well I had worked in the Justice Department so I had seen the Section 5 process in action if you will [1:40:17]. And I think that I was just disappointed that the real benefit -- I think the real benefit of Section 5 was not brought home in the court process as well as it could have been [1:40:40]. You didn't come away from that case, I think, with a full understanding. I mean in the oral arguments they talked about Alabama's got to be one of the worst offenders in terms of Section 5 objections in the past why should Alabama be able to be no longer covered? [1:40:55] But I don't think there was as full an understanding in the briefing about the real value of Section 5 **[1:41:03]**. I don't see it as a completely devastating blow. We will move forward. And we'll keep advocating for the interests of minority voters [1:41:17]. So I think we will never get it back. The proposals that are on the table now create something that looks quite different and actually won't cover North Carolina if it's passed. So the other thing that I worked on was the congressional record in 2006 to justify reauthorizing Section 5 [1:41:45]. And at that time my former law partner Mel Watt was on the House judiciary committee and played quite a role in hearings and assembling that record and this was the-- if you go back and look at those hearings and all of testimony and evidence before congress it was an extensive congressional record [1:42:08]. And I guess it just makes you a little angry that five people on the Supreme Court could say we know better than all of Congress and we're going to eliminate this law **[1:42:23]**.

SPENCER:

Is there anything that we haven't talked about yet that you think would be useful to add? [1:42:37]

EARLS:

Well thank you for that question. We've talked a lot about my organization but there is something that I want to add which is a little more personal

[1:42:49]. But earlier I was talking about my family and the impact that that's had on me and my work and what I didn't talk about-- what I didn't mention was the fact that I came very close to stopping to not doing this work anymore when my brother was murdered **[1:43:12]**. My brother was murdered in 2006 and he lived in Washington state at the time, he's two years younger than I am. I went to the prosecutor. He was murdered by a woman, he was stabbed in the heart ,he was unarmed, she was white, he looks black. **[1:43:30]** I went to the prosecutor to try and get her prosecuted and he refused. And basically part of his argument was no juror is going to convict a white woman of murdering a black man in rural Washington state **[1:43:46]**. And what that meant to me was that all of my efforts and all my work, whatever impact I might be having in the community I couldn't help my family. I couldn't bring justice. I'd spent-- I'd gone to law school and had all these notions that I was advancing justice and improving justice in the world and I couldn't bring justice for my family **[1:44:18]**. So that I think has had a bigger impact on me than just about anything else and ultimately what I concluded was that I had kind of lost my way as a lawyer and I had kind of forgotten that I am a part of the communities that I'm working with **[1:44:39]**. A lot of time my clients want to say 'oh you're not like me you're a lawyer, you've been to law school, you have a professional degree, you can't possibly understand what we go through, what our lives are like' and I try not to argue with my clients too much but I think that what I've realized is that I am a part of those communities and I do have a life experience that still is worth me trying to achieve some measure of justice -- even if the failure seem more overwhelming than the successes sometimes **[1:45:19]**.

SPENCER:

We've talked a bit earlier in your childhood about growing up in the neighborhood and being a mixed child. Has there been that sort of impact in your life now? Do you see as much of an impact? **[1:45:40]**

EARLS:

Well I do think things have changed I love to see-- I love to talk about how I've seen things change in my lifetime and by that I mean-- you know there's just so many more mixed race families and mixed raced kids. It's no longer true that they will only place mixed raced babies with mixed raced parents **[1:45:59]**. So there's a much higher possibility that people will find families. So I still-- it's funny because my husband is African American and we're an older couple now and we still -- because when I was growing up the big thing was if my family went out in public and it didn't matter where went out in public but in Seattle if we went out in public people stared at us **[1:46:24]**. We're talking 1960s it wasn't common to see an interracial

couple at that time. And that I think changed and got better. I remember with my parents when I moved to the South it was a huge traumatic thing for my parents [1:46:44]. And they were really reluctant to come and visit me because their experience of the South was not only would people stare at you if you were a mixed race couple but they wouldn't serve you and they might try to run you out of town [1:46:55]. So it took a lot to get them to come to Charlotte in the early 90s late 80s early 90s and people still did stare at them in Charlotte [1:47:07]. My husband and I still-- I still have to constantly say I'm with him because people will assume that we're not together. But I think things have gotten a whole lot better and there's definitely progress **[1:47:27]**. And while there might be backlash at times and vestiges of the kind of personal I guess the micro aggressions in the literature but while that still is around I just think that I just love all of the cultural things around mixed race youth that are around these days [1:47:48]. Because when I was growing up I was just an anomaly and I think now mixed race kids are just the growing trend. So that's wonderful to see [1:47:59].

SPENCER:

Thanks **[1:48:00]**