

# The Contributions of African-Americans to the American Legal System

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# The American Legal System

- The United States government is a Constitution-based federal republic. The federal court system is rooted in English common law. Each state has its own unique legal system, based on English common law. This provides for judicial review of legislative acts. The exception is Louisiana, which continues to be influenced by the Napoleonic Code.<sup>1</sup>
- 1 Central Intelligence Agency. (2008). *CIA: The World Factbook: United States*. Retrieved February 10 2008 from <https://www.cia.gov/library/publications/the-world-factbook/geos/us.html#Govt>

# The U.S. Constitution: The Supreme Law of the Land

- The United States Constitution is the supreme law of the land. Article VI, clause 2 of the Constitution states: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." <sup>2</sup>
- 2 National Archives and Records Administration. (2008). NARA: The National Archives Experience: The Charters of Freedom. Retrieved February 4, 2008 from [http://www.archives.gov/national-archivesexperience/charters/constitution\\_q\\_and\\_a.html](http://www.archives.gov/national-archivesexperience/charters/constitution_q_and_a.html)



# Notable African-American Contributors to the American Legal System:

- African-Americans have overcome significant challenges to achieve their legal education and establish successful careers. We will trace the notable accomplishments of each of these men and women.

- | <u>Attorneys</u>       | <u>Judges</u>           |
|------------------------|-------------------------|
| • Macon B. Allen       | William Henry Hastie    |
| • Violette Anderson    | Amalya Lyle Kearse      |
| • Ada L. Sipuel Fisher | Thurgood Marshall       |
| • Eric H. Holder Jr.   | Irving Charles Mollison |
| • Barack Obama         | Constance Baker Motley  |
| • John Sweat Rock      | James Benton Parsons    |
|                        | Spottswood Robinson     |
|                        | Clarence Thomas         |

# Consider these milestones...

- 1844: the first man was admitted to the Maine bar
- 1865 : the first man was admitted to practice before the United States Supreme Court
- 1920: the first woman was admitted to the Illinois bar
- 1926 : the first woman was admitted to practice before the United States Supreme Court
- 1949 : the first woman attended an all-white law school in the South
- 1997: the first man became the highest ranking official at the U.S. Department of Justice as the Deputy Attorney General
- 2007/2008: the first African-American man became a United States Presidential candidate

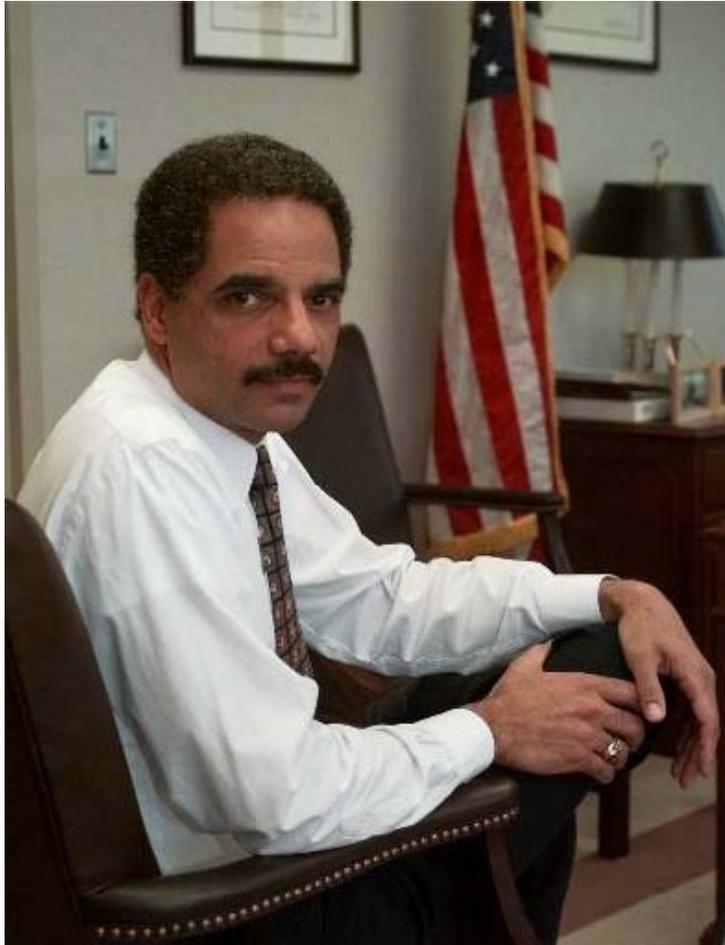
# Barack Obama

- Barack Obama's entry into the 2008 Presidential election has established him as the first African-American Presidential candidate. His meteoric rise began during his days at Harvard Law School. Admitted in 1988, Obama soon distinguished himself while at Harvard. Obama became the President of the student-run organization Harvard Law Review. He became the first African-American to hold that position. He graduated cum laude in 1991 and became a civil rights attorney. Obama next turned to public office where he was elected to the Illinois state Senate. There he helped draft legislation aimed at capital cases. The legislation required that interrogations and confessions in capital cases be videotaped. Obama's career forged ahead and on January 4, 2005 he was sworn into office as a U.S. Senator from Illinois. He currently serves on a number of Senate committees, including the Health, Education, Labor and Pensions Committee. This committee is charged with the oversight of the nation's health care, schools, employment, and retirement programs.<sup>4</sup>
- 4 United States Senate. (2008). Barack Obama: U.S. Senator from Illinois. Retrieved February 19, 2008 from <http://obama.senate.gov/about>
- 5 Barack Obama. AP /Multimedia Archive. October 16, 2006. Retrieved February 21, 2008 from AP Images database. <http://apimages.ap.org>



- Sen. Barack Obama, D-Ill., leaves the hotel following a fundraiser for Indiana Democrats in three highly contested congressional races in Indianapolis Monday, Oct. 16, 2006. (AP Photo/Michael Conroy) 5

# Eric H. Holder Jr.



- A native New Yorker, Eric H. Holder Jr. rose to become the highest-ranking African-American law enforcement officer *in history*. As the Deputy Attorney General, the number-two post at the Justice Department, he essentially served as the deputy to the chief lawyer of the United States government. His career includes experience as a trial attorney for the U.S. Department of Justice, Public Integrity Section and associate justice of the Superior Court in Washington. Holder resigned from his position with the Justice Department in 2001, afterwards becoming a partner in the law firm of Covington & Burling based in Washington, D.C. <sup>6</sup>
- For current sidelights log on to Mr. Holder's homepage: <http://www.cov.com/eholder/>
- <sup>6</sup> Judiciary. (2003). In *Black Firsts*. Retrieved February 14, 2008, from [http://www.credoreference.com/entry.jsp?xrefid=5871781&secid=C06\\_0169-](http://www.credoreference.com/entry.jsp?xrefid=5871781&secid=C06_0169-)
- <sup>7</sup> Eric H. Holder. AP /Multimedia Archive. March 13, 1997. Retrieved February 21, 2008 from AP Images database. <http://apimages.ap.org>

<sup>7</sup> The U.S. Attorney for the District of Columbia, Eric Holder, shown in his Washington office March 3, 1997, will be nominated by President Clinton to be the new No. 2 official in the Justice Department, according to a senior administration official. The official said that Clinton planned to announce the nomination Thursday March 13, 1997.

# Ada Lois Sipuel Fisher

- Ada Lois Sipuel Fisher holds the distinction of being the first African-American woman to attend an all-white law school in the South. It proved to be a long road as she originally applied for admission to the University of Oklahoma law school in 1946. There she was denied admission because of her race. In 1948, the Supreme Court ruled that the state of Oklahoma must provide equal instruction for blacks and whites. As a result, the regents created the all-black Oklahoma State College for Negroes (now Langston University) from which she graduated with honors. Fisher was admitted to the University of Oklahoma law school in the summer of 1949 after the Court determined that the Oklahoma State College for Negroes school was inferior to the University of Oklahoma law school. Oklahoma Governor David Walters appointed her to the University of Oklahoma Board of Regents in 1992, at which time she commented that her appointment completed a forty-five-year cycle.<sup>8</sup>
- <sup>8</sup> [Schomburg Center for Research in Black Culture. The New York Public Library African American Desk Reference.](#) New York: John Wiley & Sons, 1999.

# Violette Neatley Anderson

- Violette Neatley Anderson's (1882-?) career included many achievements. Anderson, who was born in London, England achieved notoriety for being the first African-American woman to be admitted to the Illinois bar after she received her law degree from the University of Chicago in 1920. In 1922 she became the first woman assistant prosecutor in Chicago. Anderson became the first African-American woman lawyer admitted to practice before the U.S. Supreme Court on January 29, 1926 like her male counterpart John Sweat Rock had achieved in 1865<sup>9</sup>
- 9 Illinois. (2003). In *Black Firsts*. Retrieved February 10, 2008, from [http://www.credoreference.com/entry.jsp?xrefid=5871744&secid=C05\\_0122-](http://www.credoreference.com/entry.jsp?xrefid=5871744&secid=C05_0122-)

# John Sweat Rock

- John Sweat Rock(1825–1866). An excerpt from the [\*from the Yearbook 1976 Supreme Court Historical Society:\*](#)

**The Supreme Court Bar's First Black Member  
Clarence G. Contee**

*Copyright 1975, The Supreme Court Historical Society 3*

- On February 1, 1865, Dr. John S. Rock, a lawyer and abolitionist, was admitted to practice law before the bar of the Supreme Court of the United States. This act marked one of the major steps toward a negation of the provocative Dred Scott decision of 1857, which had emphatically denied the citizenship rights of all Negroes in the United States. *Harper's Weekly* of February 25, 1865, carried a photograph of Rock, and it held that his admission to the bar of the Supreme Court, together with the Thirteenth Amendment, then in the process of ratification, tolled the end of the Dred Scott decision and its doctrines and opened a new day for all black Americans.

On December 8, 1866, *The Boston Commonwealth* published his obituary and eulogized Rock; "John S. Rock, Esq., the talented attorney who was presented by Senator Charles Sumner, two years since to the Supreme Court for practice died on Monday last in this city, of consumption. He was skilled in medicine, having practiced in that profession ere embracing the law, and was also a speaker of grace and ability." Rock had actually died on December 3, at 83 Phillips Street, where he had lived with his mother and son. Rock was buried with full Masonic honors, since he was a Mason, from the Twelfth Baptist Church, where he had worshipped as a member for a long time, with the Reverend Mr. Grimes presiding, and he was laid to rest in the Woodlawn Cemetery. His tombstone contained the fact that he had been the first Negro lawyer to have been admitted to practice before the Bar of the Supreme Court. The inscription on his tombstone reads: "John S. Rock, Oct. 13, 1825, Died Dec. 3rd, 1866. The 1st colored lawyer admitted to the Bar of the United States Supreme Court at Washington; On motion made by Hon. Charles Sumner, Feb. 1st, 1865

# Macon B. Allen

- Macon B. Allen's career achievements started in 1844 with his groundbreaking admission to the Maine bar after passing the exam that year. This distinguished him as the first African-American to be admitted to a state bar. The next year, he was admitted to the Massachusetts Bar. Shortly afterwards, the Governor of Massachusetts appointed him to be a justice of the peace. Allen reached another milestone with this appointment, as it made him the first African-American to serve in any judicial capacity.<sup>11</sup>

<sup>11</sup> [Schomburg Center for Research in Black Culture. The New York Public Library African American Desk Reference. New York: John Wiley & Sons, 1999.](#)

# Federal Judiciary

- The federal courts often are called “the guardians of the Constitution” since rights and liberties guaranteed by the Constitution are protected by the courts’ rulings. The role of the federal courts is to interpret and apply the law to resolve disputes. The framers of the Constitution considered the independence of the federal judiciary to be essential in promoting fairness and equal justice for all citizens of the United States. The Constitution advocated judicial independence in two major ways:
  1. ”Federal judges are appointed for life, removable from office only through impeachment and conviction by Congress of ‘Treason, Bribery, or other high Crimes and Misdemeanors’”.
  2. “Neither the President nor Congress can reduce the salary of a federal judge”.

The federal courts are composed of:

U.S. Supreme Court

U.S. Courts of Appeals

U.S. District Courts

Bankruptcy Courts <sup>13</sup>

A significant number of milestones took place in the twentieth century for the African-American community. Their entry into the federal judiciary began in 1945, when the first man served as a federal judge in the United States. By 1991, the second African-American man was confirmed as a Supreme Court Justice. Within that time frame, African-American women also obtained significant positions in the federal judiciary. In 1966, the first female federal judge was appointed to the U.S. District Court, Southern District of New York. 1979 saw the first woman to serve in the Second Circuit U.S. Court of Appeals for the Second Circuit, New York City.

13 <http://www.uscourts.gov/about.html>

# The Supreme Court

- The United States Supreme Court consists of the Chief Justice of the United States and eight associate justices. A limited number of cases are chosen by the Court (at its discretion and within certain guidelines established by Congress). Cases may begin in either the federal or state courts, and they usually reflect important questions about the Constitution or federal law. <sup>14</sup>

- <sup>14</sup> <http://www.supremecourtus.gov/>



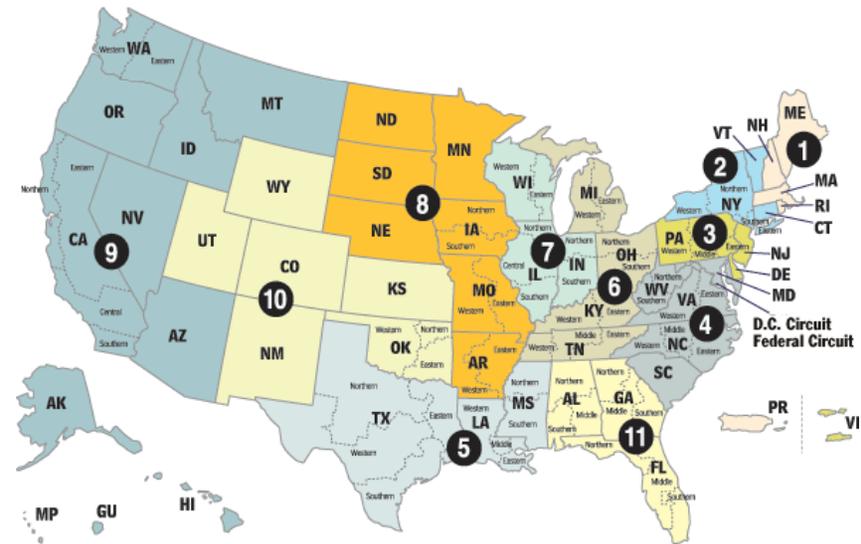
# Supreme Court Justices

- Thurgood Marshall, denied admission to the University of Maryland law school because state law prohibited admission of African-Americans, graduated from Howard University in 1933. As the head of the National Association for the Advancement of Colored People (NAACP) Legal Defense Fund, Marshall litigated against state-sponsored segregation which led to the groundbreaking decision in *Brown v. Board of Education*, 347 U.S. 484. Here, Marshall successfully argued against the “separate but equal” doctrine. In 1967, Marshall was appointed to the Supreme Court by Lyndon Johnson, becoming the first African-American Justice. He retired in 1991. <sup>15</sup>
- Clarence Thomas became the second African-American Supreme Court Justice in November, 1991. His confirmation was noteworthy for both the smallest margin by which any Justice in this century had been confirmed, as well as the charges of sexual harassment levied by University of Oklahoma law professor Anita Hill that were brought to light during the televised confirmation hearings. He is known as a conservative, and his judicial philosophy is grounded in the belief of natural law; that of God-given rights rules. <sup>16</sup>
- <sup>15</sup> Marshall, Thurgood (1908 - 1993). (2002). In *World of Criminal Justice, Gale*. Retrieved February 10, 2008, from <http://www.credoreference.com/entry/4827930>
- <sup>16</sup> Thomas, Clarence (1948 - ). (2002). In *World of Criminal Justice, Gale*. Retrieved February 10, 2008, from <http://www.credoreference.com/entry/4828289>



# U.S. Courts of Appeals

- United States Courts of Appeals are included in the nation's 12 regional circuits. They hear appeals both from the district courts located within its circuit, and from decisions of federal administrative agencies. The Court of Appeals for the Federal Circuit has nationwide jurisdiction to hear appeals in specialized cases. These cases involve both patent laws and cases decided by the Court of International Trade and the Court of Federal Claims. <sup>17</sup>



- 17 <http://www.uscourts.gov/courtsofappeals.html>

# Amalya Lyle Kearse

- In 1979, Judge Kearse was appointed to the U.S. Court of Appeals at the age of 41 by President Jimmy Carter. She was only the second African-American (behind Thurgood Marshall) to be appointed. She became the first woman to serve in the Second Circuit. She enjoyed success in private practice. Kearse joined the Wall Street law firm of Hughes, Hubbard, and Reed in New York City. This was noteworthy, for she was one of very few African-American women to work on Wall Street. Her specialties were grounded in business and antitrust litigation. She became a partner in 1969, considered an unprecedented accomplishment for someone so young. She has taken stances which include the barring of police from the observation of a suspect through a telescope without a warrant; the opinion permitting television networks to broadcast the Abscam tapes, and the upholding of the New York State ban on school prayers.<sup>18</sup>
- 18 University of Michigan Research. Michigan Greats-Amalya Lyle Kearse. April, 1999. Retrieved February 14, 2008 from <http://www.research.umich.edu/news/michigangreats/kearse.html>



# Spottswood Robinson

- Spottswood Robinson's most notable achievements included his being named to the United States Court of Appeals, Washington, DC in 1966. Later, from 1981-1986, he served as Chief Judge. Earlier in his career, his involvement with the Civil Right movement brought him to the attention of President John F. Kennedy. In 1961, Kennedy named him to the U.S. Commission on Civil Rights. Robinson's career included a stint in education, ranging from a teaching fellow to associate professor at Howard University. He became an attorney for the legal defense fund of Virginia's NAACP after leaving Howard University. One of his successful court cases argued in front of the Supreme Court resulted in the outlawing of restrictive covenants that prevented the sale of real estate to African-Americans. Robinson, along with Thurgood Marshall, also successfully argued the *Brown v. Board of Education* case before the Supreme Court which struck down the "separate but equal" doctrine in public education in the South.<sup>19</sup>
- <sup>19</sup> [Schomburg Center for Research in Black Culture. The New York Public Library African American Desk Reference. New York: John Wiley & Sons, 1999.](#)



# Irving Charles Mollison

- Irving Charles Mollison (1899–1962) earned notoriety as the first African-American to serve as a federal judge in the United States when in 1945 he became a U.S. Customs Court judge in New York (now known as the U.S. Court of International Trade). Born in Vicksburg, Mississippi, Judge Mollison attended the University of Chicago where he received his undergraduate degree in 1920. He was then admitted to the University of Chicago law school where he earned his law degree in 1923. During his twenty year career as a Chicago lawyer, Mollison's achievement as lead attorney in the Hansberry case of 1940 earned him recognition. The case pitted playwright Lorraine Hansberry's father against Chicago's restrictive housing covenants that kept blacks from receiving fair housing opportunities. Mollison successfully argued the Hansberry v. Lee case before the Supreme Court.<sup>20</sup>
- <sup>20</sup> Judiciary. (2003). In *Black Firsts*. Retrieved February 14, 2008, from [http://www.credoreference.com/entry.jsp?xrefid=5871781&secid=C06\\_0169-](http://www.credoreference.com/entry.jsp?xrefid=5871781&secid=C06_0169-)

# U.S. District Courts

- The trial courts of the federal court system are called District courts. Within limits set by Congress and the Constitution, the District courts have jurisdiction to hear nearly all categories of federal cases. This includes both civil and criminal matters. There are 94 federal judicial districts, including at least one district in each state, the District of Columbia and Puerto Rico. The U.S. territories (the Virgin Islands, Guam, and the Northern Mariana Islands) have district courts that hear federal cases, including bankruptcy cases. Bankruptcy courts are separate units of the district courts. Federal courts have exclusive jurisdiction over bankruptcy cases. Bankruptcy cases cannot be filed in a state court. Two special trial courts have nationwide jurisdiction over certain types of cases:
  1. The Court of International Trade hears cases involving international trade and customs issues.
  2. The United States Court of Federal Claims has jurisdiction over most claims for money damages against the United States; disputes over federal contracts; unlawful "takings" of private property by the federal government and a variety of other claims against the United States. <sup>21</sup>
- 21 <http://www.uscourts.gov/districtcourts.html>

# Constance Baker Motley

- Renowned for her work in the Civil Rights arena, Constance Baker Motley earned the distinction of becoming the first African-American woman federal judge on January 25, 1966. She had been nominated by President Lyndon B. Johnson as a judge on the United States District Court, the Southern District of New York, and the Senate confirmed her. Two years earlier she had been elected to the New York State Senate and in 1965 she became president of the Borough of Manhattan. Judge Motley's appointment to the Circuit Court of the Southern District of New York made her the highest-paid African-American woman in government.
- Born in Connecticut, Judge Motley received her education at New York University and Columbia University. Early in her career, she was a legal assistant for the NAACP and also served as associate counsel where she won many difficult civil rights cases. The most notable was her successful case of James Meredith against the University of Mississippi. While working with the NAACP Legal Defense Fund, she and other attorneys represented the demonstrators in the sit-in movement involving Martin Luther King Jr., Fred Shuttlesworth, and others who were protesting.<sup>22</sup>
- <sup>22</sup> Judiciary. (2003). In *Black Firsts*. Retrieved February 14, 2008, from [http://www.credoreference.com/entry.jsp?xrefid=5871781&secid=C06\\_0169-](http://www.credoreference.com/entry.jsp?xrefid=5871781&secid=C06_0169-)



# James Benton Parsons

- James Benton Parsons (1911–93) was the first African-American to be appointed judge of a District court in the continental United States. A practicing attorney in Chicago, Parsons was appointed judge of the U.S. District Court of Northern Illinois. His lifetime appointment designated him as the first African-American to receive this status. A native of Kansas City, Missouri, Parsons was the son of a Disciples of Christ minister. At first, he pursued his music degrees and taught music. Later, he volunteered for the U.S. Navy, serving from 1942 to 1945. Afterwards, he began a legal path. Upon receiving his degree, he began teaching law at John Marshall Law School in 1949. He also served as corporate counsel for the city of Chicago. He entered private law practice with the firm Gassaway Crosson, Turner and Parsons. He served as a U.S. district attorney before becoming superior court judge in Cook County in 1960. His service to the District court ranged from 1961 to 1992. During that time, he played a very important role in settling the air traffic controllers' dispute in 1970. Parsons also served a notable role in upholding the Tenant's Bill of Rights in Chicago in 1987.<sup>23</sup>
- <sup>23</sup> Judiciary. (2003). In *Black Firsts*. Retrieved February 14, 2008, from [http://www.credoreference.com/entry.jsp?xrefid=5871781&secid=C06\\_0169-](http://www.credoreference.com/entry.jsp?xrefid=5871781&secid=C06_0169-)

# William Henry Hastie

- William Henry Hastie (1904–1976) was appointed as federal appeals judge in 1949. He became the first African-American appointed to the federal bench upon his appointment of district judge in the Virgin Islands. Here, he presided over Delaware, New Jersey, Pennsylvania, and the Virgin Islands.
- This was one of many milestones Judge Hastie reached during his career. He served as the first African-American governor of the Virgin Islands in 1944. Prior to his governorship, Hastie served as civilian aide to the Secretary of War (1941–1943), but he resigned in protest over the lack of a positive commitment to recruit African-American pilots. A native of Knoxville, Tennessee, Hastie was a graduate of Amherst College (B.A., 1925) and Harvard University (LL.B., 1930 and S.J.D., 1933). He followed with a stint in private practice, and then became assistant solicitor of the Department of Interior (1933–1937). He then moved on to become the dean of Howard University's law school (1939–40). Then his career moved into the federal judiciary.<sup>24</sup>
- <sup>24</sup> Judiciary. (2003). In *Black Firsts*. Retrieved February 14, 2008, from [http://www.credoreference.com/entry.jsp?xrefid=5871781&secid=C06\\_0169-](http://www.credoreference.com/entry.jsp?xrefid=5871781&secid=C06_0169-)