

Wilmington Ten Team Thanks Black Press for Pardons

Written by By George E. Curry
Wednesday, 30 January 2013 00:00



Nearly two years ago, an emotional Benjamin F. Chavis, Jr. stood before the National Newspaper Publishers Association Foundation's annual Black Press Week observance in the nation's capital, hoping the NNPA would launch a national campaign to win a pardon of innocence for each member of the Wilmington Ten from the governor of North Carolina.

On Thursday, he appeared at the NNPA's mid-winter conference here, less than a month after the North Carolina governor issue the pardons just before leaving office.

"First and foremost, we want to thank God Almighty and in thanking God, we thank the National Newspaper Publishers Association for your courage, for your dedication, for your steadfastness and commitment," Chavis told the publishers.

"Gov. Beverly Perdue, the governor of North Carolina – the outgoing governor – on Dec. 31st, the eve of the 150th anniversary of the Emancipation Proclamation, issued a pardon of innocence to the Wilmington Ten. If it were not for the National Newspaper Publishers Association, your leadership, I doubt if we would be here today."

But Chavis was here. And so was Mary Alice Thatch, publisher of the Wilmington Journal and the person who urged the NNPA to seek pardons for the Wilmington Ten. So were James E. Ferguson II and Irvin Joyner, the original attorneys who represented the activists and stood by their side for more than 40 years. So was Cash Michaels, who wrote the stories that created tremendous pressure on Gov. Perdue to issue the pardons. And so were NNPA Chairman Cloves Campbell, who actively supported the campaign, and Dorothy Leavell, then-chairperson of the NNPA Foundation when it sponsored the Black Press Week luncheon where the NNPA decided to launch a national campaign to fully exonerate the Wilmington Ten.

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“I guarantee you that there’s no other organization of journalists that could have pulled off what you just pulled off,” said Chavis, now an NNPA columnist.

What the NNPA pulled off was a 2-year campaign, which was accelerated last spring when Michaels accepted a request from Thatch to coordinate the campaign. Michaels immediately reached out to Irvin Joyner, a law professor at North Carolina Central University, to serve as co-chair of the Wilmington Ten Pardons of Innocence Project, and James E. Ferguson II, the lead attorney.

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After more than a dozen stories by Michaels, most of which were published on the front page of Black newspapers across the nation; numerous public rallies, and a petition drive on Change.org that collected more than 150,000 signatures, Gov. Perdue issued the pardons on New Year's Eve, less than a week before leaving office.

The road to complete vindication was not an easy one.

Chavis returned from New York to his home state when the United Church of Christ assigned him in Feb. 1971 to assist Black students in Wilmington protest unfair treatment of them in a newly-desegregated school system. During a period of unrest, someone firebombed Mike's Grocery, a White-owned business located near Gregory Congregational Church, where Chavis had set up headquarters. When fire fighters and police officers arrived, they were attacked by snipers.

Chavis and nine others were charged and convicted of arson and conspiracy for their purported role in the incident. Most of the defendants received a 29-year sentence, with Ann Shepard, a White woman from Auburn, N.Y., receiving the most lenient sentence of 15 years and Chavis getting 34 years, the longest sentence.

It was later disclosed that the chief accuser against the Wilmington Ten had mental problems and the prosecutor did special favors for him and two others willing to provide false testimony.

"I have decided to grant these pardons because the more facts I have learned about the Wilmington Ten, the more appalled I have become about the manner in which their convictions were obtained," said Perdue, a Democrat. "Justice demands that this stain finally be removed. The process in which this case was tried was fundamentally flawed. Therefore, as Governor, I am issuing these pardons of innocence to right this longstanding wrong."

Although many Blacks in Wilmington had shunned the wrongfully accused defendants for years, they turned out in full force at a recent rally in which members or relatives of the Wilmington Ten were presented with the pardons of innocence.

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According to the North Carolina governor's office, a pardon of innocence is granted "when an individual has been convicted and the criminal charges are subsequently dismissed. Application for this type of Pardon allows an individual to petition the Governor for a declaration of innocence when the individual has been erroneously convicted and imprisoned and later determined to be innocent."

Chavis said, "Four members died before they could get that sheet of paper. When Fergie and Irv [the two attorneys] gave me the pardon, it was on two sheets of papers. I said, 'Wow! This is some heavy two sheets of paper – a 40-year wait.'

"Another thing I'm most impressed about [are] my co-defendants, which you can see some of them on canes, can barely walk, they never let their spirit be broken – they kept their spirit intact."

That spirit was captured in a moving video made by Cash Michaels, a video that documented the emotional church service in Wilmington after Gov. Perdue granted the pardons.

Throughout the video, Mary Alice Thatch, whose father supported the Wilmington Ten when many others in the community rejected them, wept quietly as she sat on the front row. She held a glass of orange juice in her left hand while using a tissue clutched in her right hand to slowly dab tears from each eye. It was a process she would repeat throughout the 15-minute video.

When the video ended, NNPA Chairman Cloves Campbell noted that many people in the audience had also been shedding tears.

After thanking the publishers, Attorney Ferguson highlighted the uniqueness of the pardon by the governor.

"This was not just a pardon of innocence that the governor signed on Dec. 31," he explained. "Some governors over time have given pardons of innocence. But there has been no pardon of innocence in the history of North Carolina – and I doubt in the history of the country – where a governor signed it, saying our system of justice has been disgraced by the prosecution in this

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case. And she talked about the findings from that prosecutor's box.

"She talked about a prosecutor who racially manipulated a trial [by pretending to be sick when a jury of 10 Blacks and two Whites were selected; when he got "well," he had picked a jury of 10 Whites and two Blacks].

"She talked about a prosecutor who had a list of jurors that said on one side where there were White jurors: 'KKK-good.' And on the other side: 'Stay away from Black men.' So it was right there in the prosecutor's own handwriting. And one of the things that motivated this governor was the shame that she felt in seeing what a prosecutor in North Carolina had done in order to manipulate a conviction."

Ferguson said the governor considered taking milder actions, including issuing a pardon of forgiveness that states a person had been forgiven of a criminal conviction. In the end, she took the bolder route.

"I want you to know that it didn't come just from the goodness of their heart," the attorney said. "It came because you put her in a position where she had no choice. And I can tell you that they sought choices."

Ferguson said no credible evidence was ever presented against the Wilmington Ten, including the testimony of three African-Americans who were given lighter prison terms for unrelated crimes in exchange for their testimony.

"All three young men later also recanted their testimony," Ferguson recounted. "All took an oath and said, 'I lied. And I lied because the prosecutor induced me to lie.'"

In reversing a lower court decision that found the activists guilty, the defense attorney said the panel of appeals judges in 1980 issued a strong rebuke of Jay Stroud, the prosecutor.

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“It was one of the strongest indictments of a prosecutor I have seen in my 46 years of practice,” Ferguson said. “... It said not only did these witnesses perjure themselves, but the prosecutor knew they were perjuring themselves at the time. And that the court – the judge – aided them in presenting perjured testimony.”

Professor Joyner said there are other cases similar to the Wilmington Ten that deserve media attention.

He told the publishers: “Wherever your newspaper is located, there is a story of injustice that you ought to go out and find and lift up in the very same way you lifted up the Wilmington Ten story.”{jcomments on}