

2020

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### Recommended Citation

Hughes, Joyce A. (2020) "Muhammad Ali: The Passport Issue," *North Carolina Central Law Review*. Vol. 42 : No. 2 , Article 3.

Available at: <https://archives.law.nccu.edu/ncclr/vol42/iss2/3>

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Hughes: Muhammad Ali: The Passport Issue  
MUHAMMAD ALI: THE PASSPORT ISSUE

JOYCE A. HUGHES\*

INTRODUCTION

“I am America. I am the part you won’t recognize. But get used to me. [B]lack, confident/cocky; my name, not yours; my religion; not yours; my goals, my own. Get used to me.”<sup>1</sup>

He called himself “The Greatest.”<sup>2</sup> He was referred to as “The Louisville Lip”<sup>3</sup> because of his birthplace, rhyming and loquaciousness.

By the time of his death and funeral in June 2016,<sup>4</sup> boxer Muhammad Ali had won the world heavyweight boxing championship three times and was considered a hero.<sup>5</sup> By contrast, he was reviled and scorned after first winning the heavyweight boxing championship in 1964; this was probably caused by him joining the Nation of Islam and refusing to be inducted in the United States Army in 1967.<sup>6</sup> Muhammad Ali’s refusal led to a conviction

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1. Michiko Kakutani, *For Ali, No Final Chapter*, N.Y. TIMES (June 23, 2016), <https://www.nytimes.com/2016/06/24/books/review-for-muhammad-ali-an-endless-round-of-books.html>

2. After defeating Sonny Liston to win his first heavyweight boxing championship and while still called Cassius Clay, Ali proclaimed “I Am the Greatest. I am the Greatest. I am King of the World.” Neil Steinberg, *King of the World Dies at 74*, quoting Muhammad Ali, CHICAGO SUN-TIMES, (June 5, 2016), <https://chicago.suntimes.com/2016/6/5/18379644/steinberg-for-a-time-ali-called-chicago-home>

3. *People Magazine*, 48 (June 20, 2016). An example is the rhyme associated with a 1975 fight and the phrase coined after he won that fight. Before the fight Ali said: “You think the world was shocked when Nixon resigned? Wait till I whup George Foreman’s behind’ . . .” *Id.* After the fight, Ali called his technique for winning “rope-a-dope.” Henry Louis Gates, Jr., “Muhammad Ali, the Political Poet,” N.Y. TIMES, (June 9, 2016)

4. Muhammad Ali died on June 3, 2016. He “spent a decade planning his funeral,” and a June 10, 2016 memorial in Louisville lasted 3 hours and drew 20,000 people. See Jim Dwyer, *A Stirring Farewell to Ali, Just as he Scripted It*, N.Y. TIMES (June 11, 2016), <https://www.nytimes.com/2016/06/11/sports/muhammad-ali-funeral.html>.

5. The “Muhammad Ali of his generation” is the name given to Colin Kaepernick by sociologist Harry Edwards. Jere Longman, *Kaepernick’s Knee and Olympic Fists are Linked by History*, N.Y. TIMES (Sept. 6, 2018), <https://www.nytimes.com/2018/09/06/sports/kaepernick-nike-kneeling.html>. While both Ali and Kaepernick took stands at personal costs, Ali was loquacious while Kaepernick has kept his own voice quiet. Benjamin Hoffman & Talya Minsberg, *The Deafening Silence of Colin Kaepernick*, N.Y. TIMES (Sept. 4, 2018), <https://www.nytimes.com/2018/09/04/sports/colin-kaepernick-nfl-anthem-kneeling.html>.

Ultimately, Kaepernick filed a case accusing the N.F.L. of colluding to exclude him from the league. It ended with a confidentiality agreement that left hanging whether the league admitted there was collusion and whether Mr. Kaepernick would ever play another down. Kevin Draper & Ken Belson, *In Colin Kaepernick Case, N.F.L. Makes Familiar, Safe Call*, N.Y. TIMES (Feb. 16, 2019), <https://www.nytimes.com/2019/02/16/sports/football/nfl-kaepernick-concussions-settlements.htm> Kaepernick was the National Football League quarterback for the San Francisco 49ers “who led a team to the Super Bowl” and who in 2016 “knelt for the national anthem . . . as a protest against social injustice, especially the deaths of African Americans at the hands of police.” John Branch, *Kaepernick’s Conscience*, N.Y. TIMES (Sept. 10, 2017), <https://www.nytimes.com/2017/09/07/sports/colin-kaepernick-nfl-protests.html>.

6. *Clay v. United States*, 403 U.S. 698 (1971).

for draft evasion, a sentence of five years imprisonment and a \$10,000 fine, along with loss of the heavyweight boxing title.<sup>7</sup> Although he was free during the appeal process, Ali could not earn his living as a fighter since all states had revoked his licenses to box.<sup>8</sup> More importantly, he could not fight abroad because he had to surrender his passport.<sup>9</sup> Fortunately, after the conviction was set aside and his passport was available, it became evident that fight locations outside the United States were important. This was exemplified by his “Rumble in the Jungle”<sup>10</sup> and “Thrilla in Manila”.<sup>11</sup> Ali continued to fight abroad and even his last fight was outside of the U.S.<sup>12</sup>

These comments will summarize Ali’s biography. His refusal to be inducted in the United States Army and subsequent conviction during the Vietnam conflict will be examined briefly. The requirement for Ali to surrender his passport after conviction will also be examined. The return of Ali’s passport following his victory in *Clay v. United States*<sup>13</sup> will be noted, because it led to him winning boxing’s heavyweight championship for the second and third times in venues outside of the U.S. Further, Ali’s passport situation will be compared to and contrasted with those of African-Americans, Paul Robeson and W.E.B. DuBois, as well as white males convicted following events at the 1968 Democratic Convention in Chicago, Illinois. Finally, a brief comment will be made about the legacy of Muhammad Ali.

## FROM CASSIUS CLAY TO MUHAMMAD ALI

“Changing my name was one of the most important things that happened to me in my life. It freed me from the indignity done to my family by slavemasters who took away our family name and gave my ancestors the master’s name, like they weren’t human beings – only property.”<sup>14</sup>

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7. Dave Anderson, *When Muhammad Ali’s Twinkle Shone Brightest*, N.Y. TIMES (June 5, 2016), <https://www.nytimes.com/2016/06/04/sports/when-muhammad-alis-twinkle-shone-brightest.html>.

8. Andres F. Quintana, “Muhammad Ali: The Greatest In Court,” 18 MARQ. SPORTS. L. REV. 171, 185 (2007).

9. “Judge Keeps Clay in U.S.,” BOSTON GLOBE (Aug. 3, 1967).

10. The reference is to Kinshasa, Zaire (now the Democratic Republic of the Congo) where Ali defeated George Foreman in 1975 to win the heavyweight title the second time. See: Marc Horger, *October 2019: Rumble in the Jungle*, ORIGINS: CURRENT EVENTS IN HISTORICAL PERSPECTIVE (Oct. 30, 2019) <http://origins.osu.edu/milestones/the-rumble-in-the-jungle>.

11. This was the fight in Manila, Philippines in 1974 where Ali won over Joe Frazier to capture the heavyweight title the third time. See: Lance Pugmire, *Muhammad Ali’s ‘Thrilla in Manila’ against Joe Frazier stands the test of time*. L.A. TIMES (June 4, 2016), <https://www.latimes.com/sports/boxing/la-sp-muhammad-ali-thrill-in-manila-20160604-snap-story.html>.

12. “On December 11, 1981, Ali lost a ten-round unanimous decision to future heavyweight champion Trevor Berbick in what was billed as ‘The Drama in the Bahamas,’” Quintana, *supra* note 8, at 203.

13. *Clay v. United States*, 403 U.S. 698 (1971).

14. MUHAMMAD ALI & HANA YASMEEN ALI, *THE SOUL OF A BUTTERFLY: REFLECTIONS ON LIFE’S JOURNEY* 61 (2004).

Ali was born January 17, 1942, in Louisville, Kentucky, and given the name Cassius Marcellus Clay, Jr., which he called his ““slave name.””<sup>15</sup> It derives from the fact that his paternal grandfather, a descendant of African-American slaves, named Ali’s father after the white Kentucky politician known as Cassius Marcellus Clay.<sup>16</sup> Clay was “one of the wealthiest planters and slaveholders in Kentucky.”<sup>17</sup> Clay became an abolitionist after hearing William Lloyd Garrison speak while a student at Yale.<sup>18</sup> In 1862, the nineteenth century Clay refused “to accept a commission from [President] Lincoln as a major general with the Union Army . . . unless Lincoln would agree to emancipate slaves under Confederate Control.”<sup>19</sup> Although the nineteenth century politician may have emancipated his slaves, he still believed in the supremacy of whites.<sup>20</sup> Thus, Ali’s rejection of the Clay name is not surprising.

At the age of twelve, Ali was introduced to boxing when his bicycle was stolen and he reported it to a white policeman, Joe Martin, who ran the Columbia Gym in Louisville, Kentucky.<sup>21</sup> Martin introduced Ali to the sport, but there was another important trainer, a Black man named Fred Stoner.<sup>22</sup> Ali described people trained by Fred Stoner as “beautiful fighters.”<sup>23</sup> “They had sharp hooks and they danced. They could jab, hit, and move. They had pretty footwork. They could duck and weave.”<sup>24</sup> Martin’s fighters were white, and he told Ali he would drop him if Ali went with Stoner.<sup>25</sup> Because of the money Martin paid his fighters to appear on TV, Ali initially stayed with Martin.<sup>26</sup> However, after being beaten by a boxer trained by Stoner, Ali went to the boxing gym in the Black part of Louisville.<sup>27</sup> He commented that “my style, my stamina, my system was molded down in the basement of a church in East End.”<sup>28</sup>

After winning the Golden Gloves and other championships, while known as Cassius Clay, Ali represented the United States at the 1960 Rome

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15. Susan Gonzalez. *Muhammad Ali originally named for ardent abolitionist and Yale alumnus Cassius Clay*. YALE NEWS. (June 9, 2016). <https://news.yale.edu/2016/06/09/muhammad-ali-originally-named-ardent-abolitionist-and-yale-alumnus-cassius-clay>.

16. Arica Coleman. *What’s in a Name: Meet the Original Cassius Clay*. TIME (June 10, 2016), <https://time.com/4363225/original-cassius-clay-muhammad-ali/>

17. *Id.*

18. See Gonzalez, *supra* note 15.

19. *Id.*

20. See the observation of the politician Clay supporting that belief in HORACE GREELEY, THE WRITINGS OF CASSIUS M. CLAY *as quoted in* MUHAMMAD ALI & RICHARD DURHAM, THE GREATEST: MY OWN STORY 41 (1975). (I am of the opinion that the Caucasian or white is the superior race; they have a larger and better formed brain; much more developed form and exquisite structure . . . Historians now unite in making the Caucasian race the first in civilization through all past time).).

21. *Id.* at 44-45.

22. MUHAMMAD ALI & RICHARD DURHAM, THE GREATEST: MY OWN STORY 48 (1975).

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.*

27. *Id.* at 47.

28. *Id.* at 50.

Olympics, where he won the light heavyweight gold medal.<sup>29</sup> He then became a professional fighter represented by “a group of eleven white Louisville businessmen, who called themselves the Louisville Sponsoring Group.”<sup>30</sup> Ali won the world heavyweight boxing championship for the first time by defeating Sonny Liston in Miami, Florida, on February 25, 1964.<sup>31</sup> That fight almost did not occur because of rumors that Ali—then known as Cassius Clay—had become a member of the Nation of Islam (NOI).<sup>32</sup> Prominent NOI figure Malcolm X,<sup>33</sup> spent time at the boxer’s Miami training camp and had “stage-managed” an appearance by the boxer at a New York rally.<sup>34</sup> The potential cancellation of the title bout was averted because of Ali’s connection with the NOI upon Malcolm X’s agreement to leave Miami, the fight’s venue.<sup>35</sup> However, Malcolm returned to watch the fight.<sup>36</sup> In Miami, Malcolm stayed at the same Hampton House Motel for Black patrons where Ali stayed. This was in contrast to the venue for “media, promoters and VIPs who were at the segregated Fontainebleu Hotel.”<sup>37</sup>

After the unexpected win by Ali over Sonny Liston on February 25, 1964, the boxer’s response to inquiries about his religious affiliation at a press conference was “I don’t have to be what you want me to be. I’m free to be what I want.”<sup>38</sup> At a press conference, called by Ali, he “finally laid to rest any lingering doubt about his religious affiliation with the Nation of Islam (NOI).”<sup>39</sup> After stating that he was affiliated with NOI, the public’s reaction was labeled “swift and furious,” including sport writers who bemoaned the circumstance.<sup>40</sup> “The same writers . . . could be seen drinking every evening with the mobsters who controlled Sonny Liston—murderers,

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29. See Gonzalez. *supra* note 15.

30. HOWARD BINGHAM & MAX WALLACE, MUHAMMAD ALI’S GREATEST FIGHT 27 (2000).

31. See ALI & DURHAM, *supra* note 22, at 12.

32. See BINGHAM & WALLACE, *supra* note 30, at 78. The Nation of Islam (NOI) is an African-American religious movement founded in Detroit in 1930 by W. Fard Muhammad. The founder’s goal “was to teach the downtrodden and defenseless Black people a thorough knowledge of God and of themselves, and to put them on the road to Self-Independence with a superior culture and higher civilization than they had previously experienced.” Tynetta Muhammad, *Nation of Islam in America: A Nation of Beauty & Peace*, NATION OF ISLAM (Mar. 28, 1996), <http://www.noi.org/noi-history>.

33. Malcolm X was regarded as the second most influential leader of the Nation of Islam (NOI). He was largely credited with the group’s dramatic increase in membership between the early 1950s and the early 1960s. In addition, he is credited with raising the self-esteem of Black Americans by reconnecting them with their African heritage. See Patrick Bowen, *The African American Islamic Renaissance and the Rise of the Nation of Islam*, U. OF DENV. (2013), <https://digitalcommons.du.edu/etd/963>.

34. See BINGHAM & WALLACE, *supra* note 30, at 74.

35. *Id.* at 78.

36. *Id.* at 78-79.

37. *Id.* at 71.

38. *Id.* at 80. The Nation of Islam “preaching of [B]lack self-pride and empowerment resonated in the urban [B]lack community, as did its values of discipline and ascetics (no smoking, no drinking, no eating of pork).” Mark Risk, “From Clay to Ali: The Heavyweight Struggles of 1965,” *Labor and Employment Law*, Winter 2012 p. 10.

39. See BINGHAM & WALLACE, *supra* note 30, at 81.

40. *Id.* at 82.

gamblers, and pimps. But Clay's association with clean-living Muslims could not be tolerated."<sup>41</sup>

The name change from Cassius Clay to Muhammad Ali<sup>42</sup> was bestowed by the leader of the Nation of Islam, Elijah Muhammad, apparently to gain the boxer's allegiance to him rather than to Malcolm X.<sup>43</sup> It was successful, although later, Ali would express remorse at turning against Malcolm X.<sup>44</sup> "The day after Ali announced his conversion to the Nation of Islam, [FBI head] J. Edgar Hoover ordered his agents to inquire about the boxer's draft status . . . . The same day, the head of Ali's Louisville Draft Board told reporters the new champion would be 'drafted within three weeks.'" <sup>45</sup> This intent did not materialize immediately, as the pre-induction examination given to Ali before the Liston fight had resulted in his disqualification for the draft under the existing standards.<sup>46</sup> Given Ali's quick wit and what was called an "intuitive mind"<sup>47</sup>, the comment by his high school guidance counselor that it was possible he suffered from dyslexia is echoed by the statement that "[t]his is a highly intelligent person and only a fool can't see that."<sup>48</sup> Ali was deemed fit to serve in the armed forces once the military lowered its standards to obtain more troops for the war in Vietnam.<sup>49</sup> However, his adherence to Islam collided with the draft and led to his ultimate conviction for evading the draft, and, consequently, his passport was suspended.<sup>50</sup>

## REFUSAL OF INDUCTION

"Why should they ask me to put on a uniform and go ten thousand miles from home and drop bombs and bullets on brown people in

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41. *Id.* at 82-3. Initially Clay was a member of the Nation of Islam which the FBI characterized as an "'all-Negro, semireligious antiwhite' organization. Victor Mather, "F.B.I. Monitored Ali's Ties to Nation of Islam, Newly Released Records Show," *New York Times*, 12/16/16 p. B10. In response to the idea that the NOI was considered a hate sect, Muhammad Ali wrote "Elijah Muhammad was not teaching hate when he told us about all of the evil things the White man had done any more than Whites are teaching hate when they tell you what Hitler did to the Jews. That's not hate; that's history." See ALI & ALI, *supra* note 14, at 59. Noting that he was surrounded by persons of different faiths and nationalities, Ali expressed gratitude to the Nation of Islam "for opening my eyes and giving me something greater than myself to fight for," while indicating that by 2004 he followed "the teachings of mainstream Sunni Islam." *Id.* at 61.

42. The name means "'One who is worthy of praise.'" See BINGHAM & WALLACE, *supra* note 30, at 85.

43. *Id.* at 82.

44. Ali later indicated that "[t]urning my back on Malcolm was one of the mistakes that I regret most in my life. See Adam Lusher, *Muhammad Ali's one regret: turning his back on Malcolm X*, THE INDEPENDENT (June 5, 2016), <https://www.independent.co.uk/news/world/muhammad-ali-dead-dies-one-regret-malcolm-x-a7066446.html>.

45. See BINGHAM & WALLACE, *supra* note 30, at 96.

46. *Id.* at 76. Ali took the qualifying exam in January 1964 at a time when 15,000 U.S. Army advisors were in Vietnam.

47. *Id.* at 98.

48. *Id.* at 99. Dyslexia is not grounds for disqualification; but rather it is a score on a qualifying test. Ali was highly intelligent despite any claims of him being dyslexic.

49. *Id.* at 98.

50. "Judge Keeps Clay in U.S.," BOSTON GLOBE, Aug. 3, 1967.

Vietnam while so-called Negro people in Louisville are treated like dogs and denied simple human rights? I'm not going 10,000 miles from home to help murder and burn another poor nation to continue the domination of white slave masters of the darker people the world over."<sup>51</sup>

Muhammad Ali's failure to step forward when called for induction in the armed forces in 1967 was during the Vietnam War. That conflict generated intense debate in the United States and "was almost certainly America's most unpopular war."<sup>52</sup> Various dates are given for the beginning of the Vietnam War, but there is strong support that it began in 1964 because the Gulf of Tonkin resolution was passed by congress in August of that year.<sup>53</sup> This resolution "authorized the President to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression in the area."<sup>54</sup> The major issue in the war was a struggle between factions in the north and south of Vietnam.<sup>55</sup> The North was Communist, while the South was not.<sup>56</sup> The United States sided with the South against the North.<sup>57</sup> Consequently, the U.S. signed the South East Asia Treaty Organization (SEATO) document which included a Collective Defense Treaty under which the U.S. was compelled to meet an armed attack which endangered the peace and security of Indo-China, as well as Malaysia, the Philippines, and Korea.<sup>58</sup> "The first American combat personnel were deployed to South Vietnam in March 1965. The last American combat personnel were withdrawn from South Vietnam on March 29, 1973."<sup>59</sup>

During the Vietnam War, Blacks were drafted in higher numbers than whites and were more likely to be sent to combat units on the front lines and thus they were more likely to be killed.<sup>60</sup> According to some statistics, from 1965-1967 Blacks accounted for "20 percent of American combat

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51. Muhammad Ali as quoted in Fred Barbash, *50 years ago today Muhammad Ali was told to 'step forward.' He refused.*, THE WASH. POST (Apr 28, 2017), <https://www.washingtonpost.com/news/morning-mix/wp/2017/04/28/muhammad-ali-50-years-ago-today-was-told-to-step-forward-he-refused/>. Refusal to be inducted was prohibited by 50 U.S.C. App. §462(a). See Tessa Stuart, *The Tao of Muhammad Ali*, ROLLINGSTONE (June 4, 2016), <https://www.rollingstone.com/culture/culture-news/the-tao-of-muhammad-ali-159670/>.

52. Tessa Smart, "The Tao of Muhammad Ali," ROLLINGSTONE, June 4, 2016, <http://www.rollingstone.com/sports/news/the-tao-of-muhammad-ali-2016-0604>

53. Robert N. Strassfeld, "'Lose In Vietnam, Bring the Boys Home,'" 82 N.C.L. Rev. 1891, 1892 (2004).

54. Rodric B. Schoen, *A Strange Silence: Vietnam and the Supreme Court*, 33 Washburn L.J. 292 (1964).

55. *Id.* at 275.

56. James P. Terry, "The Vietnam War in Perspective: Lessons Learned In the Law of War as Applied to Subsequent Conflict," 54 NAVAL L. REV. 81 (2007).

57. *Id.*

58. James P. Terry, "The Vietnam War in Perspective: Lessons Learned In the Law of War as Applied to Subsequent Conflict," 54 NAVAL L. REV. 81 (2007).

59. See Schoen, *supra* note 54, at 275.

60. CHRISTIAN G. APPY, WORKING-CLASS WAR: AMERICAN COMBAT SOLDIERS & VIETNAM, 19 (1993).

[casualties].”<sup>61</sup> Other statistics show a higher figure: twenty-nine percent.<sup>62</sup> Whichever figure is correct, it is almost twice the percentage of Blacks in the U.S. population.<sup>63</sup> “Vietnam was the first American war in which African-Americans were officially included from the War’s beginning.”<sup>64</sup> A Black civil rights organization, the Student Non-Violent Coordinating Committee (SNCC), saw its leadership ranks decimated a year after “its decision to turn its efforts to protesting the Vietnam War.”<sup>65</sup> By the summer of 1967, seventeen SNCC staff members faced prosecution for refusing induction.<sup>66</sup> Of the Vietnam War, Stokely Carmichael, a Black activist, asserted that “Blacks are being used as cannon fodder for a white man’s war.”<sup>67</sup>

During the Vietnam War, “31 percent of eligible [B]lack males were drafted, but only 18 percent of whites . . . .”<sup>68</sup> After his refusal to be inducted on April 28, 1967, “Ali’s legal team filed an appeal . . . arguing that his draft call was unconstitutional because Blacks were significantly under-represented on draft boards . . . . Ali’s lawyer asked that the induction of *all* [B]lacks be halted until the draft system inducting them was integrated.”<sup>69</sup> His refusal to be inducted was near the time non-violent Black leader Martin Luther King, Jr. delivered his groundbreaking anti-Vietnam war speech at New York’s Riverside Church.<sup>70</sup> This was also around the time of protests against the war, although the anti-war movement had not yet reached its apex when Ali refused to be inducted. “Because the antiwar movement was so diverse, and because the character of antiwar dissent ranged from participation in marches or demonstrations [to] support of peace candidates to attempt to disrupt the country’s ability to make war . . . it is impossible to capture a single response to the allegations of disloyalty”<sup>71</sup> which

61. *Id.*

62. See BINGHAM & WALLACE, *supra* note 30, at 127.

63. NAT’L ARCHIVES, VIETNAM WAR U.S. MILITARY FATAL CASUALTY STATISTICS 12 (2019), <https://www.archives.gov/research/military/vietnam-war/casualty-statistics>.

64. Heather S. Ingram Gipson, *The Fight for the Right to Fight: Equal Protection & the United States Military*, 74 UMKC L. REV. 393 (2005). A Black pilot, Col. Charles Edward McGee (a member of the famed Tuskegee Airmen) is the only person “known to have flown 100+ combat missions in each of the three wars – World War II, the Korean War and the Vietnam War.” CAF, *Red Tail Squadron: Monthly Newsletter*, Jan. 2018, at 13.

65. See BINGHAM & WALLACE, *supra* note 30, at 174. SNCC is pronounced SNICK.

66. Strassfeld, *supra* note 53, at 233.

67. See BINGHAM & WALLACE, *supra* note 30, at 127. Carmichael, Chairman of the Student Nonviolent Coordinating Committee (SNCC) responded to his own question of “‘What can we do to stop that [Vietnam] war’ by saying in a 1966 speech at the University of California Berkeley that young men drafted should say ‘Hell no we ain’t going.’” Lonnie T. Brown, Jr., “A Tale of Prosecutorial Indiscretion: Ramsey Clark and the Selective Non-Prosecution of Stokely Carmichael,” 62 S.C. L. Rev. 1, 2 (2010). The author contrasts the non-prosecution of Carmichael for anti-war speech with prosecution of the Boston Five which included Dr. Benjamin Spock and Rev. William Sloane Coffin, Jr. for “conspiracy to aid and abet draft evasion . . . .” *Id.* at 2-3. See text accompanying note 68, *infra* regarding the Boston Five.

68. *Id.* at 169.

69. *Id.*

70. Martin Luther King, Jr., “*Beyond Vietnam*,” *Speech at Riverside Church, New York, NY*, Apr. 4, 1967, <https://kinginstitute.stanford.edu/king-papers/documents/beyond-vietnam> (last visited Mar. 11, 2020).

71. Strassfeld, *supra* note 53, at 1894.



accompanied challenges to the Vietnam war. The protestors included the Boston 5,<sup>72</sup> the Chicago 8 (later 7),<sup>73</sup> the Gainsville 8,<sup>74</sup> and the Harrisburg 7.<sup>75</sup> Although there were mixed results in the prosecutions of anti-war activists, two Black Marines were court martialed “for holding a meeting with other African-American marines in which they argued that Vietnam was a white man’s war that they should not participate in . . . .”<sup>76</sup> It is asserted that “for many African American critics of war, the civil rights struggle in America preempted any commitment to overseas military adventures.”<sup>77</sup>

### CONSCIENTIOUS OBJECTION

It is in light of my own personal convictions that I take my stand in rejecting the call to be inducted into the armed services. I do so with the full realization of its implications and possible consequences. I have searched my conscience and find I cannot be true to my belief in my religion by accepting such a call . . . . Many . . . have given the impression that I have only two alternatives . . . either I go to jail or go to the Army. There is another alternative, and that alternative is justice.<sup>78</sup>

Ali relied not on race but on religion for his refusal to be inducted. Of course, some would characterize his conscientious objection as race based since it was similar to the actions of Nation of Islam’s Malcolm X at the time of the Korean War<sup>79</sup> and Elijah Muhammed during World War II.<sup>80</sup>

However, when he stated his reasons for seeking conscientious objector status during a Louisville draft board hearing on August 23, 1966, after having been placed under FBI surveillance by FBI director, J. Edgar Hoover, Ali testified:

[I]t would be no trouble for me to go into the Armed Services, boxing exhibitions in Vietnam or traveling the country at the expense of the government or living the easy life and not having to get out in the mud

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72. *Id.* at 1898.

73. *Id.* at 1902-03.

74. *Id.* at 1903-04.

75. *Id.* at 1904.

76. *Id.* at 1907.

77. *Id.* at 1935.

78. ALI & ALI, *supra* note 14, at 89. Provision for conscientious objector status was provided by 50 U.S.C. App. §456(j)(1964 Supp. V) which was quoted by the Supreme Court in *Gillette v. U.S.*, 401 U.S. 437, 441 (1971) as follows: Nothing contained in this title . . . shall be construed to require any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form.

79. Malcolm X defined his conscientious objection as this: ““When the white man asked me to go off somewhere and fight and maybe to die to preserve the way the white man treated the [B]lack man in America, then my conscience made me object.”” BINGHAM & WALLACE, *supra* note 30, at 126.

80. Elijah Muhammed was arrested for failing to register for the draft in 1942 and also charged with sedition and subversion. Upon conviction, he was in prison until mid 1946 “a full year after the war was over.”

and fight and shoot. If it wasn't against my conscience to do it, I would easily do it.<sup>81</sup>

There was precedent for having a boxing champion do just that. Joe Louis, “widely regarded as the first African-American to achieve the status of a nationwide hero within the United States,” was also a focal point of “anti-Nazi sentiment leading up to and during World War II.”<sup>82</sup> Louis was the world heavyweight boxing champion from 1937 to 1949.<sup>83</sup> His defeat of German boxer Max Schmeling in 1938 “is remembered as one of the major sports events of the 20th century”<sup>84</sup> and demolished Nazi propaganda that a Black person could not defeat a representative of Aryan superiority.<sup>85</sup> In January 1942, Louis voluntarily enlisted in the Army and was assigned to the Army’s Special Services Division as opposed to being sent into combat.<sup>86</sup> In addition to boxing exhibitions, he “was the focus of a media recruitment campaign encouraging African-American men to enlist in the Armed Services, despite the military’s racial segregation.”<sup>87</sup> Louis drew criticism for “promoting the recruitment of [B]lack for an Army that didn’t serve their interest.”<sup>88</sup>

After Muhammad Ali refused to step forward for induction in 1967, the precedent established by Joe Louis, twenty-five years earlier, likely played a role in the efforts made by professional Black athletes to convince Ali to change his mind.<sup>89</sup> On June 4, 1967, football great, Jim Brown,<sup>90</sup> convened a meeting with several other prominent and socially conscious Black athletes but were unsuccessful in changing Ali’s mind.<sup>91</sup> The result, after the two hour meeting with Ali, was a news conference in which all supported Ali’s refusal to be inducted and agreed that Ali was sincere in objecting to military service on religious grounds.<sup>92</sup> Nonetheless, there was the issue of whether Ali’s opposition to war was selective, especially considering statements

81. *Id.* at 128.

82. Rhett Butler, *Black History Month Focus: The Brown Bomber Joe Louis*, The Shadow League, (Feb. 10, 2020), <https://theshadowleague.com/tsl-black-history-month-focus-joe-louis/>.

83. *Id.*

84. *Id.*

85. *Id.*

86. *Id.*

87. Butler, *supra* note 82.

88. Joe Louis, <http://www.cmgww.com/sports/louis/biography> (last visited Mar. 11, 2020).

89. See Branson Wright, *Remembering Cleveland’s Muhammad Ali Summit, 45 Years Later*, Cleveland.com, (June 03, 2012), [https://www.cleveland.com/sports/2012/06/gathering\\_of\\_stars.html](https://www.cleveland.com/sports/2012/06/gathering_of_stars.html) (last visited Mar. 11, 2020).

90. Tim Bielik, *Jim Brown named ESPN’s greatest college football player of all time*, Cleveland.com, (Jan. 14, 2020), <https://www.cleveland.com/browns/2020/01/jim-brown-named-as-espn-greatest-college-football-player-of-all-time.html>. (Brown, a fullback for the Cleveland Browns of the National Football League, has been “considered among the greatest football players of all time.”) He became an actor toward the end of and upon conclusion of his football career which was from 1957 – 1965.

91. Branson Wright, *Remembering Cleveland’s Muhammad Ali Summit, 45 Years Later*, Cleveland.com, (June 03, 2012), [https://www.cleveland.com/sports/2012/06/gathering\\_of\\_stars.html](https://www.cleveland.com/sports/2012/06/gathering_of_stars.html) (last visited Mar. 11, 2020).

attributed to him like “I ain’t got nothing against them Vietcong.”<sup>93</sup> Allegedly, Ali later added the phrase first attributed to Black activist Stokeley Carmichael: “Ain’t no Vietcong ever called me nigger!”<sup>94</sup> Selective opposition to particular wars was factored into the Supreme Court’s decision in Ali’s case, discussed below.

When Ali appeared before the Louisville Draft Board seeking conscientious objector (CO) status, he invoked religion and stated that Muslims “do not take part in any part of a war unless declared by Allah himself or unless it’s an Islamic World War, or Holy War . . . .”<sup>95</sup> Ali’s request was denied and appealed to the Kentucky Appeal board which required referral “to the U.S. Justice Department for an advisory recommendation.”<sup>96</sup> The required hearing was held before a retired Kentucky Judge who ruled that Ali was sincere in objecting to war in any form. The Judge recommended sustaining the claim for CO status.<sup>97</sup> However, the Appeal Board denied his CO claim.<sup>98</sup> A U.S. attorney at the time was convinced “the government truly believed they would have to make an example of Ali or it would start a chain reaction of [B]lack men refusing to join the army.”<sup>99</sup>

At the time of Ali’s conviction, the involuntary draft was still in operation.<sup>100</sup> One could be excused from military service as a Conscientious Objector upon the showing of three things: “He must show that he is conscientiously opposed to war in any form. He must show that this opposition is based upon religious training and belief . . . . And he must show that this objection is sincere.”<sup>101</sup> Both before and after the Supreme Court’s decision in Ali’s case, there were other decisions where adherents of The Nation of Islam were denied conscientious objector status.

Prior to Ali’s Supreme Court case, *Carson v. U.S.*<sup>102</sup> rejected a Nation of Islam defendant’s request for exemption as an adherent of Islam because the Court viewed his beliefs as “essentially political, sociological or philosophical.”<sup>103</sup> Subsequent to Ali’s case, an adherent of the Nation of

93. BINGHAM & WALLACE, *supra* note 30, at 115 (Statement attributed to Ali after word that due to his reclassification he would be drafted).

94. *Id.* at 119.

95. *Id.*

96. *Id.* at 126.

97. *Id.* at 127.

98. *Id.* at 130.

99. BINGHAM & WALLACE, *supra* note 30.

100. *Id.* at 132.

101. In July 1973 statutory authority for compulsory conscription ended. David E. Rosenbaum, *Senate Approves Draft Bill, 55-30; President to Sign*, N.Y. TIMES (Jan. 21, 1971), <https://www.nytimes.com/1971/09/22/archives/senate-approves-draft-bill-5530-president-to-sign-action-in.html>, but six months prior thereto the Secretary of Defense had announced the end of the draft. *Military Draft Ended by Laird*, THE TIMES-NEWS (January 22, 1973), [https://news.google.com/newspapers?id=\\_6ojAAAIBAJ&sjid=0iQEAAAAIBAJ&pg=5837,1959488](https://news.google.com/newspapers?id=_6ojAAAIBAJ&sjid=0iQEAAAAIBAJ&pg=5837,1959488).

102. *Clay v. U.S.*, 403 U.S. 698, 700 (1971) (citations omitted).

103. *Carson v. U.S.*, 411 F.2d 631 (5th Cir. 1969).

Islam lost his bid for conscientious objector status in *U.S. v. Lemons*.<sup>104</sup> The court in *Lemons* found the defendant “was not opposed to all wars . . . .”<sup>105</sup> Other members of the Nation of Islam did not claim conscientious objector status until after receiving notices of induction, so they were denied.<sup>106</sup>

Ali was approved for conscientious objector status by the Supreme Court three months after the Court decided a case which confirmed the necessity of objection to *all* wars in order to obtain that status.<sup>107</sup> *Negre v. Larsen*<sup>108</sup> involved a “devout Catholic” who believed he had “to discriminate between ‘just’ and ‘unjust’ wars, and to forswear participation in the latter”<sup>109</sup> and who adjudged the Vietnam War to be unjust. The Supreme Court ruled the conscientious objector exemption to being drafted did not allow a draftee to make those distinctions, stating “persons who object solely to participation in a particular war are not within the purview of the exempting section, even though the latter objection may have some roots in a claimant’s conscience and personality that it is ‘religious’ in character.”<sup>110</sup>

The requirement to oppose all wars was distinguished from *Sicurella v. United States* when the Court reversed Ali’s conviction for refusing induction.<sup>111</sup> *Sicurella* involved a Jehovah’s Witness who would fight “in a ‘theocratic war’ commanded by Jehovah” which the Court noted “was highly abstract—no such war had occurred since biblical times” commenting that the law was directed to a ‘real shooting war’ . . . .”<sup>112</sup> As noted, Ali had indicated he had no personal quarrel with the North Vietnamese.<sup>113</sup> He also stated that he would participate in a holy war.<sup>114</sup> Thus, his statements both undercut conscientious objector status based on the *Negre* disapproval of conscientious objector status for opposition to a particular war but also supported it based on *Sicurella*’s approval of conscientious objector status even if willing to engage in a holy war.

When *Clay v. U.S.*<sup>115</sup> came before the Supreme Court in 1971, there were only 8 active justices as Thurgood Marshall, the Supreme Court’s first Black justice, had to recuse himself.<sup>116</sup> Initially the Justices decided 5 to 3

104. *U.S. v. Lemons*, 480 F. 2d 1214 (5th Cir. 1973).

105. *Id.* at 1215 (Defendant allegedly was opposed to war only until the U.S. granted territory to Muslims).

106. *See Nelloms v. U.S.*, 399 F. 2d 295 (5th Cir. 1968); *Davis v. U.S.*, 374 F. 2d 1 (5th Cir. 1967).

107. *Gillette v. U.S.*, 401 U.S. 437 (1971)

108. *Id.* at 440.

109. *Id.* at 441.

110. *Id.* at 447.

111. *Sicurella v. U.S.*, 348 U.S. 385 (1985).

112. *Gillette*, 401 U.S. at 446-47.

113. *See BINGHAM & WALLACE.*

114. *Id.*

115. *Clay v. U.S.*, 403 U.S. 698, 700 (1971).

116. Justice Marshall had been confirmed only 4 years before Ali’s case. Thurgood Marshall confirmed as Supreme Court Justice, History.com, Aug. 30, 1967. <https://www.history.com/this-day-in-history/thurgood-marshall-confirmed-as-supreme-court-justice>. However, he had been U.S. Solicitor General when Ali’s case began so recusal was necessary. BOB WOODWARD & SCOTT ARMSTRONG, *THE BRETTEN - INSIDE THE SUPREME COURT*, 137 (1979).

that “since Ali would participate in a holy war, he was not really a conscientious objector . . . .”<sup>117</sup> Of course, this was contrary to the 1955 precedent of a Jehovah’s Witness who would fight in a holy war.<sup>118</sup> A Supreme Court clerk convinced Justice Harlan—who had been assigned to write the opinion—that “for all practical purposes, Ali was opposed to all wars.”<sup>119</sup> The implication would mean all members of the Nation of Islam “would be eligible for conscientious objector status,”<sup>120</sup> a result the Supreme Court apparently did not want to endorse. Thus, the resulting 8 – 0 opinion was considered unique to Ali’s case and furnished no precedent for others. The Court based its decision on the failure of the Appeal Board to give reasons for denial of conscientious objector status to Ali.<sup>121</sup> Moreover, the government “fully conceded that [Ali’s] beliefs [were] based upon `religious training and belief,’” and that it did not question “the sincerity of the . . . beliefs.”<sup>122</sup> Importantly, the Court cited its decision in *Sicurella*—not for its comment that agreeing to fight in a holy war does not undercut the CO requirement of opposition to all wars—but for the fact that like in Ali’s case, it was impossible to determine if the Appeal Board relied upon a legitimate reason to deny conscientious objector status.<sup>123</sup>

Of Ali’s Supreme Court case, it was said that “apart from the complicated war and draft issues there were racial overtones . . . . [T]he fighter had been banned from boxing for nearly four years at a loss to him of millions of dollars in purses. Public sympathy had been growing . . . but at the same time the Black Muslim faith had been portrayed as separatist, antiwhite and bizarre.”<sup>124</sup> Ali learned of his Supreme Court victory after leaving a Chicago neighborhood store. As he was

flipping an orange in the air, the store owner hurried after him. “I just heard on the radio . . . the Supreme Court said you’re free, an 8-0 vote.” Two hours later, in a corner of a motel lobby, Ali quietly said, “I’m not going to celebrate. I’ve already said a long prayer to Allah . . . .” And later he thanked the “Supreme Court for recognizing the sincerity of the religious teachings that [he] accepted.”<sup>125</sup>

## PASSPORT SUSPENSION

Except as otherwise provided by the president and subject to such limitations and exceptions as the president may authorize and prescribe, it shall be unlawful for any citizen of the United States to

117. WOODWARD & ARMSTRONG, *supra* note 116.

118. *Sicurella*, 348 U.S. at 385.

119. *Id.* See also Dave Anderson, “How a Clerk Spared Muhammad Ali From Prison”, NY Times, <https://mobile.nytimes.com/2016/06/11/sports/how-a-clerk-spared-muhammad-ali-from-prison.html> (last visited Mar. 21, 2020.)

120. WOODWARD & ARMSTRONG, *supra* note 116.

121. *Clay*, 403 U.S. at 702-03.

122. *Clay*, 403 U.S. at 702-03.

123. *Id.* at 704.

124. WOODWARD & ARMSTRONG, *supra* note 116, at 162–63.

depart from or enter, or attempt to depart from or enter, United States unless he bears a valid United States passport.<sup>126</sup>

Upon conviction for refusal to be inducted, Ali was sentenced to the maximum under the statute: \$10,000 fine and five years imprisonment.<sup>127</sup> Although free during the appellate process, Ali was unable to pursue his occupation. “Before Ali had been arrested or charged, let alone convicted, the New York State Athletic Commission suspended his boxing license and withdrew its recognition of him as the World Heavyweight Champion.”<sup>128</sup> Ali applied to reinstate his license to box in New York, but it was denied, and a majority of other state jurisdictions also refused him permission to box.<sup>129</sup> However, he contested the New York action.

Ali was able to demonstrate at least 244 instances . . . where the Commission granted, renewed, or reinstated boxing licenses to applicants who had been convicted of one or more felonies, misdemeanors or military offenses involving moral turpitude . . . [This included] “persons convicted for such anti-social activities as second degree murder, burglary, armed robbery, extortion, grand larceny, rape, sodomy, aggravated assault and battery, embezzlement, arson, and receiving stolen property.”<sup>130</sup>

The denial of a license to Ali was found to violate the U.S. Constitution’s Fourteenth Amendment’s Equal Protection Clause.<sup>131</sup>

While the constitution’s Fourteenth Amendment was used to prevent New York from denying a boxing license, the unenumerated Constitutional right to travel provided no shield to allow Ali to fight abroad.<sup>132</sup> The right to travel has been recognized ever since the 1849 *Passenger Cases*,<sup>133</sup> including a decision more than 100 years later in *Saenz v. Roe*,<sup>134</sup> which based the right to travel in the Fourteenth Amendment’s privileges or immunities clause. However, that right is based on the freedom to travel from state to state *within* the United States. In 1867, in *Crandall v. Nevada*, the Court commented the citizen “has a right to free access . . . and [his] right is in its nature independent of the will of any State whose soil he must pass in the exercise of it.”<sup>135</sup> Concurring, Justice Douglas stated in *Edwards v. California* that

126. 8 U.S.C.S. § 1185 (LEXIS through Pub. L. No. 116-108). “U.S. citizens who depart from or enter the United States by land or sea from within the Western hemisphere other than from Cuba have historically been exempt from this passport requirement.” Documents Required for Travelers Departing From or Arriving in the United States at Sea and Land Ports-of-Entry From Within the Western Hemisphere, 73 Fed. Reg. 18384, 18385 (Apr. 03, 2008).

127. 18 U.S.C.S. § 3147 (LEXIS through Pub L. No. 116-108).

128. Quintana, *supra* note 8, at 185.

129. *Id.*

130. *Id.* at 189-90.

131. *Ali v. Div. of State Athletic Comm’n of Dep’t of State of N. Y.*, 308 F. Supp. 11 (S.D.N.Y. 1969).

132. *Edwards v. California*, 314 U.S. 160 (1941).

133. *Smith v. Turner*, 48 U.S. 283 (1849).

134. *Saenz v. Roe*, 526 U.S. 489 (1999).

135. *Crandall v. State of Nevada*, 73 U.S. 35, 43-44 (1868).

“the right to move freely from State to State is an incident of national citizenship . . . .”<sup>136</sup> While interstate travel is a firmly established right, it does not extend to international travel. Hence while his appeal of the conviction for refusing induction was pending, Ali was unable to go abroad to fight. Ali requested a federal district court judge in Houston to permit him to go to Tokyo, Japan, to honor a contract to box there.<sup>137</sup> That request was refused.<sup>138</sup> The judge required that Ali surrender his passport and noted that Ali ““has shown a . . . willingness to participate in anti-government, anti-war activities,””<sup>139</sup> which arguably were protected First Amendment activities. However, a much later Supreme Court opinion supports Ali’s passport confiscation. In *Haig v. Agee*, the Court noted “the *freedom* to travel outside the United States must be distinguished from the *right* to travel within the United States.”<sup>140</sup> The former can be regulated as long as due process is extended.<sup>141</sup> Among the interests which support regulation is “the security of the nation . . . . Protection of the foreign policy of the United States is a governmental interest of great importance, since foreign policy and national security considerations cannot neatly be compartmentalized.”<sup>142</sup> Indeed, the Supreme Court has upheld the right of the government to curtail American citizens’ travel to some foreign places by restricting the validity of a passport for such travel.<sup>143</sup>

The anti-government and anti-war activities of Ali, cited by the judge in Texas, were an appearance at an anti-war demonstration,<sup>144</sup> which should have been protected First Amendment activity in the United States. In addition, there was no evidence that participation in a boxing match abroad would have involved any anti-government or anti-war activities detrimental to national security. Even if one were to participate in demonstrations abroad, that activity is vastly different from that involved in the *Haig* Supreme Court case noted above. In *Haig*, the litigant, while abroad, disclosed “intelligence operations and [the names] of intelligence personnel”

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136. *Edwards*, 314 U.S. at 177-78.

137. *Clay Loses Request to Fight Outside U.S.*, N.Y. TIMES, Aug. 3, 1967, at 18. [hereinafter *Clay Loses Request*].

138. *Id.*

139. “Judge Keeps Clay in U.S.,” BOSTON GLOBE (Aug. 3, 1967).

140. *Haig v. Agee*, 453 U.S. 280, 306 (1981).

141. *Haig*, 453 U.S. at 307.

142. *Id.*

143. Note, *Area Restrictions on Passports*, 79 HARV. L. REV. 123 (1965); Jeffrey Kahn, *International Travel and the Constitution*, 56 UCLA L. REV. 271 (2008); See 22 C.F.R. § 51.63 (2008) (authorizing passports to be restricted to use to travel to specified areas).

144. *United States v. Clay*, 386 F. Supp. 926, 930 (S.D. Tex. 1969). In 1967, “[t]hree days after his conviction, Ali appeared [in Los Angeles] for the first time at one of the increasingly frequent anti-war demonstrations sweeping the county . . . . [He said] ‘I encourage you to express yourself and to stop this war.’ [After watching subsequent brutality on TV] he vowed to himself not to participate in any more anti-war demonstrations.” Bingham & Wallace, *supra* note 30, at 179-80. Notwithstanding the First Amendment right to demonstrate in the U.S., that single appearance influenced a judge in Houston to confirm suspension of Ali’s passport, commenting it proved “‘Mr. Clay demonstrates a ready willingness to participate in anti-government and anti-war activities.’”

which the Court said were “clearly not protected by the Constitution.”<sup>145</sup> Those activities were designed to damage national security and foreign policy and all that Due Process required was a statement of the reasons for passport revocation and a hearing.<sup>146</sup>

Ali’s passport issue was not a revocation by the Secretary of State but rather a suspension after a conviction. It has been held that the Secretary of State does not have exclusive jurisdiction over passports, so a court can order passport suspension in connection with a judicial proceeding.<sup>147</sup> “Surrendering one’s passport is a common condition of release on bail . . . .”<sup>148</sup> When evaluating a request for return of a passport surrendered as a condition of release, the court noted flight risk as an issue.<sup>149</sup> However, in that particular instance, the passport surrendered was of a foreign citizen.<sup>150</sup> This was not the case with Ali because flight risk was undoubtedly not a consideration. Given his prominence, he hardly could have hidden out in a foreign country. Like the international food broker who needed to travel internationally for business and whose surrendered passport was returned,<sup>151</sup> Ali’s ability to earn a living was dependent on foreign fights when his license to box had been withdrawn in American jurisdictions. While there was specific statutory authority for the judge in Ali’s case to place restrictions on travel,<sup>152</sup> in making a determination on conditions of release after conviction, the judge specifically could consider “financial resources” among other items.<sup>153</sup> Indeed, Ali’s denied request to travel to Japan was tied to his need for money. One wonders if Ali’s situation can be viewed as similar to that of prominent African-Americans Paul Robeson and W.E.B. DuBois, whose professional activities were restricted by passport issues. Along with them, Ali’s passport situation can be viewed as an “instrument[] . . . of social control”<sup>154</sup> of Black Americans.

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145. *Haig*, 453 U.S. at 308-09.

146. *Id.* at 310.

147. *United States v. Praetorius*, 622 F.2d 1054, 1062 (2d Cir. 1979).

148. *Herbstein v. Bruetman*, 241 F.3d 586, 589 (7th Cir. 2001).

149. *U.S. v. Igwebike*, 27 F.3d 568 (E.D. Tenn. 1994).

150. *Id.*

151. *Merrill Lynch Bus. Fin. Servs. v. Kupperman*, 2007 WL 2300737 (D. N.J. 2007).

152. Bail Reform Act of 1966, Pub. L. No. 89-465, 80 Stat. § 3146(a)(1), 214, 214, § 3148, 214, 216.

153. *Id.* § 3146(b).

154. Stephen Krueger, *Passports in the Twenty-First Century*, 9 GLOBAL JURIST, no. 1, 2009,



William Edward Burghardt Du Bois was born 30 years before Paul Robeson—1868 compared to 1898.<sup>155</sup> Yet their lives were intertwined<sup>156</sup> and it is probable their passport troubles were due to the same “social control,” emanating from a fear that these prominent African-Americans might sway Black Americans to accept Communism. The first African-American to receive a Ph.D. from Harvard, Du Bois was a founding member of the National Association for the Advancement of Colored People (NAACP) and served as its Director of Research and editor of its publication, *The Crisis*, as well as being a professor at Atlanta University.<sup>157</sup> Paul Robeson was born to a former slave and “was an athlete, singer, writer, scholar and civil rights activist.”<sup>158</sup> Both Du Bois and Robeson advocated strenuously for the rights of Black Americans. Du Bois was a prolific writer and co-founder of the Pan-African Congress in 1919.<sup>159</sup> Robeson co-founded the Council on African Affairs in 1933.<sup>160</sup> Both men had their passports suspended for some years.<sup>161</sup> Robeson’s was inoperative from 1950 – 1958.<sup>162</sup> Du Bois’ was inoperative from 1951 to 1958.<sup>163</sup>

The ostensible reason for revoking Robeson’s passport was Communism, although his protests against racism were undoubtedly contributing factors. The passport denial meant that Robeson could not perform abroad, which directly affected his livelihood.<sup>164</sup> Numerous concerts

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155. See CHRISANNE BECKNER, 100 AFRICAN-AMERICANS WHO SHAPED AMERICAN HISTORY 4-5 (Ruth DeJauregui ed., 1995); See generally, DAVID LEVERING LEWIS, W.E.B. DU BOIS, 1868-1919: BIOGRAPHY OF A RACE (First Owl Books 1994) (1993) [hereinafter LEWIS, 1868-1919]; See also DAVID LEVERING LEWIS, W.E.B. DU BOIS: THE FIGHT FOR EQUALITY AND THE AMERICAN CENTURY, 1919-1963 (First Owl Books 2001) (2000) [hereinafter LEWIS, W.E.B DU BOIS: THE FIGHT FOR EQUALITY]; See also ALDON D. MORRIS, THE SCHOLAR DENIED: W.E.B. DU BOIS AND THE BIRTH OF MODERN SOCIOLOGY (2015); See also MARTIN DUBERMAN, PAUL ROBESON: A BIOGRAPHY (Open Road Media, 2014) (1989).

156. There is a picture of DuBois and Robeson in Martin Duberman’s novel which includes numerous references to their connection. DUBERMAN, *supra* note 155, at 302-03; Du Bois wrote that “the persecution of Paul Robeson . . . has been one of the most contemptible happenings in modern history.” W.E.B. DU BOIS: A READER 798 (David Levering Lewis, ed., 1995) [hereinafter W.E.B. DU BOIS: A READER]. Robeson thought there should have been protests over Du Bois’ passport difficulties. See *infra* note 169. The fifteen-year difference in their dates of death meant they were prominent at the same time. Du Bois died at the age of ninety-five in 1963; Robeson at age seventy-eight in 1976. BECKNER, *supra* note 155.

157. NAACP History: W.E.B. DuBois, NAT’L ASS’N FOR THE ADVANCEMENT OF COLORED PEOPLE, <https://www.naacp.org/naacp-history-w-e-b-dubois/> (last visited Mar. 20, 2020).

158. *Calendar*, EBONY MAGAZINE, Dec. 2007 (On file with the Author). Rutgers University awarded him an academic scholarship and he “won 15 varsity letters in sports (baseball, basketball and track).” *Id.* To celebrate 100 years since his graduation, Rutgers University launched a year-long centennial celebration in January 2019. LaMont Jones, *Robeson Centennial Celebration Inspires New Diversity Efforts at Rutgers*, DIVERSE (Feb. 13, 2019), <https://diverseeducation.com/article/138206/10>.

159. BECKNER, *supra* note 155, at 39.

160. *Id.* at 64.

161. *Id.* at 39, 64.

162. *Id.* at 64.

163. *Id.* at 39.

were cancelled due to Robeson's alleged connections with communism.<sup>165</sup> Prior to which, in 1946, Robeson testified before the State of California's version of the House of Representatives Un-American Activities Committee (HUAC) that he was *not* a Communist.<sup>166</sup> Subsequently, in 1949, he did comment that "racism did not exist in the Soviet Union."<sup>167</sup> In Robeson's view, the Communist charge was not the real reason for his passport difficulties.<sup>168</sup> He wrote, "from the outset it was apparent that the Negro question was the crux of the matter."<sup>169</sup> In support, he cited a U.S. State Department brief, which claimed his passport revocation was not an abuse of discretion because he had been "active politically in behalf of independence of the colonial people of Africa,"<sup>170</sup> and a State Department attorney noted Robeson had "repeatedly criticized the conditions of Negroes in the United States."<sup>171</sup> Ali also was critical of the policy in the U.S. toward African-Americans.<sup>172</sup> Yet, his situation was distinct from Robeson since he took specific action which was a violation of law. Of course, suspension of a passport could be viewed as "punishment" for being audacious enough to speak about discrimination against Blacks. However, Ali did more than issue critical pronouncements. He was found guilty for taking specific actions. The same is true when Ali is compared to W.E.B. DuBois, a person whose life overlapped with that of Paul Robeson. Robeson spoke specifically about the passport situation of W.E.B. Du Bois. He thought there should have been "vigorous protests against the denial of a passport."<sup>173</sup>

Du Bois' passport difficulties began in the 1950's when he also had difficulties as Chairman of the Peace Information Center, whose mission was to advocate for nuclear disarmament.<sup>174</sup> In August 1950, Du Bois was informed "that he was required immediately to register the PIC 'as an agent of a foreign principal with the United States.'"<sup>175</sup> Six months later, in February 1951, Du Bois and other officers of the organization were indicted.<sup>176</sup> But "the case was so farcical that the judge threw it out in midtrial . . ."<sup>177</sup> DuBois acknowledged that he had "held [a] United States passport[] since 1892 . . . " and asserted he had never "been convicted of any crime."

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165. See Randy Furst, *Singer Paul Robeson was banned at the University of Minnesota during the Cold War*, STAR TRIBUNE, Oct. 7, 2015, <https://www.startribune.com/singer-paul-robeson-was-banned-at-the-university-of-minnesota-during-the-cold-war/331165251/> (Robeson was banned by the dean of students at the University of Minnesota after being booked by a student group, The Young Progressives of America).

166. *Id.*

167. *Id.* at 136.

168. PAUL ROBESON, *HERE I STAND* 64 (1958).

169. *Id.*

170. *Id.*

171. *Id.* at 65.

172. See *supra*, note 54; See also BINGHAM & WALLACE, *supra* note 30.

173. Robeson, *supra* note 168, at 72.

174. LEWIS, *THE FIGHT FOR EQUALITY*, *supra* note 155, at 546.

175. *Id.* at 547.

176. *Id.* at 548.

177. W.E.B. DU BOIS: A READER, *supra* note 156, at 10.

<sup>178</sup> In an interview on June 4, 1957, the interviewer noted that DuBois had “made at least fourteen trips abroad” until a 1952 denial of a passport.<sup>179</sup> That denial apparently related to the claim that DuBois favored Communism.

Paul Robeson, W.E.B. Du Bois, and Muhammad Ali were all prominent African-Americans who were critical of U.S. policy towards Blacks. All three were prevented from foreign travel because of passport difficulties. Presumably, a motivation was to exercise control over the views of these three men who were—to use a popular phrase—“Unashamedly Black.”<sup>180</sup> Yet the legal bases for their passport troubles were distinct. Robeson’s passport was revoked from 1950 to 1958.<sup>181</sup> Du Bois’ was unable to hold a passport from 1951 to 1958.<sup>182</sup> Ali had to surrender his passport in 1967, and it was returned after he won his Supreme Court case in 1971. Although the times varied, it was Supreme Court decisions which ultimately led all three to regain passports. For Robeson and DuBois, it was a case in which neither were litigants: *Kent v. Dulles*.<sup>183</sup> For Ali, it was a decision upholding his right to conscientious objector status.<sup>184</sup>

Robeson and W.E.B. Du Bois were caught up in the anti-Communist fervor of the 1950s. It has been noted that “when we faced a grim and repressive Soviet Union, we became grim and repressive ourselves with loyalty oaths and purges.”<sup>185</sup> Both had their passports reinstated after the Supreme Court decided *Kent v. Dulles*, which ruled that Congress had not authorized the Secretary of State to deny or revoke passports because of Communist beliefs or associations.<sup>186</sup> It should be remembered that at the time, neither Robeson nor Du Bois were actually communists, although alleged to be. However, in 1961, after his passport was returned, Du Bois applied for membership in the U.S. Communist party and immediately left the U.S. for Ghana.<sup>187</sup> Subsequently, the U.S. embassy in Ghana denied renewal of his passport.<sup>188</sup> DuBois became a citizen of Ghana at age 95.<sup>189</sup>

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178. Credo Library, Letter From W.E.B. Du Bois to U.S. State Department, <http://credo.library.UMass.edu/view/pageturn/mums312-b141-i076/#page/1/mode/1up> (last visited Apr. 26, 2020).

179. Interview by Al Morgan with writer W.E.B. Dubois, Dumont Broadcasting Company (June 4, 1957).

180. TRINITY UNITED CHURCH OF CHRIST MOTTO, <https://www.trinitychicago.org/new-to-trinity/> (last visited Mar. 13, 2020)

181. ROBESON, *supra* note 168.

182. *Id.*

183. *Kent v. Dulles*, 357 U.S. 116 (1958).

184. *Clay v. U.S.*, 403 U.S. 698 (1971).

185. Neil Steinberg, *Nietzsche teaches: Don't let Trump's vileness make us vile, too*, CHI. SUN TIMES, Sept. 21, 2018, at 2.

186. None of Robeson’s court actions to obtain his passport addressed the merits. *See* Robeson v. Acheson, 198 F. 2d 985 (D.C. Cir. 1952); Robeson v. Dulles, 235 F. 2d 810 (D.C. Cir. 1956), *cert. denied*, 357 U.S. 116 (1958). The decision in *Kent v. Dulles* was responsible for the return of Robeson’s passport.

187. LEWIS, W.E.B DU BOIS: THE FIGHT FOR EQUALITY, *supra* note 155, at 567.

188. LEWIS, 1868-1919, *supra* note 155, 708-12.

189. *Id.*

He died in that country just as persons gathered for the historic March on Washington in August 1963.<sup>190</sup>

### CHICAGO SEVEN

The heads got beat last August [1968] during the Democratic National Convention. The events of that week seemed, at the time, to be a watershed. Nothing could ever be the same afterwards. The police themselves, as the Walker Report put it, had been the rioters. And people had seen it all on TV.<sup>191</sup>

Although Robeson, Du Bois, and Ali were all prominent and celebrated Black men, Ali's required passport surrender was closer in time to the Chicago Seven. It is fruitful to compare him with two of its white male members who were allowed to travel abroad, despite convictions.<sup>192</sup> Ali's refusal to be inducted was during the Vietnam War, the same war which provoked the Chicago Seven protests. The name refers to activists who demonstrated during the 1968 Democratic convention held in Chicago, Illinois.<sup>193</sup> The August 1968 events leading up to the Chicago Seven trial were tumultuous, as "club-swinging police officers clashed with thousands of demonstrators, injuring hundreds in a televised spectacle that a national commission later called a police riot."<sup>194</sup>

Although four convicted Chicago Seven defendants and Ali all were sentenced to the same prison term—five years—<sup>195</sup> and although all were free during appeals, and had convictions overturned on appeal,<sup>196</sup> their passport situations were dissimilar. Two of the four convicted Chicago Seven defendants retained passports and traveled abroad.<sup>197</sup> Ali had to surrender his passport and was not allowed to travel; not even for a fight in Japan to which

190. LEWIS, W.E.B DU BOIS: THE FIGHT FOR EQUALITY, *supra* note 155, at 569-70.

191. *Uptown Up in Arms After 1968 Convention*, CHI. SUN TIMES, Oct. 16, 2018, at 15.

192. *See infra* text accompanying notes 197-202.

193. "The Chicago Seven Trial was originally the Chicago Eight, with the Black Panther leader Bobby Seale included as a defendant . . . [The only African-American defendant, he was] bound and gagged in his chair . . . and [the judge] severed his case for a separate trial that was never adjudicated." . Robert D. McFadden *Tom Hayden, Civil Rights and Peace Activist Turned Lawmaker, Dies at 76*, N.Y. TIMES (Oct. 24, 2016), <https://www.nytimes.com/2016/10/25/us/tom-hayden-dead.html>, [hereinafter McFadden.] Based on a contempt of court finding, he was sentenced to four years in prison, but served less than 2 years before an appeal overturned the finding. *See generally* Bruce A. Ragsdale, *The Chicago Seven: 1960s Radicalism in the Federal Courts*, FEDERAL JUDICIAL CENTER 1, 38 (2008), *See generally* <https://www.fjc.gov/sites/default/files/trials/chicago7.pdf>; *United States v. Seale*, 461 F.2d 345 (7th Cir. 1972.)

194. McFadden, *supra* note, 193.

195. *See* Anderson, *supra* note 119 (regarding Ali); *See* McFadden, *supra* note 193 (regarding Chicago Seven defendants).

196. For Ali, *see* *Clay v. U.S.*, 403 U.S. 698 (1971). The 7th Circuit Court of Appeals overturned the 4 convictions arising from the Chicago Seven trial in *United States v. Dellinger*, 472 F. 2d 3409 (7th Cir. 1972), *cert denied*, 410 U.S. 970 (1973).

197. *See United States v. Dellinger*, 472 F. 2d 3409 (7th Cir. 1972), *cert. denied*, 410 U.S. 970

he had already committed.<sup>198</sup> However, convicted defendants Abbie Hoffman and Jerry Rubin were not required to surrender passports.<sup>199</sup> Thus, at the same time, all were convicted defendants waiting an appellate decision, yet Ali had no passport while Hoffman and Rubin did.<sup>200</sup>

Abbie Hoffman and Jerry Rubin co-founded the Youth International Party (“Yippies”).<sup>201</sup> The former was a proponent of the anti-war movement and the counterculture era,, combining humor and dedication to deliver his message.<sup>202</sup> Following convictions in the Chicago Seven trial, neither Hoffman nor Rubin were required to surrender passports, as was Ali. There was a restriction for Hoffman and Rubin to obtain “permission for any travel outside the continental United States”<sup>203</sup> from the Seventh Circuit Court of Appeals.<sup>204</sup> Nonetheless, during thirteen months following release from custody on February 28, 1970, Hoffman traveled to seven countries even though he did not obtain the required prior authorization.<sup>205</sup> Subsequently, he was never required to surrender his passport, although he was charged with being in contempt of the order not to travel abroad without authorization.<sup>206</sup> Apparently, none of Hoffman’s travels were to engage in an occupation as would have been the case had Ali been permitted to box abroad.<sup>207</sup> Indeed, Ali could have been required to obtain permission to travel in advance, which would have allowed him to continue to earn money abroad as a boxer. If so, it is probable he would have sought authorization rather than ignore the order as Hoffman did.

Chicago Seven defendants Abbie Hoffman and Jerry Rubin were alike in some respects. One day they both appeared during the trial “costuming themselves in judicial robes.”<sup>208</sup> Similarly, both retained their passports after conviction.<sup>209</sup> Like Hoffman, Rubin engaged in foreign travel but apparently received permission.<sup>210</sup> Yet there was an effort to penalize him based on his foreign activities.<sup>211</sup> Unlike Hoffman, where the charge upon his return to the U.S. was failure to obtain prior authorization to travel, in Rubin’s case,

198. See Anderson, *supra* note 119.

199. *Id.*

200. *Id.*

201. Independent Lens, PBS, <https://www.pbs.org/independentlens/chicago10/yippies.html> (last visited Mar. 14, 2020). <https://www.pbs.org/independentlens/chicago10/yippies.html>

202. John T. McQuiston, *Abbie Hoffman, Antiwar Activist and Puckish Protester, Dies at 52*, N.Y. TIMES, Apr. 13, 1989, at B13. (<https://www.nytimes.com/1989/04/13/obituaries/abbie-hoffman-antiwar-activist-and-puckish-protester-dies-at-52.html>)

203. FBI Records on Abbie Hoffman 63 (2011), <https://vault.fbi.gov/7, 2019>. [abbie-hoffman/abbie-hoffman-part-31-of-65](https://vault.fbi.gov/7, 2019) (last visited Mar. 14, 2020).

204. *Id.*

205. *Id.* at 28

206. *Id.*

207. Clay Loses Request, *supra* note 137, at 18.

208. John Schultz, “*The Substance of the Crime Was a State of Mind*”--How a Mainstream, Middle Class Jury Came to War with Itself, 68 UMKC L. REV. 637, 663 (2000).

209. *Id.* at 664.

210. Patrick Carville, Belfast Cops Arrest Yippie Chief Rubin,, CHI. TRIBUTE, Nov. 14, 1970 at 8.

211. See *infra* text accompanying notes 220-24.

surrender of the passport was sought *after* he returned from foreign travel.<sup>212</sup> That was based on his actions in Britain which were claimed to “[embarrass] the United States.”<sup>213</sup> All that is known of those actions is overstaying a visa “to help the socialist revolutionary forces.”<sup>214</sup> Based on Rubin’s statements in Ireland, the British Home Secretary ordered Rubin to leave Belfast, stating that his presence was “not conducive to the public good.”<sup>215</sup>

Like Hoffman, Rubin has been described as a “bearer of the 1960’s counterculture and oppos[er] to the Vietnam War.”<sup>216</sup> One can ponder why Hoffman and Rubin were not required to surrender passports immediately after conviction as was Muhammad Ali. They were convicted under the Anti-Riot Act of 1968,<sup>217</sup> which was directed toward anti-war protests. The Anti-Riot Act made it a federal crime to cross state lines with the intent to incite a riot.<sup>218</sup> Such a charge contemplates activity designed to induce behavior in others. By contrast, refusal to be inducted into the military—which was the charge against Muhammad Ali—is directed towards one’s own singular act. It may well be that the difference in treatment between Ali, Hoffman, and Rubin comes down to race and the perceived need to keep African-American draftees from refusing to serve in the military during the Vietnam War. When the question at hand was Ali’s conscientious objector status—which was before the conviction relied upon for passport surrender—there may have been a desire to “make an example of Ali [to avoid] a chain reaction of [B]lack men refusing to join the army.”<sup>219</sup> While Ali’s triumphs in the boxing ring are part of his iconic status, the refusal to be inducted and its consequent monetary loss contribute to his legacy.

## LEGACY

I would like to be remembered as a man who won the heavyweight title three times, who was humorous, and who treated everyone right. As a man who never looked down on those who looked up to him, and who helped as many people as he could. As a man who stood up for his beliefs no matter what. As a man who tried to unite all humankind through faith and love. And if all that’s too much, then I guess I’d settle for being remembered only as a great boxer who became a leader and a champion of his people. And I wouldn’t even mind if folks forgot how pretty I was.<sup>220</sup>

212. Rubin Fights Passport Case, CHI. TRIBUTE, Nov. 18, 1970 at 2.

213. *Id.*

214. *Id.*

215. Carville, *supra* note 210, at 8.

216. Eric Pace, *Jerry Rubin, 56, Flashy 60’s Radical, Dies; ‘Yippies’ Founder and Chicago 7 Defendant*, N.Y. TIMES (Nov. 30, 1994), <https://www.nytimes.com/1994/11/30/obituaries/jerry-rubin-56-flashy-60-s-radical-dies-yippies-founder-and-chicago-7-defendant.html>.

217. 18 U.S.C.S. § 2102 (LEXIS through Public Law 116-108).

218. *Id.*

219. BINGHAM & WALLACE, *supra* note 30, at 132.

220. MUHAMMAD ALI & HAN ADI, *supra* note 14, at 205.

Boxing was what Muhammad Ali did for a living. It did not define who he was. His steadfast refusal to be inducted in the armed forces illustrated his commitment to a principle. Ali believed Muslims “are not, according to the Holy Koran, to even as much as aid in passing a cup of water to the wounded.”<sup>221</sup> When prohibited from boxing, he embraced alternatives like appearing as the lead of the Broadway musical “Buck White” in 1969<sup>222</sup> and lecturing on college campuses.<sup>223</sup> Despite being diagnosed with Parkinson disease in 1984, at age 42, Ali continued to be active.<sup>224</sup> Six years after the diagnosis and despite press ridicule and opposition from the administration of U.S. President George H.W. Bush, he helped secure release of 15 American hostages from Iraq in 1990.<sup>225</sup> “Aside from the 15 very-grateful men who were released, Ali received practically no kudos or shout outs for saving American hostages.”<sup>226</sup> Overcoming Parkinson’s tremors in 1996, Ali lit the cauldron at the opening of the Summer Olympics in Atlanta<sup>227</sup> and, with assistance, on July 27, 2012, he carried the Olympic Flag at the opening ceremonies of the 2012 summer Olympics in London.<sup>228</sup> Ali received many awards including the Presidential Citizens Medal in 2001 from President Bill Clinton, and The Messenger of Peace Award in 1998 from UN Secretary General Kofi Annan.<sup>229</sup> In 1999, Ali was named “Sportsman of the Century” by *Sports Illustrated* and was designated one of the “100 Most Important People of the 20<sup>th</sup> Century” by *Time* magazine.<sup>230</sup> There is even legislation named after him, the Muhammad Ali Boxing Reform Act.<sup>231</sup>

221. BINGHAM & WALLACE, *supra* note 30, at 128.

222. Nick Romano, *Muhammad Ali: Broadway musical Buck White featured the late boxer in leading role*, ENTERTAINMENT WEEKLY (June 4, 2016), <https://ew.com/article/2016/06/04/muhammad-ali-broadway-musical-buck-white-ed-sullivan/> (The play was about a militant Black activist who wanted to free his people from the legacy of slavery).

223. ALI & DURHAM, *supra* note 22, at 177.

224. Selena Makrides, *What you should know about Parkinson’s, the disease Muhammad Ali fought for 32 year*, CRONKITE NEWS (June 6, 2016), <https://cronkitenews.azpbs.org/2016/06/06/what-you-should-know-about-parkinsons-the-disease-muhammad-ali-fought-for-32-years/>.

225. Brian Becker, *I Was with Muhammad Ali on His Hostage-Release Trip to Iraq — and the Media Has It All Wrong*, GLOBALRESEARCH, <https://www.globalresearch.ca/i-was-with-muhammad-ali-on-his-hostage-release-trip-to-iraq-and-the-media-has-it-all-wrong/5530257> (last visited July 8, 2017).

226. *Id.*

227. Video of Muhammad Ali at the Opening Ceremony of Atlanta Olympics (1996), <https://www.olympic.org/videos/muhammad-ali-lights-the-olympic-cauldron>.

228. Stan Wilson, *Muhammad Ali returns to the Olympic stage, once again, in London*, CNN (July 28, 2012), <https://www.cnn.com/2012/07/27/sport/olympics-muhammad-ali/index.html>.

229. UNITED NATIONS, *Messengers of Peace*, <https://www.un.org/en/messengers-peace/muhammad-ali> (last visited Mar. 16, 2020); THE WHITEHOUSE, *President Clinton Awards the Presidential Citizens Medals*, [https://clintonwhitehouse5.archives.gov/WH/new/html/Mon\\_Jan\\_8\\_141714\\_2001.html](https://clintonwhitehouse5.archives.gov/WH/new/html/Mon_Jan_8_141714_2001.html) (last visited Mar. 16, 2020).

230. Time Magazine, *100 persons of the century*, TIME (June 6, 1999) <http://content.time.com/time/magazine/article/0,9171,26473,00.html>.

231. The law’s purpose is “to clean up the business of boxing by regulating boxing contracts, sanctioning organizations, promoters, managers, referees, judges and state boxing commissions.” Devin J. Burstein, *The Muhammad Ali Boxing Reform Act: Its Problems and Remedies, Including the Possibility of a United States Boxing Administration*, 21-2-3 CARDOZA ARTS & ENTERTAINMENT L.J. 433 (2003), <https://www.cercl.org/vol42-no2-2020-188-199>; Scott Baglio, Note, *The Muhammad Ali Boxing*

Upon Ali's death, thirty-three years after the Parkinson's diagnosis, a significant tribute was given by Kareem Abdul-Jabbar, who was a twenty-year-old college student, then known as Lew Alcindor, when he joined Black professional athletes at the 1967 meeting intended to convince Ali to accept induction.<sup>232</sup> In 1968, a year after that meeting, Alcindor converted to Islam, but he was not affiliated with the Nation of Islam which caused so much consternation when Ali joined in 1964.<sup>233</sup> For Alcindor, Islam "was strictly a spiritual quest, while the Nation of Islam seemed more of a political organization. I wanted to keep my pursuit of social justice separate from my pursuit of religious fulfillment."<sup>234</sup> After his professional basketball team, the Milwaukee Bucks, won the NBA Championship and he was awarded the first of six Most Valuable Player Awards, in 1971, Alcindor publicly adopted the Muslim name Kareem Abdul Jabbar.<sup>235</sup> Of Ali, he remarked "'He made all Americans, [B]lack and white, stand taller. I may be 7'2" but I never felt taller than when standing in his shadow.'"<sup>236</sup>

"Muhammad Ali transcended the sport [of boxing] to become a shining example to a worldwide audience of what Blackness could be."<sup>237</sup> At the Smithsonian National Museum of African-American History and Culture in Washington D.C., Ali's legacy is celebrated in two galleries: "*Sports: Leveling the Playing Field*" and "*Making a Way Out of No Way*."<sup>238</sup> The latter has an exhibition "Muhammad Ali: A Force For Change." There is a

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Reform Act: The First Jab at Establishing Credibility in Professional Boxing, 68 FORDHAM L. REV. 2257257 (2000).

232. Kareem Abdul-Jabbar, *Muhammad Ali Became a Big Brother to Me and to All African-Americans*, TIME (June 6, 2016), <http://time.com/43589041/muhammad-ali-kareem-abdul-jabbar/> (Alcindor – not then a professional athlete – had met Ali a year before, who extended him an invitation to the meeting)..

233. *Id.*

234. *Id.*

235. Jim Mandelaro, *Kareem Abdul-Jabbar to speak at River Campus*, ROCHESTER (Oct. 7, 2018),

<https://www.rochester.edu/newscenter/kareem-abdul-jabbar-to-speak-at-river-campus-340312/>

236. Daniel Kreps, *Read Kareem Abdul-Jabbar's Tribute to 'Friend and Mentor' Muhammad Ali*, ROLLING STONE (June 4, 2016), <https://www.rollingstone.com/culture/culture-news/read-kareem-abdul-jabbar-tribute-to-friend-and-mentor-muhammad-ali-152979/>

237. Miles Marshall Lewis, *The Greatest*, ESSENCE (Aug. 2016), <https://www.questia.com/read/1P3-4118894611/the-greatest> 61.

238. See NMAAHC, SMITHSONIAN, [https://nmaahc.si.edu/object/nmaahc\\_2014.194.2?destination=edansearch/collection\\_search%3Fedan\\_fq%255B0%255D%3Dset\\_name%253A%2522Sports%253A%2520Leveling%2520the%2520Playing%2520Field%2522%26edan\\_local%3D1](https://nmaahc.si.edu/object/nmaahc_2014.194.2?destination=edansearch/collection_search%3Fedan_fq%255B0%255D%3Dset_name%253A%2522Sports%253A%2520Leveling%2520the%2520Playing%2520Field%2522%26edan_local%3D1) (last visited Mar. 16, 2020) (showing Muhammad Ali's admission ticket that is celebrated in the "Sports: Leveling the Playing Field" section). NMAAHC Charter Member News, Vol. 3, Issue 2, Summer 2017, [https://nmaahc.si.edu/object/nmaahc\\_2014.194.2?destination=edansearch/collection\\_search%3Fedan\\_fq%255B0%255D%3Dset\\_name%253A%2522Sports%253A%2520Leveling%2520the%2520Playing%2520Field%2522%26edan\\_local%3D1](https://nmaahc.si.edu/object/nmaahc_2014.194.2?destination=edansearch/collection_search%3Fedan_fq%255B0%255D%3Dset_name%253A%2522Sports%253A%2520Leveling%2520the%2520Playing%2520Field%2522%26edan_local%3D1).



photo of Ali introducing the *Muhammad Ali as Activist* section<sup>239</sup> with his words “I Shook Up the World!”<sup>240</sup>

That he did!

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239. Ken Cedeno, *LeBron James Contributes \$2.5 Million to the National Museum of African American History and Culture's Muhammad Ali Display*, NBA (Nov. 17, 2016), <https://www.nba.com/cavaliers/releases/james-foundation-donation-161117>.

240. Dan Gelston, *In his words: Muhammad Ali's most famous quotes*, NBC SPORTS (June 4, 2016), <https://www.nbcsports.com/philadelphia/boxing/his-words-muhammad-alis-most-famous-quotes>.

