

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF LOUISA

COMMONWEALTH OF VIRGINIA,
Plaintiff,


v.


Defendant.

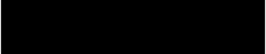
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Def Mot. 

**MOTION TO CONDUCT TRIAL IN A COURTROOM THAT DOES NOT CONTAIN
CONFEDERATE SYMBOLS, MEMORIALS AND ICONOGRAPHY**

 by counsel, hereby moves this Court to provide a setting for his trial that does not contain images that could be interpreted as glorifying, memorializing, or otherwise endorsing the efforts of those who fought on behalf of the Confederate cause or its principles. In making this motion, the defendant relies on his federal and state constitutional rights as protected by the Fifth, Sixth, Eighth, Eleventh, Thirteenth, and Fourteenth Amendments to the United States Constitution and Article I, § 8 of the Constitution of Virginia.

In support of this motion, counsel states:

1.  an African-American male, stands currently charged with capital murder, which carries the potential of a sentence of death. The possibility of a death sentence imposes an extraordinary burden upon the Court, the Commonwealth, and defense counsel to ensure the fairness, accuracy, and reliability of the trial and any subsequent sentencing proceeding. “The fundamental respect for humanity underlying the Eighth Amendment’s prohibition against cruel and unusual punishment gives rise to a special ‘need for reliability in the determination that death is the appropriate punishment’ in any capital case.” Johnson v.

Mississippi, 486 U.S. 578, 584 (1988) (citations omitted). It is well established that when a defendant's life is at stake, a court must be “particularly sensitive to insure that every safeguard is observed.” Gregg v. Georgia, 428 U.S. 153, 187 (1976). This heightened standard of reliability is “a natural consequence of the knowledge that execution is the most irremediable and unfathomable of penalties; that death is different.” Ford v. Wainwright, 477 U.S. 399, 411 (1986).

Death, in its finality, differs more from life imprisonment than a 100-year prison term differs from one of only a year or two. Because of that qualitative difference, there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case.

Woodson v. North Carolina, 428 U.S. 280, 305 (1976).

2. The United States Supreme Court has repeatedly emphasized the principle that because of the exceptional and irrevocable nature of the death penalty, “extraordinary measures” are required by the Eighth and Fourteenth Amendments to ensure the reliability of decisions regarding both guilt and punishment in a capital trial. Eddings v. Oklahoma, 455 U.S. 104, 118 (1982) (O'Connor, J., concurring); *see also* Beck v. Alabama, 447 U.S. 625, 637-38 (1980); Lockett v. Ohio, 438 U.S. 586, 604 (1978); Gardner v. Florida, 430 U.S. 349, 357-58 (1977).

3. [REDACTED] trial is set to begin in the Circuit Court for the County of Louisa on May 7, 2019. The Louisa County Courthouse contains only one circuit courtroom.

4. The courtroom is decorated with numerous memorials to historical figures. See attached Exhibit 1 – Pattie Cooke, *Portraits in the Louisa County Courthouse*, Louisa County Historical Magazine, Spring 2001. By far the most prominent, visible, and largest of those memorials is a portrait of Robert E. Lee that adorns the rear wall of the courtroom. See attached Exhibit 2.

5. The portrait of Lee occupies a place of prominence in the courtroom. It dwarfs every other image in the room. Additionally, the portrait of Lee faces directly towards the Judge and overlooks the entire courtroom. Lee is dressed in his uniform as a General in the army of the Confederate State of America.

6. Additionally, there are other portraits on the wall of the courtroom commemorating service in the military on behalf of the Confederate States of America. The other portraits are smaller, less prominent, and of lesser known historical figures, however, they were still people of prominence in the history of Louisa County.

7. The portraits in the Louisa County Courthouse were initially selected by a committee of local officials after the construction of the current courthouse in 1906. Prominent on that committee was Reubin L. Gordon, Jr., then the Commonwealth's Attorney for Louisa County. Pattie Cooke, *Portraits in the Louisa County Courthouse*, Louisa County Historical Magazine, Spring 2001, 45. Commonwealth's Attorney Gordon also served as a delegate to Virginia's constitutional convention from 1901-1902. While serving as a delegate, Commonwealth's Attorney Gordon declared, "I told the people of my county before they sent me here that I intended, as far as in me lay, to disfranchise every negro that I could disfranchise under the Constitution of the United States, and as few white people as possible." 2 J. H. Lindsay, *Report of the Proceedings and Debates of the Constitutional Convention*, 3061 (1906). Commonwealth's Attorney Gordon went on to say, "We do not believe that the colored man is the equal of the white man, and that is what the [F]ifteenth [A]mendment means. We do not believe that the only difference between the negro and the white man is the color of his skin." Id. It should be noted that Commonwealth's Attorney Gordon's portrait is also on display in the Louisa County courtroom.

8. A certificate authorizing and establishing Louisa County Chapter No. 1643 of the United Daughters of the Confederacy dated December 14, 1916 hangs directly below the portrait of Lee. See attached Exhibit 3. The UDC began as a group dedicated to memorializing the Confederacy and the people who served to fight for their cause. The group donated Confederate iconography to public entities in order to keep the spirit of the Confederacy alive.¹ While purporting to be a preservationist society, the UDC furthered its objectives of defending racial dominance through education and memorials just like the portrait of General Lee in the Louisa County courtroom. The UDC used indoctrination of white Southern youth to “instill into the descendants of the people of the South a proper respect for the . . . ‘True History’ of the Confederacy.”² At the UDC’s 1916 National Convention, the group published a list of books it recommended for libraries; among those noted as especially adapted for young people were The Ku Klux Klan or Invisible Empire and Religion and Slavery. *Minutes of the Twenty-Third Annual Convention United Daughters of the Confederacy* 305-06 (1917). The United Daughters of the Confederacy certificate hanging in conjunction with the portrait only furthers the myth of the nobleness of the Confederate rebellion. The painting of Robert E. Lee hanging inside the courtroom was clearly intended to promote the Confederate mission and remind generations of the Confederate cause. The painting does not serve the courtroom in facilitating justice in the Louisa County Courthouse.

9. The appearance of justice is a necessary component of the decorum and integrity of the courtroom that the Court has a duty to preserve. See Deck v. Missouri, 544 U.S. 622, 631

¹ H.E. Gulley, *Women and the Lost Cause: Preserving a Confederate Identity in the American Deep South*, *Journal of Historical Geography* (1993).

² United Daughters of the Confederacy Homepage, available at <http://www.hqudc.org> (stating that one of the organization’s primary objectives is “to assist descendants of worthy Confederates in securing a proper education”).

(2007) (finding shackling unconstitutional based upon its impact on dignity and decorum of judicial proceedings); Illinois v. Allen, 397 U.S. 337 (1970) (A defendant who disrupts the decorum of the courtroom may be removed). As the Court stated in Estes v. Texas, 381 U.S. 532 (1965) :

[T]he courtroom in Anglo-American jurisprudence is more than a location with seats for a judge, jury, witnesses, defendant, prosecutor, defense counsel and public observers; the setting that the courtroom provides is itself an important element in the constitutional conception of trial, contributing a dignity essential to "the integrity of the trial" process.

Id. at 561.

10. While the defense is certain that the Court will do its best to prevent any overt racial animus or bias from entering into the proceedings, neither the parties nor the public can be assured that the entire judicial process has not been infected with improper influences due to the presence of racist symbols in the courtroom. Even though the defense is satisfied that the Court harbors no racial bias, the message being sent by the presence of Confederate symbols and icons in the courtroom can have a powerful influence on other participants and observers, such as jurors, witnesses, family of loved ones involved in this case, and the citizens of Louisa. Whether real or imagined, these concerns can be easily alleviated by the removal of these symbols from the courtroom.

11. This Court has a duty and obligation to ensure that these proceedings are fair and impartial both in reality and in perception. Canon 3B(5) of the Canons of Judicial Conduct provides that: "A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others subject to the judge's direction and control to do so." (emphasis added). The commentary goes

on to explain that “[a] judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Facial expression and body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors, the media and others an appearance of judicial bias. A judge must be alert to avoid behavior that may be perceived as prejudicial.” (emphasis added).

12. Courts have long acknowledged the importance of symbolism and appearances in the courtroom. It is obvious from the symbols universally deemed appropriate to represent the court that decorum and dignity are the highest ideals for a court of justice to maintain. This ideal is legitimized through Virginia’s Courthouse Facility Guidelines, published by the Executive Secretary of Supreme Court of Virginia. The guidelines describe the atmosphere that is to be reflected in the courthouses around the state. The guidelines state that the courthouse should “project a sense of decorum and dignity.” Page 2-8 attached at Exhibit 4. Furthermore, the guidelines say that the building should “present an image that engenders public trust and confidence through an image of transparency, openness, fairness, and dignity.” Page 4-1 attached at Exhibit 4.

13. The display of a Confederate icon in his uniform violates the Thirteenth Amendment’s ban on slavery. Congress not only outlawed slavery through its enactment of the Thirteenth Amendment. It also outlawed all badges and incidents of slavery. See Jones v. Alfred H. Mayer Co., 392 U.S. 409, 441 (1968) (reaffirming “badges and incidents of servitude” language of The Civil Rights Cases, 109 U.S. 3, 20-21 (1883)). A portrait of Robert E. Lee in his Confederate General uniform is an emblem of slavery. It “carries a historical message, the tune of which is anti-American and heaps praise on a defunct regime, whose principal tenets

included black racial and intellectual inferiority.” Alexander Tsesis, *The Problem of Confederate Symbols: A Thirteenth Amendment Approach*, 75 TEMPLE L. REV. 539, 575 (2002). The display of this painting in the courtroom of the Louisa Circuit Court violates African-American citizens’ right to be free from all badges and incidents of slavery.

14. The two most enduring symbols of the Confederate rebellion remain the Confederate flag and Robert E. Lee. Both have been appropriated for racist purposes and have been used to instill fear amongst African-American citizens. Images of Robert E. Lee in his Confederate uniform has been used to represent white-supremacist ideology. Robert E. Lee was the chosen name for Roanoke’s Klavern No. 4 of the Ku Klux Klan, which was “probably the largest and most active of them” in Virginia. John T. Kneebone, *Ku Klux Klan in Virginia*, https://www.encyclopediavirginia.org/Ku_Klux_Klan_in_Virginia (last visited Oct. 9, 2018). The United States Court of Appeals for the Fourth Circuit has also held that the display of Confederate symbols gives the inference of racial bias against African-Americans.

It is the sincerely held view of many Americans, of all races, that the confederate flag is a symbol of racial separation and oppression. And, unfortunately, as uncomfortable as it is to admit, there are still those today who affirm allegiance to the confederate flag precisely because, for them, that flag is identified with racial separation. Because there are citizens who not only continue to hold separatist views, but who revere the confederate flag precisely for its symbolism of those views, it is not an irrational inference that one who displays the confederate flag may harbor racial bias against African-Americans.

United States v. Blanding, 250 F.3d 858, 861 (4th Cir. 2001).

Like the Confederate flag, General Robert E. Lee is a Confederate icon that many people revere for the express reason that he represents the southern way of life and the ideology that promotes white interests above all else. See attached articles in Exhibit 5. Lee is a powerful symbol to the white community that fighting for the continued enslavement of black people was a noble and justified venture. The portrait of Lee is also an ominous reminder to the black

community that the social order in America has historically treated them as lesser citizens. Furthermore, even if the portrait of Lee does not invoke racist sentiments in all people, the presence of a Confederate General dressed in his uniform serves no legitimate purpose in the justice system other than to remind people of our country's troubled racial history. And while people may differ on their assessment about that history, racial considerations should have no bearing on the outcome of [REDACTED] case. Furthermore, the need for respect of our judicial system demands that the public should be guaranteed that racial considerations did not have any influence on this matter.

15. The display of Confederate memorials, symbols and icons in the courtroom violate the Defendant's right to equal protection under the law. There is no greater offense to the Equal Protection Clause than government favoritism of one race over another. The display of the Robert E. Lee in his Confederate uniform in addition to the other displays in the courtroom presents a clear message that his service on behalf of the Confederacy in order to preserve slavery is respected and honored by the justice system of Louisa County. Clearly, the display of this portrait is a state action that affects a suspect class in a discriminatory manner and was placed with a discriminatory purpose.

16. Conducting the capital trial of [REDACTED] under the watchful eye of the portrait of the most prominent member of the Confederacy, General Robert E. Lee dressed in his Confederate uniform, creates an unacceptable risk that [REDACTED] will be denied his right to due process under the law as guaranteed by the United States and Virginia Constitutions. "It is axiomatic that [a] fair trial in a fair tribunal is a basic requirement of due process." Caperton v. A.T. Massey Coal Co., Inc., 556 U.S. 868, 876 (2009) (internal quotations omitted). Implicit in

the right to due process are the rights to be presumed innocent, to have the evidence weighed by an impartial jury, the reliability of verdicts, especially in capital cases, and the right to counsel.

Cecelia Trenticosta & William C. Collins, in their article, *Death and Dixie: How the Courthouse Confederate Flag influences Capital Cases in Louisiana*, 27 Harv. J. Racial & Ethnic Just. 125, 140-48 (2011), detail the results of a study finding that white subjects primed with the Confederate flag prior to being asked to evaluate the behavior of a hypothetical black man found him to be more aggressive and selfish than did a control group. Id. at 140-41. Based on information and belief, the issues of aggressiveness and selfishness are central to the Commonwealth's theory of guilt and certainly lie at the heart of any determination regarding future dangerousness or vileness under sections 19.2-264.2 & 19.2-264.4(C) of the Virginia Code. There is no reason to think that a towering portrait of the Confederacy's most renowned general in his Confederate uniform would not have the same or even greater effect on jurors over the course of protracted capital trial and sentencing.

17. Across Virginia and the United States of America, symbols and memorials of the Confederacy are being removed from public locations due to the recognition that they promote racist ideology and are offensive to the ideals of racial equality. There are currently efforts to remove Lee statues from public squares and avenues. And numerous public schools in Virginia have ordered the renaming of schools which bear the names of Confederate generals including Lee. Even Washington and Lee University, which renamed itself in honor of Lee who served as a president of the university following the Civil War, has ordered that pictures of Lee in his Confederate uniform should not be publicly displayed. See attached Exhibit 6.

18. Judge Martin F. Clark, Jr. of the Circuit Court of Patrick County, Virginia, encountered a similar situation in his courtroom where a portrait of Confederate General J.E.B.

Stuart was placed. Judge Clark ordered the portrait removed due to the offensive nature of Confederate symbols to the African-American community. See attached Exhibit 7. Judge Clark found that “Confederate symbols are, simply put, offensive to African-Americans, and this reaction is based on fact and clear straightforward history. Bigotry saturates the Confederacy’s founding principles, its racial aspirations and its public pronouncements.”

19. Judge Martin went on to state, “The courtroom should be a place every litigant and spectator finds fair and utterly neutral. In my estimation, the portrait of a uniformed Confederate general – and a slave owner himself – does not comport with that essential standard.”

20. Arguably General Stuart’s portrait had more historic value and appropriate context in the Circuit Court of Patrick County since that courthouse is located in the town of Stuart, Virginia, which Judge Clark notes is named in honor of General Stuart. Despite this historical connection to the community, Judge Clark found that the prejudice inherent in the display of the portrait overwhelmed any other interests. Judge Clark subsequently received the Virginia State Bar Professionalism Award in part because of his actions in removing the painting of the Confederate icon from his courtroom.

21. Lee as the commander of the Confederate army is a more powerful symbol of the Confederacy than Stuart who served underneath his command. However, Robert E. Lee has none of the connections to Louisa County or its court systems that Stuart had in Patrick County. Although, he was a native of Virginia, Lee was not a resident of Louisa County. Unlike all the other portraits hanging in the circuit courtroom, Lee has no connection to Louisa County other than serving as the commanding general of the Confederate army. Lee was not a lawyer and has no special significance to our legal system.

22. The presence of the painting, in view of the judge and the jury, introduces the risk of impermissible factors such as latent biases, prejudices, and sympathies for the Confederate cause that are an unnecessary risk of harm to the defendant's right to a fair trial and an impartial jury. The painting is a visual reminder of the Confederate mission to promote inequality, subjugation, and stigmatization of African Americans.

The presence of the large painting of Robert E. Lee and other Confederate icons inside the courtroom where the capital trial is going to be held presents an unacceptable risk of impermissible factors weighing in the minds of the jurors. Furthermore, the Confederate memorials affront the dignity and decorum of the judicial proceedings that is sought to be upheld in the courtroom because of its glorification of the fight for inequality, subjugation, and stigmatization of Americans based on race. This is the very message that should not be present inside of a courtroom meant to represent neutrality, fairness, and equality.

ACCORDINGLY, the Defendant, by counsel, seeks a hearing on this matter and moves this Court to order that any trial in this matter proceed in location that is free from symbols, memorials, displays and portraits that could be perceived as supporting or endorsing the Confederate cause or any of its supporters, including the portrait of Robert E. Lee that is currently on display.

Respectfully submitted,



By: 

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CERTIFICATE

The undersigned hereby certifies that, on this 15th day of October, 2018, a true and correct copy of the forgoing Motion was hand delivered to Russell E. McGuire, Commonwealth's Attorney, Louisa County, P.O. Box 128, 100 W. Main Street, Louisa, Virginia 23093.



Douglas A. Rowe

Exhibit

One

**THE
LOUISA COUNTY HISTORICAL MAGAZINE**

Volume 32

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Spring 2001
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Portraits in the Louisa County Courthouse

Contributed by
Pattie Cooke

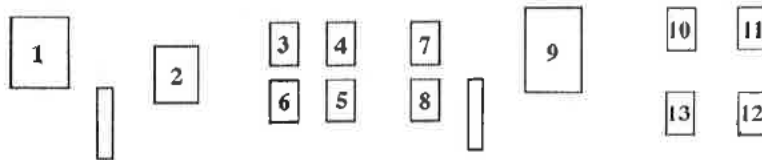
The Louisa County Law Order Books and other sources such as newspapers provide information about the portraits of prominent citizens displayed in the Louisa County Courthouse. The books do not always give the artist and sometimes only give the date of presentation. We would like help from family members or anyone who might be able to supply more information for us. Please contact a member of the publishing committee if you can provide further information. In some cases the spelling of the artists name is from their own signature and not precisely legible.

In 1906, the Board of Supervisors decided that, "The courthouse being completed and this Board feeling that the history of the county shall be illustrated as far as possible by portraits of the men who have figured in the formation of our early history."

It is ordered that a committee of J.J. Porter, R. L. Gordon, F. W. Sims, C. Y. Kimbrough and W. T. Meade are empowered to form an association with the object of obtaining portraits of men who have distinguished themselves in serving the county and adorning the history of the United States.

"The portraits or pictures are to be gotten by private contributions, as the County cannot incur any expense thereabout."¹

Opposite wall: left to right after entering door of front stairwell.



1) C. Pembroke Petit (1908-1975) was the Commonwealth's Attorney from Louisa from 1924 to 1964. The artist is Schlacht.

2) James Lindsay Gordon (1813-1879) was a Louisa County Commonwealth's attorney for 39 years.

Group of four clockwise

3) Jesse J. Porter (1836-1913) served as Clerk and Deputy Clerk of Louisa County Court from 1854 to 1913. He served in the Louisa Blues during the War Between the States in Co. D. of the thirteenth Virginia Regiment as a lieutenant.² A Mason, Mr. Porter also served as a member of the town council in Louisa. His portrait is a charcoal.

4) Lewis Arodd Keller, Jr. (1898-1978) served as Clerk of Louisa County Court from 1936 to 1975. His oil portrait was presented to the court 26 January 1975. It was painted by Mrs. Albert G. Pritchett, Jr. of Richmond and given by friends of Mr. Keller. Active in the community, Mr. Keller served as a member of the School Board for many years. He served as president and vice-president of the Virginia Court Clerk's Association.

5) Alexander Taswell Gordon (1862-1943) was Judge of Louisa County Court and a member of the Louisa Bar Association. His portrait in oil is by Isabel Mayo.

6) Reubin Lindsay Gordon, Jr. (1855-1939) was a member of the Virginia Constitutional Convention in 1901. He was also a Virginia Delegate from 1914-1928 and the Louisa Commonwealth's Attorney for 16 years. He was the son of William F. Gordon. His portrait is also by Isabel Mayo.

Top to bottom

7) Willie Walker Whitlock's portrait was presented to the Circuit Court of Louisa County on Sunday 21 of February 1999. John D. Whitlock, his son, presented the portrait. Mr. Whitlock was born 16 November 1925 in Mineral, Virginia. He began the practice of law in January of 1955. He is President of the Louisa County Bar Association.

8) William Earl Crank (1891-1983) was the Commonwealth's attorney from 1923 to 1963. He was the president of the Louisa County Bar and a veteran of WWI. His portrait is by Albert B. Vondra in 1964.

Doorway

9) Princess Louisa was the daughter of King George II and Queen Caroline of England. In 1743, after the formation of Louisa County, she married Crown Prince Frederick of Denmark. The 250th Anniversary Committee presented the portrait to Judge F. Ward Harkrader on the 12th of December 1992. Steven M. Mickle of Lynchburg executed the pastel portrait. Mr. Mickle copied it from a life size portrait by Carl Gustaf Pilo, which hangs in Rosenborg Palace, Copenhagen, Denmark.

Group of four clockwise

10) E. Barbour Pendleton, Jr. was State Treasurer, a State Delegate and Louisa County Treasurer.

11) Captain Frank V. Winston (1830-1915) was a member of the Louisa County Bar and a member of the Louisa Blues. He was sent to the Confederate Legislature in 1863. His portrait is rendered in charcoal.³

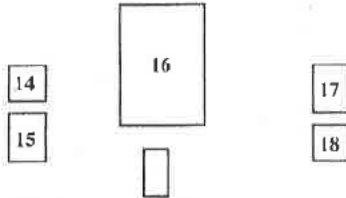
12) Reverend James Littleberry Haley (1832-1917) was a Baptist minister. He was the first Superintendent of Public Schools (1869-1883) in Louisa. He was also in the State Legislature, elected in 1905 to the House of Delegates. He was also Director of the Bank of Louisa for many years. His portrait was unveiled on the 7th of June 1987 at the Louisa County Historical

Portraits in the Louisa County Courthouse

Society meeting. The artist is Mr. Richard Hillier of Wicomico Church.

13) Colonel William Overton Harris of "Hickory Hill" (1796-1861) fought in the War of 1812 in the 7th Regiment. He was a justice at the Louisa County Court from 1837 to 1861. Mr. Harris was a delegate to the General Assembly in 1848. He was Colonel of the 40th Regiment of Virginia Militia. Adele Clark, a descendent presented his portrait in January of 1958. She copied it from the first portrait hung at courthouse about 50 years earlier.

Back Wall



14) Major Andrew J. Richardson (1836-1912) was an officer in the 23rd Virginia Infantry representing Louisa County. He later served Louisa as the Commissioner of Revenue for 37 years. The portrait of Andrew J. Richardson was presented to the court by Mr. R. L. Gordon and accepted by Judge Rutherford on the 11th of September 1918. Mr. Gordon stated that "Major Richardson was a gallant Confederate Officer and soldier, an efficient county officer and Christian gentleman."⁴ He was a Delegate from 1894-95. His portrait is executed in charcoal.

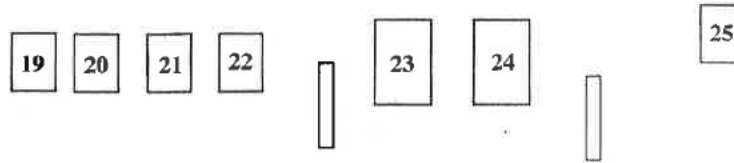
15) General Clayton Coleman (1807-1872) of "Jerdone's Castle" was a court justice and a state senator in 1865. He headed the Louisa Militia for the confederacy. The portrait was presented by Clarence G. Coleman and accepted 10 July 1911.⁵ His portrait is in charcoal and sepia.

16) The large portrait of Robert E. Lee was painted by Duncan Smith, a Charlottesville artist in 1908. Under the painting hangs a United Daughters of the Confederacy Certificate at their 14th of December 1916 establishment.

17) Rear Admiral David Watson Taylor of "West End" (1864-1940) was the Chief United States Naval Constructor and Chief of the Bureau of Construction and Repair. Mr. Taylor was responsible for the construction and design of 893 vessels for the U.S. Navy. The David Taylor Model Basin was named for him. On October 16, 1964, the portrait was unveiled and presented on behalf of the Taylor family. He was son of Henry and Mary Minor Taylor. He graduated from the United States Military Academy in 1885 at the head of his class. He also attended the Royal College of Greenwich England. He achieved the rank of Rear Admiral in 1917. For his service he was awarded the Navy Distinguished Service Medal. He is represented in a photograph.⁶

18) Dr. Robert Lewis Dabney (1820-1897), born at Payne's Mill was a theologian, minister, teacher and leader in the Southern Presbyterian Church. He was a Confederate soldier on the staff of General Stonewall Jackson about whom he wrote a book. This portrait is a print.⁷

Opposite Wall



19) Dr. Samuel Dabney was a physician.

20) Dr. Eugene Barbour Pendleton of "Cuckoo" (1885-1981) was a beloved Louisa County physician. His oil portrait was done by David Silvetta in 1984.

21) Dr. Percy Wooton - 5 October 1997 presented by Anne Pendleton Wooton, daughter. He was elected president of the American Medical Association in June 1997; served as member of the Board of Trustees of the American Medical Association since 1991; member of the House of Delegates of the organization since 1974, during which tenure he was a member of the Section Council on Cardiovascular Disease from 1985-1991; and as a member of the Executive Committee from 1989 to 1991 and Clinical Professor of Medicine at the Medical College of Virginia/Virginia Commonwealth University; a Fellow of the American College of Physicians and a Fellow of the American College of Cardiology. He also served as an American Medical Association Commissioner to the Joint Commission on Accreditation of Healthcare organizations from 1993 to 1996. His oil portrait is by Louis Briel in 1997.

22) Dr. William Meredith (1734-1835) was a physician and in the Virginia Legislature. His portrait is done in charcoal and sepia.

Behind the Jury

23) Judge Harold H. Purcell was the Judge of the Louisa Circuit Court from 1966 to 1979. He was a Delegate from Louisa from 1947 to 1958 and in the Senate of Virginia from 1958 to 1966. His portrait is by David Sivatte.

24) Judge Frederick Wilmer Sims (1862-1925) was a Judge of the County Court from 1891 to 1904. He was in the State Senate from 1905 to 1912 and on the Supreme Court of Appeals from 1917 to 1924. He was president of the Supreme Court of Appeals from 1924 to 1925.⁸

Doorway

25) Matthew Anderson Hope (1823-1882) of Hope Tavern, was a Louisa

Portraits in the Louisa County Courthouse

County Justice. He was noted for his extreme size. His portrait is by Fallon in 1908.

Behind the Judge

26

26) William Stapleton Gooch (1858-1933) was Judge of Louisa County from 1886-1890.

27) Judge Daniel A. Grimsley (-1910) was a Circuit Court Judge from 1904 to 1910. His photograph was presented to Judge Shackelford by the chairman of the Board of Supervisors on the 14 of November 1910.⁹

28) Bust of Patrick Henry sculpted by Jack Witt. Patrick Henry came to prominence defending the Louisa County Sheriff and Vestrymen in the Parson's Cause. He represented Louisa County in the House of Burgesses from 1765-1768. The bust was presented and donated by the Bicentennial Commission. Doug Fuller made the pedestal. The unveiling of the bust was on 29 May 1987.

Outside of the Clerk's office on the ground floor

29) David M. Hunter (1808-1877) served as Clerk of Louisa County Court from 1852-1865 after serving as Deputy Clerk under his brother John Hunter. He was the first clerk elected by popular election, which was instituted in 1851. It is felt he was responsible for keeping the courthouse records intact during the War Between the States.

30) John Hunter, Jr. (1798-1890) was Clerk of Louisa County Court from 1820 to 1852. His portrait was presented on the 10th of November 1908. It is painted by Duncan Smith.

31) John Chew Cammack (1820-1872) served as clerk of Louisa County Court from 1865 to 1870. He was allowed to be clerk because he had not served in the Confederacy. He was chairman of the first Board of Supervisors. Mr. Cammack was largely responsible for the growth of the town of Louisa.

Others

32) David Richardson (1787-1871) was a Louisa County Justice and surveyor. A mathematician and astronomer, he wrote "Warrock's Edition of Richardson's Almanac" for at least 57 years.

33) Patrick Henry (1736-1799) in the Law Library - Patrick Henry was the Louisa Representative in the House of Burgess when he spoke out against the Stamp Act in 1765. The Hon. Judge F. Ward Harkrader, Jr. and his wife presented the painting on the 6th of April 2000. Colonial Williamsburg authorized the replica of the original Thomas Sully painting.

34) Dr. Meredith Fox (1776-1850) was a son of Captain John Fox. Revolutionary officer of the 6th Virginia Regiment of the Continental Line.

The painting was saved from a fire at Roundabout Castle mansion in 1913. John Toole is the artist.

35) William B. Pettit's portrait was presented by W. A.C. Pettit on the 17th of March 1911 to Judge Shackelford.¹⁰

36) Stewart Alfred Cunningham (1909-1975), a self educated lawyer, began as a Clerk of the Trial Justice Court under Mr. A. T. (Sandy) Gordon. This system replaced Justice of the Peace system. The Trial Justice Court was changed to the Louisa County Court in 1956. Judge Cunningham was first appointed Judge of Louisa County Court on May 30, 1946. He also served as Court Reporter for the Louisa County Circuit Court and as Commissioner in Chancery. At his death he was a General District Court and Domestic Relations Court Judge.¹¹

37) R. Earl Ogg (1909-1979) served on the Board of Supervisors representing the Green Springs District from 1956 to 1979. He is depicted in photograph.

38) Edward H. Lane (1827-1880) was made judge of the Louisa County Court on the 11th of April 1870 and served until 1879.

1. Supervisors Journal no. 3, 9 April 1906.

2. LOB, 1912-1916, 8 September 1917, p. 227.

3. LOB, 1912-1916, p. 506.

4. LOB, 1916-1921, p. 295.

5. LOB, 1904-1911, p. 580.

6. LOB #18, p. 170 16 October 1964.

7. Dr. Robert Lewis Dabney, *Life and Campaign of Lieutenant-General T.J. (Stonewall) Jackson*.

8. Chancery Book #13, p. 90, Judge Frederick Sims, 20 March 1925.

9. Louisa County Order Book, p. 528, 14 November 1910.

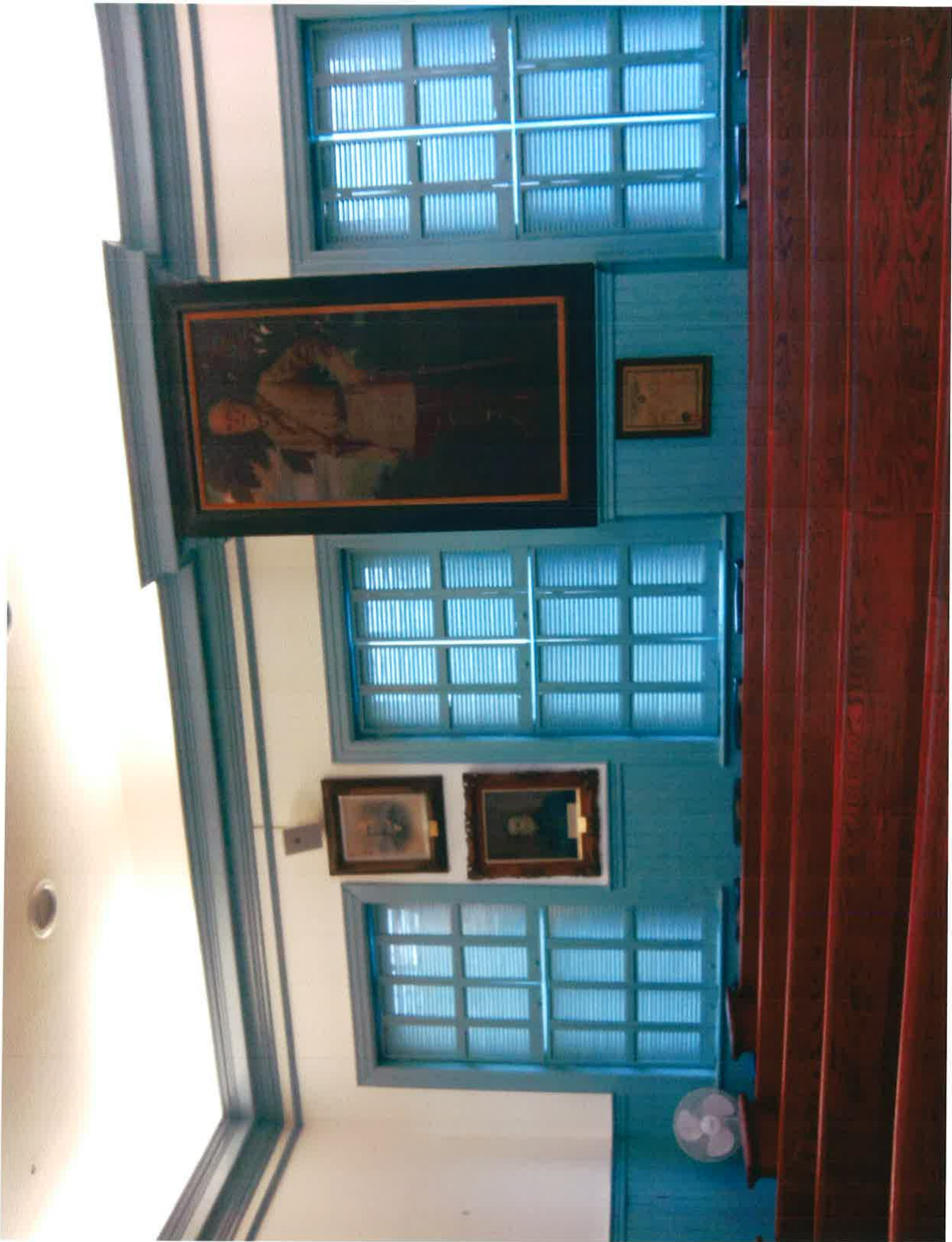
10. LOB, 1904-1911, p. 553.

11. LOB #22, p. 151, 19 June 1974.



Exhibit

Two



Exhibit

Three

United Daughters of the Confederacy



Whereby authorized and empowers Mrs. Annie K. Barrett
 Mrs. Kate Covine and Pitt Mrs. George C. Woodward, Mrs. Lucy Houston Smith
 Mrs. Mary M. D. Gordon Mrs. Frank Johnson Mrs. Willie H. Crawford
 Miss Abigail Hunter Mrs. Peter A. Dutton Mrs. Elizabeth Moore Baker
 Mrs. Margaret Gordon Clarke Mrs. Eugenia J. Russell Mrs. Eleanor Harrison Kinlan
 Mrs. Josephine Jones Porter Mrs. Elizabeth N. Rammage Mrs. Kate Bryant Peck
 Mrs. Anne Meredith Russell Mrs. Annie B. Perouse Mrs. Barbara Johnston Keese
 Mrs. Edith Boyley Davis Mrs. Annie Brooks Goodwin Mrs. Eugenia Cook Kello
 Mrs. H. A. Jett Mrs. Annie M. Walker Mrs. Willie M. Counts Boyer
 Mrs. Cordia L. Moore Mrs. Etta K. Saunders
 Mrs. Betty Barrett Russell Mrs. A. Lavette Smith
 Mrs. Annie Barrett M. Leiston Mrs. Cora Bell Keith
 Mrs. Lucile Fry Walker Mrs. Isabelle C. Chandler
 Mrs. Lucy Hendela Goodwin Mrs. Lucy Houston Smith
 Mrs. Eugenia A. B. Jackson Mrs. Wade C. Crawford
 and their successors associate themselves together under the name and
 designation of Louisa Chapter No. 1643

United Daughters of the Confederacy

to be located at Louisa in the County of Louisa
 State of Virginia



This said Louisa Chapter No. 1643 is authorized
 to perform all acts pertaining to the purposes of this Association and to conduct
 for its own government, such by laws as may be deemed necessary provided
 they do not conflict with the Charter or Constitution of this Association.

In testimony of which we have hereunto affixed our signatures at
 Austin, Tex. this 14th day of September 1916

United Daughters of the Confederacy

Cordelia Powell Ostrander
 Annie Hanson Bellamy

Exhibit

Four

hospitals, shopping centers, post offices, and department stores have been retrofitted to be used as courthouses.

As a general rule, it is nearly always easier and less expensive to renovate court spaces for general office functions than to renovate general office space for courts. The reuse of general office space, whether built for government or business, is not suitable for many court operations. Most general office buildings do not have adequate vertical circulation system (elevators) and the proper floor plates to accommodate three separate circulations systems or zones.

Secondly, the floor to ceiling heights in most general office buildings is too low to properly accommodate courtrooms that should have a minimum of about 14 feet from floor to ceiling. While general office space may not be appropriate for courtroom and chambers, it is perfectly acceptable for many court support functions, or ancillary offices, such as the Commonwealth's Attorney, public defender, or probation. These may either remain in a county or city administration building or be located in other general office spaces that have been renovated for their use, as long as it remains close to the courthouse.

It also is important to think of the image that the retrofitted building will present to the community and how it will affect attitudes of litigants. Will the building project a sense of decorum and dignity that is essential to all court facilities or will it project an image of retail or assembly line justice?

Shopping centers have an advantage in that there is generally plenty of parking, a commodity that is all too often lacking in many downtown courthouses. Further, many shopping centers are built with high ceilings and fairly large spaces between support columns, permitting great flexibility in locating courtrooms. While it may not be considered appropriate for general jurisdiction trial courts, shopping center locations may be very functional for limited jurisdiction courts that handle high volume functions such as traffic and misdemeanor cases. The disadvantage of a shopping center is that they are almost always one story structures which make it difficult to achieve prisoner access to all courts without penetrating either the public or private circulation.

G. Project Phasing

A major problem with nearly any renovation projects is the need to phase the work so that the courts may continue to operate during construction. It is often necessary to find temporary quarters for the courts to occupy while the existing space is being worked on. This can add extra costs and time to the project if it is necessary to lease temporary space that first must be retrofitted to provide minimum functionality for courts. Where there is also a new addition being built along with renovation of existing facilities, the new facilities may serve as the temporary swing space for courts while space in the existing facility is being renovated.

CHAPTER 4 - COURTHOUSE DESIGN CONCEPTS

I. GENERAL DESIGN PRINCIPLES

The courthouse should be designed to make maximum use of energy saving features. This involves proper selection of building materials, placement, size and types of windows, potential use of solar devices and appropriate internal zoning of heating and air conditioning. Energy systems are important for court facilities being planned now to last for fifty or more years.

Opportunities for dual uses of some interior spaces should be considered when possible. The jury assembly room, for example, may be used in the evenings as a civic meeting room or for training programs when not needed for jurors. Unfinished, shelled-in courtrooms can be used for records storage or other purposes until full expansion is needed.

A. Building Image

The architectural design for a new court facility should present a bold but dignified and appropriate judicial appearance that reflects the community's traditions and culture.

In general the design should present an image that:

- Engenders public trust and confidence through an image of transparency, openness, fairness and dignity;
- Reinforces the independence of the judicial system with a design that is distinctive and emblematic of the courts;
- Reflects the importance, authority and stability of the justice system without being extravagant or ostentatious;
- Conveys a sense of efficiency and decorum;
- Is readily comprehensible and accessible to visitors; and
- Recognizes the historical nature of the community and its traditions and culture.



Historic Williamsburg Courthouse

Exhibit

Five



USA

AP Explains: How Robert E. Lee Went From Hero to Racist Icon

August 14, 2017 4:57 AM Associated Press



FILE - Workers prepare to take down the statue of former Confederate general Robert E. Lee in New Orleans, May 19, 2017.

Confederate Army Gen. Robert E. Lee was vilified during the Civil War only to become a heroic symbol of the South's "Lost Cause" — and eventually a racist icon.

His transformation, at the center of the recent violence in Charlottesville, Virginia, reflects the changing moods in the United States around race, mythology and national reconciliation, historians say.

Lee monuments, memorials and schools in his name erected at the turn of the 20th Century are now facing scrutiny amid a demographically changing nation.

But who was Robert E. Lee beyond the myth? Why are there memorials in his honor in the first place?

The Soldier

A son of American Revolutionary War hero Henry "Light-Horse Harry" Lee, Robert E. Lee graduated second in his class at West Point and distinguished himself in various battles during the U.S.-Mexico War. As tensions heated around southern secession, Lee's former mentor, Gen. Winfield Scott, offered him a post to lead the Union's forces against the South. Lee declined, citing his reservations about fighting against his home state of Virginia.

Lee accepted a leadership role in the Confederate forces although he had little experience leading troops. He struggled but eventually became a general in the Confederate Army, winning battles largely because of incompetent Union Gen. George McClellan. He would win other important battles against other Union's generals, but he was often stalled. He was famously defeated at Gettysburg by Union Maj. Gen. George Meade. Historians say Lee's massed infantry assault across a wide plain was a gross miscalculation in the era of artillery and rifle fire.

A few weeks after becoming the general in chief of the armies of the Confederate states, Lee surrendered to Union Gen. Ulysses S. Grant at Appomattox Court House in Virginia on April 9, 1865.

The Slave Owner

A career army officer, Lee didn't have much wealth, but he inherited a few slaves from his mother. Still, Lee married into one of the wealthiest slave-holding families in Virginia — the Custis family of Arlington and descendants of Martha Washington. When Lee's father-in-law died, he took leave from the U.S. Army to run the struggling estate and met resistance from slaves expecting to be freed.

Documents show Lee was a cruel figure with his slaves and encouraged his overseers to severely beat slaves captured after trying to escape. One slave said Lee was one of the meanest men she had ever met.

In a 1856 letter, Lee wrote that slavery is "a moral & political evil." But Lee also wrote in the same letter that God would be the one responsible for emancipation and blacks were better off in the U.S. than Africa.

The Lost Cause Icon

After the Civil War, Lee resisted efforts to build Confederate monuments in his honor and instead wanted the nation to move on from the Civil War.

After his death, Southerners adopted "The Lost Cause" revisionist narrative about the Civil War and placed Lee as its central figure. The Lost Cause argued the South knew it was fighting a losing war and decided to fight it anyway on principle. It also tried to argue that the war was not about slavery but high constitutional ideals.

As The Lost Cause narrative grew in popularity, proponents pushed to memorialize Lee, ignoring his deficiencies as a general and his role as a slave owner. Lee monuments went up in the 1920s just as the Ku Klux Klan was experiencing a resurgence and new Jim Crow segregation laws were adopted.

The Robert E. Lee statue in Charlottesville, Virginia, went up in 1924. A year later, the U.S. Congress voted to use federal funds to restore the Lee mansion in the Arlington National Cemetery.

The U.S. Mint issued a coin in his honor, and Lee has been on five postage stamps. No other Union figure besides President Abraham Lincoln has similar honors.

A New Memory

A generation after the civil rights movement, black and Latino residents began pressuring elected officials to dismantle Lee and other Confederate memorials in places like New Orleans, Houston and South Carolina. The removals partly were based on violent acts committed white supremacists using Confederate imagery and historians questioning the legitimacy of The Lost Cause.

A Gen. Robert E. Lee statue was removed from Lee Circle in New Orleans as the last of four monuments to Confederate-era figures to be removed under a 2015 City Council vote.

The Houston Independent School District also voted in 2016 to rename Robert E. Lee High School, a school with a large Latino population, as Margaret Long Wisdom High School.

Earlier this year, the Charlottesville, Virginia, City Council voted to remove its Lee statue from a city park, sparking a lawsuit from opponents of the move. The debate also drew opposition from white supremacists and neo-Nazis who revered Lee and the Confederacy. The opposition resulted in rallies to defend Lee statues this weekend that resulted in at least three deaths.

Associated Press

POLITICS

The Myth of the Kindly General Lee

The legend of the Confederate leader's heroism and decency is based in the fiction of a person who never existed.

ADAM SERWER JUN 4, 2017



JONATHAN BACHMAN / REUTERS

The strangest part about the continued personality cult of Robert E. Lee is how few of the qualities his admirers profess to see in him he actually possessed.

Memorial Day has the tendency to conjure up old arguments about the Civil War. That's understandable; it was created to mourn the dead of a war in which the Union was nearly destroyed, when half the country rose up in rebellion in defense of slavery. This year, the removal of Lee's statue in New Orleans has inspired a new round of commentary about Lee, not to mention protests on his behalf by white supremacists.

The myth of Lee goes something like this: He was a brilliant strategist and devoted Christian man who abhorred slavery and labored tirelessly after the war to bring the country back together.

There is little truth in this. Lee was a devout Christian, and historians regard him as an accomplished tactician. But despite his ability to win individual battles, his decision to fight a conventional war against the more densely populated and industrialized North is considered by many historians to have been a fatal strategic error.

But even if one conceded Lee's military prowess, he would still be responsible for the deaths of hundreds of thousands of Americans in defense of the South's authority to own millions of human beings as property because they are black. Lee's elevation is a key part of a 150-year-old propaganda campaign designed to erase slavery as the cause of the war and whitewash the Confederate cause as a noble one. That ideology is known as the Lost Cause, and as historian David Blight writes, it provided a "foundation on which Southerners built the Jim Crow system."

There are unwitting victims of this campaign—those who lack the knowledge to separate history from sentiment. Then there are those whose reverence for Lee relies on replacing the actual Lee with a mythical figure who never truly existed.

In the *Richmond Times Dispatch*, R. David Cox wrote that "For white supremacist protesters to invoke his name violates Lee's most fundamental convictions." In the conservative publication *Townhall*, Jack Kerwick concluded that Lee was "among the finest human beings that has ever walked the Earth." John Daniel Davidson, in an essay for *The Federalist*, opposed the removal of the Lee statute in part on the grounds that Lee "arguably did more than anyone to unite the country after the war and bind up its wounds." Praise for Lee of this sort has flowed forth from past historians and presidents alike.

This is too divorced from Lee's actual life to even be classed as fan fiction; it is simply historical illiteracy.

White supremacy does not "violate" Lee's "most fundamental convictions." White supremacy was one of Lee's most fundamental convictions.

Lee was a slaveowner—his own views on slavery were explicated in an 1856 letter that it often misquoted to give the impression that Lee was some kind of an abolitionist. In the letter, he describes slavery as "a moral & political evil," but goes on to explain that:

I think it however a greater evil to the white man than to the black race, & while my feelings are strongly enlisted in behalf of the latter, my sympathies are more strong for the former. The blacks are immeasurably better off here than in Africa, morally, socially & physically. The painful discipline they are undergoing, is necessary for their instruction as a race, & I hope will prepare & lead them to better things. How long their subjugation may be necessary is known & ordered by a wise Merciful Providence. Their emancipation will sooner result from the mild & melting influence of Christianity, than the storms & tempests of fiery Controversy.

The argument here is that slavery is bad for white people, good for black people, and most importantly, it is better than abolitionism; emancipation must wait for divine intervention. That black people might not want to be slaves does not enter into the equation; their opinion on the subject of their own bondage is not even an afterthought to Lee.

Lee's cruelty as a slavemaster was not confined to physical punishment. In *Reading the Man*, the historian Elizabeth Brown Pryor's portrait of Lee through his writings, Pryor writes that "Lee ruptured the Washington and Custis tradition of respecting slave families," by hiring them off to other plantations, and that "by 1860 he had broken up every family but one on the estate, some of whom had been together since Mount Vernon days." The separation of slave families was one of the most unfathomably devastating aspects of slavery, and Pryor wrote that Lee's slaves regarded him as "the worst man I ever see."

The trauma of rupturing families lasted lifetimes for the enslaved—it was, as my colleague Ta-Nehisi Coates described it, "a kind of murder." After the war, thousands of the emancipated searched desperately for kin lost to the market for human flesh, fruitlessly for most. In *Reconstruction*, the historian Eric Foner quotes a Freedmen's Bureau agent who notes of the emancipated, "in their eyes, the work of emancipation was incomplete until the families which had been dispersed by slavery were reunited."

Lee's heavy hand on the Arlington plantation, Pryor writes, nearly led to a slave revolt, in part because the enslaved had been expected to be freed upon their previous master's death, and Lee had engaged in a dubious legal interpretation of

his will in order to keep them as his property, one that lasted until a Virginia court forced him to free them.

When two of his slaves escaped and were recaptured, Lee either beat them himself or ordered the overseer to "lay it on well." Wesley Norris, one of the slaves who was whipped, recalled that "not satisfied with simply lacerating our naked flesh, Gen. Lee then ordered the overseer to thoroughly wash our backs with brine, which was done."

Every state that seceded mentioned slavery as the cause in their declarations of secession. Lee's beloved Virginia was no different, accusing the federal government of "perverting" its powers "not only to the injury of the people of Virginia, but to the oppression of the Southern Slaveholding States." Lee's decision to fight for the South can only be described as a choice to fight for the continued existence of human bondage in America—even though for the Union, it was not at first a war for emancipation.

During his invasion of Pennsylvania, Lee's Army of Northern Virginia enslaved free blacks and brought them back to the South as property. Pryor writes that "evidence links virtually every infantry and cavalry unit in Lee's army" with the abduction of free black Americans, "with the activity under the supervision of senior officers."

Soldiers under Lee's command at the Battle of the Crater in 1864 massacred black Union soldiers who tried to surrender. Then, in a spectacle hatched by Lee's senior corps commander A.P. Hill, the Confederates paraded the Union survivors through the streets of Petersburg to the slurs and jeers of the southern crowd. Lee never discouraged such behavior. As the historian Richard Slotkin wrote in *No Quarter: The Battle of the Crater*, "his silence was permissive."

The presence of black soldiers on the field of battle shattered every myth the South's slave empire was built on: the happy docility of slaves, their intellectual inferiority, their cowardice, their inability to compete with whites. As Pryor writes, "fighting against brave and competent African Americans challenged every underlying tenet of southern society." The Confederate response to this challenge was to visit every possible atrocity and cruelty upon black soldiers whenever possible, from enslavement to execution.

As the historian James McPherson recounts in *Battle Cry of Freedom*, in October of that same year, Lee proposed an exchange of prisoners with the Union general Ulysses S. Grant. “Grant agreed, on condition that blacks be exchanged ‘the same as white soldiers.’” Lee’s response was that “negroes belonging to our citizens are not considered subjects of exchange and were not included in my proposition.” Because slavery was the cause for which Lee fought, he could hardly be expected to easily concede, even at the cost of the freedom of his own men, that blacks could be treated as soldiers and not things. Grant refused the offer, telling Lee that “Government is bound to secure to all persons received into her armies the rights due to soldiers.” Despite its desperate need for soldiers, the Confederacy did not relent from this position until a few months before Lee’s surrender.

After the war, Lee did counsel defeated southerners against rising up against the North. Lee might have become a rebel once more, and urged the South to resume fighting—as many of his former comrades wanted him to. But even in this task Grant, in 1866, regarded his former rival as falling short, saying that Lee was “setting an example of forced acquiescence so grudging and pernicious in its effects as to be hardly realized.”

Nor did Lee’s defeat lead to an embrace of racial egalitarianism. The war was not about slavery, Lee insisted later, but if it was about slavery, it was only out of Christian devotion that white southerners fought to keep blacks enslaved. Lee told a *New York Herald* reporter, in the midst of arguing in favor of somehow removing blacks from the South (“disposed of,” in his words), “that unless some humane course is adopted, based on wisdom and Christian principles you do a gross wrong and injustice to the whole negro race in setting them free. And it is only this consideration that has led the wisdom, intelligence and Christianity of the South to support and defend the institution up to this time.”

Lee had beaten or ordered his own slaves to be beaten for the crime of wanting to be free, he fought for the preservation of slavery, his army kidnapped free blacks at gunpoint and made them unfree—but all of this, he insisted, had occurred only because of the great Christian love the South held for blacks. Here we truly understand Frederick Douglass’s admonition that “between the Christianity of this land and the Christianity of Christ, I recognize the widest possible difference.”

Privately, according to the correspondence collected by his own family, Lee counseled others to hire white labor instead of the freedmen, observing “that wherever you find the negro, everything is going down around him, and wherever you find a white man, you see everything around him improving.”

In another letter, Lee wrote “You will never prosper with blacks, and it is abhorrent to a reflecting mind to be supporting and cherishing those who are plotting and working for your injury, and all of whose sympathies and associations are antagonistic to yours. I wish them no evil in the world—on the contrary, will do them every good in my power, and know that they are misled by those to whom they have given their confidence; but our material, social, and political interests are naturally with the whites.”

Publicly, Lee argued against the enfranchisement of blacks, and raged against Republican efforts to enforce racial equality on the South. Lee told Congress that blacks lacked the intellectual capacity of whites and “could not vote intelligently,” and that granting them suffrage would “excite unfriendly feelings between the two races.” Lee explained that “the negroes have neither the intelligence nor the other qualifications which are necessary to make them safe depositories of political power.” To the extent that Lee believed in reconciliation, it was between white people, and only on the precondition that black people would be denied political power and therefore the ability to shape their own fate.

Lee is not remembered as an educator, but his life as president of Washington College (later Washington and Lee) is tainted as well. According to Pryor, students at Washington formed their own chapter of the KKK, and were known by the local Freedmen’s Bureau to attempt to abduct and rape black schoolgirls from the nearby black schools.

There were at least two attempted lynchings by Washington students during Lee’s tenure, and Pryor writes that “the number of accusations against Washington College boys indicates that he either punished the racial harassment more laxly than other misdemeanors, or turned a blind eye to it,” adding that he “did not exercise the near imperial control he had at the school, as he did for more trivial matters, such as when the boys threatened to take unofficial Christmas holidays.” In short, Lee was as indifferent to crimes of violence toward blacks carried out by his students as he was when they were carried out by his soldiers.

Lee died in 1870, as Democrats and ex-Confederates were commencing a wave of terrorist violence that would ultimately reimpose their domination over the Southern states. The Ku Klux Klan was founded in 1866; there is no evidence Lee ever spoke up against it. On the contrary, he darkly intimated in his interview with the *Herald* that the South might be moved to violence again if peace did not proceed on its terms. That was prescient.

Lee is a pivotal figure in American history worthy of study. Neither the man who really existed, nor the fictionalized tragic hero of the Lost Cause, are heroes worthy of a statue in a place of honor. As one Union veteran angrily put it in 1903 when Pennsylvania was considering placing a statue to Lee at Gettysburg, “If you want historical accuracy as your excuse, then place upon this field a statue of Lee holding in his hand the banner under which he fought, bearing the legend: ‘We wage this war against a government conceived in liberty and dedicated to humanity.’” The most fitting monument to Lee is the national military cemetery the federal government placed on the grounds of his former home in Arlington.

To describe this man as an American hero requires ignoring the immense suffering for which he was personally responsible, both on and off the battlefield. It requires ignoring his participation in the industry of human bondage, his betrayal of his country in defense of that institution, the battlefields scattered with the lifeless bodies of men who followed his orders and those they killed, his hostility toward the rights of the freedmen and his indifference to his own students waging a campaign of terror against the newly emancipated. It requires reducing the sum of human virtue to a sense of decorum and the ability to convey gravitas in a gray uniform.

There are former Confederates who sought to redeem themselves—one thinks of James Longstreet, wrongly blamed by Lost Causers for Lee’s disastrous defeat at Gettysburg, who went from fighting the Union army to leading New Orleans’s integrated police force in battle against white supremacist paramilitaries. But there are no statues of Longstreet in New Orleans.* Lee was devoted to defending the principle of white supremacy; Longstreet was not. This, perhaps, is why Lee was placed atop the largest Confederate monument at Gettysburg in 1917, but the 6-foot-2-inch Longstreet had to wait until 1998 to receive a smaller-scale statue hidden in the woods that makes him look like a hobbit riding a donkey. It’s why Lee is remembered as a hero, and Longstreet is remembered as a disgrace.

The white supremacists who have protested on Lee's behalf are not betraying his legacy. In fact, they have every reason to admire him. Lee, whose devotion to white supremacy outshone his loyalty to his country, is the embodiment of everything they stand for. Tribe and race over country is the core of white nationalism, and racists can embrace Lee in good conscience.

The question is why anyone else would.

**This article originally stated that there are no statues of Longstreet in the American South; in fact, there is one in his hometown of Gainesville, Georgia. We regret the error.*

We want to hear what you think about this article. Submit a letter to the editor or write to letters@theatlantic.com.

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Exhibit

Six

https://www.richmond.com/news/virginia/washington-and-lee-renames-buildings-orders-portraits-of-lee-washington/article_fe3cc1c0-6596-5e70-bbad-fa341cdf3342.html

Washington and Lee renames buildings; orders portraits of Lee, Washington in military attire replaced

From staff reports Oct 9, 2018



Washington and Lee University in Lexington, Virginia Friday, June 6, 2008.

BOB BROWN

Washington and Lee University has decided to make changes to the names of some campus buildings after concerns from students and faculty.

On Tuesday, the Board of Trustees announced that it will rename Robinson Hall as Chavis Hall, in honor of John Chavis, the first African-American to receive a college education in the United States. He graduated from Washington Academy, the predecessor of W&L, in 1799. Also, Lee-Jackson House will be renamed Simpson Hall in honor of Pamela Hemenway Simpson, who served as an associate dean of the college and helped move to a co-ed environment in the 1980s.

The board also announced that effective immediately, it will replace portraits of Robert E. Lee and George Washington in military uniforms inside Lee Chapel with portraits of the two men in civilian clothing. The board also ordered the doors to the statue chamber in the 1883 addition to Lee Chapel to be closed during university events.

The board's decisions were made after meeting with students and faculty last weekend and after reviewing feedback from alumni.

In a statement, J. Donald Childress, rector of the board of trustees, and William C. Dudley, university president, said, "We appreciate the seriousness and thoughtfulness with which our fellow trustees have approached these matters. On behalf of the Board, we want to express our gratitude to all of those members of the community who contributed to our deliberations, through countless letters and conversations over the summer and on campus this weekend. We are fortunate to be part of a community that cares deeply about this institution and is so dedicated to its continued success."

Last year, Dudley named the Commission on Institutional History and Community to address the university's history after the visceral national response to events in Charlottesville, when white nationalists protested plans to remove a statue of Lee from a city park. The commission recommended the university stop holding campus events in Lee Chapel and instead transform the entire building into a museum with a new name.

One of the commission's major areas of focus was Robinson Hall, named for a founder of the university. John Robinson left his estate, a large farm and 73 enslaved men, women and children, to the college. In 1836, the college sold the slaves and used the funds to build Robinson Hall on the campus' historic Colonnade.

The commission recommended renaming Robinson Hall, expanding recognition of enslaved people on campus, hiring a genealogist to track down their descendants and potentially establishing an education fund to support their secondary or collegiate educations.

The board of trustees has taken the first step by renaming the building Chavis Hall, but the other recommendations have not yet been considered.

Dudley announced in August that the university planned to hire a director of institutional history, who will spearhead some of the initiatives suggested in the commission's report. The director would be responsible for determining whether the university should hire a genealogist or use resources already dedicated to studying the history of African-Americans on campus. The new director will also be in charge of the design, construction and operation of a new museum dedicated to the history of Washington and Lee and its connections to American history. The director will also oversee Lee

Chapel.

The commission recommended renaming Lee Chapel, Lee House and Lee-Jackson House. Dudley said that both Lee Chapel and Lee House will keep their names.

Robert E. Lee was president of Washington College from 1865, shortly after the Confederate surrender, until his death in 1870, when his name was added to the institution's. Lee Chapel is a central building to campus life — Lee and his family are buried there.

Exhibit

Seven

ORDER AND MEMORANDUM

(Pursuant to Section 8.01-4 of the 1950 Code of Virginia, as amended, *Belvin v. Richmond*, 85 Va. 574 (1888), and Judicial Canon 3(B)(5))

TO: Tom Rose, Mayor Ray Welland, Susan Gasperini, Patrick County Bar Association President Chris Corbett, Alan Black, Sheriff Dan Smith, Board Chairman Karl Weiss, Chief Judge David V. Williams

On August 19, 2015, I personally removed General J. E.B. Stuart's portrait from the Patrick County Circuit Court's courtroom.

This will no doubt anger, perplex and disappoint many residents of our county, perhaps even the majority of people who live here. It will be an unpopular decision in many quarters, especially given that the courthouse is located in a town named in Stuart's honor. Still, it is my goal—and my duty as a judge—to provide a trial setting that is perceived by all participants as fair, neutral and without so much as a hint of prejudice. Confederate symbols are, simply put, offensive to African Americans, and this reaction is based on fact and clear, straightforward history. Bigotry saturates the Confederacy's founding principles, its racial aspirations and its public pronouncements. For instance, the Declarations of Causes—the legal and philosophical grounds recited by the Southern states for leaving the Union—could just as easily be called *The South's Demands to Mistreat Black People*. South Carolina, according to its declaration, felt wronged because of “an increasing hostility on the part of non-slaveholding states to the institution of slavery,” and, ironically, complained that the federal government had “denounced as sinful the institution of slavery.” Mississippi's main reason for leaving the Union is unmistakably framed and repeated early and often in its causes document: “Our position is thoroughly identified with the institution of slavery—the greatest material interest in the world.” The Mississippi document goes on to condemn the notion of “negro equality, socially and politically,” and finds fault with Mississippi residents being denied “the right of property in slaves.” Georgia listed its grievances “with reference to the subject of African slavery,” and insisted on its right to hold slaves. The single specific injury mentioned in Virginia's actual Secession Ordinance is “the oppression of the Southern slaveholding states.” And, finally, lest there be any doubt exactly why black Americans might legitimately find the symbols of the Confederacy unsettling, here are the words of the Confederacy's Vice President, Alexander Stephens, on the subject of slavery and race: “Our new government is founded upon exactly the opposite ideas; its foundations are laid, its cornerstone rests, upon the great truth that the negro is not equal to the white man; that slavery subordination to the superior race is his natural and normal condition.”

I have heard from several of my local friends that people—like myself—who are critical of Confederate symbols need “to read the real history.” I have. I've cited it above in black and white from the actual Confederate documents. Virginia Tech historian and Civil War authority James “Bud” Robertson taught his students that “slavery was unquestionably the primary cause of the war.” I've read how Confederate flags waved in the galleries after the Virginia legislature passed its racist, embarrassing and unconstitutional Massive Resistance scheme. When George Wallace proclaimed “segregation now, segregation tomorrow, segregation forever,” he invoked Jefferson Davis, the “Cradle

of the Confederacy" and the "great Anglo-Saxon Southland." It seems pretty apparent how Governor Wallace interpreted the Rebel past. There's only one "real" history. No group or person has somehow perverted, hijacked or misstated what Confederate emblems represent. From the creation of the Confederacy straight through until today, from Alexander Stephens to Harry Byrd to George Wallace to David Duke, these symbols have *always* been imbued with the conviction of black inferiority.

Moreover, I've never gotten more than mumbles and abstractions when I've asked apologists precisely what history I'm overlooking. While the South had other differences with the Union, slavery was at the core of the Civil War, and the South wanted to maintain the subjugation of blacks. It's a basic narrative if you choose to examine it with an open mind. There's some focus on economics and much carping about deviation from earlier, underlying Constitutional compacts, but these "states' rights" assertions by the South are mostly used as predicates to justify and maintain slavery and demand the return of Southerners' "property" when slaves are discovered in the North. Put differently, the Civil War was about finances and states' rights in the sense that the departing nation insisted it be allowed to hold and recapture slaves to support its economy. Again, a section from Mississippi's causes declaration vividly illustrates precisely what economic concerns and what states' rights were on the South's agenda: "[Slave] labor supplies the product which constitutes by far the largest and most important portions of commerce of the earth. These products have become necessities of the world, and a blow at slavery is a blow at commerce and civilization."

Additionally, in the context of the Confederacy, I'm weary of the argument that we shouldn't remove certain intrusive Civil War symbols because "everybody's too sensitive and/or everybody is offended by something." Black men and women have a bona fide, objective, fact-based, historically grounded reason to find Confederate glorification offensive, and almost all of them do in fact take offense. Me, I'd for sure take issue with the symbols of a nation that believed "slavery subordination to the superior race" was my "natural and normal condition." African Americans' distaste for Confederate symbols can hardly be described as an overreaction, contrived or in any way hypersensitive.

The courtroom should be a place every litigant and spectator finds fair and utterly neutral. In my estimation, the portrait of a uniformed Confederate general—and a slave owner himself—does not comport with that essential standard. By way of example, I'll ask my fellow white Patrick Countians how they'd respond to this scenario: Imagine walking into a courtroom, your liberty at stake, and you discover a black judge, a black bailiff, a black commonwealth's attorney, a black clerk and a black defense lawyer. You are the only white person there. You peer at the wall, and you see a picture of Malcolm X—a Nation of Islam member who preached black superiority and demeaned the white race. What assumptions would you make about that courtroom, the judicial system and the black judge who allowed that portrait to remain on the wall? Would you feel certain that you'd receive fair, unbiased treatment with Malcolm X celebrated and honored in the place where your rights are being adjudicated? I would not, and that's why General Stuart's portrait has been removed. Given how fierce and divisive the debate over the Confederate flag has become, it should be obvious that symbols convey powerful meanings to many reasonable people, and we do not need this complication in a courtroom.

This decision, however, does not address another controversial aspect of our courthouse's history and one of the town's longstanding practices. For years, various groups have asked permission to appear in the court square, outside, and celebrate certain Confederate events, most notably General Stuart's birthday. Several years ago, I told the organizers that they could continue to bring and display

any of the various Confederate flags, but they were not to fly them on the courthouse pole or leave them behind, nor were they allowed to leave behind any wreaths, objects or decorations containing Confederate themes. This rule was in place well before the horrible church shootings in Charleston, South Carolina, and has nothing whatsoever to do with that awful, heartbreaking event. Needless to say, this restriction was not well received by some members of our community, given that "we've always done it that way before." Notwithstanding how it had always been done before, there are only two flags that should ever be atop what is effectively this county's flagpole—the American flag and our state flag.

As an aside, it is important to note that both Curtis Spence and Chris Washburn, the main organizers of these events, have always been polite, professional and very courteous—the hue and cry and unhappiness about the ban on flag flying came from other members of our community and never from the organizers. As a further aside, both these men, in my dealings with them, have proven to be solid citizens and completely free of any racial biases or hostilities; their sincere and heartfelt belief is that a Confederate flag is not a racial negative and should not be seen as a racial negative. In this county, a number of other residents—including a few close friends—share that same opinion. I very much disagree with them for the reasons I've painstakingly detailed earlier. Their pure hearts and decent intentions can't trump the Confederacy's widespread, systemic mistreatment of blacks that is bound up in the flag. This flag was birthed in a nation that insisted it had the right to buy and sell black men and women as if they were doodads and chattel, and earnest, well-meant talk of valor, fate and a Lost Cause will never scrub away those hideous origins.

Despite my disdain for all versions of the Confederacy's flag, despite the patently offensive character of these flags, and despite my belief that no one will take us seriously if we continue to insist these emblems represent who we are in 2015, this particular courthouse space—the courtyard—is still the functional equivalent of the town square, a marketplace for speech, ideas and discourse. While we as a legal system and a commonwealth cannot and should not sponsor or endorse what private individuals wish to say, we should also zealously defend their Constitutional right to speak and present their positions. A public space, outside the courtroom, on a weekend or when court is not in session, is a far different creature than the formal place of business for the judiciary. We have had protesters and preachers and charities and politicians, and, yes, people dressed as Confederate soldiers waving a Civil War battle flag all utilize this area—they will all be allowed to return, with the understanding that we as a court system support only their right to speak, not their causes, beliefs, ideologies or missions. While *this* decision will be thoroughly objectionable to the anti-flag segment of our county, I would suggest to citizens who find any display or perspective troubling that they civilly and constructively stage their own events to present their viewpoints. Minds change and opinions are shaped through education, empathy and compelling argument, not by a court suppressing someone's right to speech in the most public of forums.

Of course, I realize that my decisions and the actual rulings herein—the permanent removal of the Stuart portrait from the courthouse, the prohibition against running any iteration of a Confederate flag up the courthouse pole, the ban on Confederate articles and memorials after a group has left the square, and the continued opening of the outdoor public square to all comers including those who want to feature General Beauregard's battle flag—will satisfy virtually no one but will tick off all grades of people.

Finally, I think it's important to mention my Southern roots and my pride in this region. I'm proud to live in Patrick County, proud to live in the South. I celebrate William Faulkner, Larry Brown and Eudora Welty. I listen to The Allman Brothers and miss B. B. King. I made it a point to meet Dale Earnhardt and get his autograph, I grew up next door to Leonard Wood, and my mother was a Young from Ararat—raised dirt-poor a stone's throw away from Jeb's birthplace—who became a magnificent teacher. I caught my first fish in Kibler Valley almost fifty years ago. I've had the pleasure of crossing paths with Jerry Baliles, Turner Foddrell, Sammy Shelor, John D. Hooker, Ann Belcher and Annie Hylton, Rev. R. J. Mann, Buddy Dollarhite and John Grisham. I've witnessed bake sales and fundraisers and pinto-bean suppers bring in five-figure help for Patrick County friends who happened to catch a bad break. My dad and uncle told me stories about leaving these mountains and volunteering to serve in World War II. That's the South I want to showcase. I'm proud of our music, our food, our literature, our accomplishments in every possible field, our manners and traditions, our sense of connection with our neighbors, our quiet sacrifices, our grit and courage throughout generations, our savvy and intelligence, and the rhythms, feel and strength of this slice of the world. That's my Southern heritage, and it's far, far distant from the battlefields of the 1860s.

Enter September 1, 2015 :



Judge Martin F. Clark, Jr.