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## President's Message: Protecting the Dream - By David E. Moore

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In the 27 years I've been a member of TCDLA, I have had the opportunity to make a lot of great friends. I've also had the good fortune to go on some terrific TCDLA trips. Napa, New Orleans, Banff, Santa Fe, Monterrey, cruises, just to name a few, and they have all been memorable. As I write this, we are nearing the 50th anniversary of the assassination of Dr. Martin Luther King Jr., and I want to share with you my favorite.

I believe it was 2008, the year of Rick Hagen's presidency. Rick decided that year to take a president's retreat to Memphis. It was going to be a small group, and Pam and I eagerly signed up to go.

We had a great time! We stayed at the Peabody Hotel, where we all enjoyed more than one cocktail while waiting to watch the duck parade. One night, while enjoying BBQ at Rendezvous, we ran into football legend Archie Manning, who was kind enough to pose with us for a few photos.

We went to the Rock-n-Soul Hall of Fame. Then we had a private tour at Sun Records. I still have in my office a photo of me crooning into one of Sun's original microphones in front of Elvis' photo, as former TCDLA president Mike Heiskell's youngest son Mason looks on with a puzzled expression.

It was all such a blast! But, I had no idea that a moment was coming on that trip that would impact me to my core.

You see, Mike and his wife Anita had arranged something truly special for our group. Anita had grown up in Memphis, where Reverend Samuel "Billy" Kyles was her preacher. Reverend Kyles had spent Dr. King's last hours here on earth with him there at the Lorraine Motel in Memphis. And, Reverend Kyles was going to have lunch with us.

One group made our way to the National Civil Rights Museum, built on the site where King was assassinated by James Earl Ray. The museum is so poignant, memorializing the struggle of African Americans from slavery through today's ongoing civil rights movement. The museum incorporates the Lorraine Motel, preserving the room where King had spent his last hours, the nearby boarding house from where Ray fired the fatal shot, and the balcony where the mortally wounded King fell.

We had lunch there at the museum with Reverend Kyles. There were about a dozen of us as best I recall. I don't remember what we ate, but I will never, ever forget Reverend Kyles or his message.

As he addressed us, he began by laying for us the framework of why King had come to Memphis in 1968.

Fifty years ago, on February 1, 1968, two black Memphis sanitation workers were crushed to death while working in unsafe conditions during a storm. That same day, a dispute had arisen when 22 black employees who worked in the Memphis sewer system were sent home without pay while their white supervisors were allowed to stay on and be compensated. With these two incidents as the catalyst, on Valentine's Day, approximately 80% of the black sanitation workers of Memphis went on strike.

The mayor of Memphis resolved to crush the strike, and negotiations to settle the dispute went nowhere. Reverend Kyles along with Reverend James Lawson asked King and the Southern Christian Leadership Conference to come and support the workers in their struggle.

King, who was a champion of not only racial equality issues but also of economic equality, agreed to lend his support. Together they planned a march on March 28th. King was apparently concerned about making sure that the march followed his tenet of nonviolence. Many people believe he saw this march in Memphis as a practice run for a later poverty march on Washington, D.C., and it was vitally important to him that they be able to complete the demonstration in a peaceful manner.

Unfortunately, that was not to be as violence broke out in the rear of the march and looting ensued. A 16-year-old was shot and killed by the police. Dr. King, Reverend Kyles, and the other leaders of the march had to be escorted to safety. According to Reverend Kyles, Dr. King was deeply troubled by the violent turn as he left Memphis.

King and the SLLC were asked to come back for another march. After lengthy discussions and assurances that the protest would be conducted in a nonviolent manner, Dr. King agreed to return.

Problem was, the city filed for an injunction barring the second march, which was scheduled for early April. King was served with the injunction when he returned to Memphis on April 3rd.

Reverend Kyles told our group that King was tired when he arrived. There was a rally scheduled that night at the Mason Temple, headquarters of the Church of God in Christ. The weather that night was threatening. Because he was worn out, and expecting the crowd to be affected by the storms, King planned to stay at the Lorraine Hotel and rest. He asked Reverends Kyles and Lawson along with leaders of the SLLC to go on without him and he asked Ralph Abernathy to speak in his stead.

When the group arrived at the church, Reverend Kyles said they were surprised by both the size of the turnout and the group's enthusiasm. Abernathy got on the phone to Dr. King and told him that the attendees were there not to hear Abernathy or the others, but in anticipation of hearing from King.

King obliged, and although he was tired and weary, he headed into the stormy night and to the church, where the crowd was waiting.

Somehow, he was able to reach within himself and summon up the energy to give one of his greatest oratory performances. That night he delivered his famous Mountaintop Speech.

We are all familiar with the speech. King took to the podium in the pulpit and told the congregation that if he could live in any age in history, that he would choose to be with them in Memphis, then and there. That they were there to fight injustice and to demand that the sanitation workers, as God's children, be entitled to fair treatment by the City of Memphis.

Kyles told us how King exhorted the crowd that the march, and the movement, must be conducted with nonviolence. King told the gathering that their methodology was not through bricks, bottles, and Molotov cocktails, but through peaceful pro-tests and economic boycotts.

King told the congregation that they couldn't give up their struggle, that they had to see it through. He told

them they had to march, they had to do it out of concern for their brothers, the sanitation workers. He implored them "either we go up together, or we go down together."

During the speech, King touched on the injunctions that were still pending against the march (the injunction was lifted the next day).

King told them: "We're going into court tomorrow morning to fight this illegal, unconstitutional injunction. All we say to America is, 'Be true to what you said on paper.' If I lived in China or even Russia, or any totalitarian country, maybe I could understand the denial of certain basic First Amendment privileges, because they hadn't committed themselves to that over there. But, somewhere I read of the freedom of assembly. Somewhere I read of the freedom of speech. Somewhere I read of the freedom of the press. Somewhere I read that the greatness of America is to protest for right. And so just as I say we aren't going to let dogs or water hoses turn us around, we aren't going to let any injunction turn us around. We are going on!"

Reverend Kyles believed that Dr. King had a premonition of his impending death. He told our group how there was a loose shutter on the church that night, and that on occasions the storm winds would blow it closed with a loud bang. Kyles told us how this happened more than once during the speech, and how he saw King flinch and look around each time it did.

Nevertheless, King pressed on. He told the crowd how he had been stabbed in the chest by a deranged assailant in New York, and how the surgeons there later told him how close he'd come to death.

In his stirring conclusion, King famously said: "And then I got to Memphis! And some begin to say the threats were out. What would happen to me from some of our sick white brothers?"

King went on: "Well, I don't know what will happen now. But it doesn't really matter with me now, because I've been to the mountaintop! And I don't mind. Like anybody, I would like to live a long life. Longevity has its place. But I'm not concerned about that now. I just want to do God's will. And he's allowed me to go up to the mountain. And I've looked over. And I've seen the Promised Land! I may not get there with you. But I want you to know tonight, that we, as a people, will get to the Promised Land!"

He ended: "I am so happy, tonight. I'm not worried about anything. I'm not fearing any man! Mine eyes have seen the glory of the coming of the Lord!"

The crowd erupted. Dr. King went back to his room at the Lorraine.

Reverend Kyles and his wife had invited King and several others to their house for supper on the following evening on April 4th. Reverend Kyles knew all too well that those who traveled in the cause and struggle for equality were often relegated to catching meals as best they could. He and his wife planned a soul food banquet for King and the rest of the group.

Kyles told our gathering how he had gone that afternoon to the Lorraine to bring King, Abernathy, Jesse Jackson, and others to his home. King wasn't ready, and he protested to Kyles that they had plenty of time.

Kyles described for us how he, King, and Abernathy then spent King's final hour. With the injunction lifted earlier in the day, Kyles described King as being in a playful mood. Three preachers, laughing and joking. As he got ready, King asked Kyles to pick out a tie for him for the evening.

As Reverend Kyles continued, you could have heard a pin drop in our room.

He described how they finally left the hotel room and stepped out on the balcony.

He told us how King had stopped at the rail to speak to Jackson below in the parking lot. They were all planning to attend another rally that night after dinner with the Kyles. King told the band leader to be sure to play one of King's favorites, "Take My Hand, Precious Lord."

Reverend Kyles told us how he implored the group to come on or they would be late. As he took a few steps away, the shot rang out.

He told us of the aftermath. The blood, the confusion. He described trying to help King and then ultimately removing a pack of cigarettes that were clutched in King's hand. (King didn't want children to know he smoked as he thought it set a bad example.) Kyles told us he still had the pack somewhere at his home.

As we all tried to stifle tears, Kyles told us, "Martin Luther King, Jr. could have done anything, could have been anything. A Ph.D. at 27, a Noble Peace Prize Winner at 35, one of the greatest orators ever. He could have been a U.N. ambassador, a university president, the leader of a mega church. But here he was dying on the balcony of a cheap hotel in Memphis helping garbage workers."

As Reverend Kyles finished addressing us, he said, "They could kill the Dreamer, but they didn't kill the dream!"

Wow! I still get misty-eyed (and more determined) just writing this.

I always hoped that we would bring Reverend Kyles to San Antonio as a keynote speaker at our Rusty Duncan seminar. I regret that we did not get that done. We lost him in 2016. I will never forget, as long as I live, that day he spent with us in Memphis.

Now 50 years later, I wonder, as I sit here today, what he and Dr. King would think of our nation and our leaders now. I would imagine they would be stunned by current events. I personally believe in Heaven, and I think that when we die, we are reunited with friends and loved ones. I would imagine that when Reverend Kyles saw Dr. King again he would have told him that King's message had survived, and that our country had made slow but significant strides. But, I can't help thinking that they would both be heartbroken over what has happened since Reverend Kyles' passing.

So, what about us as criminal defense lawyers? What can we do? How do we ensure the dream doesn't die?

Every day we have an opportunity to not only protect but also fulfill the dream. We do it when we stand up to represent the indigent defendant. We do it when we care about that client that nobody else in the courtroom cares about. We do it when we expose racial bias or racial profiling. We do it when we speak out against racially insensitive comments by our judges or politicians. We do it when we as a group fight against the criminalization of poverty. We do it when we rail against unfair and unjust sentencing guidelines. We do it as we stand up for the welfare of mentally handicapped. We do it every day when we defend our Constitution. And, we do it when we rise and try to protect the least of God's children.

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