The Lynching of Fred Moore
and the Escape of Norman Thibodaux

Robert Black, NUSL’14
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By Robert Black

Excerpt from “The Lynchers”:

The Virtuous ones shrieked at their kill;
They washed their hands and they wagged their heads;
“We’ve done a good job,” they said, “today”
“We can sleep in our virtuous beds.”
God! God, the lust of them! Make them see they are the one with the horrible things hung there –
As black in your sight as the two choked beasts
Left dangling mutely in the air.

— Attributed to Grace Noll Crowell

THE LYNCHING AND THE ESCAPE

Historical Background
Louisiana

Similar to the other states in the South, Louisiana had a long history of racial violence that began during the Reconstruction era. During the period between Reconstruction and the beginning of the civil rights movement, lynching was the primary method of racial violence committed against African-Americans, despite a decline in its use over the decades.1 Mobs lynched African-Americans, citing various reasons, in order to control both the local and rural northern parishes, while the southern parishes saw fewer and less brutal lynching.2 However, the entire state strictly enforced segregation in its communities.

When Huey Long was elected governor of Louisiana in 1928, the status of African-Americans changed slightly for the better. Governor Long built hospitals and schools for

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2 Adam Fairclough, Race & Democracy: The Civil Rights Struggle in Louisiana 9 (Athens, GA: University of
Georgia Press, 1995).
3 See Raper sup note 2, at 26.
African-Americans. He did not take action on segregation or lynching\(^3\), however, and despite a generally declining trend, lynching increased in rural areas during Governor Long’s term. The main reason that lynching increased was that the governor did not have much influence in the rural areas and could not effectively prevent lynching.\(^4\) Sheriffs held more influence over their parishes than the governor. Sometimes, a sheriff would try to hide an African-American prisoner in a different parish or move the prisoner around the parish until a trial could be arranged, but sheriffs seldom took such actions.\(^5\) They rarely confronted lynch mobs directly at the risk of their own lives.\(^6\) Sheriffs had very little incentive to protect African-American prisoners because of the risks involved and the lack of rewards for doing so.

**STATEMENT OF FACTS**

I. **The Lynching of Fred Moore**

   On October 8, 1933, a Saturday morning, Fred Moore, a 16-year-old African-American resident of Assumption Parish, and Anna Mae LaRose, a 16-year-old white neighbor, were seen talking to each other.\(^7\) LaRose planned to attend a dance that evening and left her home at about 2:30 p.m. Even though she failed to return the following day, nobody worried about her because LaRose had previously spent whole weekends with her fiancé in Labadieville, about ten miles away.\(^8\)

   After LaRose and Moore talked, Moore worked at the plantation where he lived with his mother and sister until noon. Moore then returned home and worked in his family’s small garden

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\(^3\) Fairclough, *sup* note 1, at 25-26.

\(^4\) *Id.*

\(^5\) A common thought among sheriffs was “Do you think I’m going to risk my life over a nigger?” Raper, *sup* note 3, at 13.

\(^6\) Raper, *sup* note 3, at 28.

\(^7\) “Richard Headed Group of Four Who Took Thibodaux From Bed to Bridge,” *The Louisiana Weekly*, November 11, 1933.

\(^8\) “Negroes Kept from the Vicinity of Jail Night of Lynching,” *The Louisiana Weekly*, November 4, 1933.
for several hours before showering. In the late afternoon, he left to make some purchases at the stores in town. Moore returned from the stores shortly before dark.\(^9\)

When LaRose failed to return on Monday, someone inquired into her disappearance and discovered that she had never arrived at the dance. When the authorities were informed that LaRose was missing, Sheriff’s Deputy Ferdinand Richard did not conduct a search of the area. Instead, after it grew dark on Monday night, Richard drove half a mile from the LaRose residence and went directly into the sugarcane field where he found LaRose’s body.\(^10\) The coroner found no evidence that she had been attacked in the field but did show that her body had been dragged. The coroner reported that LaRose had been raped and then killed with the pointy end of a small object.

**Arrest and Detention**

During LaRose’s funeral on October 10, LaRose’s stepfather mentioned that Moore had asked LaRose about her plans for the evening and when she planned to leave. Sheriff Lezine H. Himel and several of his deputies arrested Moore. The sheriff brought Moore to the front of the outside of the church where LaRose’s funeral was being held. After the services concluded, the men attending the funeral accused Moore of killing LaRose. Moore denied the accusations before he was taken to the Assumption Parish Jail in Napoleonville, LA.\(^11\)

The same day that Moore was arrested, Deputy Sheriff Richard visited Moore’s house and asked his mother, Lilly Eliska Moore, for permission to search Moore’s room. After searching his room, the deputy left the residence but returned to the Moore residence several times afterwards. Each time he returned, Richard requested and returned different articles of Moore’s clothing. When he returned to Moore’s house for the final time, Richard asked for

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\(^9\) *The Louisiana Weekly*, sup note 8.
\(^10\) *The Louisiana Weekly*, sup note 9.
\(^11\) *The Louisiana Weekly*, sup note 8.
Moore’s work clothes that Moore had worn on Saturday. Richard never returned Moore’s work clothes to Mrs. Moore.\(^\text{12}\)

On October 11, before he returned home, Sheriff Himel promised Moore’s mother that no harm would come to Moore while he was in the jail. However, that same day, the lynch mob gathered outside the home of Deputy Able Landry. The mob demanded that Landry turn over the keys to the jail, and he complied with the mob’s demand.\(^\text{13}\)

**The Lynching**

On the night of October 11, a mob of between 50 and 100 people from Assumption Parish and the surrounding area gathered outside the Assumption Parish Jail.\(^\text{14}\) The mob forced Moore to wear a noose around his neck while they marched him to the cane field where LaRose had been found. At the cane field, the mob began to beat Moore. From the cane field, the mob forced Moore to march nearly ten miles to the Labadieville Bridge. Whenever Moore fell, the mob would use branding irons to force him to stand up.\(^\text{15}\) Around 10:30 p.m., the mob beat Moore until he falsely confessed to the murder of LaRose. Moore also named a “Norman Jackson” during his beating.\(^\text{16}\) The mob hung Moore at the Labadieville Bridge. Afterwards, the mob affixed a written note to Moore’s body that said, “Niggers, let this be an example. Do not touch for 24 hours.”\(^\text{17}\)

\(^\text{12}\) *Id.* Himel would later claim that he had Moore’s “bloody” work clothes.

\(^\text{13}\) Landry was about 60 years old, had hearing problems and used a cane. “Sheriff Forced to Pay $2,500 for Lynching,” *Chicago Defender*, May 30, 1936.

\(^\text{14}\) The mob intended to lynch Moore on October 10 but delayed the event because the notice had been sent too late for people from the other parishes to join. *The Louisiana Weekly*, sup note 13. “Lynched Boy’s Kin Win in Suit Against Sheriff,” *The Washington Post*, May 22, 1936.

\(^\text{15}\) *The Louisiana Weekly*, sup note 9.

\(^\text{16}\) “Youth Saved as Men Begin to Hang Him From Bayou Bridge,” *The Louisiana Weekly*, October 21, 1933.

The Aftermath

The next morning, the lynch mob posted a sign that warned the African-American population to stay away from the St. Philomena Church, across the street from where Moore’s body hung, the nearby Post Office, and the Labadieville Bridge. The mob had brought their children to see Moore’s hanging body and told them that “if any Nigger bothered them, the Nigger would be treated likewise.”\(^{18}\) One newspaper reported that photographs of the lynching were sold for 20 cents to “lift a mortgage” on a church in Labadieville.\(^{19}\) Several days later, LaRose’s stepfather confessed to killing LaRose.\(^{20}\)

The Civil Suit Against Sheriff Lezine H. Himel and United States Fidelity & Guaranty

In 1934, Louis Moore and Lilly Eliska Johnson Moore, Fred Moore’s biological parents, filed suit against Himel and the United States Fidelity & Guaranty Company, which acted as the surety to Himel, in the United States District Court of the Eastern District of Louisiana for failing to prevent their son’s lynching.\(^{21}\) The plaintiffs requested $10,000 in damages for the pain and suffering that Fred Moore endured and the mental anguish suffered by his parents because of Moore’s death.\(^{22}\)

Petition for Damages

The plaintiffs claimed that Himel had failed to protect Moore from the mob and, therefore, breached his public duty as the sheriff of Assumption Parish. The complaint further alleged that Himel had promised Moore’s mother that no harm would come to Moore while he

\(^{18}\) Id.
\(^{19}\) “What Louisiana Worships,” Chicago Defender, November 23, 1933, p. 4. The photograph was reproduced as a carte de visite. W.W. Pugh Papers, Louisiana State University, Special Collections.
\(^{21}\) Sheriff Himel had paid a surety bond of $6000 to US Fidelity.
\(^{22}\) Attorney Johnston Adams Armstrong represented the Moore family until his death in 1939. Armstrong would not live to see the case settle for $2,400. Nelson Ford, “Make $2,400 Settlement in Labadieville Lynch Case,” The Louisiana Weekly, August 17, 1940.
was in the jail. The plaintiffs also claimed that based on the fact that a mob had gathered one day before the lynching, the sheriff knew or should have known of the possibility of mob violence, and that he failed to take proper precautions.\textsuperscript{23} The plaintiffs alleged that Himel was liable for the breach of his public duty because the deputies aided and abetted the mob. The complaint also alleged that Landry had given the mob the keys to the cell.\textsuperscript{24}

\textbf{Questions About Jurisdiction}

Before the case could continue, Judge Wayne G. Borah needed to decide whether the federal court had diversity jurisdiction over the case. The defendants raised two separate exceptions to the court’s jurisdiction over the parties. First, Himel argued that Lilly Moore, who was separated but not divorced from her husband, a citizen of Arkansas, was in fact a citizen of Louisiana and should be removed as a plaintiff because she was not a citizen of a different state.\textsuperscript{25} Second, U.S. Fidelity argued that if the court determined Lilly Moore to be a non-citizen, it did not have jurisdiction over the dispute between the plaintiffs and U.S. Fidelity because neither party would have been a Louisiana citizen.

Himel argued that Lilly Moore was not a Louisiana state citizen for the purposes of diversity jurisdiction. In his answer, Himel did not contest that Louis Moore did not have standing to file suit. Rather, Himel argued that Lilly Moore’s state citizenship was determined by that of her current common-law husband – a Louisiana resident – and not Louis Moore because Lilly and Louis Moore had not lived together for the past five years. Lilly Moore’s current


\textsuperscript{24} See Id. at 13.

\textsuperscript{25} In order for a case to be heard in the federal court, a case may be heard if it raises a federal question (28 U.S.C. §1331) or the court has jurisdiction through diversity jurisdiction. Under diversity jurisdiction, the plaintiffs and defendants cannot have the same state citizenship and the claim must have a reasonable damage value of $10,000 ($3500 at the time of Moore’s suit). 28 U.S.C. §1332. If one of the parties has the same citizenship as the opposing party, then diversity jurisdiction is defeated and the suit or one of the offending parties must be dropped. “If the jurisdiction of the District Court must rest on diversity of citizenship, it fails because one of the plaintiffs is a citizen of the same state as the defendant.” \textit{Mitchell v. Maurer}, 293 U.S. 237, 242 (U.S. 1934).
husband, Himel argued, was actually a man named Cheatam. Lilly Moore and her son had been living with Cheatam for five years, and were so residing when Moore was lynched. Due to the physical separation of Louis and Lilly Moore, Lilly Moore and Cheatam were the married couple. Since the husband determined state citizenship and Cheatam was Lilly Moore’s husband, Lilly Moore was a citizen of Louisiana, Himel argued. Therefore, Lilly Moore could not recover damages from the sheriff, also a citizen of Louisiana.

The court found that Lilly Moore was still legally married to Louis Moore and, therefore, a citizen of Arkansas. The defendant had failed to provide evidence that Lilly and Louis Moore were divorced. Absent evidence that demonstrated Lilly Moore’s legal divorce, Lilly Moore and Cheatam were not husband and wife, because she was still legally married to Louis Moore despite cohabitating with Cheatam. Therefore, the court found that since the citizenship of the wife was granted through the husband, Lilly Moore was a citizen of Arkansas and the Court had diversity jurisdiction.

U.S. Fidelity presented a different argument about why the Court did not have jurisdiction over the case. That defendant claimed that the Eastern District Court of Louisiana did not have jurisdiction over the case because neither the plaintiffs nor U.S. Fidelity were citizens of Louisiana. U.S. Fidelity argued that it was incorporated in Maryland and, therefore, a

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28 See *Switzer v. Elmer*, 172 La. 850, 852 (La. 1931) (holding that the wife’s domicile was that of the husband’s domicile). *See also* La. Civ Code Ann Art. 39.
29 The Moores must never have legally divorced because divorce was largely unavailable to most of the working-class population of all races. Rather, most men merely left their wives in order to “divorce” them because it was the community that recognized the divorce, not the law. See Ariela Dubler, Note, *Governing Through Contract: Common Law Marriage in the Nineteenth Century*, 107 Yale L.J. 1885, 1897 (1998).
citizen of Maryland, while the Moores were citizens of Arkansas. The plaintiffs agreed that the court did not have jurisdiction over two non-citizen parties, but argued that U.S. Fidelity, as the sheriff’s surety, was a necessary party and authorized to do business in Louisiana. The court ruled against the plaintiffs and dismissed U.S. Fidelity, concluding that neither party was a citizen of Louisiana.

Answer

In his answer, Himel admitted that he had a public duty to protect prisoners when placed in the jail but denied that he could be liable for breach of a public duty. Himel also denied that he could be held liable for the actions of his deputies. Himel also denied that his deputies were present at the time of the lynching. Himel further admitted that Moore had been arrested on suspicion of murder but denied that Fred Moore was innocent despite LaRose’s stepfather’s confession. Himel further denied that he knew or should have known that a mob had gathered the night of October 10 and, therefore, should have taken more preventive steps. However, Himel admitted that he knew that a mob had gathered outside the jail on October 11 and that they had removed Moore from the jail using Landry’s keys. Furthermore, Himel denied that LaRose’s stepfather had confessed to the murder.

31 U.S. Fidelity was dismissed from the case on February 13, 1935. Richard W. Leche, Governor of Louisiana Ex. Rel. Louis Moore and Lilly Moore, His Wife v. United States Fidelity & Guaranty Company (1937).
33 Id. at paragraph 15.
34 Id.
35 Answer, sup note 32, at paragraph 13.
36 Petition for Damages and Answer, sup note 32, at paragraph 15.
Trial

At the trial, two African-American witnesses, Norman Thibodaux and Ivy LeBlanc, testified as to how the two deputies assisted the lynch mob. 37 LeBlanc recalled that Landry gave the mob the keys to the cell. Thibodaux recounted how Richard dragged Moore’s body and held it down while the mob administered a beating. The plaintiffs also called both deputies to testify about the lynching. 38 Landry admitted that he gave the cell keys to the mob and failed to call the sheriff once Moore was removed from the jail.

Verdict and Collection of the Reward

On May 21, 1936, a jury composed of six white males found the sheriff liable for Fred Moore’s death. 39 Himel did not appeal the decision. The jury awarded the family $2,500 in damages instead of the $10,000 requested for in the petition. 40 The plaintiffs also won attorney fees and costs, which raised the total to $2,976.60. 41 However, the plaintiffs were unable to collect from Himel’s personal estate. A U.S. Marshall was hired to collect the judgment but could not find anything to sell and collect on the judgment. 42

Civil Suit Against U.S. Fidelity in State Court

The state of Louisiana, on behalf of Louis Moore and Lilly Moore, filed suit against U.S. Fidelity in the Louisiana state civil court on October 20, 1937. 43 The governor of Louisiana filed suit against U.S. Fidelity in order to collect the judgment through the $6,000 bond that

37 Ivy Leblanc was alleged to have been a prisoner in the Assumption Parish Jail along with Moore. Norman Thibodaux was visiting his grandmother in the Labadieville area. Chicago Defender, sup note 14. The Louisiana Weekly, sup note 17.
38 Id.
39 The judgment became final on June 6, 1936.
40 Chicago Defender, sup note 14.
43 Petition for Damages, sup note 41, at 1.
Himel had given to the surety. Unlike the federal suit, the state court had jurisdiction over U.S. Fidelity by virtue of a state statute that conferred original jurisdiction.\textsuperscript{44}

The pleadings stated that the plaintiffs had exhausted all possible options regarding the collection of payment from Himel. The contract agreement between the sheriff and the surety stated that the sheriff would be returned the bond on the condition that the sheriff “should well and faithfully perform the duties incumbent on him as sheriff of the Parish of Assumption.”\textsuperscript{45} The plaintiffs argued that since the sheriff failed to protect Moore, the surety should pay the wronged party pursuant to the terms of the bond.\textsuperscript{46} The plaintiffs stated that the case should not be retried because the surety failed to take advantage of the opportunity to defend against the plaintiffs.\textsuperscript{47}

U.S. Fidelity denied that it had to pay the plaintiffs for the judgment against the sheriff and moved to dismiss the state of Louisiana as a party because it was not a party to the original suit.\textsuperscript{48} Additionally, the defendant argued that the plaintiffs were barred by the statute of limitations and that they were seeking the wrong remedy against the surety even if they have a cause of action.\textsuperscript{49} U.S. Fidelity claimed it had no notice of the initial suit and did not have the opportunity to defend, even though it had been party to the suit before it was dismissed.\textsuperscript{50} The presiding judge denied all of U.S. Fidelity’s pretrial motions.\textsuperscript{51} In its answer, U.S. fidelity denied

\textsuperscript{44} See Memorandum of Authorities on Exceptions, Louis Moore and Lilly Moore v. Sheriff Lezine H. Himel and United States Fidelity & Guaranty Company. Answer at 1-6, Richard W. Leche, Governor of Louisiana Ex. Rel. Louis Moore and Lilly Moore, His Wife v. United States Fidelity & Guaranty Company (1937).
\textsuperscript{45} Petition for Damages, sup note 41 at 5.
\textsuperscript{46} Id.
\textsuperscript{47} Petition for Damages, sup note 41, at 3.
\textsuperscript{49} Answer and Affidavit at paragraphs 12-13, Richard W. Leche, Governor of Louisiana Ex. Rel. Louis Moore and Lilly Moore, His Wife v. United States Fidelity & Guaranty Company (1937). December 14, 1937.
\textsuperscript{50} Id.
\textsuperscript{51} Exceptions and Certificates, sup note 48.
that it was liable for the sheriff’s actions and denied any involvement in the events of October 11, 1933.52

During the suit, U.S. Fidelity attempted to retry the case, claiming that, using the same witnesses as in the underlying lawsuit, it could defeat the claim that the sheriff knew about the mob in time to protect Moore.53 For their part, the plaintiffs pointed out that the matter had already been litigated in federal court.54 The trial court found in favor of the plaintiffs and awarded them the $2,976.60 and additional court fees.55 The defendants appealed, but the Court of Appeal ruled it was without jurisdiction to hear disputes over the payment of torts arising from contract disputes and transferred the matter to the Louisiana Supreme Court.56 The Louisiana Supreme Court never decided the matter because the case settled on July 14, 1939, for $2,400.

52 Answer and Affidavit, sup note 49, at paragraph 13..
54 Objection and Exception at 26, Richard W. Leche, Governor of Louisiana Ex. Rel. Louis Moore and Lilly Moore, His Wife v. United States Fidelity & Guaranty Company. March 1, 1939. However, the court never decided the matter because the court had already ruled in the plaintiff’s favor.
II. The Escape of Norman Thibodaux

Norman Thibodaux, a witness in the Fred Moore civil trial, also was abducted by the same lynch mob that had kidnapped Moore. Thibodaux survived the encounter. On October 12 at 2 a.m., hours after Moore’s death, Richard and seven other men kidnapped Thibodaux, 20 years old, from his grandmother’s house. While being beaten, Moore had named “Norman Jackson,” who he said was his brother, and the mob thought that Moore had referred to Norman Thibodaux. Moore did not have a brother.

The Attempted Lynching, Rescue, and Escape

Richard dragged Thibodaux to the Labadieville Bridge, where Moore was still hanging. There they beat and hung Thibodaux. While beating him, members of the lynch mob told Thibodaux that they would let him go if he confessed to the crime. However, Thibodaux insisted on his innocence and said that he had not done anything wrong. After the mob tired of beating him, the mob debated burning Thibodaux alive but decided instead to hang him. The mob cut down Thibodaux when two white men, Henry Coubdeau and one Robichaux, intervened on Thibodaux’s behalf. Coubdeau, the son of the bridge tender, claimed that he had seen Thibodaux in New Orleans on the day of the murder. Also, Mr. Robichaux vouched that Thibodaux had been busy during the day of the murder. Thibodaux managed to survive his hanging by standing on his toes on the rocks before he was cut down.

After cutting Thibodaux down, Richard and a few others dragged Thibodaux to the Assumption Parish Jail at the recommendation of a judge who was part of the mob. However, Himel refused to admit Thibodaux because one prisoner – Moore – already had been taken out of

58 The Louisiana Weekly, sup note 18.
59 Miley, sup note 59.
the jail and lynched. Richard told Himel that he would administer Thibodaux’s punishment in a nearby cane field. Richard and two other members of the mob drove Thibodaux to a nearby sugarcane field. As Thibodaux exited the vehicle, Richard told him to run, and the deputy then fired several shots at him as he started running. Thibodaux managed to avoid being hit by tripping and falling down. Thinking that Thibodaux was dead, Deputy Richard and his companions drove away. Thibodaux ran to his uncle’s house and hid overnight before reassuring his grandmother and leaving for New Orleans the following day.

The Aftermath

Thibodaux reached New Orleans by hoboing his way on a freight train. In New Orleans, Thibodaux sought medical attention for his injuries at the Flint-Goodridge Hospital. On October 14, Thibodaux was arrested in New Orleans at the request of Himel for questioning about the murder of LaRose. However, Thibodaux was released on October 25 when LaRose’s stepfather confessed to killing his stepdaughter. Thibodaux subsequently was invited to attend an International Labor Defense gathering in New York City on December 26. The ILD had heard of Thibodaux’s escape and invited him to talk about his lynching as part of an anti-lynching rally.

III. Absence From History

The case of the lynching of Fred Moore and the escape of Norman Thibodaux are not widely known, despite their historical significance. Various factors obscured news of Moore’s lynching and subsequent civil suit. Moore’s lynching had occurred during a time when other more prominent events, such as the Scottsboro case, were occupying the attention of national

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60 The Louisiana Weekly, sup note 9.
61 Id. Miley, sup, note 59.
63 “Free Mob Victim From Local Jail Without Charges,” The Louisiana Weekly, October 28, 1933.
civil rights groups like the NAACP. Additionally, the national media did not regularly cover racial violence against African-Americans. Unlike the “Black papers,” national media outlets were not interested in covering each individual lynching that occurred in the South.65

Cases involving racial violence before the civil rights movement that are known outside of fairly narrow circles are those that were publicized by a national organization or had some unique factor that made them newsworthy. One example of such a case would be the Scottsboro Boys, a group of young African-American males who were falsely charged with raping two white women.66 The Scottsboro case was well known because the ILD held rallies in the United States and Europe to bring the case to the front page.67 The media also paid attention to the Scottsboro Boys because the ILD was known to be a branch of the Communist Party. Otherwise, Scottsboro, too, would likely have been a mere footnote in history.68

**ANTI-LYNCHING MEASURES**

Since the beginning of Reconstruction, anti-lynching organizations continually lobbied for a federal anti-lynching statute in order to combat the rampant lynching in the South. While a few states managed to pass anti-lynching or anti-mob violence statutes on their own, the vast majority of Southern states did not have anti-lynching statutes and were unlikely to create new ones.69 A federal anti-lynching statute would have authorized the federal government to intervene and punish perpetrators in any state, regardless of whether a statute already existed. In

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67 See *Id.*, at 66 fn. 37. *See Id.*, at 66-67. Prior to the Scottsboro case, the ILD publicly expelled a racist member and received political acclaim from it. The ILD made it a priority to publicize the Scottsboro Boys in order to advance its own agenda through promoting the rights of African-Americans. Incidentally, the Moore lynching and trial occurred during the retrial of one of the Scottsboro Boys, which may have been a factor as to why Moore was overlooked.
68 Earliest coverage from a national paper was 1933 discussing Thibodaux’s ordeal as part of its coverage of the ILD’s anti-lynching rally. The New York Times, *sup* note 66.
the time of the Moore and Thibodaux cases, however, Southern politicians killed in committee or filibustered all federal anti-lynching bills, and threatened to derail President Roosevelt’s New Deal if he openly supported one.  

While there were no federal anti-lynching laws, a victim’s relatives could pursue two remedies to seek justice against members of a lynch mob. The state could prosecute the defendants in a criminal proceeding, or the victim could bring a private civil suit against the perpetrator.

A. Criminal Proceedings

One option for victims or victim’s relatives to gain justice would have been for the state to press criminal charges against the perpetrators. Assuming that the state was able to identify members of the lynch mob, the state could punish the perpetrators for murder or similar offense. The main problem with criminal proceedings was that the defendant was rarely punished. The state rarely prosecuted members of lynch mobs, and when participants were prosecuted, the jury would usually, despite sometimes overwhelming evidence of guilt, acquit the accused. A prosecutor could decide to drop the charges against the defendants for a variety of reasons. The victim’s relatives had no input into the proceedings, and the victims could not require the prosecutor to prosecute. Additionally, the judge could be biased against the victim because of the victim’s race. Since the judge ruled on findings of law and what evidence may be

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70 Ifill, sup note 2, at 292.
71 Ifill, sup note 2, at 301.
72 Among such reasons were claiming that the crime could not be prosecuted under any law, saying that there was not enough evidence, citing bias against the defendant, approving of the defendant’s actions, and covering up the involvement of state officials. See Ifill, sup note 2, at 301.
73 In the United States, criminal proceedings do not put the victim in any role other than as evidence that a crime had occurred. Jennifer J. Llewellyn, Dealing with the Legacy of Native Residential School Abuse in Canada: Litigation ADR, and Restorative Justice, 52 U. Toronto L.J. 253, 270 fn. 60 (2003) (discussing the limitations of two sided disputes in Canada where the plaintiff is removed in favor of the state.).
74 See generally Carter, sup note 67, at 274-329.
admissible, a judge who did not want the state to convict the defendants could rule in certain ways that favored the defendant.

A state criminal proceeding could run afoul on other grounds as well. When presenting testimony, the state had to contend with jury bias, and with finding enough credible witnesses to testify against the defendant. Since violence was used as a means to control the African American population, African-American witnesses might refuse to testify out of the fear of being lynched. Even if an African-American witness was willing to testify, the white jurors who would be drawn from the local community could ignore the witness’s testimony and acquit the defendant. Even though the statutes that labeled African-American testimony as inherently unreliable had been repealed during Reconstruction, the pervasive bias against African-Americans would still lower an African-American witness’s credibility in the eyes of a white jury. Thus, state criminal proceedings were often not considered an effective way to prevent lynching.

B. Civil Suits

Compared with a criminal proceeding, civil suits might appear to be a better strategy because the victim’s relatives would have some control over the proceedings. Civil suits could provide justice by compensating the victim, or the victim’s relatives, from the defendant’s personal assets. The risk of personal liability might deter future lynching. While the fact-finders would likely hold some bias against the defendants, juries might be more inclined to impose civil rather than criminal liability.

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75 See Ifill, *sup* note 2, at 289-292.
76 In the Antebellum and Civil War South, statutes existed that allowed the parties to question the witnesses’ credibility on race in criminal and civil proceedings, but they were later extinguished during Reconstruction. Sheri L. Johnson, *The Color of Truth: Race and the Assessment of Credibility*, 1 Mich. J. Race & L. 261, 268 (1996).
Generally, a civil suit would take the form of a wrongful death or negligence action against the sheriff, or an action against a city or municipality pursuant to an anti-lynching statute. The civil suit against Himel confirmed that civil suits could, in the right circumstances, be successfully used to deter lynching and motivate sheriffs to better protect African-Americans from lynch mobs. However, civil suits were not a flawless remedy either.

Civil Suits Would Deter Future Lynching

Generally, supporters of civil actions asserted that holding the sheriff liable for the actions of a lynch mob would cause the sheriff to reconsider participating in or allowing the mob to lynch a prisoner under his care. Proponents hoped that the possibility of personal liability or removal from office would create an incentive for sheriffs to take more precautions to protect African-American prisoners from lynch mobs.\(^{77}\) Even if the sheriff was insured, the sheriff’s surety might still be able to influence his actions by refusing to insure a sheriff charged with involvement in a lynching because of the increased risk that would present.

One factor that may have contributed to the promotion of civil suits to deter lynching was the availability of municipal liability for deaths caused by lynching or mob violence. In 1933, eleven states had statutes that held a county or city liable for any lynching that occurred within its limits.\(^ {78}\) The liability statutes affected the number of lynchings that occurred in cities by forcing the cities to prevent lynching from occurring or risk losing money from the public treasury.\(^ {79, 80}\)

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\(^{77}\) “Making Lynching Expensive,” *New York Herald Tribune*, May 23, 1936. See also generally Chadbourn, *sup* note 71, at 58-76. (Discusses statutes that remove the sheriff for failing to protect prisoners from lynching.)

\(^{78}\) The states were Connecticut, Kansas, Illinois, Minnesota, Nebraska, Ohio, Pennsylvania, South Carolina, New Jersey, North Carolina, and West Virginia. Some of the statutes create liability for lynching or anti-mob liability statutes. Chadbourn, *sup* note 71, at 48.

\(^{79}\) *Id.*, at 51.

\(^{80}\) *Id.*
Civil Suits Would Not Deter Future Lynching

Detractors of civil suits argued that they would not be an effective replacement for criminal anti-lynching statutes and would deter lynchings only in certain instances. Additionally, most civil suits for lynching would present legal circumstances different from the conditions under which the Moores sued Himel.

The conditions under which the Moores filed suit against the sheriff were unique and difficult to replicate. The Moores were able to sue in a federal court only because of diversity jurisdiction. In most lynching cases, the perpetrator and the victim’s relatives were from the same state. Additionally, in Moore’s case, the defendant was easily identifiable because the deputies were known to have actively participated in or aided the lynch mob. In many cases, the defendants were harder to identify. Furthermore, lawsuits would affect only lynchings in which the victim was taken into police custody before he was hung. A mob prepared to hang an African-American who was not in custody would not be deterred by the threat of a suit against the sheriff. At best, lawsuits would deter sheriffs and their deputies from actively participating in or allowing a lynching to occur after the prisoner was placed into custody.

Civil suits in state court would also suffer from the same racial biases that infected criminal proceedings during this era. The cases would likely be heard in rural courts located in rural counties in the South, with a jury selected from the local rural white population, some of whom might have had connections to the mob. Even the judge might have been a party to the lynch mob. Moore’s case was heard in the federal district court in New Orleans, a more cosmopolitan area, and members of the jury pool were drawn from that area. Essentially, it

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81 “$2,500 Lynching Verdict No Cure for Mobs”, Unknown Paper. [date? source found?]
82 “$2,500 Lynching Verdict No Cure for Mobs”, Unknown Paper. [date? source found?] See also Chadbourn, sup note 71, at 32. (Mentions that sparsely populated areas had lynched African-Americans who had not been taken into custody.)
83 The Louisiana Weekly, sup note 9.
would be difficult to replicate these conditions that characterized the Moore case in a parish or county court.

There were not only jurisdictional, but also evidentiary issues that had an impact on the viability of civil suits. Although the rules of evidence that barred African-American witness testimony had been removed after the Civil War, the state courts still allowed the parties to attempt to show bias by pointing out that the witness was the same race as one of the parties. In Moore’s case, the plaintiffs had strong evidence corroborating the testimony of Thibodaux and LeBlanc. Landry, a white deputy, admitted that the mob took the keys from him. It appears from newspaper accounts that the jury may have also had LaRose’s stepfather’s confession that he raped and murdered his stepdaughter, thereby clearing Fred Moore of any wrongdoing. These favorable factors would be difficult to replicate. Finally, the Moores were fortunately able to find affordable and competent legal representation.

Even if the jury rendered a verdict in the plaintiff’s favor, the plaintiff would still have to collect the award from the defendant. In this case, after the jury found in favor of Lilly and Louis Moore, their attorney had to hire a U.S. Marshall for $100 to collect the judgment from Sheriff Himel. The marshall was unable to find anything that could satisfy the judgment, and as a result, the Moores were forced to sue the surety in state court in order to collect the judgment from the federal court. Few litigants, white or black, could afford the costs associated with hiring a Marshall. Even if the plaintiff were able to hire a U.S. Marshall, in the Great

84 While race may have played a factor in criminal proceedings, the same racial dynamic might occur in cases with an African-American plaintiff and white defendant. Generally, credibility based on race affected the outcomes in criminal proceedings, but since the bias stemmed from racist origins, it could affect civil trials as well. See State v. Howard, 120 La. 311, 317 (La. 1907) (court found that it was proper for the prosecution to use race when questioning the witness’s credibility.).
85 “$2,500 Lynching Verdict No Cure for Mob[s?],” May 29, 1933.
86 Letter from Alexander Tureaud to Charles Houston, July 29, 1936, NAACP Papers.
87 Memorandum to Walter White from Charles Houston. July 20, 1936. NAACP Papers
Depression it would be difficult to capture assets from a sheriff or other lawman. In such a case, the plaintiff would have had gone through great pains and expense for nothing.

**CONCLUSION**

Despite their appeal to many supporters of anti-lynching campaigns, civil suits before the beginning of the civil rights movement were not a feasible strategy for most African-Americans in the South, although it is possible to identify conditions, which would have rendered them more viable. This essay has sought to discuss these factors. What must be said here is that if a 1933 jury of six white men faced with irrefutable facts could hold a sheriff liable in Louisiana, then other juries might have followed suit, if such cases had been brought. The Moore’s civil suit was not a fluke but merely ahead of its time.