

Lore of the Corps

A Butler in FDR's White House, Combat Infantryman in Italy, and Judge Advocate in the Corps: Rufus Winfield Johnson (1911–2007)

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Rufus Winfield Johnson served as a butler in the White House in the 1930s and saw fierce combat as an officer in the 92d Infantry Division in World War II. He also defended Soldiers at courts-martial during the Korean War and, after transferring to the Judge Advocate General's Corps in 1959, finished his Army career as a Reserve lieutenant colonel. While Johnson sometimes faced prejudice because of his ethnicity, he did not let racism prevent him from having a superb career as a Soldier and lawyer—or from making legal history.

Born on a farm in Montgomery County, Maryland, on 1 May 1911, Johnson was the seventh son of a seventh son. After his mother died when Johnson was four years old, he was raised by an aunt and uncle in Coatesville, Pennsylvania. According to an obituary published in 2007, Johnson first faced racial discrimination when he was a Boy Scout: he needed a swimming badge to make Eagle Scout, but could not earn that badge because African-Americans were prohibited from using the local whites-only swimming pool.¹

After finishing high school in 1928, Johnson attended Howard University in Washington, D.C., graduating in 1934. He subsequently completed law school at Howard in 1939 and then went to work at the White House. Although he was relatively short at five feet six inches, Johnson was exceptionally athletic and had qualified as a lifeguard while participating in the Army Reserve Officer Training Corps (ROTC) program in college. That explains why he was asked to watch over President Franklin D. Roosevelt as he exercised his polio-afflicted legs in the White House pool. Later, Johnson served as White House butler. He liked to tell about the time he spilled soup on Roosevelt yet kept his job. According to Johnson, the president, "seeking an advantage while dining with a political adversary," reached up to the butler tray Johnson was carrying "and calmly tripped a bowl of soup into his own lap, talking all the while, as his dining companions looked on, horrified."²

Eleanor Roosevelt took a liking to Johnson and, when the president's wife learned that he was studying for the bar exam at the end of his twelve-hour workday at the White House, she arranged for Johnson to serve her tea in the afternoons. She then instructed Johnson that he was to use

these two hours to study. Her kindness meant that Johnson was able to take the District of Columbia bar exam in October 1941.³

The following month, Johnson was ordered to active duty. Having been commissioned as a Reserve infantry officer in 1934 (through ROTC at Howard), First Lieutenant Johnson reported to Fort Dix, New Jersey. After a short assignment at that location—and promotion to the next rank—Johnson reported to the all-African-American 92d Infantry Division. When that unit sailed for Italy in 1944, Captain (CPT) Johnson was with it.

A member of the 3d Battalion, 371st Infantry Regiment, CPT Johnson excelled as an infantry officer and took command of Company I in early 1945. According to a questionnaire he completed in 1997, Johnson remembered telling newly arrived Soldiers:

I am Capt. Johnson, your new company commander. My job is getting the enemy killed and you home in one piece. I can get these two things done only if you follow my orders promptly, without hesitation, or question, and use everything you were taught to do during your training.⁴

Johnson saw hard combat in the Rome-Arno River, North Apennine, and Po Valley campaigns. At one point during his tenure as a company commander, CPT Johnson was ordered by the division commander, Major General Edward "Ned" Almond, to attack a hill held by the Germans. Johnson later remembered that it was a "suicide mission"⁵ and only a few men survived. Johnson was near the top of the hill when he found himself alone with a sergeant, who had been shot in the arm and both legs. Johnson shot and killed a German about to throw a grenade. Then, while under fire, Johnson picked up the injured man and carried him to safety.⁶

¹ Patricia Sullivan, *Lawyer and Lt. Col. Rufus W. Johnson*, WASH. POST, July 10, 2007, at B6.

² *Id.*

³ Johnson learned in 1942 that he had passed the bar examination but, since he was no longer in Washington, D.C., he was not able to personally appear in court and be admitted to practice until he was released from active duty in 1946.

⁴ Rufus W. Johnson, Questionnaire, U.S. Military History Inst., Carlisle Barracks, Pa. 6 (20 Aug. 1977) [hereinafter Johnson Questionnaire].

⁵ *Id.* at 22.

⁶ Sullivan, *supra* note 1.

In his questionnaire, Johnson explained that he became so enraged by what had happened on the hill that, when he returned to camp, he charged into Almond's tent and berated him for endangering his men. Apparently there was some pushing and shoving and Almond threatened to court-martial Johnson. While that did not occur, Johnson believed that Almond took his revenge at a later date by destroying a recommendation that Johnson be awarded the Silver Star for his gallantry during the Po Valley campaign. Johnson did, however, receive the Bronze Star Medal and Purple Heart.

While his duties as an infantry officer took the majority of his time in Italy, Johnson served as counsel at a number of courts-martial held in Italy. He "personally defended 11 cases involving capital crimes including 5 murders and three rapes."⁷

Johnson was discharged from the Army in February 1946. He was excited to be back on American soil, but this homecoming was bittersweet:

Released from active duty in Virginia; refused service at lunch counter in every bus station on way to D.C.; had to ride in the back of the bus; upon arrival in D.C., I tried to buy a milk shake at the lunch counter in my uniform as a captain; was told, "Sorry, but we don't serve colored." That was in the Greyhound bus station.⁸

After a short association with another Washington, D.C., lawyer, Johnson opened his own office. His specialty was criminal law, and he "handled every type of case individually from minor police infractions to and including manslaughter, rape and robbery."⁹ He also was "associate counsel" on several murder cases.¹⁰

In 1949, Johnson moved to San Bernardino, California, took and passed the bar exam, then opened a private law practice. A year later—in October 1950—he was recalled to active duty as part of a general mobilization of reservists during the Korean War. Captain Johnson was assigned briefly to Fort Knox, Kentucky, where he was a battalion executive officer and summary court officer. Although still an infantry officer, his legal background soon came to the attention of his superiors and resulted in Johnson being detailed to serve as trial and defense counsel at both general

⁷ U.S. Dep't of Army, DA Form 1056, Legal Experience Statement, The Judge Advocate Gen. Admin. Div., Johnson, Rufus W. block 16 (24 May 1951) [hereinafter DA Form 1056].

⁸ Johnson Questionnaire, *supra* note 5, at 14.

⁹ DA Form 1056, *supra* note 8, block 16.

¹⁰ *Id.*

and special courts-martial. He also worked as an "Assistant Legal Assistance Officer."¹¹

After CPT Johnson was assigned to the Far East Command and deployed to Korea in September 1951, he was appointed an Assistant Staff Judge Advocate at Headquarters, 2d Logistical Command. In this duty position, Johnson reviewed general court-martial records, examined boards and reports, and also conducted staff visits to units.¹² He also served as a defense counsel at special courts-martial held in Korea. Johnson was successful in this defense work—he obtained a number of acquittals for his clients—and consequently requested a transfer to the Judge Advocate General's Corps. But his request was denied because the Infantry Branch wanted to retain him as a combat unit commander.

Despite the Army's decision to keep crossed rifles on CPT Johnson's collar, his superiors permitted him to continue working as a lawyer: in his last assignment before leaving active duty in April 1953, Johnson served as "Assistant Staff Judge Advocate and Assistant Legal Assistance Officer" for Headquarters, III Corps and Fort MacArthur, located in Los Angeles, California. He was also the Chief of the Military Justice Branch. His rater, Colonel (COL) Doane F. Kiechel, then serving as III Corps Staff Judge Advocate, wrote the following on Johnson's Officer Efficiency Report:

One of the finest officers and gentlemen of my acquaintance. Possesses unimpeachable character and integrity, high intelligence and a broad background of military-legal training and experience. Has a fine sense of ethical values. Outstanding in loyalty and devotion, with a particular aptitude for working calmly and efficiently under stress.¹³

His senior rater, COL Norman B. Edwards, wrote: "An outstanding officer. Well liked, competent, efficient, courteous and hard working. I concur fully with the comment of the rating officer."¹⁴

¹¹ U.S. Dep't of Army, DA Form 67-2, Officer Efficiency Report, Johnson, Rufus W. (7 March 1951 to 18 July 1951). Note that the Articles of War were still in effect during this period, which explains why a non-Judge Advocate was permitted to serve as counsel at general courts-martial. See MANUAL FOR COURTS-MARTIAL UNITED STATES 277 (1949) (Eleventh Article of War: "[T]he trial judge advocate and defense counsel of each general court-martial shall, if available, be members of the Judge Advocate General's Corps or officers who are members of the bar of a Federal court or of the highest court of a State. . . ." (emphasis added)).

¹² U.S. Dep't of Army, DA Form 67-2, Officer Efficiency Report, Johnson, Rufus, W. (18 September 1951 to 8 January 1952).

¹³ U.S. Dep't of Army, DA Form 67-2, Officer Efficiency Report, Johnson, Rufus W. (1 March 1953 to 19 April 1953).

¹⁴ *Id.*

After leaving active duty, CPT Johnson remained in the Army Reserve and, during his yearly two weeks of active duty for training, served as an instructor for the Advanced JAGC Course at the Presidio of San Francisco. Major (MAJ) Johnson was finally able to transfer to the JAG Corps—on 20 February 1959—becoming one of the few African-American judge advocates in the Army.¹⁵ After he completed the USAR School Associate Judge Advocate Advanced Officer Course in 1961, MAJ Johnson received “equivalent credit” for the JA Officer Advanced Course.¹⁶ He served another ten years in the Army Reserve before retiring as a lieutenant colonel in 1971.

During these years, Johnson made legal history. In April 1962, a group of Navajos met in the California desert and performed “a religious ceremony which included the use of peyote.” Police officers, who had watched part of the ceremony, arrested them for illegally possessing the substance, which was outlawed because of its hallucinogenic qualities. The Navajos were later convicted in state court and they appealed to the California Supreme Court—with Johnson representing them on appeal.¹⁷

Johnson argued that the possession of peyote by his client, Jack Woody, and the other Navajos should be lawful because the peyote was being used for bona fide religious reasons, and consequently was protected by the First

Amendment. The California Supreme Court agreed with Johnson, ruling that any state interest in proscribing the use of peyote was insufficient to overcome the right to religious freedom guaranteed by the U.S. Constitution. On 24 August 1964, the court, sitting *en banc* and by a vote of six to one, announced that it was reversing Woody’s criminal conviction. *People v. Woody* continues to be cited in legal cases involving Native American religious freedom, and the name “Rufus W. Johnson, Anaheim, for defendants and appellants” will forever be associated with this decision.¹⁸

Johnson closed his law practice in 1978 and moved to Fayetteville, Arkansas. In 1995, he moved to Mason, Texas, to live with his step-daughter. He remained proud of his time as a Soldier and was a life member of the American Legion, Veterans of Foreign Wars, and Military Order of the Purple Heart. As he explained in 1977, he had joined these organizations because “they are noble, charitable, and patriotic . . . and were the ‘heart’ of a real nation.”¹⁹

Lieutenant Colonel Johnson died on 1 July 2007. He was ninety-six years old. In accordance with his wishes, he was buried at Arlington National Cemetery. This made perfect sense, as Johnson loved the Army and believed in it as an institution. As he put it, “the military is the one segment of American life that Martin Luther King Jr.’s dream has come closest to reaching a reality.”²⁰

*More historical information can be found at
The Judge Advocate General’s Corps
Regimental History Website*

Dedicated to the brave men and women who have served our Corps with honor, dedication, and distinction.

¹⁵ Johnson was promoted to major on 1 October 1953. U.S. Dep’t of Army, DA Form 66, Officer Qualification Record, Johnson, Rufus W. block 12.

¹⁶ Certificate of Completion, The Judge Advocate Gen.’s Sch., U.S. Army, Johnson, Rufus W. (1 Aug. 1961).

¹⁷ *People v. Woody*, 394 P.2d 813, 814 (1964).

¹⁸ *Id.* at 815–22. The court admitted the State’s power to proscribe the use of peyote, and stated that “[a]lthough the prohibition against infringement of religious belief is absolute, the immunity afforded religious practices by the First Amendment is not so rigid.” However, the court found that the State had not demonstrated a “compelling state interest” sufficient to outweigh the defendants’ interest in religious freedom. Part of this finding rested on expert opinion that peyote did not cause any “permanent deleterious effects” to its users.

¹⁹ Johnson Questionnaire, *supra* note 5, at 19 (emphasis in original).

²⁰ *Id.* at 9.