

2022

## Remembering Isaiah: I.H. Spears and the 1921 Tulsa Race Massacre

Robert M. Jarvis

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# TULSA LAW REVIEW

Volume 57

Winter 2022

Number 2

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# REMEMBERING ISAIAH: ATTORNEY I.H. SPEARS AND THE 1921 TULSA RACE MASSACRE

Robert M. Jarvis \*

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## I. INTRODUCTION

On May 31, 1921, a White mob set fire to the Greenwood District of Tulsa, Oklahoma.<sup>1</sup> Known as America’s “Black Wall Street,” Greenwood was the country’s wealthiest neighborhood of color.<sup>2</sup> Although exact figures remain elusive, it generally is agreed that the two-day Massacre,<sup>3</sup> which was caused by a false report that a Black

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1. Although the contention is not universally accepted, most historians believe the mob also bombed the District using private airplanes. See Farrell Evans, *What Role Did Airplanes Play in the Tulsa Race Massacre?*, HIST. (May 13, 2021), <https://www.history.com/news/1921-tulsa-race-massacre-planes-aerial-attack>.

2. See Meagan Day, *The History of the Tulsa Race Massacre That Destroyed America’s Wealthiest Black Neighborhood*, TIMELINE (Sept. 21, 2016), <https://timeline.com/history-tulsa-race-massacre-a92bb2356a69>.

3. For many years, this incident was known as the “1921 Tulsa race riot.” The word “riot” is no longer used (and has been replaced with the word “massacre”) to make the innocence of the victims clear. As is explained *infra* notes 92–95 and accompanying text, characterizing the incident as a “riot” benefitted numerous insurance companies, who were able to avoid paying the victims by invoking the riot exclusion clauses in their policies. For a further discussion, see Kendrick Marshall, *Tulsa Race Massacre: For Years It Was Called a Riot. Not*

teenager named Dick Rowland had sexually assaulted a White teenager named Sarah Page, caused 75-100 deaths; left roughly 10,000 people homeless; destroyed nearly 200 businesses; and resulted in almost \$2 million in property damage.<sup>4</sup>

The Massacre and its aftermath have been documented in numerous photographs.<sup>5</sup>

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*Anymore. Here's How It Changed.*, TULSA WORLD, [https://tulsaworld.com/news/local/racemassacre/tulsa-race-massacre-for-years-it-was-called-a-riot-not-anymore-heres-how-it/article\\_47d28f77-2a7e-5b79-bf5f-bdfc4d6f976f.html](https://tulsaworld.com/news/local/racemassacre/tulsa-race-massacre-for-years-it-was-called-a-riot-not-anymore-heres-how-it/article_47d28f77-2a7e-5b79-bf5f-bdfc4d6f976f.html) (last updated May 29, 2021).

4. After being covered up for decades by White Tulsans, in 1997 the State of Oklahoma put together a blue-ribbon commission to study the Massacre and make recommendations for future action. See Jean Pagel, *Commission Lists Objectives in Study of Tulsa Race Riot*, DAILY OKLA., Dec. 6, 1997, at 6. In 2001, the Commission released its final report, consisting of nearly 200 pages, which called for reparations to the victims and their descendants; establishment of an economic enterprise zone in Greenwood; and creation of educational scholarships and a permanent memorial. See TULSA RACE RIOT: A REPORT BY THE OKLAHOMA COMMISSION TO STUDY THE RACE RIOT OF 1921 (2001). Relying on the Commission's findings, in 2003 five survivors filed a federal lawsuit against the City of Tulsa and the State of Oklahoma. Deeming their claims time-barred, the district court dismissed the case, a ruling that was upheld on appeal. See *Alexander v. Oklahoma*, 382 F.3d 1206 (10th Cir.), *reh'g and reh'g en banc denied*, 391 F.3d 1155 (10th Cir. 2004), *cert. denied*, 544 U.S. 1044 (2005). In September 2020, the last three survivors filed a new lawsuit. See Maria Cramer, *Tulsa Massacre Survivors Sue City Nearly 100 Years After Attack*, N.Y. TIMES, <https://www.nytimes.com/2020/09/01/us/tulsa-race-massacre-lawsuit.html> (last updated May 20, 2021). Although the suit remains pending, it is more likely that compensation will come through legislative action. See, e.g., DeNeen L. Brown, *Reparations Bill for Tulsa Race Massacre Survivors Introduced in Congress*, WASH. POST (May 21, 2021), <https://www.washingtonpost.com/history/2021/05/21/tulsa-massacre-reparations-bill/> (reporting on "The Tulsa-Greenwood Massacre Claims Accountability Act of 2021"—the text of the Act, designated H.B. 3466 and sponsored by Representative Henry C. "Hank" Johnson, Jr. (D-Ga.), can be found at <https://hankjohnson.house.gov/sites/hankjohnson.house.gov/files/documents/tulsa.pdf>).

In addition to the Commission's Report, numerous books have been written about the Massacre. See, e.g., SCOTT ELLSWORTH, *THE GROUND BREAKING: AN AMERICAN CITY AND ITS SEARCH FOR JUSTICE* (2021); HANNIBAL B. JOHNSON, *BLACK WALL STREET 100: AN AMERICAN CITY GRAPPLES WITH ITS HISTORICAL RACIAL TRAUMA* (2021); RANDY KREHBIEL, *TULSA, 1921: REPORTING A MASSACRE* (2019); ALFRED L. BROPHY, *RECONSTRUCTING THE DREAMLAND—THE TULSA RIOT OF 1921: RACE, REPARATIONS, AND RECONCILIATION* (2003); JAMES S. HIRSCH, *RIOT AND REMEMBRANCE: THE TULSA RACE WAR AND ITS LEGACY* (2002); TIM MADIGAN, *THE BURNING: MASSACRE, DESTRUCTION, AND THE TULSA RACE RIOT OF 1921* (2001); SCOTT ELLSWORTH, *DEATH IN A PROMISED LAND: THE TULSA RACE RIOT OF 1921* (1982). See also LEE E. WILLIAMS & LEE E. WILLIAMS II, *ANATOMY OF FOUR RACE RIOTS: RACIAL CONFLICT IN KNOXVILLE, ELAINE (ARKANSAS), TULSA, AND CHICAGO, 1919-1921* (1972).

Despite the foregoing, most Americans continue to know nothing about the tragedy. See, e.g., Tom Hanks, *We Should All Learn About Tulsa*, N.Y. TIMES (June 4, 2021), <https://www.nytimes.com/2021/06/04/opinion/tom-hanks-tulsa-race-massacre-history.html> ("I knew about the attack on Fort Sumter, Custer's last stand and Pearl Harbor but did not know of the Tulsa massacre until last year, thanks to an article in The New York Times."). To increase public awareness, the creators of the 2019 HBO series *Watchmen* (starring Oscar winner Regina King) used the Massacre to frame their story. See Scott Collura, *Black Wall Street Massacre: Why Watchmen HBO Opened with the Tulsa Oklahoma Riots of 1921*, IGN, <https://www.ign.com/articles/2019/10/21/watchmen-tulsa-massacre-1921-riot-oklahoma-real-history> (last updated Oct. 22, 2019). On May 31, 2021, in a further effort to increase public awareness, President Joseph R. Biden, Jr. issued a proclamation marking the Massacre's centennial. See *A Proclamation on Day of Remembrance: 100 Years After the 1921 Tulsa Race Massacre*, WHITE HOUSE BRIEFING ROOM (May 31, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/05/31/a-proclamation-on-day-of-remembrance-100-years-after-the-1921-tulsa-race-massacre/>. The next day, Biden went to Tulsa and promised that "the story of the massacre 'will be known in full view.'" Katie Rogers & Michael D. Shear, *Biden Promises Tulsa Massacre Survivors Their Story Will Be 'Known in Full View'*, N.Y. TIMES (June 2, 2021), <https://www.nytimes.com/2021/06/01/us/politics/biden-tulsa-race-massacre.html>. During his visit, Biden also toured the Greenwood Cultural Center, which is dedicated to preserving the victims' stories. For a further discussion, see Stephanie Ruesch, *100 Years After the Tulsa Race Massacre*, HEINONLINE BLOG (June 15, 2021), <https://home.heinonline.org/blog/2021/06/100-years-after-the-tulsa-race-massacre/>.

5. For collections of these photographs, see, e.g., KARLOS K. HILL, *THE 1921 TULSA RACE MASSACRE: A PHOTOGRAPHIC HISTORY* (2021); HANNIBAL B. JOHNSON, *TULSA'S HISTORIC GREENWOOD DISTRICT* (2014);

For lawyers, however, the most iconic one shows two Black men sitting at a desk in a tent (supplied by the Red Cross), surrounded by law books, and flanked by a woman at a typewriter.<sup>6</sup>



I.H. Spears (left) with secretary E.B. Thompson (center) and B.C. Franklin in their “tent” law office five days after the 1921 Tulsa Race Massacre

It is not known who took the photograph. On the back of it, an anonymous scribe has written the date (June 6, 1921), which also appears on the front of the photograph, and the names of the two men: “B.C. Franklin” and “I.H. Spears (Attorney).”<sup>7</sup> Later researchers have identified the woman as their secretary E.B. Thompson.<sup>8</sup>

Because of his posthumously published autobiography, a great deal is known about Franklin.<sup>9</sup> This book also provides enough information to allow a detailed profile of

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*1921 Tulsa Race Massacre*, TULSA HIST. SOC’Y & MUSEUM, <https://www.tulsaahistory.org/exhibit/1921-tulsa-race-massacre/> (last visited Dec. 20, 2021) (318 photographs accessible using the “Online Collection” tab and then the “Photos” button).

6. The photograph, which now is in the public domain, can be viewed on numerous websites, including the one hosted by the Smithsonian’s National Museum of African American History and Culture. See *Photograph of B.C. Franklin, I.H. Spears, and Effie Thompson*, SMITHSONIAN, <https://www.si.edu/object/photograph-bc-franklin-ih-spears-and-effie-thompson%3Anmaahc2015.176.2> (last visited Dec. 20, 2021).

7. *Id.*

8. *Id.*

9. See BUCK COLBERT FRANKLIN, *MY LIFE AND AN ERA: THE AUTOBIOGRAPHY OF BUCK COLBERT*

Thompson to be pieced together with modest effort.<sup>10</sup> In contrast, almost no information exists about Spears.<sup>11</sup> Accordingly, this Article seeks to fill the gap. Even with deep digging, however, much about Spears (referred to in the remainder of this Article as “Isaiah”) remains uncertain.<sup>12</sup>

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FRANKLIN (John Hope Franklin & John Whittington Franklin eds. 1997). The editors, respectively, are Franklin’s son (the noted Duke University historian, now deceased) and grandson. As they explain, Franklin (1879-1960), a native Oklahoman, spent his entire life (except for his college years) in the state. *See also* Buck Colbert “B.C.” Franklin Sr., FIND A GRAVE (June 26, 2013), <https://www.findagrave.com/memorial/112916764/buck-colbert-franklin>.

10. Thompson (1884-1947) was born Effie F. Bryant. A native of Silver Springs, Tennessee, she was a graduate of Nashville’s Roger Williams University (where she met Franklin). In 1907, while working as a teacher at Meigs High School in Nashville, she married Phineas S. Thompson (1883-1964), a fellow Tennessean who had earned a pharmacy degree at Nashville’s Meharry Medical College. In 1909, the couple moved to Muskogee, Oklahoma, and in 1913 had their only child there, a son named Bryant A. Thompson (1913-1958). In 1916, the family moved to Tulsa and opened a pharmacy. Known as the Wright-Thompson Drug Company, the business’s motto was “Accuracy! Promptness! Service!” When the Massacre destroyed the store, Effie went to work temporarily as Franklin and Spears’ secretary but later returned to help run the rebuilt store with Bryant. *See* BUREAU OF THE CENSUS, U.S. DEP’T OF COM. AND LAB.—THIRTEENTH CENSUS OF THE U.S.: 1910—POPULATION (Enumeration No. 117, Sheet 20A, Lines 18–19), <https://www.ancestry.com>; FRANKLIN, *supra* note 9, at 166, 189, 190, 193, 198; *Bryant Thompson Dies at Muskogee*, OKLA. EAGLE, Aug. 7, 1958, at 1; *Tulsa Druggist Dies Suddenly at Home*, OKLA. EAGLE, Aug. 7, 1947, at 1; *Display Ad*, TULSA STAR, Feb. 15, 1919, at 2; *Bryant A. Thompson*, FIND A GRAVE (May 4, 2013), <https://www.findagrave.com/memorial/109985834/bryant-a-thompson>; *Effie B. Thompson*, FIND A GRAVE (May 4, 2013), <https://www.findagrave.com/memorial/109985900/effie-b-thompson>; *P.S. Thompson*, FIND A GRAVE (May 4, 2013), <https://www.findagrave.com/memorial/109986021/p-s-thompson>.

Due to her light complexion, at least one source incorrectly describes Effie as White. *See* Elaine Appleton Grant, *Unsung Heroes and Secret Villains: The War Between Good and Evil in Tulsa*, MEDIUM (June 19, 2020), <https://elaingrant.medium.com/unsung-heroes-and-secret-villains-the-war-between-good-and-evil-in-tulsa-915ace99b94d>.

11. A rudimentary timeline does appear on Ancestry.com. In addition, a website about early Black lawyers in Arkansas advises:

(Isaiah) H. Spears was reported in practice in El Dorado (Union County), Arkansas in 1938. He had graduated from Howard University’s School of Law in 1908. At that time [1938], he was a member of the Wonder State Bar Association, a Black lawyers group. A reference places him in practice previously in Tulsa, Oklahoma, about the time of the May 1921 “Race Riot.” After the fires that burned the city’s thriving Black community, Spears and two other attorneys[] practiced law in a tent as Spears, Franklin & Chappelle. They moved into a permanent office on Greenwood Street in November 1921. The trio’s most notable case, among many on behalf of riot victims, involved a successful challenge to an ordinance of the Tulsa City Commission that would have made rebuilding the area significantly more expensive for Blacks. There is some suggestion that Spears moved to California at some point. Nothing more is known about him.

Judith Kilpatrick, *Arkansas Black Lawyers*, <https://arkansasblacklawyers.uark.edu/lawyers/index.html> (last visited Dec. 20, 2021).

The moniker “Wonder State” was chosen by the 1923 Arkansas Legislature as the state’s official nickname. In 1953, it was changed to “The Land of Opportunity.” In 1995, it was changed again to “The Natural State.” *See Official State Nicknames*, ENCYCLOPEDIA OF ARK., <https://encyclopediaofarkansas.net/entries/official-state-nicknames-3150/> (last updated Mar. 8, 2018). Similarly, in the 1960s the Wonder State Bar Association changed its name to the “Arkansas Black Lawyers Association.” In 1981, the group became the “W. Harold Flowers Law Society.” *See About Us*, W. HAROLD FLOWERS L. SOC’Y, [https://nikkib17.wixsite.com/whfls/about\\_us](https://nikkib17.wixsite.com/whfls/about_us) (last visited Dec. 20, 2021). Flowers and Isaiah were two of the ten founders of the Wonder State Bar Association. *See infra* note 106.

12. This is a common problem when writing about early Black lawyers. For a further discussion, see, e.g., J. CLAY SMITH, JR., EMANCIPATION: THE MAKING OF THE BLACK LAWYER, 1844-1944, at 1 (1993) (observing that “the history of lawyers in American legal history is ‘a white man’s history’”); David Kenneth Pye, *Legal Subversives: African American Lawyers in the Jim Crow South* 14 (2010) (unpublished Ph.D. dissertation, University of California-San Diego) (noting that “[e]vidence is always a problem for those attempting to write the stories of marginalized people.”).

## II. EARLY YEARS: 1881-1908

Isaiah Herculaneus Spears was born on February 20, 1881 in Marianna, Florida.<sup>13</sup> His parents—Madison Spears and Susanna “Susie” Spears (née Campbell)—had married on March 27, 1879.<sup>14</sup> In the 1880 federal census, Madison, twenty-one, is described as a “laborer” and Susanna, twenty, is “keeping house.”<sup>15</sup> In the 1885 Florida state census, Madison, twenty-six, is listed as a “farmer” and a “minister” while Susanna, twenty-five, is a “farmhand.”<sup>16</sup>

Nothing is known about Isaiah’s childhood, for the next reliable piece of information that exists is the 1900 federal census.<sup>17</sup> It shows Susie, now a widow, living in Pensacola and working as a “washerwoman.”<sup>18</sup> Although she is forty-one, she gives her age as thirty-six, telling the enumerator that she was born in 1864.<sup>19</sup> Susie’s California death certificate, however, makes it clear that her actual birthday was January 21, 1859.<sup>20</sup>

Residing with Susie is Isaiah, whose occupation is listed as “at school.”<sup>21</sup> Given his age (nineteen) and soon-to-be career (schoolteacher), this suggests that Isaiah was away attending a “Normal School.”<sup>22</sup> Also listed in the house are Arthenis (sometimes spelled “Arthenia”), seventeen, a “cook,” and Rosa, thirteen, a “nurse.”<sup>23</sup> These are Isaiah’s two

13. See *Obituary Notices: Spears*, PASADENA INDEP., Sept. 21, 1964, at 18; World War II Draft Registration Cards, 1942 for Isaiah H Spears, <https://www.ancestry.com>. Neither of these items give Isaiah’s middle name (both instead use his middle initial). Indeed, finding Isaiah’s middle name proved to be quite a challenge. A 1957 federal court opinion finally cleared up the mystery. See *infra* note 122 and accompanying text. According to one source, Isaiah’s unusual (but apt, given how his life turned out) middle name means “large” or “huge.” See CHARLES SIDNEY SMITH, METAPHOR AND COMPARISON IN THE EPISTULAE AD LUCILIUM OF L. ANNAEUS SENECA 82 (1910).

14. See Madison Spears in the Florida, U.S., Cnty. Marriage Recs., 1823-1982 (Film Number: 000931955), <https://www.ancestry.com>; Susanna Campbell in the Florida, U.S., Cnty. Marriage Recs., 1823-1982 (Film Number: 000931955), <https://www.ancestry.com>.

15. See OFFICE OF THE SEC’Y OF THE INTERIOR, TENTH CENSUS OF THE UNITED STATES: 1880 (Enumeration Dist. 67, Page 7, Lines 33–34 of Schedule 1), <https://www.ancestry.com>.

16. See FLA. STATE CENSUS OF 1885 (Page 11, Lines 4–5 of Schedule 1), <https://www.ancestry.com>.

17. See OFFICE OF THE SEC’Y OF THE INTERIOR, TWELFTH CENSUS OF THE U.S.: 1900 (Enumeration Dist. 19, Sheet 7, Lines 27–30 of Schedule No. 1), <https://www.ancestry.com> [hereinafter 1900 PENSACOLA CENSUS].

18. *Id.* at Line 27.

19. *Id.*

20. See Susie Spears in the California, U.S., Death Index, 1940-1997, <https://www.ancestry.com> (reporting that Susie died in Los Angeles on November 16, 1948).

21. See 1900 PENSACOLA CENSUS, *supra* note 17, at Line 28.

22. Although actual proof has not been found to support this idea, a 1916 newspaper profile of Isaiah strongly hints that he received some sort of education after high school and before law school: “[i]n this man we have a prepared man, who first secured a thorough literary training before he decided to study law. . . .” Theo. Baughman, *Progress of the Race in Our Sister State*, TOPEKA PLAINDEALER, Apr. 14, 1916, at 2. As has been explained elsewhere, in the late nineteenth and early twentieth centuries a “Normal School” (now known as a “Teachers’ College”) was a non-degree granting institution with a two-year curriculum that trained schoolteachers. See Edna M. Colson, *The Negro Teachers’ College and Normal School*, 2 J. NEGRO EDUC. 284, 285 (1933). In 1900, no such school existed for Blacks in Pensacola. See *Negro School Anniversary*, PENSACOLA J., Jan. 17, 1909, at 11 (indicating that the first Black Normal School in Pensacola opened in 1907). In other parts of the South, however, Normal Schools for Black individuals were in operation. See *Colored Normal School*, PENSACOLA DAILY NEWS, Oct. 9, 1905, at 7 (explaining that “Tallahassee and Jacksonville [to] the East; Mobile and New Orleans [to] the West; Selma, Montgomery, Tuskegee and Atlanta [to] the North . . . are the nearest places [to Pensacola] where Normal School accommodations can be had by colored youth.”).

23. See 1900 PENSACOLA CENSUS, *supra* note 17, at Lines 29–30.

younger sisters (born, respectively, in 1883 and 1886).<sup>24</sup> Given her age, it is doubtful that Rosa was working as a nurse, although she may have been helping at a hospital or a doctor's office.

One month after the 1900 census was taken, Isaiah's name figured in a brief item in the *Pensacola Daily News*: "Isaiah Spears appeared before the mayor this morning on a charge of riding his bicycle on the sidewalk; he was fined \$5."<sup>25</sup> Whether this unduly harsh penalty (\$5 in 1900 is the equivalent today of \$157.66<sup>26</sup>) was due to Isaiah's race is difficult to say. As has been pointed out elsewhere, Pensacola in 1900 was a relatively tolerant city and, as a result, had a large Black population.<sup>27</sup>

Isaiah's next appearance in the *Pensacola Daily News* was considerably more favorable. In 1902, he was reported as being a teacher in the city's Black public schools and earning a monthly salary of \$25.<sup>28</sup> This suggests, quite plausibly, that Isaiah attended a Normal School from 1899 to 1901 (ages eighteen-twenty) and then landed a teaching job for the 1901-1902 school year.

Susie, Isaiah, Arthenis, and Rosa all appear in the 1903 Pensacola City Directory, where they are shown living in Susie's home at 1938 North Alcaniz Street.<sup>29</sup> Susie is listed as a "laundress," Isaiah is a "teacher," Arthenis (like her mother) is a "laundress," and Rosa is a "nurse."<sup>30</sup> Shortly after this directory appeared, Isaiah received a promotion and was named the principal of "Colored School 24."<sup>31</sup>

At the end of the 1904-1905 school year, Isaiah, having decided to become a lawyer, resigned his teaching position.<sup>32</sup> Just what prompted him to become a lawyer is unknown. By this time, however, Isaiah's uncle—Andrew Warlesle Spears<sup>33</sup>—was working as a

24. *Id.*

25. *Among the Lawbreakers*, PENSACOLA DAILY NEWS, July 3, 1900, at 4.

26. See Morgan S. Friedman, *The Inflation Calculator*, WESTEGG, <https://westegg.com/inflation/> (last visited Dec. 20, 2021) (converting \$5 in 1900 to its 2020 value).

27. From its earliest beginnings as an American city, Pensacola had been known as a (relatively) good place for Black people. See MATTHEW J. CLAVIN, *AIMING FOR PENSACOLA: FUGITIVE SLAVES ON THE ATLANTIC AND SOUTHERN FRONTIERS* (2015). Matters began to change for the worse after a 1906 hurricane, which marked the beginning of a long downward slide in the city's fortunes. See Donald H. Bragaw, *Status of Negroes in a Southern Port City in the Progressive Era: Pensacola, 1896-1920*, 51 FLA. HIST. Q. 281, 299-301 (1973).

28. See *Financial Statement of the Board of Public Instruction for the Month Ending April 7th, 1902—Credit by Warrants Paid*, PENSACOLA DAILY NEWS, June 28, 1902, at 3. During the next three years, Isaiah's salary increased steadily, rising from \$30 a month to \$40 a month to finally \$50 a month. See *Financial Statement of the Board of Public Instruction for the Month Ending June 9, 1902—Credits by Warrants Paid*, PENSACOLA DAILY NEWS, June 30, 1902, at 7; *Financial Statement of the Board of Public Instruction for the Month Ending Jan. 6, 1903—Cr. by Warrants Paid*, PENSACOLA DAILY NEWS, Mar. 2, 1903, at 3; *Financial Statement of the Board of Public Instruction, for Month Ending November 7, 1904—CR. by Following Warrants Paid*, PENSACOLA DAILY NEWS, Apr. 13, 1905, at 5. Isaiah apparently used part of his earnings to engage in real estate speculation. In August 1905, for example, he purchased and sold two lots in the city's West King tract. See *Real Estate Transfers*, PENSACOLA DAILY NEWS, Aug. 15, 1905, at 8 (reporting that Isaiah had purchased lots 21 and 22 in block 28 of the West King Tract from Philis Smith for "\$1 and other considerations" and sold them to D. Hale Wilson for "\$150.00 and other considerations").

29. See WIGGINS' PENSACOLA CITY DIRECTORY 1903, at 332.

30. *Id.*

31. See *Board of Instruction: Held a Special Meeting This Morning and Adopted Books for Coming School Year*, PENSACOLA DAILY NEWS, Aug. 15, 1903, at 1.

32. See *infra* text accompanying note 37 (explaining that Isaiah began law school in the fall of 1905).

33. Finding Andrew's middle name proved almost as difficult as finding Isaiah's middle name. Andrew's middle name is listed on his son's birth certificate. See ARK. DEP'T OF HEALTH: BUREAU OF VITAL STAT.,



lawyer.<sup>34</sup> Like Isaiah, Andrew was from Marianna<sup>35</sup> and was just three years older than Isaiah.<sup>36</sup> It thus seems likely that Isaiah was inspired by Andrew's example.

In the fall of 1905, Isaiah began law school at Howard University in Washington, D.C.<sup>37</sup> At the time, Howard was the nation's only Black law school and one of the few law schools that accepted Black students.<sup>38</sup> Upon his graduation in 1908,<sup>39</sup> Isaiah returned to Pensacola, passed the Florida bar exam,<sup>40</sup> became a public notary,<sup>41</sup> and hung out a

Delayed Certificate of Birth of Andrew Warlesle Spears, Jr. (May 11, 1973), <https://www.ancestry.com>. As explained *infra* note 105, Andrew, Jr. was one of Andrew's four children by his second wife, Minnie.

34. It is not known if or where Andrew went to law school, but it is certain that he started his career in Pensacola. See *List of Licenses—Licenses Issued April 1900*, PENSACOLA DAILY NEWS, June 29, 1900, at 1 (reporting that Andrew had paid \$2.50 for an occupational license to work as a lawyer). See also FLORIDA'S FIRST BLACK LAWYERS, 1869-1979, at 13 (2009) (authored and published by the Virgil Hawkins Florida Chapter of the National Bar Association) (listing Andrew as practicing in Florida "c. 1900"). As explained *infra* notes 36 and 105 and accompanying text, Andrew left Pensacola in 1902 and by 1906 had settled in Pine Bluff, Arkansas, where he practiced until his untimely death in 1925 from septicemia (blood poisoning). It is not known what caused Andrew to move away from Pensacola. In August 1902, however, the local paper reported that he had been arrested for having sex with a minor. See *Arrested on Serious Charge*, DAILY NEWS (Pensacola, Fla.), Aug. 6, 1902, at 4 ("A.W. Spears, a well known colored lawyer of this city, was arrested this morning by Constable Slocumb on a warrant charging him with having carnal knowledge of a female under the age of consent. Spears gave bond immediately and apprehends no difficulty in clearing himself. . . .").

35. See ARK. DEP'T OF HEALTH: DIVISION OF VITAL STAT., Delayed Certificate of Birth of Rosa Marie Spears (Jan. 14, 1977), <https://www.ancestry.com> (listing Andrew's birthplace as Marianna).

36. See ARK. DEP'T OF HEALTH: DIVISION OF VITAL STAT., Certificate of Death of A. VA Speare [sic], <https://www.ancestry.com> (indicating that Andrew was forty-seven at the time of his death on June 29, 1925). See also Judith Kilpatrick, *(Extra) Ordinary Men: African-American Lawyers and Civil Rights in Arkansas Before 1950*, 53 ARK. L. REV. 299, 398 (2000) (indicating that Andrew was born in 1878; died in 1925; and was admitted to the Arkansas Supreme Court on July 23, 1906).

37. Isaiah likely was able to afford the tuition by his land speculation dealing. See *supra* note 28.

38. See A LEGACY OF DEFENDING THE CONSTITUTION—HOWARD UNIVERSITY SCHOOL OF LAW: 1869-2009 (Kurt L. Schmoke et al., 2009). Founded in 1869, the school had adopted a three-year curriculum in 1900. See *Our History*, HOWARD UNIV. SCH. OF L., <http://law.howard.edu/content/our-history> (last visited Dec. 20, 2021). In his autobiography, Franklin paid tribute to the school: "[In 1925,] I was very fortunate in [hiring as a new associate] a young attorney just out of Howard Law School. . . . I'd known many graduates of that famous law school—O.B. Jefferson, Spears, Chappelle, Corbett, and many others—and I'd never met a dumb one." FRANKLIN, *supra* note 9, at 203. During his last year in law school, Isaiah helped form, and served as the recording secretary of, the Florida Club, an organization made up of "Colored people residing in Washington, D.C. whose homes are in Florida." See *News Note and Comment*, SEATTLE REPUBLICAN, Aug. 30, 1907, at 3 (indicating that Isaiah was one of the group's founders); *Florida Club Entertains*, WASH. BEE (D.C.), Oct. 12, 1907, at 5 (identifying Isaiah as the group's recording secretary).

39. See *Hanly Talks to Graduates: Howard Students' Mission Indiana Governor's Theme*, EVENING STAR (D.C.), May 28, 1908, at 20 (listing Isaiah as one of the twenty-five graduates being awarded a Bachelor of Laws degree).

40. There is no actual record of Isaiah taking and passing the Florida bar exam. However, long after his death, the *Florida Bar News* reported that Isaiah was admitted in 1908. See *In Memoriam*, FLA. B. NEWS (June 15, 2009), <https://www.floridabar.org/the-florida-bar-news/in-memoriam-74/>. This column begins:

Readers may notice that a few lawyers listed below died a number of years ago. Their deaths are only now being reported as the Bar only recently received confirmation of their passing. Those mostly out-of-state members were found when Bar staff was attempting to locate members who were delinquent or lapsed for a number of years.

*Id.* The column goes on to list numerous departed Florida lawyers, including: "I.H. Spears, Pasadena, CA: Admitted 1908; Died September 19, 1964." *Id.*

41. See *New Appointments Throughout State*, TAMPA WKLY. TRIB., July 9, 1908, at 5. This article lists Isaiah's address as "2018 N. Alcanis Street" (an obvious misspelling of Alcaniz). By 1909 (if not before), Isaiah was sharing this address with his mother Susie and his sister Rosa. See R.L. POLK & CO.'S PENSACOLA DIRECTORY—VOLUME V 349 (1909).

shingle.<sup>42</sup>

### III. LEGAL CAREER IN PENSACOLA: 1908-1910

In September 1908, the *Pensacola Journal* reported on what likely was Isaiah's first case. Titled *I.H. Spears v. I.L. Purcell*, it sought "damages of \$102.30" and listed "I.H. Spears [as the] attorney for [the] plaintiff."<sup>43</sup> Unfortunately, the paper provides no additional details. At the time, however, Isaac L. Purcell was one of Pensacola's most esteemed Black lawyers.<sup>44</sup> This makes Isaiah's lawsuit (whatever it was about) particularly intriguing.

In May 1909, the Pensacola Loan and Trust Company took out a large display ad in the *Pensacola Journal*.<sup>45</sup> The ad offered for sale various homes and lots as well as loans for those in need of financing.<sup>46</sup> At the bottom of the ad appeared the words: "I.H. Spears, Secretary and Manager."<sup>47</sup>

In June 1909, Isaiah got married.<sup>48</sup> His bride was Rosa Mae Weaver, a thirty-year-old Tuscaloosa, Alabama native.<sup>49</sup> An 1898 graduate of Atlanta University, Rosa was a schoolteacher.<sup>50</sup>

Three months later, Isaiah found himself the target of a Kafkaesque prosecution, one that eventually would reach the Florida Supreme Court and that would end up haunting him for the rest of his life. An enormous headline in the *Pensacola Journal* reported: "I.H. Spears is Under Arrest: Colored Attorney is Charged with Receiving Property Which is Alleged to Have Been Stolen by a Colored Woman."<sup>51</sup> The accompanying story explained that Spears had been forced to post a \$200 bond to get out of jail.<sup>52</sup>

Ten days later, the *Pensacola Journal* gave its readers a preview of Isaiah's upcoming trial:

42. Although these facts make Isaiah one of Florida's earliest Black lawyers, his name does not appear in FLORIDA'S FIRST BLACK LAWYERS, *supra* note 34. This same omission occurs in Smith's discussion of early Florida lawyers. See SMITH, *supra* note 12, at 275–81. There were exceedingly few Black lawyers in America during this period. According to the 1910 federal census, the United States had 798 Black lawyers. See BUREAU OF THE CENSUS, THE SOCIAL AND ECONOMIC STATUS OF THE BLACK POPULATION IN THE U.S.: AN HISTORICAL VIEW, 1790-1978, at 76 (1979), <https://files.eric.ed.gov/fulltext/ED175974.pdf>. This represented less than one percent of the total number (122,149) of U.S. lawyers. See *ABA National Lawyer Population Survey: Historical Trend in Total National Lawyer Population 1878-2021*, ABA (2021), [https://www.americanbar.org/content/dam/aba/administrative/market\\_research/2021-national-lawyer-population-survey.pdf](https://www.americanbar.org/content/dam/aba/administrative/market_research/2021-national-lawyer-population-survey.pdf).

43. *New Suits Filed*, PENSACOLA J., Sept. 15, 1908, at 8.

44. For profiles of Purcell, see SMITH, *supra* note 12, at 278–79; FLORIDA'S FIRST BLACK LAWYERS, *supra* note 34, at 8. See also *Lawyer I.L. Purcell of Jacksonville is Dead*, N.Y. AGE, Aug. 23, 1930, at 1; *Isaac Lawrence Purcell*, FIND A GRAVE (May 1, 2013), <https://www.findagrave.com/memorial/109793857/isaac-lawrence-purcell>.

45. See *Display Ad*, PENSACOLA J., May 5, 1909, at 6.

46. *Id.*

47. *Id.*

48. See GENERAL CATALOGUE OF ATLANTA UNIVERSITY, ATLANTA, GEORGIA, 1867-1918, at 81 (1918) (under "Rosa Mae Weaver").

49. *Id.*

50. *Id.*

51. See *I.H. Spears is Under Arrest: Colored Attorney is Charged with Receiving Property Which is Alleged to Have Been Stolen by a Colored Woman*, PENSACOLA J., Sept. 7, 1909, at 7.

52. *Id.*

Isaiah Spears, a negro lawyer, was to have been tried yesterday [September 17] but the case was ordered continued until some day next week. Spears will have to explain to a jury how he came into possession of stolen goods, when, the officers will allege, he knew the property to have been stolen.<sup>53</sup>

When the trial finally got underway it took two days. After the first day, the *Pensacola Journal* filed the following report:

Charged with receiving stolen property knowing the same had been stolen, Isaiah H. Spears, a negro attorney, was placed on trial in the criminal court at the afternoon session of that tribunal yesterday. The state rested its case at 5 o'clock, and when court adjourned for the day at 6:30 p.m. the defense was strongly striving to convince the jury that there was nothing in the charges. The case will be called again at 10 o'clock this morning. Mr. Loftin is prosecuting and E.T. Davis, Esq., appears for the defendant. One of the witnesses used by the state yesterday was C.H. Laney, Esq., another widely known member of the Pensacola bar. Several negroes of local prominence watched the trial closely from the start, some of them having been accorded the privilege of occupying seats within the rail.<sup>54</sup>

When court resumed the next day, Isaiah's defense concluded, after which the jury found him guilty:

Isaiah Spears, a young negro lawyer, was convicted in the criminal court yesterday of receiving stolen goods. The case embraced the change of a note of fifty to one hundred dollars [sic], and this also entered into the case. Spears made a hard fight, denying by witness and himself every allegation on the part of the state. He was represented by white counsel with whom he entered into frequent conferences during [the] progress of the case. [Spears] was attired in the height of fashion during the trial, and thus dressed had a narrow escape from having to spend last night in the county jail. For some time he endeavored to secure a satisfactory bondsman to sign a bond of \$500, the amount fixed by Judge Beggs pending the preparation and presentation of a motion for a new trial. The argument will be heard today.<sup>55</sup>

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53. *Guilty Plea Come from Tom Hawkins*, PENSACOLA J., Sept. 18, 1909, at 7. This headline refers to a separate case having nothing to do with Isaiah.

54. *Negro Lawyer is on Trial in Criminal Ct.: Charged with Receiving Stolen Property Knowing Same Had Been Stolen, I.H. Spears, Colored, is Made Defendant, and Has Engaged White Counsel*, PENSACOLA J., Sept. 24, 1909, at 7. Isaiah's attorney was Elza T. Davis (1863-1942). Born in Reidsville, Georgia, Davis graduated from the University of Georgia's law school in 1891 and later served in the Spanish-American War. After mustering out, he moved to Pensacola. In 1910, he ran for Congress but dropped out of the race after just a few weeks, with newspapers mocking him for having used a full-page ad to present his overly detailed platform (which embraced Jeffersonian principles). Following the campaign, Davis got married and moved to Tallahassee, where he spent the remainder of his life. See DEP'T OF COM. AND LAB.: BUREAU OF THE CENSUS, THIRTEENTH CENSUS OF THE UNITED STATES: 1910 (Enumeration Dist. No. 16, Sheet 15A, Line 7), <https://www.ancestry.com>; A ROSTER OF SPANISH AMERICAN WAR SOLDIERS FROM GEORGIA 30 (Carlton J. Thaxton et al. eds., 1984); *Judge E.T. Davis Dies in Lake City*, TALLAHASSEE DEMOCRAT, Aug. 9, 1942, at 1; TAMPA MORNING TRIB., July 3, 1910, at 8 (reporting on Davis's marriage); *Needs Less Platform*, PENSACOLA J., Mar. 23, 1910, at 4; *E.T. Davis Announces His Candidacy for Congress and Outlines His Platform*, PENSACOLA J., Mar. 9, 1910, at 2; *Athens' Gala Week*, MACON TELEGRAPH, June 15, 1891, at 2 (listing Davis as among those graduating with a law degree from the University of Georgia).

55. *Negro Lawyer Convicted of Serious Act: After Part of Two Days Spent in Trial of Case Jury Returns Against Defendant—Released Pending Argument of New Trial on Heavy Bond*, PENSACOLA J., Sept. 25, 1909, at 7. See also *Alberta Benbow Convicted*, PENSACOLA J., Sept. 25, 1909, at 7 ("Should the lawyer, Spears, be refused a new trial, he will be sentenced, as well as [four others]. The present term will probably end with today's session."). The racial composition of Isaiah's jury is unknown. It is possible, however, that it included Black members, for one year earlier the Florida Supreme Court had ruled that the state's all-White juror system was

For unknown reasons, Isaiah's sentencing was put off for ten days.<sup>56</sup> When it finally occurred, Isaiah was treated harshly:

Fifteen months at hard labor was the sentence imposed by Judge Beggs yesterday upon Isaiah H. Spears, the young negro lawyer who was convicted at the recent term of the criminal court of forgery and uttering forged paper. The sentence was made as follows: One year at hard labor on first information count, three months at hard labor on second count, and an additional ten days upon a failure to pay the costs of prosecution. Spears was taken to the county jail and locked up, to begin his long sentence. The new trial motion was argued at length but no good grounds were set up, and of course such was denied by the court.<sup>57</sup>

Isaiah apparently did not spend much time in the county jail, for the following month he was arrested on a new charge:

Eighteen arrests were made by deputy sheriffs yesterday on charges of failing to have [the] necessary [occupational] license as required by law. Bond in every case was furnished, and all the parties were released. . . . Among the defendants for having no license was Isaiah Spears, a negro lawyer. . . . Spears was crestfallen when the key was turned on him. He was kept there about four hours before bond was furnished.<sup>58</sup>

In the meantime, Elza Davis (Isaiah's trial attorney) worked on Isaiah's appeal. In March 1910, the Florida Supreme Court, in a unanimous decision, agreed with Davis that Isaiah should have been granted a new trial:

On the 13th of September, 1909, the county solicitor of the criminal court of record of Escambia county filed in that court at the September term an information against Isaiah H. Spears, the plaintiff in error, containing one count in which Spears is charged with receiving and aiding in the concealment of one blanket, the property of Mattie Gus, of the value of \$3, on the 15th of June, 1909. On the 18th of September, 1909, during said term, the court made an order allowing the solicitor to amend said information by adding two additional counts, in the first of which Spears is charged with falsely and fraudulently altering a promissory note on the 25th of March, 1909, executed to him by Delia Milner, by changing and altering said note from one of \$50 to one of \$150. In the second of said added counts Spears is charged with knowingly and fraudulently altering and publishing as true said forged note to the Escambia Realty Company, a corporation, and to one George Wentworth on the 26th of March, 1909. Said note is alleged to be dated the 12th of March, 1909. On the 23d of September, 1909, the defendant, Spears, was arraigned and pleaded not guilty, and on the 24th of September, 1909, the trial was had, which resulted in a verdict of guilty on the second and third counts; the court having instructed the jury to acquit the defendant of the charge in

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unconstitutional. *See* *Montgomery v. State*, 45 So. 879 (Fla. 1908) (Div. A).

56. *See Sentences in Criminal Ct.*, PENSACOLA J., Sept. 26, 1909, at 5 ("Sentence was not passed on Isaiah Spears, convicted of receiving stolen goods, and forgery and uttering forged paper . . ."); *Motion for New Trial to be Argued*, PENSACOLA J., Oct. 6, 1909, at 8 ("Judge Beggs will hear arguments for a new trial in the case of I.H. Spears, a colored lawyer, at 10 o'clock this morning at a special session of the criminal court. In case the motion is denied, sentences will be passed.").

57. *Spears Given 15 Months on County Road: Negro Lawyer Convicted of Forgery and Uttering Forged Paper Gets Long Term for His Misdeed—Argument for New Trial*, PENSACOLA J., Oct. 7, 1909, at 7. One month later, however, Isaiah was deemed entitled to a refund of a portion of the costs he had been assessed. *See Sheriff and County Board to Disagree?*, PENSACOLA J., Nov. 10, 1909, at 8 ("The county attorney recommended the return of \$28.38, illegally collected as costs from I.H. Spears . . .").

58. *Eighteen Had No Licenses: Bunch of People Taken by Deputies Who Have Been Assigned to Task of Inspecting in City and County*, PENSACOLA J., Nov. 7, 1909, at 7.

the first count, on the ground that the evidence was not sufficient to sustain it. The defendant was sentenced to imprisonment in the county jail at hard labor for one year on the second count, and to three months on the third count. The judgment is here for review on writ of error. The defendant moved for a new trial on the ground, among others, that the verdict is contrary to the evidence. . . .

The note which it is alleged was altered was not in evidence. Neither the judge nor jury had an opportunity to examine it, and were thus deprived of the best evidence upon the question of its alteration. The evidence on the part of the state is so loose and unsatisfactory, and as the defendant was tried on an information containing different counts charging separate offenses, growing out of entirely separate and distinct facts, having no sort of relation to one another, we feel constrained to say that in our opinion the defendant should have had a new trial.<sup>59</sup>

In August 1910, the *Pensacola Journal* reported on the case's denouement:

The next matter that was brought to the attention of the board was the case of I.H. Spears. Spears had been fined in the county court, the total cost of the case being \$99.11. It had already been found that \$28.38 had been charged in error, leaving a balance of \$70.73. It was shown that the case had been reversed and remanded by the supreme court and later nolo prosequi [*i.e.*, dismissed by the prosecutor]. The board ordered the amount refunded.<sup>60</sup>

By the time this article appeared, Isaiah and Rosa had moved to Kansas City, Kansas,<sup>61</sup> and Isaiah had become a partner in the Kansas City, Missouri law firm of Johnson, McDonald & Spears.<sup>62</sup>

#### IV. LEGAL CAREER IN KANSAS CITY: 1910-1914

Little is known about Isaiah's time in Kansas City, and even less is known about Johnson, McDonald & Spears.<sup>63</sup> One thing that is clear is that to service clients on either side of the river, Isaiah became a member of both the Kansas and Missouri bars.<sup>64</sup>

59. *Spears v. State*, 51 So. 815, 815–16, 818 (Fla. 1910) (en banc).

60. *County Board Wants Benz in Pensacola*, PENSACOLA J., Aug. 3, 1910, at 8.

61. Because of the timing of their move, Isaiah and Rosa are listed twice in the 1910 census, once in Tuscaloosa and once in Kansas City. See DEP'T OF COM. AND LAB.: BUREAU OF THE CENSUS, THIRTEENTH CENSUS OF THE U.S.: 1910 (Enumeration Dist. No. 160, Sheet 16A, Lines 24–25), <https://www.ancestry.com>; DEP'T OF COM. AND LAB.: BUREAU OF THE CENSUS, THIRTEENTH CENSUS OF THE U.S.: 1910 (Enumeration Dist. No. 154, Sheet 18A, Lines 24–25), <https://www.ancestry.com>. Prior to picking Kansas City, Isaiah had considered moving to Denver, Colorado. See *City News*, STATESMAN (Denver, Colo.), Jan. 29, 1910, at 4 (“I.H. Spears of Pensacola is in the city. He is an attorney and is seeking a location.”).

62. See 1910 KANSAS CITY DIRECTORY 361 (Gate City Directory Co. 40th ed. 1910). It appears that Isaiah's original plan was to both work and live in Kansas City, Missouri. See *Pensacola, Florida*, FREEMAN (Indianapolis), Apr. 23, 1910, at 5 (“Mr. and Mrs. Isaiah Spears left last week for Kansas City, Mo., to reside in the future[.]”). Of course, the two cities, which sit on opposite banks of the Missouri River, are just three miles apart. See *Missouri v. Kansas*, 213 U.S. 78 (1909).

63. The firm does show up as the attorneys for the plaintiff in “*Moss Lewis F vs C R I and P Ry Co.*” See *Just a Matter of Record, New Suits*, PRESS (Kansas City, Kan.), July 29, 1910, at 1. More likely than not, the firm was a general practice firm and took whatever cases came its way.

64. See Baughman, *supra* note 22:

Mr. Spears finished from Howard University, class of 1908, and has successfully practiced law for eight years, his practice covering four states, namely: Florida, Kansas, Missouri and Oklahoma, and Lawyer Spears has been admitted to practice in the supreme courts of the above states as well as the United States courts.

Many years later, Isaiah was admitted to the U.S. Supreme Court. See *Thursday, March 13, 1947*, 1946 J. SUP.

In July 1910, an odd story appeared in the New Orleans *Picayune*, which may or may not have been about Isaiah:

A special [bulletin] from Marianna tonight says that C.W. Norton, a prominent naval stores manufacturer, was stabbed, perhaps fatally, late this afternoon by Isaiah Spears, colored, who in turn was almost killed by Mr. Norton. Spears used a hack cutter and but for the fact that it struck one of the ribs it would have plunged through the heart of Mr. Norton. The latter seize[d] an ax handle after being wounded, and splintered it over the head of the negro, crushing the skull. But little hope is entertained for the recovery of either of the men.<sup>65</sup>

No further mention of this incident has been found.<sup>66</sup>

On June 10, 1912, Rosa, who had just turned thirty-three, died of unknown causes.<sup>67</sup> Perhaps as a result, Isaiah left Kansas City in 1914.<sup>68</sup> His next stop would be Tulsa, some 270 miles to the Southwest.<sup>69</sup>

#### V. LEGAL CAREER IN TULSA: 1915-1920

Isaiah found immediate success in Tulsa, so much so that a 1916 article in the *Topeka Plaindealer* gushed:

Hon. I.H. Spears is one of the five colored attorneys of Tulsa and a young man who is making good as an apostle of Blackstone. . . . [He] now enjoys a lucrative practice. We called at his offices, which are modern. Such men as Mr. Spears are the kind we need as a race.<sup>70</sup>

Isaiah's practice was a varied one, consisting of everything from criminal cases, divorces, and guardianship proceedings to insurance claims, real estate actions, and wills.<sup>71</sup> Several of these matters resulted in published opinions issued by the Oklahoma

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CT. 191, [https://www.supremecourt.gov/pdfs/journals/scannedjournals/1946\\_journal.pdf](https://www.supremecourt.gov/pdfs/journals/scannedjournals/1946_journal.pdf).

65. *News from Pensacola: Negro Stabs Naval Stores Man—Is Felled by Victim*, TIMES-PICAYUNE (New Orleans), July 26, 1910, at 9.

66. Whether the Isaiah Spears in the newspaper story is the attorney named Isaiah Spears is hard to say. Although he had just moved with Rosa to Kansas City, it is not difficult to believe that Isaiah had returned to Florida to pick up (or pack up) some remaining items. Likewise, as explained earlier, see *supra* text accompanying note 13, Marianna was Isaiah's hometown, and it is reasonable to think that he had gone back to say some final good-byes. Additionally, a search of available records reveals no other Black man named "Isaiah Spears" in Marianna in 1910.

67. See GENERAL CATALOGUE, *supra* note 48.

68. The last piece of evidence placing Isaiah in Kansas City is a list of Black businesses published in the *Kansas City Sun*. In it, Isaiah is shown working as a solo practitioner out of an office at the corner of 18th Street and Paseo Boulevard. See *Directory of the Negro Business League of Kansas City*, K.C. SUN, Oct. 10, 1914, at 2.

69. It was common for Black people during this period to move to states such as Kansas, Missouri, and Oklahoma, which held out the promise of greater equality and freedom than other parts of the country. For a further discussion, see IN MOTION: THE AFRICAN-AMERICAN MIGRATION EXPERIENCE (Howard Dodson & Sylviane A. Diouf eds., 2005).

70. Baughman, *supra* note 22. Isaiah's office—the one that so impressed Baughman—was on the third floor of the Williams Building in the Greenwood District. See *Oil and Gas Lease for Sale*, TULSA DAILY WORLD, June 14, 1916, at 3 (display ad listing Isaiah's office as "302 Williams Building"). For a photograph of the Williams Building, see *The Williams Building, Greenwood and Archer, Before the Riot*, TULSA RACE RIOT PHOTOGRAPHS, <https://tulsaraceriot.omeka.net/items/show/4> (last visited Dec. 5, 2021).

71. Between January 1, 1915, and December 31, 1920, the *Tulsa Daily Legal News* lists Isaiah as counsel of record in 138 proceedings. Even with the inevitable duplications, this is clear evidence that Isaiah had a very busy practice.

Supreme Court.<sup>72</sup>

In 1917, in a redux of his own prosecution years earlier in Pensacola, Isaiah tried to get his client, a habitual criminal named Mose Phillips, released on the ground “that Mose was arrested for one thing [assault with intent to kill a police officer] and put in jail on an entirely different charge [gambling].”<sup>73</sup> Unfortunately for Phillips, “Judge N.E. McNeil Friday morning denied habeas corpus, and Mose was left to serve time for gambling.”<sup>74</sup>

On February 20, 1918—his thirty-seventh birthday—Isaiah married Susie May Chennault in a ceremony in Bartlesville, Oklahoma.<sup>75</sup> A native of Washington Way, Georgia (an Atlanta suburb), Susie was twenty-five.<sup>76</sup> The union was not a success and ended in divorce.<sup>77</sup>

In April 1920, Isaiah complained to the Oklahoma Corporation Commission about the callous treatment Black people routinely experienced on the Midland Valley Railroad.<sup>78</sup> In praising Isaiah’s decision to stand up for himself and his fellow riders, the *Tulsa Star* (a Black newspaper) described Isaiah as “our well known and popular disciple of Blackstone[.]”<sup>79</sup>

One week earlier, Isaiah had taken out a large display ad in the *Star*.<sup>80</sup> Its text read: “IF STRICT ATTENTION TO Business[,] Experience[,] Ability and Success Count For Everything With You Your Own Interest Will Point To I.H. SPEARS.”<sup>81</sup> Under these words were listed Isaiah’s office address: “Gurley Hotel Bldg.[,] 114½ N. Greenwood Street.”<sup>82</sup>

## VI. ISAIAH AND THE 1921 TULSA RACE MASSACRE

Isaiah was no more prepared for the events that transpired on May 31 and June 1, 1921 than the other inhabitants of Greenwood. And like the rest of the District, by the end of the Massacre Isaiah had lost everything. A 2021 *New York Times* 3D block-by-block

72. See *Hunter v. Hughes*, 186 P. 468 (Okla. 1920); *Prentice v. Freeman*, 185 P. 87 (Okla. 1919); *Freeman v. Bryant*, 184 P. 76 (Okla. 1919); *Grand Lodge of United Bros. of Friendship & Sisters of the Mysterious Ten v. Carroll*, 174 P. 767 (Okla. 1918).

73. *Mose Phillips Still in Jail*, TULSA DEMOCRAT, Sept. 14, 1917, at 11.

74. *Id.*

75. See Susie M. Chennault in the Okla., U.S., Cnty. Marriage Recs., 1890-1995, <https://www.ancestry.com>. See also *Marriage License*, INDEP. (Bartlesville, Okla.), Feb. 22, 1918, at 1.

76. See Susie May Chennault in the U.S., Soc. Sec. Applications and Claims Index, 1936-2007, <https://www.ancestry.com> (indicating that Susie was born in Washington Way, Georgia, on December 12, 1892).

77. The date of the divorce is uncertain, but as will be seen below, it had to have occurred sometime in the 1920s. Following the divorce, Susie resumed using her maiden name. See, e.g., DEP’T OF COM.: BUREAU OF THE CENSUS, FIFTEENTH CENSUS OF THE U.S.: 1930 (Enumeration Dist. No. 72-153, Sheet No. 19B, Line 68), <https://www.ancestry.com> (showing Susie working as a maid). Susie eventually returned to Atlanta, where she died in 1977. See *Funeral Notices—Chennault*, ATLANTA CONST., Aug. 24, 1977, at 13C. See also *Susie Chennault*, FIND A GRAVE (July 7, 2019), <https://www.findagrave.com/memorial/200929402/susie-chennault>.

78. See *Midland Valley Called to Task: Complaint Filed by Attorney Spears Receives Attention of State Corporation Commission*, TULSA STAR, Apr. 24, 1920, at 1.

79. *Id.*

80. See *Display Ad*, TULSA STAR, Apr. 17, 1920, at 8.

81. *Id.*

82. *Id.* It is not known why this ad uses “Greenwood Street” when the thoroughfare’s actual name was “Greenwood Avenue.”

recreation of Greenwood shows that Isaiah's office was at ground zero.<sup>83</sup>

It is not known exactly where Isaiah was at the time of the attack, for it is the June 6, 1921 "tent" photograph that provides the first real-time piece of evidence that he survived the Massacre.<sup>84</sup> It is likely, however, that he was at his law office.<sup>85</sup>

Following the disaster, Isaiah wasted little time putting his considerable talents to work on behalf of the District's residents. Prior to the Massacre, Isaiah had a solo practice.<sup>86</sup> Now, however, he joined forces with two other Black lawyers—Buck C. Franklin and Peter A. Chappelle—and formed the law firm of Spears, Franklin & Chappelle ("SFC").<sup>87</sup> For the next three years, it would help lead the fight to rebuild the District.

In her 1922 book about the Massacre, survivor Mary E. Jones Parrish provides a long description of SFC, and her account remains the best summary of how the firm functioned:

The colored law firm of Spears, Franklin & Chappelle, with commodious offices now at 107½ North Greenwood Avenue, of this city, was formed on the second day of June, 1921, and temporary quarters opened up in a tent at 607 East Archer Street. . . . [T]he temporary office-tent was erected and fitted up with typewriters and other necessary things—[a] shingle [then] was hung out and the people invited to make the "office" their headquarters. It was in this "office" that more than four million dollars in claims against the city of Tulsa and various insurance companies were prepared. It was in this office that thousands of people came daily for consultation, consolation and advice as to what was best to do.<sup>88</sup>

As Parrish further relates, the overwhelming number of claims that needed to be

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83. See Yuliya Parshina-Kottas et al., *What the Tulsa Race Massacre Destroyed*, N.Y. TIMES, May 30, 2021, at 19. As this source points out:

[T]he 100 block of Greenwood Avenue, rising near the southern tip of the neighborhood [was the District's] marquee block [and] the pulse of the Black business community. . . . In this stretch alone, there were four hotels, two newspapers, eight doctors, seven barbers, nine restaurants and a half-dozen professional offices of real estate agents, dentists and lawyers.

*Id.* at 20.

84. As previously explained, *see supra* note 6 and accompanying text, the tent in the photograph was supplied by the Red Cross. *See Featured Document Display: Black Wall Street: 100 Years Since the Tulsa Race Massacre*, NAT'L ARCHIVES MUSEUM, <https://museum.archives.gov/featured-document-display-black-wall-street-100-years-tulsa-race-massacre> (last updated June 17, 2021) ("Within a week of the massacre, the Red Cross issued almost 200 tents to survivors who had lost their homes and been displaced by the violence.").

85. In 1931, Franklin penned a detailed account of the Massacre (discovered in 2015) indicating that he had been at his law firm during the attack. *See Allison Keyes, A Long-Lost Manuscript Contains a Searing Eyewitness Account of the Tulsa Race Massacre*, SMITHSONIAN MAG. (May 27, 2016), <https://www.smithsonianmag.com/smithsonian-institution/long-lost-manuscript-contains-searing-eyewitness-account-tulsa-race-massacre-1921-180959251/>. Franklin's 4,000-word essay (titled "The Tulsa Race Riot and Three of Its Victims") can be read at [https://a07cc885-5d07-40a4-be94-965dfe6fb00e.filesusr.com/ugd/979868\\_8fe953b354874b28a0c24dc3a4120545.pdf](https://a07cc885-5d07-40a4-be94-965dfe6fb00e.filesusr.com/ugd/979868_8fe953b354874b28a0c24dc3a4120545.pdf). In his narrative Franklin briefly mentions Isaiah: "[During the attack] I saw an opening to move on and so I sped north, out Greenwood Avenue. About one hundred yards on the way out, I was joined by I.H. Spears, another colored attorney[,] and we proceeded on together." *Id.* at 8. This passage strongly suggests that like Franklin, Isaiah had been at his law office at the time of the attack.

86. *See supra* notes 80–82 and accompanying text.

87. For a photograph of Chappelle, who inexplicably is not in the tent photograph, see *Photo Record*, TULSA HIST. SOC'Y & MUSEUM, <https://tulsaehistory.pastperfectonline.com/photo/181784E0-B74C-447C-B304-467249354588> (last visited Dec. 10, 2021).

88. MARY E. JONES PARRISH, *EVENTS OF THE TULSA DISASTER* 88 (1922).



filed forced SFC to toil ceaselessly: “[D]uring the long hot days, and cold days too . . . the firm worked away in their effort to safeguard the interests of the people. The work was so big—the task so stupendous—that the boys found it absolutely necessary to work many Sundays.”<sup>89</sup>

One of the most important cases undertaken by SFC was an action to prevent the City of Tulsa from requiring all rebuilt buildings to be fireproof.<sup>90</sup> This requirement, which was the brainchild of White developers, was designed to make it impossible for Black people to hold onto their properties because of the added expense.<sup>91</sup>

In February 1922, Isaiah gave an address to the Oklahoma Negro Bar Association.<sup>92</sup> The title of his talk was, “[c]an the insured carrying a fire insurance policy in which the Riot Clause appears collect his insurance from the insurer upon property in Oklahoma alleged to have been burned by rioters?”<sup>93</sup> Undoubtedly, Isaiah argued that the answer was “yes.” In 1926, however, in a case Isaiah was not involved in, the Oklahoma Supreme Court decided the answer was “no.”<sup>94</sup>

89. *Id.*

90. *Id.* at 89.

91. *Id.* As has been pointed out elsewhere, “[m]any books and articles mistakenly claim that the lawsuit [filed by SFC, which was styled *Lockard v. Evans*] was decided in the Oklahoma State Supreme Court.” Carlos Moreno et al., *The Victory of Greenwood: B.C. Franklin*, (Oct. 20, 2020), <https://thevictoryofgreenwood.com/2020/10/20/the-victory-of-greenwood-b-c-franklin/>. In fact, the case never made it past the trial court, where it was heard by an *ad hoc* panel consisting of three of the court’s four judges. See *Three Judges to Decide*, TULSA TRIB., Aug. 22, 1921, at 4; see also *Three Judges Hear Evidence in Negro Suit*, TULSA TRIB., Aug. 25, 1921, at 1:

Three district judges sat together in the trial of a case for the first time in the history of Tulsa county today when Judges W.B. Williams, Valjean Biddison and Albert C. Hunt heard the motion of negro property owners in the burned district for a temporary injunction restraining the city from enforcing the newly passed fire ordinance which prohibits the erection of frame buildings in the area.

For a copy of both the complaint and the panel’s decision (which is not officially reported), see *Tulsa Race Riot Court Cases—Joe Lockard, Case #15730*, TULSA HIST. SOC’Y & MUSEUM, <https://www.tulsaohistory.org/wp-content/uploads/2018/11/Lockard-Joe-15730-Reduced-size.pdf> (last visited Dec. 12, 2021). Although the City filed a notice of appeal to the Oklahoma Supreme Court, see *Court Nullifies Tulsa Fire Ordinance*, HARLOW’S WKLY. (Oklahoma City, Okla.), Sept. 9, 1921, at 7, it ultimately decided not to pursue it. In 1921 Tulsa County’s district court had four judges. See *Rules of the District Court*, TULSA DAILY LEGAL NEWS, Sept. 22, 1921, at 4. It is not known why Judge Redmond S. Cole was not part of the panel (other than the obvious fact that his participation would have created the risk of a deadlock).

92. See J. Henry Ferguson, *Oklahoma Negro Bar Ass’n Meets in Muskogee, Feb. 13-14: Barbour Heads Legal Lights*, BLACK DISPATCH (Oklahoma City, Okla.), Feb. 9, 1922, at 1.

93. *Id.*

94. See *Redfearn v. American Cent. Ins. Co.*, 243 P. 929 (Okla. 1926). The court’s holding is analyzed in Alfred L. Brophy, *The Tulsa Race Riot of 1921 in the Oklahoma Supreme Court*, 54 OKLA. L. REV. 67 (2001). As Brophy explains, the plaintiff in the case was a White man named William Redfearn who owned two buildings in Greenwood. *Id.* at 69. As Brophy further points out, Redfearn harbored a particular animosity for Isaiah. See *id.* at 71–72 (“One I.H. Spears, a Negro lawyer . . . made the following statement: ‘Every time he heard of a lynching it made him want to purchase more ammunition’”) (internal citations omitted). Other than Redfearn’s testimony, there appears to be no proof that Isaiah ever made the “purchase more ammunition” comment, which sometimes is reported as “get some more ammunition.” See Alfred L. Brophy, *Tulsa, Oklahoma, Race Riot of 1921*, in 3 ENCYCLOPEDIA OF AFRICAN AMERICAN HISTORY 1058, 1059 (Leslie M. Alexander & Walter C. Rucker eds., 2010) (misidentifying Isaiah as “J.D. Spears”). Indeed, such a comment would be inconsistent with everything else that is known about Isaiah. But if he did say it, he almost certainly meant that Black people needed to protect themselves from White vigilantes and not, as Redfearn intimated, that Black individuals should arm themselves to indiscriminately kill their White neighbors. Of course, the idea of Black people defending themselves has long frightened many White people. For a further discussion, see, e.g., Alicia L. Granse, Note, *Gun Control and the Color of the Law*, 37 L. & INEQ. 387 (2019).

In June 1922, Isaiah was interviewed by the *Black Dispatch*, an Oklahoma City newspaper, regarding the various lawsuits being pushed by and against the District's residents:

"What about the suit dismissed in Hugo [County, Oklahoma] by Judge Williams, recently, in which a Negro sought to hold the state liable for his losses during [the] riot of June 1, last year?" asked the Dispatch representative. "The state like the national government, is a sovereign power and cannot be sued without its consent. The dismissal came on [that] ground and has nothing to do with the liability of the city which we have a right to sue without its consent," stated Attorney Spears. . . . "We [also] are going to beat those insurance cases," said the Negro attorney. "We have a case in court now that we shall win. The policy holder is a poor woman and is having trouble to raise the funds to push the case, but we are going to raise it if she fails and push the question into the higher court."<sup>95</sup>

By now, Isaiah, although still representing Massacre victims, had resumed his regular practice.<sup>96</sup> He also was engaged in a heated battle for the position of county justice of the peace.<sup>97</sup> On August 1, 1922, however, he came in fifth in the eight-man Republican primary.<sup>98</sup>

In September 1922, Isaiah found himself in a personal dust-up:

I.H. Spears, negro lawyer, does not intend that his reputation as an attorney and member of the Oklahoma bar association shall be jeopardized. So Friday he filed suit against J.H. Goodwin, another negro, asking for \$50,000 damages for malicious prosecution. On an information charging embezzlement and signed by Goodwin, Spears was given a preliminary hearing before Justice A.P. Watson Wednesday. The case was dismissed, as the docket shows, for lack of evidence. Spears on Friday filed his suit against Goodwin in district court. He alleges his reputation as a lawyer and as a member in good standing of the state bar association has been damaged in that amount. He asks an additional \$250 for court costs already expended in defending himself and for the preparation of the case.<sup>99</sup>

In 1924, Isaiah, Franklin, and Chappelle disbanded SFC.<sup>100</sup> Just before they did so,

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95. *Norris City Idea Pure Bunk*, BLACK DISPATCH (Oklahoma City, Okla.), June 22, 1922, at 1. This headline refers to a short-lived plan, pushed by a Black minister named E. Norris Bryant, to incorporate Greenwood as an independent municipality called "Norris City." *Id.* See also *Bryant's Platform*, BLACK DISPATCH (Oklahoma City, Okla.), July 6, 1922, at 2.

96. See, e.g., *Files Complaint Against Negroes*, MORNING TULSA DAILY WORLD, June 28, 1922, at 17 (reporting that Isaiah had been hired to represent four Black men accused of drunk driving).

97. See *Candidates Now Beating Brush*, MORNING TULSA DAILY WORLD, July 23, 1922, at 5 (listing Isaiah as vying for the Republican nomination for "Justice of the Peace No. 3").

98. See *County Battles Finally Decided*, MORNING TULSA DAILY WORLD, July 23, 1922, at 1, 9 (reporting that out of the 939 votes cast, Isaiah received 107, while the winner, a man named C.J. Jackson, garnered 201).

99. *Defends Reputation: Negro Attorney Sues Black Who Had Him Jailed for Embezzlement After Case is Dropped*, MORNING TULSA DAILY WORLD, Sept. 16, 1922, at 5. In an odd coincidence, during this same period Isaiah's Uncle Andrew faced a similar charge in Arkansas. See *The Case of A.W. Spears*, PINE BLUFF DAILY GRAPHIC (Ark.), Nov. 26, 1922, at 4 ("The negro is alleged to have appropriated to his own use money he had received with which to purchase land."); *Negro Lawyer Held on Alleged \$3,000 Land Fraud Charge: Other Negroes Supposed to Have Been Victims of A.W. Spears*, PINE BLUFF DAILY GRAPHIC, Mar. 7, 1923, at 1.

100. Following SFC's breakup, Franklin and Chappelle continued to pursue the numerous Massacre lawsuits that SFC had filed. In 1937, however, having failed to make much headway, they agreed to dismiss them. See *Tulsa Race Riot Court Cases*, TULSA HIST. SOC'Y & MUSEUM, <https://www.tulsaohistory.org/exhibit/1921-tulsa-race-massacre/documents/> (last visited Dec. 8, 2021) ("These cases were brought by attorneys B.C. Franklin, I.H. Spears, P.A. Chappelle, Elisha Scott, and George W. Carry. The cases were dismissed in 1937 with the assent of Franklin and Scott.") As a result, the Massacre victims never saw a penny in compensation. See *supra*

the Oklahoma Supreme Court issued the only two opinions that bear the firm's name.<sup>101</sup> In these cases, which Isaiah had alluded to in his June 1922 interview with the *Black Dispatch*, SFC was forced to *both* sue and defend a woman named Mary V. Howard, a Greenwood landowner to whom it had lent \$2,014 so that she could stave off her creditors.<sup>102</sup> If the court noticed the conflict of interest, it said nothing about it.

## VII. LATER YEARS AND DEATH: 1925-1964

Following the breakup of SFC, Isaiah resumed practicing on his own.<sup>103</sup> Soon, however, he left Tulsa and moved to Pine Bluff, Arkansas, where on December 18, 1927, he married Roena (often misspelled "Rowena") Ellen Lyles, a forty-one-year-old native of Lake, Mississippi.<sup>104</sup> Roena was the widow (since 1925) of Isaiah's Uncle Andrew.<sup>105</sup>

Although Isaiah sometimes is described as having been an Arkansas lawyer,<sup>106</sup> there

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note 4.

101. See *Howard v. Sw. Mortg. Co.*, 226 P. 80 (Okla. 1924); *Howard v. Ketcham*, 221 P. 25 (Okla. 1923).

102. See *Howard*, 226 P. at 81.

103. See, e.g., *Daniel v. Hill*, 106 Okla. 272, 235 P. 1090 (1925). Curiously, in the state reporter Martha Daniel, the plaintiff in error, is listed as having been represented by "I.H. Spears, L.T. Taylot, and George W. Carry." See *id.* at 272. In *West's* regional reporter, however, she is listed as having been represented by "I.H. Spears, of Tulsa." See *id.* at 1090.

104. See Claudia Lyles Williams, *Roena E Spears*, ANCESTRY, <https://www.ancestry.com/family-tree/person/tree/116305734/person/402128062377/facts> (last visited Nov. 20, 2021).

105. See *Spears v. Spears*, 12 S.W.2d 875 (Ark. 1928); E-mail from Ms. Claudia Lyles Williams to author (June 2, 2021, 6:51 PM) (on file with the author). In *Spears*, a woman named Lesser Lee Spears claimed that she and Andrew had married in Florida in 1898; that Andrew had deserted her in 1902 and moved to Arkansas; and that as a result Roena's 1912 marriage to Andrew was void, meaning that Andrew's estate belonged to Lesser. For many years, the court's decision (finding in favor of Roena) was featured in American law school textbooks on family law. See, e.g., MORRIS PLOSCOWE ET AL., *FAMILY LAW: CASES AND MATERIALS* 110–12 (2d ed. 1972); ALBERT C. JACOBS & JULIUS GOEBEL, JR., *CASES AND OTHER MATERIALS ON DOMESTIC RELATIONS* 194–98 (4th ed. 1961). For a further discussion of the litigation, see *Estate Left by Negro of Pine Bluff in Legal Tangle*, ARK. GAZETTE, Sept. 20, 1925, at 28; *Decision Rendered in Dower Contest: Supreme Court Finds in Favor of Third Wife of Ouachita County Man*, ARK. GAZETTE, Dec. 18, 1928, at 3. This last headline refers to the fact that Roena was Andrew's third wife. Andrew's second wife was a woman named Minnie Temple, who he married in 1909 and who died in 1911 in a fire. Andrew and Minnie had four children, two of whom were born before they married (Rosa Marie and Inez Vernabelle) and two of whom were born after they married (Joseph H. and Andrew, Jr.). See *Spears*, 12 S.W.2d at 876; DEP'T OF COM: BUREAU OF THE CENSUS, FOURTEENTH CENSUS OF THE U.S.: 1920—POPULATION (Enumeration Dist. No. 142, Sheet No. 6A, Lines 31–36), <https://www.ancestry.com>; DEP'T OF COM. AND LAB.: BUREAU OF THE CENSUS, THIRTEENTH CENSUS OF THE U.S.: 1910 (Enumeration Dist. No. 121, Sheet No. 3A, Lines 6-10), <https://www.ancestry.com>; *Obituary Notices: Spears*, *supra* note 13; *Minnie V Spears*, FIND A GRAVE (Jan. 1, 2011), <https://www.findagrave.com/memorial/63578412/minnie-v-spears>; E-mail from Ms. Claudia Lyles Williams to author (June 1, 2021, 10:47 PM) (on file with the author). After Andrew and Roena married, Roena became the stepmother of Andrew's four children. See *Spears*, 12 S.W.2d at 876. When Isaiah and Roena married, Isaiah became the "father" of these children (and is regularly identified as such in later sources—see, e.g., *infra* notes 107 and 125 and accompanying text), although there is no evidence that he ever formally adopted them. As far as can be determined, Isaiah had no children of his own.

106. See, e.g., SMITH, *supra* note 12, at 604 n.247 (claiming that Isaiah was practicing in El Dorado (misspelled "Eldorado"), Arkansas, in 1938). Relying on Smith, an article about early Black Arkansas lawyers repeats the mistake. See Kilpatrick, *supra* note 36, at 381 n.630. The foregoing confusion stems, in part, from a 1938 article in the *Pittsburgh Courier*, which reported on the formation of the Wonder State Bar Association. As explained in *supra* note 11, this organization was the first Black bar association in Arkansas. At the end of the article, Isaiah is listed as one of the group's ten founding members. See *Arkansas Lawyers Gather*, PITTSBURGH COURIER, Oct. 29, 1938, at 11 ("Members of the Association are: W.A. Singfield, J.R. Booker, Scipio A. Jones and J.A. Hibbler, all of Little Rock; Theodore X. Jones and W. Harold Flowers of Pine Bluff; Wallace L. Purifoy, Jr., Forrest City; Joseph Atkins, Camden; G.H. Greene, Hot Springs and I.H. Spears of Eldorado."). Adding to the problem is the fact that in his later years, Isaiah handled cases throughout the United States. As a result, he came to be identified

is no evidence of his ever having been admitted to the Arkansas bar. Moreover, by the time of the 1930 federal census, he and Roena, together with four other family members, had moved to a house at 73 West Bellevue Drive in Pasadena, California.<sup>107</sup> Isaiah ended up spending the rest of his life at this address.<sup>108</sup>

Isaiah's relocation to California had been years in the making—on March 9, 1926, he had written to the state's Second District Court of Appeal in Los Angeles asking that it admit him to the California bar.<sup>109</sup> Due to an oversight, however, the court failed to act on Isaiah's request.<sup>110</sup>

On April 26, 1929, Isaiah filed a new application with the California State Bar.<sup>111</sup> It, in turn, referred the matter to the California Board of Bar Examiners, which interviewed Isaiah on December 7, 1929.<sup>112</sup> On March 1, 1930, the Board turned Isaiah down.<sup>113</sup> On appeal, the California Supreme Court, in a *per curiam* opinion, sided with the Board:

[At the hearing before the bar examiners,] the petitioner . . . admitted that in September, 1909, he was charged before the criminal court of record for the county of Escambia, state of Florida, in an information containing three counts, with the crime of 'receiving and aiding in the concealment of stolen property, knowing it to have been stolen,' with the crime of forgery, and with the crime of uttering forged paper. . . . At [the] hearing the petitioner also admitted that in 1923 or 1924 he had been charged before the district court of and for the county of Tulsa, Okl., with the crime of misappropriation of guardianship funds, that in 1926 he was charged before the United States commissioner at and in the county of Tulsa, Okl., with the crime of violation of the Mann Act, and that in 1927 he was charged with the crime of issuing a fictitious check. Petitioner explained to the committee of bar examiners his version of the circumstances leading up to the filing of these charges, and declared that each of them after a full hearing had been dismissed. . . .

An analysis of the proof offered by applicant shows that there is at least a question as to applicant's moral character. In other words, the proof offered is not satisfactory. Although the committee of bar examiners has on file letters of recommendation testifying to the good character of applicant and affirming that the writers thereof have found him to be honest, trustworthy, and a man of integrity, it also has on file letters which unqualifiedly and

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with multiple cities. *See, e.g.*, *Spears v. Spears*, 332 U.S. 786, 786 (1947) ("Mr. I.H. Spears, of Pine Bluff, Ark., pro se."); *Estes v. Shell Oil Co.*, 234 F.2d 847, 848 (5th Cir. 1956) ("I.H. Spears, Pasadena, Cal., for appellant."); *Porter v. Bennison*, 180 F.2d 523, 524 (10th Cir.) ("I.H. Spears, Detroit, Mich. (Thomas Campbell, Denver, Colo. on the brief) for appellant."), *cert. denied*, 340 U.S. 817 (1950); *Spears v. Spears*, 162 F.2d 345, 346 (6th Cir.) ("I.H. Spears, of Pontiac, Mich."), *cert. denied*, 332 U.S. 768 (1947).

107. *See* DEP'T OF COM.: BUREAU OF THE CENSUS, FIFTEENTH CENSUS OF THE U.S.: 1930 (Enumeration Dist. No. 19-1248, Sheet No. 7B, Lines 95-100), <https://www.ancestry.com>. Shown living with Isaiah and Roena are Isaiah's mother Susie and three of Andrew and Minnie's children (Andrew, Jr., Joseph, and Vernabelle), who are erroneously listed as Isaiah's children. It is not known what prompted Isaiah to move to Pasadena. During this time, however, Pasadena was widely touted as a good place (relatively speaking) for Black people, which caused the city's Black population to nearly triple between 1920 and 1930. *See* James E. Crimi, *The Social Status of the Negro in Pasadena, California* 9, 11-12 (June 1941) (unpublished M.A. dissertation, University of Southern California).

108. *See infra* note 125 and accompanying text. Isaiah's house no longer exists, and the land now serves as the elementary campus of The Waverly School, a K-12 private school.

109. *See* *Spears v. State Bar of Cal.*, 294 P. 697, 697 (Cal. 1930) (*per curiam*).

110. *Id.* at 698.

111. *Id.* at 697.

112. *Id.* at 698.

113. *Id.*

unequivocally state that in the writers' opinion applicant is not such a person. . . .

While the powers of the committee of bar examiners are merely recommendatory and not binding upon this court, nevertheless, the committee of bar examiners was expressly created by statutory enactment for the definite purpose of relieving the court of the onerous duty of examining applicants for admission and investigating their fitness both as to legal learning and moral character to practice law in this state, and this court, recognizing this fact, will refuse to exercise its power in contravention to the adverse recommendation of the committee of bar examiners unless a convincing showing is made by the applicant to the court that such adverse recommendation is not based upon sound premises and valid reasoning.

The petitioner herein has failed to make such a showing, and his motion for an order admitting him to practice law in this state, notwithstanding the refusal of the committee of bar examiners to recommend him for admission, is therefore denied.<sup>114</sup>

The court's decision appears to have sent Isaiah into a tailspin. Unable to work as a lawyer in California, Isaiah looked for cases anywhere he could find them. He could not, however, duplicate his previous success. As he grew increasingly desperate for money, Isaiah began to engage in various forms of egregious, and often unethical, conduct. In one case his behavior caused him to lose his appearance rights before a Michigan federal court.<sup>115</sup> In another case, a Louisiana state court found that he had taken advantage of his clients and relied on their naïveté to steal their property.<sup>116</sup> In a third case (in which he appeared as both attorney and co-plaintiff), he made baseless arguments in a Louisiana federal court while trying to invalidate a tax deed sale.<sup>117</sup> In a fourth case (a probate proceeding in Oklahoma), he unsuccessfully attempted to manufacture diversity

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114. *Spears*, 294 P. at 697–700 (paragraphing slightly altered for improved readability). For a further look at the court's decision, see *Bar Examiners Are Upheld by High Court: Application of Isaiah H. Spears for Admission is Denied*, S.F. REC., Jan. 2, 1931, at 1. It did not take long for legal editors and law school professors alike to recognize the groundbreaking nature of the court's decision. The opinion immediately was made the subject of an *American Law Reports* annotation. See *Good Moral Character of Applicant as Requisite for Admission to Bar*, 72 A.L.R. 923 (1931). Subsequently, it appeared as a principal reading in *HERSCHEL WHITFIELD ARANT, CASES AND OTHER MATERIALS ON THE AMERICAN BAR AND ITS ETHICS* (1933), the first modern law school casebook on professional responsibility. See *id.* at 45–51.

No court filing or newspaper article has been located describing the three Oklahoma charges mentioned by the California Supreme Court. As a result, it is impossible to say how much weight should have been attached to them. Given that each was dismissed, however, it seems likely that they were the product of confusion, misunderstanding, or sloppy bookkeeping. Another possibility is that Isaiah was framed.

115. See *In re Spears*, 185 F.2d 456 (6th Cir. 1950). In the underlying case (a protracted will contest in Michigan), Isaiah had represented part of his extended family against another part of his extended family, and, through various assignments, also had wound up being a party. See *Spears v. Spears*, 331 U.S. 790, *motion denied*, 331 U.S. 797, *reh'g denied*, 332 U.S. 786 (1947), *additional proceedings at* 162 F.2d 345 (6th Cir.), *cert. denied*, 332 U.S. 768 (1947). See also *David v. Sutton*, 170 F.2d 148 (6th Cir. 1948), *cert. denied*, 336 U.S. 903 (1949), and *Spears v. Spears*, 171 F.2d 296 (6th Cir. 1948), *cert. denied*, 336 U.S. 952 (1949).

116. See *Matthews v. Spears*, 24 So. 2d 195 (La. Ct. App. 1945), *reh'g refused*, 24 So. 2d 485 (La. Ct. App. 1946). See also *Archie v. Shell Oil Co.*, 110 F. Supp. 542 (E.D. La. 1953), *aff'd*, 210 F.2d 653 (5th Cir.), *cert. denied*, 348 U.S. 843, *reh'g denied*, 348 U.S. 884 (1954).

117. See *Spears v. Tax Collector of La Salle Parish*, 55 F. Supp. 28 (W.D. La. 1944). See also *Spears v. Tax Collector of La Salle Parish, La.*, 51 F. Supp. 8 (W.D. La. 1943). In *Fuller v. Mullins*, a case in which Isaiah again appeared as counsel and co-plaintiff and again made numerous baseless arguments, the court went so far as to comment: “[a]lthough appellants’ brief is short, we have had considerable trouble in comprehending their points and the application thereof to the factual situation here before us.” 277 S.W.2d 815, 815 (Tex. Ct. App. 1955), *appeal dismissed*, 350 U.S. 928 (1956).

jurisdiction.<sup>118</sup> And in a federal case in Texas, he claimed, after missing a filing deadline, that the case was a “government case” even though the defendants were private parties.<sup>119</sup>

Isaiah eventually turned into a “professional litigant,” filing suits in which he claimed his (or someone else’s) civil rights had been violated and demanding that the defendants pay exorbitant amounts of compensation.<sup>120</sup> Finally, in February 1957, in a lawsuit demanding \$400,000 from four Shreveport bus companies,<sup>121</sup> Chief Judge Ben C. Dawkins, Jr. of the Western District of Louisiana called Isaiah to account in a blistering opinion:

This is a suit for substantial money damages on account of alleged violations of plaintiff’s civil rights, 42 U.S.C.A. §§ 1981, 1982, 1983 and 1985. Plaintiff, who claims to be a negro lawyer with forty-six years experience, alleges that on November 13, 1956, being a fare-paying passenger holding a ticket on a bus line operated by some of the defendants, at the bus station in Shreveport, Louisiana, he was ‘\* \* \* unlawfully and wrongfully assaulted, abused, humiliated, shocked and threatened with being placed in jail \* \* \* by defendants’ servants, agents, and employees \* \* \*’

Upon the sworn statement of plaintiff that, because of his poverty, he was unable to pay the costs of this suit, in advance or as they accrue, or to give security for costs, we signed an order on December 13, 1956, permitting him to proceed *in forma pauperis*, pursuant to 28 U.S.C.A. § 1915.

Thereafter, on December 31, 1956, defendants filed a motion to have the Court recall its order of December 13, 1956, on the grounds: 1) that plaintiff owns valuable property in California and has earnings as an attorney; and 2) that plaintiff has filed many other suits similar in character to this one; and ‘\* \* \* more or less makes a career of such litigation in the Federal Courts of Arkansas, California and other states; that incidents such as are complained of in this suit are not casual and are provoked and studied.’ Whereupon, on December 31, 1956, we signed an order requiring plaintiff to show cause on January 31, 1957, why the Court’s order of December 13, 1956, should not be recalled and rescinded. . . .

In the present suit plaintiff has sworn in effect that the real estate he owns, in Pasadena, California, is worth no more than its assessed value of \$1,450. He is contradicted in this by Mr. Stephen Whittlesey, a qualified real estate appraiser, who, after a thorough study, including three inspections of the property, testified that it is worth \$12,000.

Plaintiff’s apparent lack of good faith here is further demonstrated by his having filed at least three other suits, in the Courts of Arkansas and California, of substantially the same nature

118. See *Porter v. Bennon*, 180 F.2d 523 (10th Cir.), *cert. denied*, 340 U.S. 817 (1950).

119. See *Spears v. Humble Oil & Refining Co.*, 261 F.2d 231 (5th Cir. 1958), *cert. denied*, 359 U.S. 971 (1959). In his complaint, Isaiah had claimed that “the Shell Oil Company . . . and . . . the Humble Oil and Refining Company . . . entered property in Rusk County [in Texas] which belong[ed] to [me] [and] removed oil and gas from the tract of land without [my] permission.” *\$350,000 Suit Filed in Federal Court*, TYLER MORNING TELEGRAPH (Tex.), June 2, 1956, at 11. See also *Spears v. Shell Oil Co.*, 352 U.S. 855 (1956) (denying petition for certiorari).

120. In the most notorious of these suits, Isaiah represented Leona Dinwiddie and Anne E. Roark and claimed that government officials had conspired with private individuals to violate their federal civil rights by unlawfully ejecting them from their homes. See John E. Rousseau, *\$1,000,000 Suit Aired Again: Woman in Appeal Before U.S. Court in New Orleans, La.*, PITTSBURGH COURIER, Feb. 18, 1956, at 7. The courts did not agree. See *Roark v. West*, 251 F.2d 956 (5th Cir.), *cert. denied*, 357 U.S. 940, *reh’g denied*, 358 U.S. 859 (1958), and *cert. denied*, 358 U.S. 844 (1958); *Dinwiddie v. Brown*, 230 F.2d 465 (5th Cir.), *cert. denied*, 351 U.S. 971, *reh’g denied*, 352 U.S. 861 (1956).

121. For the case’s background, see *Civil Rights Suit Is Filed: Negro Asks Damages of \$400,000 Against City and Bus Firm*, SHREVEPORT J., Dec. 14, 1956, at 6A.

as this one, giving strong support to defendants' contention that plaintiff '\* \* \* more or less makes a career of such litigation' . . .

Considering all of these circumstances—plus the fantastic amount (\$400,000) for which he sues—we can reach no other conclusion than that Isaiah Herculaneus Spears obviously is not [proceeding] in good faith, and that his affidavit of poverty is unacceptable. It is insufficient to overcome the evidence against its veracity. Consequently, justice demands that we grant defendants' motions to recall and rescind our order of December 13, 1956, which allowed plaintiff to file and prosecute the suit *in forma pauperis*. . . .<sup>122</sup>

Dawkins's tongue lashing apparently had no effect on Isaiah, for in August 1960 Isaiah filed a new lawsuit in Lubbock, Texas, that was nearly identical to his Shreveport lawsuit:

Oklahoma Transportation Co., Texas, New Mexico and Oklahoma Coaches, Inc., and the City of Lubbock are named as defendants in a suit for \$50,000 in damages, transferred to U.S. District Court here Friday and filed by a 78-year-old California Negro man.

The suit, filed by I.H. Spears, Pasadena, Calif., arises from an incident in the bus station here Oct. 10, 1959 for which the Negro man was jailed for disturbance by police. . . .

Spears alleges that, while bound from Oklahoma City to Los Angeles by way of El Paso, he and other passengers were discharged from the bus the night of Oct. 9, 1959, at the station in Lubbock. While there, Spears states in his complaint, he was assaulted by employees of the bus company, forced into the negro section of the bus station and finally arrested and taken to the police station. He further alleges the arrest prevented him from reboarding the bus.<sup>123</sup>

On September 19, 1964, Isaiah died at the age of 83.<sup>124</sup> Remarkably, his error-filled obituary gave no hint of the type of life he had lived or the things he had seen:

Attorney Isaiah H. Spears, 73 West Bellview [sic] Drive, passed away Sept. 19, 1964. A native of Mariana [sic], Florida and a resident of Pasadena 30 [sic] years. Survived by his wife Mrs. Roena Spears, son [sic] Lawrence Spears of Washington, D.C. and among his many cousins are Andrew Spears of Pasadena and Joseph H. Spears of Los Angeles.<sup>125</sup>

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122. *Spears v. Continental Bus Sys., Inc.*, 148 F. Supp. 806, 806–09 (W.D. La. 1957). In a follow-up ruling, Dawkins ordered Isaiah to pay the defendants \$438.17 in costs. *See Order Negro Pay Costs in Rights Suit*, SHREVEPORT J., Apr. 8, 1957, at 8B. When Isaiah failed to do so, Dawkins closed the case. *See Court Dismisses Civil Rights Suit Filed by Negro*, SHREVEPORT J., Apr. 29, 1957, at A3. As Dawkins indicates, Isaiah previously had brought similar lawsuits in Arkansas and California. Isaiah's penchant for suing bus companies stands in stark contrast to his circumspect 1920 complaint to the Oklahoma Corporation Commission about the Midland Valley Railroad. *See supra* note 78 and accompanying text.

123. *Civil Suit Names City, Bus Company*, LUBBOCK AVALANCHE-J., Aug. 20, 1960, at B7. There is no subsequent press coverage of this case, but it appears that Isaiah's complaint was dismissed. *See Spears v. Estes*, 365 U.S. 864 (1961) (denying Isaiah leave to file a petition for a writ of mandamus or prohibition against Chief Judge Joe E. Estes of the Northern District of Texas).

124. *See Isaiah H Spears*, FIND A GRAVE (Feb. 14, 2017), <https://www.findagrave.com/memorial/176331693/isaiah-h-spears>. As this source reports, Isaiah is buried at the Mountain View Cemetery and Mausoleum in Altadena, California (Section: Alpine, Lot 4078, Grave 3). Roena died in 1975. *See Williams, supra* note 104. An obituary has not been found for her, and her place of burial is unknown (but is presumed to be Pasadena). *See* E-mail from Ms. Claudia Lyles Williams to author (June 3, 2021, 2:33 PM) (on file with the author).

125. *Obituary Notices: Spears, supra* note 13. Despite being listed as Isaiah's son, Lawrence was merely another relative (although his exact relationship to Isaiah is unknown). Andrew, Jr. and Joseph (two of the four children of Isaiah's Uncle Andrew and his second wife Minnie) are correctly listed as being Isaiah's cousins.

## VIII. CONCLUSION

Although a significant figure in his time, Isaiah today is a forgotten man. This is especially true in discussions of the 1921 Tulsa Race Massacre, which routinely emphasize Franklin's efforts while ignoring Isaiah's contributions.<sup>126</sup> Isaiah's place in the annals of Black history also has been tarnished by his erratic behavior during his long years in California.<sup>127</sup>

Even with his faults, however, Isaiah deserves a much better fate than he has received. Indeed, it can be argued that had the all-White California Supreme Court<sup>128</sup> cut him even a little bit of slack, to which he surely was entitled, Isaiah's later years almost certainly would have turned out very differently. Moreover, he likely would be recognized today as one of heroes of the 1921 Tulsa Race Massacre instead of being just a man in a famous photograph.

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126. A good example is the 2021 *New York Times* "3D" article. Above a full-length portrait of Franklin and the iconic tent photograph, the text reads: "Buck Colbert Franklin, a lawyer, had an office inside a building owned by O.W. Gurley. After the massacre, Mr. Franklin provided legal services from a tent." Parshina-Kottas et al., *supra* note 83, at 21. Another source repeatedly gets Isaiah's first name wrong, claiming that it was "Isaac" and that he went by the nickname "Ike." See KREHBIEL, *supra* note 4, at 38, 63, 170, 192, 234.

127. In at least two instances, however, Isaiah played a positive role while living in California. In February 1950, he convinced the City of Pasadena to designate the week of February 15-22 "Negro History Week." See *Negro History Week Observed*, PASADENA INDEP., Feb. 16, 1950, at 34. Later that year, he ran for a seat in the California Assembly (47th District). Although trounced by his Democratic (attorney E. Newell Barrett) and Republican (attorney and incumbent Albert I. Stewart) opponents, Isaiah, running as an Independent Progressive, gave voters a choice they otherwise would have lacked. See *It's Official—Parking Meters Blitzed*, PASADENA INDEP., Nov. 10, 1950, at 18 (reporting that Stewart received 22,861 votes; Barrett 10,465 votes; and Isaiah 1,037 votes). While on the campaign trail, Isaiah met Edward Crellin Pauling, the son of future Nobel Prize winner Linus C. Pauling. In a letter to his mother, Edward mentioned their brief encounter: "[t]his morning I put leaflets on people[']s doorsteps advertising Esterman and Spears. (I was helping Chas Cox[.] While doing so I met I.H. Spears. He is running for #47 assembly. He is a negroe [sic] but that doesn't make any diff." *Day-by-Day: October 31, 1950*, LINUS PAULING, <http://scarc.library.oregonstate.edu/coll/pauling/calendar/1950/10/31.html> (last visited Nov. 2, 2021).

128. A 1930 photograph of the court's seven White Justices can be viewed at <http://www.fourth-millennium.net/family-travels/california-supreme-court-1930.html>. The California Supreme Court did not get its first Black member until 1977, when Governor Jerry Brown elevated Alameda County Superior Court Judge Wiley W. Manuel. For a profile of Manuel, see Jennifer Wellman, *Wiley W. Manuel (1927-1981)*, BLACK PAST (Aug. 27, 2018), <https://www.blackpast.org/african-american-history/manuel-wiley-w-1927-1981/>. Although often viewed as being less prejudiced than other parts of the United States, California in fact has a long history of mistreating Black individuals. For a further discussion, see, e.g., LYNN M. HUDSON, WEST OF JIM CROW: THE FIGHT AGAINST CALIFORNIA'S COLOR LINE (2020).