Muhammad Ali: The Greatest in Court

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Every knee must bend, every head must bow, every tongue must testify, thou art The Greatest of all time.¹

I. INTRODUCTION

Muhammad Ali is considered one of sport’s most popular, if not controversial, icons of the twentieth century.² In the sports world, perhaps only soccer’s fabled Pele or basketball’s renowned Michael Jordan can legitimately challenge Ali’s indissoluble recognition and universal appeal.³ Known simply by the self-proclaimed moniker “The Greatest”⁴ to boxing aficionados and fans worldwide, Ali was a charismatic and exuberant champion with an intoxicating and flamboyant personality. Ali’s extraordinary boxing skills are irrefutable. As an amateur, Ali had a phenomenal boxing record of 100 victories in 108 bouts by the age of eighteen and had won six Kentucky Golden Gloves titles, two National Amateur Athletic Union championships, two National Golden Glove crowns, and an

¹. THE QUOTABLE ESPN 228 (Shelly Youngblut, ed. 1998) (quoting boxing promoter Don King in reference to Muhammad Ali).


³. See Stephen Brunt, Jordan Joins Ali, Pele as Men Who Rose Above Their Sports, GLOBE & MAIL (Toronto), Jan. 14, 1999, at S2 (naming Muhammad Ali, Michael Jordan, and Pele as the three athletes in the twentieth century “who have become part of the worldwide mass consciousness”); Hubert B. Herring, A Benchmark for Generation X Golf, N.Y. TIMES, Nov. 14, 1999, at 2 (naming Muhammad Ali along with Babe Ruth, Billie Jean King, and Pele as “sports figures who don’t just define their sports, they change their sports”).

⁴. MUHAMMAD ALI WITH RICHARD DURHAM, THE GREATEST: MY OWN STORY 415 (1975) (“I already told them. And I already told you. Didn’t you hear me? I said I was The Greatest.”).
Olympic gold medal in the light heavyweight division.\textsuperscript{5} His remarkable amateur success carried over to a much acclaimed and well-documented professional boxing career. At his prime, Ali showcased all the indispensable attributes of a superlative pugilist: quick hands, remarkable reflexes, nimble footwork, a potent jab,\textsuperscript{6} and an uncanny ability to withstand his opponents’ punches. By the time Ali retired from boxing in 1981, he had captured the professional heavyweight championship an unprecedented three times and compiled an impressive 56-5 career record with thirty-seven knock-outs and nineteen successful title defenses.\textsuperscript{7} Deservingly, Ali was inducted into the International Boxing and United States Olympic Halls of Fame and is recognized by pundits and the general public alike as one of the greatest heavyweight champions of all time.\textsuperscript{8} In 1994, Ali was honored as “Athlete of the Century” by \textit{Sports Illustrated} magazine.\textsuperscript{9}

Ali’s path to immortality, however, was rocky. At the commencement of his professional boxing career, Ali was more maligned than he was adored.\textsuperscript{10} He had developed a vivid, profane gift for hectoring and mentally browbeating his opponents before fights with a myriad of antics and tactics in and out of the boxing ring.\textsuperscript{11} As a formidable, poetry-spouting bully, Ali escalated taunting and smack-talking to unprecedented heights to strategically keep his opponents psychologically off balance. His aphorisms, rhymes, and pre-fight jeers at some of the sport’s best known boxers—Joe Frazier, George Foreman,
Charles "Sonny" Liston, Floyd Patterson—are considered classics. Consequently, the media and much of the general public considered the young, upstart Ali an arrogant, unapologetic braggart who irritated many with his orotund talk. Indeed, Ali's braggadocio alone motivated the general public to flock to his bouts expecting, if not yearning for, his opponent to slam his mouth shut with a fistful of knuckles. As Ali recounted: "Every time I stepped into the ring, at least half the audience was so anxious to see me slaughtered, they would cheer and scream and stomp for every punch an opponent hit me with. So much so that they became hysterical when I frustrated those dreams and hopes."  

Whether marveled or not, Ali was the embodiment of the consummate entertainer, the marquee protagonist in a night of riveting theater. Ali aptly self-promoted and knew how to enlist the news media as an integral part of his competitive strategy.

Ali's achievements extend beyond his well-known boxing prowess and records. He literally transcended the sport of boxing and dominated other public landscapes: political activism, civil rights, religious freedom, and humanitarian projects. Although dozens of books have been written and various movies produced about Ali, Ali's significant contribution to American law either as a party litigant or through the legal action stemming from his many fights has not been systematically discussed.

In order to shed additional light on Ali's remarkable life, this article briefly recounts Ali's many feats both in the boxing ring and the courts. Part II of this article chronicles the rise of the upstart and mouthy Ali and his heavyweight championship fight debut against the ferocious Sonny Liston in the bout that "shocked the world." The fight's legal fallout marked the advent of Ali's many boxing-related lawsuits throughout his career. Part II will also focus on Ali's conversion to Islam, his refusal to be inducted into the armed forces, and consequently, the revocation of his boxing license. The article then navigates through Ali's protracted legal fight in the various federal and administrative tribunals over his conscientious objector status and

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13. ALI WITH DURHAM, supra note 4, at 133.


15. International Boxing Hall of Fame, supra note 8.
involvement in a leading foreign surveillance intelligence case. Along this
difficult path, Ali's legal battle resulted in several published and important
cases, culminating in the landmark U.S. Supreme Court decision in Clay v.
United States. Part II of the article also analyzes Ali's legal struggle with the
state boxing commissions to renew his boxing license.

Fresh from his victories before the Supreme Court and state boxing
commission, Part III of the article focuses on the highly anticipated return of
the heavyweight champion to the familiar boxing ring. The article recounts
his epic fights with the sport's best known boxers—Joe Frazier in "The Fight
of the Century" and the "Thrilla in Manila," and George Forman in the "The
Rumble in the Jungle"—as well as the legal aftermath stemming from these
bouts. Part III also analyzes Ali's legal championing of the common law right
of publicity protection in the well-known Playgirl Magazine case and his
collateral impact in the fields of copyright and antitrust law. Finally, Part III
reflects upon Ali's final bouts and the twilight of his legendary career.

II. THE RISE AND FALL OF THE GREATEST WORLD HEAVYWEIGHT
CHAMPION

Muhammad Ali was born Cassius Marcellus Clay, Jr., named after a
prominent nineteenth century abolitionist, on January 17, 1942, in Louisville,
Kentucky. Ali began his boxing career as a skinny, 112-pound twelve-year-
old under the tutelage of Joe Elsby Martin, a white Louisville
policeman. Surprisingly, Ali did not naturally gravitate towards boxing, but instead
serendipitously discovered the sport that would ultimately define him. The
tale of Ali's unexpected convergence with boxing is so often retold as to be a
fundamental part of his legend. In October 1954, at age twelve, Ali and a
friend rode their bicycles to a local recreational auditorium, which was hosting
a bazaar. When the two boys left to return home, Ali discovered that his
bicycle had vanished. In his frantic search for a policeman who could help
recover his bicycle, Ali wandered into the auditorium's basement gym where
Martin ran a boxing training program. Immediately, Ali was hooked.
he recollected:

[T]he sights and sounds and the smell of the boxing gym excited me so much that I almost forgot about the bike.

There were about ten boxers in the gym, some hitting the speed bag, some in the ring, sparring, some jumping rope. I stood there, smelling the sweat and rubbing alcohol, and a feeling of awe came over me.  

Six weeks later the young Ali won a three-minute, three-round split decision in his debut match. The rest, as the saying goes, is history.

Ali first came to public attention after he won the gold medal in the light heavyweight division in the 1960 Summer Olympic Games in Rome, Italy. Ali’s decisive Olympic victory—considered the apex of the amateur boxing world—enabled him to garner the invaluable notoriety he needed to launch his meteoric ascent towards the professional heavyweight title. On the heels of the Olympic Games, Ali made his professional debut on October 29, 1960, by defeating Tunney Hunsaker. The fight was significant because, as Ali stated, of “all the publicity and all the shouting I’d done, the sports world would be watching every blow I threw.” Between 1960 and 1963, Ali defeated nineteen consecutive opponents, including several contenders. The 1963 bout against Brit Henry Cooper, the one-time British, European, and Commonwealth heavyweight champion, was particularly noteworthy because Cooper had knocked Ali down in the fourth round with his trademark left

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25. Id.
26. Id.
27. “To all intents and purposes, Cassius was born at the age of 12, the day he entered the gym and started fighting.” ALI WITH DURHAM, supra note 4, at 46.
28. The championship bout was fought on September 5, 1960. RUMMEL, supra note 18, at 31-32. Ali’s opponent was Zbigniew Pietrzykowski of Poland, the European champion and gold medal favorite. Id. at 31. Judges awarded Ali a unanimous decision. Id. at 32.
30. Cyber Boxing Zone, supra note 7.
31. ALI WITH DURHAM, supra note 4, at 80.
32. The nineteen fighters defeated by Muhammad Ali were, in chronological order: Herb Slier (December 27, 1960); Tony Esperti (January 17, 1961); Jim Robinson (February 7, 1961); Donnie Fleeman (February 21, 1961); Lamar Clark (April 19, 1961); Duke Sabedong (June 26, 1961); Alonzo Johnson (July 22, 1961); Alex Miteff (October 7, 1961); Willi Besmanoff (November 29, 1961); Sonny Banks (February 19, 1962); Don Warner (March 28, 1962); George Logan (April 23, 1962); Billy Daniels (May 19, 1962); Alejandro Lavorante (July 20, 1962); Archie Moore (November 15, 1962); Charlie Powell (January 24, 1963); Doug Jones (March 13, 1963); and Henry Cooper (June 18, 1963). Cyber Boxing Zone, supra note 7.
hook, "Enry’s ‘Ammer." The bell rang before Cooper could complete a knockout, and, according to the legend, Ali was so dazed that his trainer, Angelo Dundee, cut his glove. Another glove had to be fetched, giving Ali time to recover from the knockdown and ultimately prevail over Cooper.

Outside the ring at this time, America was in the midst of the turbulent 1960s, an era of significant political, cultural, and social cataclysm driven by a motley of lively and controversial causes and characters. It was then that Ali the professional boxer would become, perhaps unexpectedly, Ali the lightning rod for a society struggling to deal with a myriad of social, political, and cultural issues. Ali, then still Cassius, began to develop a budding interest in the Nation of Islam, an organization the general public at the time considered to be subversive and militant.

A. Ali’s Fight with Sonny Liston Marks the Advent of His Boxing Related Lawsuits

Ali’s professional and personal life would be suddenly and permanently transformed in 1964. In that year, Charles “Sonny” Liston was the fearsome world heavyweight boxing champion. Ali did the unthinkable and daringly challenged the seemingly invincible and ferocious Liston for the world heavyweight boxing title. Even though Ali was not the primary heavyweight title contender, his continuous taunts at Liston induced the heavyweight champion to choose Ali as an opponent. “Ain’t that big old bear Liston ugly?” Like many of Ali’s historical bouts to come, the Ali-Liston fight was promoted with a catchy nickname: “The Greatest Grudge Fight in History.” On February 25, 1964, a significant underdog, Ali indeed “Shocked the World” by defeating Liston after six rounds. Liston surrendered the title when he refused to answer the bell for round seven, opting instead to retire on his stool, having lost round six under a
Despite Ali’s excessive pre-fight ballyhooing and self-promotion, the bout itself was indifferently covered by the news media and poorly attended. Perhaps this was because the fight was perceived as a considerable mismatch. Indeed, the case of *Inter-Continental Promotions, Inc. v. MacDonald* stemmed from the fight’s lackluster attendance. Inter-Continental Promotions, which “owned both fighters,” sued the fight’s promoter, William MacDonald, and his surety for breach of contract. Under the express terms of their contract, MacDonald agreed to pay Inter-Continental, “upon completion of the boxing contest,” $625,000 for the live gate receipts. Since only “a small crowd” attended the fight, the gate receipts amounted to a mere $225,000. MacDonald paid Inter-Continental that amount and the latter sued for the outstanding balance. In federal district court, MacDonald averred that his contract with Inter-Continental was illegal on its face since Florida law made promoting a prizefight illegal. Specifically, MacDonald relied upon a Florida statute that made it a felony “to voluntarily engage in” or “to render aid” in “any pugilistic exhibition, fight or encounter . . . [for] which any admission fee is charged,” except “boxing exhibitions held by and under the auspices of” a designated or specifically approved organization. The district court agreed with MacDonald, and Inter-Continental appealed; the U.S. Court of Appeals for the Fifth Circuit reversed. After consideration of the Florida statute and legislative history,

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42. According to Muhammad Ali’s account of the fight’s final rounds:

> In the sixth, I went out and Liston was a changed man. He’d thrown his best stuff and he hadn’t been able to do his damage. I felt his breathing. He was tired and I was still strong, and he knew he had no protection against my lefts or rights. When the bell rang for the start of the seventh round, he stayed in his corner. He sat limp on the stool, staring blankly across at us. Angelo and Bundini were screaming at me: “You The Champion! You The Champion!” I leaped into their arms. The long campaign was over. I had come into my own. I had fulfilled my prediction. *Ali with Durham, supra note 4, at 119.*


44. 367 F.2d 293, 294 (5th Cir. 1966).

45. *Id.*

46. *Id.* at 295.

47. *Id.* at 294.

48. *Id.*

49. *Id.*

50. *Id.* at 295 (citing to FLA. STAT. ANN. §§ 548.01-.02 (West 1971)(repealed 1984)).

51. *Id.*

52. *Id.* at 303.
the Fifth Circuit held that a "prizefight" came within the scope of the generic terms "pugilistic exhibition" and "boxing exhibition." Moreover, the court noted that while the statute requires only that the bout "be held by and under the auspices" of one of the designated or approved organizations, it does not require that the group be a signatory to every contract that relates to the fight. The absence of any mention of a designated or approved group in the contract between Inter-Continental and MacDonald was not inconsistent with the allegation that an approved group ultimately sponsored the bout. The court found that because Inter-Continental completely performed its part of the bargain, the "potential injustice is far greater than if neither side had performed and one of the parties were seeking to compel the other to do so."

B. Ali Commences His Legal Fight for Conscientious Objector Classification

The day after the Liston fight, Ali again "shocked the world" when he appeared at a press conference and formally announced that he accepted the teachings of Islam and changed his name to Cassius X. A couple weeks later he changed his name to Muhammad Ali. Ali’s announcement purportedly prompted then FBI Director J. Edgar Hoover to inquire about the champ’s draft status. Furthermore, Ali’s religious conversion to the Nation of Islam struck a disconcerting chord with the general public and made him anathema to white Christian America.

Ali would not return to the boxing ring for almost sixteen months. On May 25, 1965, Ali defeated Liston again in a lackluster rematch bout. This time Ali needed less than one round to dispose of Liston with the now alleged and infamous "phantom punch." “I’m the king of the world,” Ali vigorously

53. Id. at 292.
54. Id. at 302.
55. Id.
56. Id. at 303.
57. ALI WITH DURHAM, supra note 4, at 178. When asked the significance of the letter “X,” Ali replied that as members of the Nation of Islam, “we rejected the names handed to us by our former slave masters and X took the place of our real but unknown black names.” Id. at 128.
59. Brunt, supra note 3 (stating Ali’s religious conversion “turned a man whom the press had characterized as harmless and clown-like into an apparently dangerous character”).
61. Fachet, supra note 60; Povich, supra note 60; see also Earl Gustkey, 19 Years Later Liston Death Remains Mystery to His Friends, L.A. TIMES, Feb. 22, 1989, at 1 (opining that Ali’s first round knock-out punch “didn’t look strong enough to break an egg”).
proclaimed after the fight, now with added validity. Ali went on to defeat Floyd Patterson on November 22, 1965.

i. “I ain’t got no quarrel with the Viet Cong”: Ali’s Anti-Vietnam Position Draws Public Ire

Synonymous with the tumult of the 1960s was America’s controversial involvement in the Vietnam War. The outspoken Ali opposed conscription and became entangled in a protracted legal brawl that would culminate in the landmark U.S. Supreme Court conscientious objector case of Clay v. United States. That decision is considered one of the most important legal events of that era. Ali’s legal fight would “highlight a fundamental question in the Supreme Court—whether a citizen has a constitutional right by liberty of conscience to refuse to serve in a particular war as opposed to war in the abstract.” This fight began on February 17, 1966, when Ali was classified 1-A by a selective service board in Louisville, Kentucky. When journalists asked Ali about his reaction to his classification, Ali uttered his infamous poem about the Vietnam War. As Ali recalled later:

Of all the poems I wrote, all the words I spoke, all the slogans I shouted... of all the controversies that aroused people against me or for me, none would have the effect on my life or change the climate around me like the “poem” I read on a TV hookup one warm February afternoon in Miami, 1966.

Keep asking me, no matter how long,

On the war in Viet Nam, I sing this song
I ain’t got no quarrel with the Viet Cong...

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63. Cyber Boxing Zone, supra note 7.
64. ALI WITH DURHAM, supra note 4, at 124.
69. Clay v. United States (Clay I), 397 F.2d 901, 905 (5th Cir. 1968).
70. ALI WITH DURHAM, supra note 4, at 123.
71. Id. at 124.
A reporter was asking me if I would accept the draft. The children were looking at my face and I was looking at theirs. I shook my head and repeated the remark I had already made to them. Some of the reporters rushed off to file their reports. They had enough. Others kept asking, “How does it feel about to be drafted?”

Ali’s public remarks caused a national uproar and evoked death threats against him. Numerous legal and administrative proceedings ensued. On February 28, 1966, Ali applied for draft exemption as a conscientious objector because of his religious convictions, informing the local selective service board that as a minister in the Nation of Islam, “to bear arms or kill is against my religion. And I conscientiously object to any combat military service that involves the participation in any war in which the lives of human beings are being taken.”

The local selective service board denied Ali’s conscientious objector claim and he appealed to the Kentucky Appeal Board.

ii. Ali Spars with Federal and Administrative Tribunals over His Classification

On May 6, 1966, the Kentucky Selective Service Appeal Board reviewed Ali’s file de novo and concluded that he was not entitled to conscientious objector classification. Ali’s file was subsequently referred to the U.S. Department of Justice for an advisory recommendation as permitted by then-applicable Selective Service regulations. In turn, the Justice Department subsequently requested an investigation by the FBI and a special hearing “on the character and good faith” of Ali’s conscientious objections.

As Ali’s investigation proceeded, he continued to box and defended his world heavyweight title against various foreign, but highly ranked, opponents. These bouts took place on his opponents’ home turfs and outside the United States. On March 29, 1966, Ali won a unanimous decision over tough George

72. Id. at 138.
73. Tom Callahan, Direct From the Stands, the Bad Seed, WASH. POST, May 2, 1993, at D3; Bob St. John, Ali’s Long Shadow Extends from First Meeting to Today, DALLAS MORNING NEWS, July 29, 1997, at 13A (reporting that Ali’s refusal to be inducted made him “a national outlaw”).
74. ALI WITH DURHAM, supra note 4, 160.
75. Clay v. United States (Clay I), 397 F.2d 901, 905 (5th Cir. 1968).
76. Id.
77. Id.
78. Id. at 918.
Chuvalo, the then-reigning Canadian Heavyweight Champion, in Toronto, Canada. A few months later Ali went to England and knocked out Henry Cooper (who had knocked him down in their initial 1963 match) for a second time. Ali then knocked out “British Bulldog” Brian London, also in England, on August 6, 1966.

Back home, Ali continued his sparring match with the Kentucky Selective Service Appeals Board. On August 23, 1966, Ali petitioned the Selective Service for an exemption from conscription as a minister of the Lost Found Nation of Islam. That same day, a special hearing was held in Louisville, Kentucky, before former federal circuit judge Lawrence Grauman. On the basis of the record, the hearing officer concluded to the Justice Department that Ali stated his views “in a convincing manner, answered all questions forthrightly,” and was “sincere in his objection on religious grounds to participation in war in any form.” The hearing officer recommended that Ali’s conscientious objector claim be sustained.

Notwithstanding this recommendation, the Justice Department advised the Kentucky Appeal Board that Ali’s request for conscientious objector classification should be denied. The Justice Department concluded that Ali’s objections to participation in war insofar as they were based upon the teachings of the Nation of Islam “rest on grounds which are primarily political and racial. These constitute objections to only certain types of war in certain circumstances, rather than a general scruple against participation in war in any form.” The Justice Department asserted that “only a general scruple against participation in war in any form can support a claim for conscientious objector” classification. The Justice Department also noted that Ali “had not consistently manifested his conscientious objector claim and had not shown overt manifestations sufficient to establish his subjective belief where his claim was not asserted until [conscription] became imminent.” On January 10, 1967, without a statement of reasons, the Kentucky Appeal Board denied

79. Cyber Boxing Zone, supra note 7.
80. Id.
81. Id.
82. Clay I, 397 F.2d at 906.
83. Clay v. United States (Clay III), 403 U.S. 698, 699-700, 699 n.2 (1971); Clay I, 397 F.2d at 918; McCALLUM, supra note 39, at 324.
84. Clay I, 397 F.2d at 918.
85. Id.
86. Id. at 918-19; McCALLUM, supra note 39, at 324.
87. Clay I, 397 F.2d at 919; McCALLUM, supra note 39, at 324.
88. Clay I, 397 F.2d at 919.
89. Id.
Ali’s conscientious objector claim.\(^90\)

**C. Ali Continues His Assault on Boxing Heavyweight Contenders**

Meanwhile, in the boxing ring, Ali continued his assault on heavyweight contenders, conquering two more challengers: German Karl Mildenberger and Cleveland Williams.\(^91\) Ali was next scheduled to fight Ernie Terrell.\(^92\) The Ali-Terrell bout gained controversy and was publicized as a vicious “grudge fight” when, during the pre-fight hoopla, Terrell refused to acknowledge Ali by his Muslim name and repeatedly referred to Ali by his “slave name,” Cassius Clay.\(^93\) This rebuff so incensed Ali that the champ pledged to punish Terrell in the ring for this perceived impudence.\(^94\) “I’m going to whip him and talk to him and insult him and humiliate him,” Ali promised.\(^95\) On February 6, 1967, Ali’s prognostication came to fruition. For fifteen rounds, Ali continually bombarded the overmatched Terrell with combinations of devastating punches.\(^96\) According to ringside spectators, Ali kept taunting Terrell throughout the fight shouting, “What’s my name? What’s my name?”\(^97\) As John Cottrell described the infamous eighth round in 1967:

> At this point the champion started to shout. He told [Terrell] to stand up and fight; then he landed a thundering right to the jaw. “What’s my name?” he asked. No answer. He slashed the silent Terrell with a left-right combination and asked again, “What’s my name?” Still no reply. Between rounds, cornermen have been known to slap dazed boxers and ask that question to test their awareness. [Ali] used the same method to taunt his opponent, punctuating each tongue-lashing with a tattoo of punishing punches. With one eye almost shut, the other starting to close, Terrell was being subjected to ruthless, calculated torture.\(^98\)

Even though the fight went the distance, Ali delivered a horrible beating

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91. Cyber Boxing Zone, supra note 7.
92. Id.
93. COTTRELL, supra note 67, at 307-09.
94. Id. at 309.
95. Id.
96. Id. at 313-17.
97. Id. at 314.
98. Id. at 314-15.
on Terrell and won thirteen of fifteen rounds.\textsuperscript{99}

On February 24, 1967, the National Directory of Selective Service appealed Ali’s I-A classification to the National Selective Service Appeal Board.\textsuperscript{100} Ali’s appeal was again denied.\textsuperscript{101} Back in the ring, Ali fought Zora Folley in New York City’s Madison Square Garden on March 22, 1967.\textsuperscript{102} The match was Ali’s seventh heavyweight title defense in less than one calendar year and his ninth since dethroning Liston.\textsuperscript{103} After pounding Folley for the first six rounds, Ali knocked him out the seventh round to retain his heavyweight boxing title.\textsuperscript{104} Most significantly, the fight would mark Ali’s last night in a ring for three and a half years, while numerous federal district and appellate courts and boxing commissions became embroiled with Ali’s pending induction and his controversial recalcitrance.

\textbf{D. Ali Fights Conscription on Grounds of Under-representation}

Two days after the Folley fight, on March 24, 1967, Ali requested a transfer of induction location from Louisville, Kentucky, to Houston, Texas, which was granted.\textsuperscript{105} Ali then challenged induction on the ground that pervasive under-representation of African-Americans in the composition of local selective service draft boards was forbidden race discrimination and thus deprived local boards of lawful authority to induct any African-American registrant.\textsuperscript{106} On March 29, 1967, the U.S. District Court for the Western District of Kentucky considered Ali’s motion for declaratory judgment with respect to the constitutionality of the Universal Military Training and Service Act provision pertaining to selective service boards.\textsuperscript{107} Specifically, Ali argued the provision was unconstitutional on its face and as applied because of “systematic exclusion” of African-Americans from membership on local boards and appeal boards in Kentucky.\textsuperscript{108} The Court concluded that the issues

\textsuperscript{99} Id. at 316-17.
\textsuperscript{100} Clay v. United States (\textit{Clay I}), 397 F.2d 901, 906 (5th Cir. 1968); Ali v. Breathitt, 268 F. Supp. 63, 65 (W.D. Ky. 1967), \textit{stay denied, sub nom.}, Ali v. Gordon, 386 U.S. 1002 (1967). The National Selective Service Appeal Board is comprised of three civilian members who are appointed by the President of the United States. \textit{Clay I}, 397 F.2d at 909. The Universal Military Training and Service Act vests the board with the duties and functions of the President. \textit{Id}.
\textsuperscript{101} \textit{Id.}, 397 F.2d at 906.
\textsuperscript{102} Cyber Boxing Zone, \textit{supra} note 7.
\textsuperscript{103} \textit{Id}.
\textsuperscript{104} \textit{Id}.
\textsuperscript{105} \textit{Id.}, 397 F.2d at 906; \textit{Clay I}, 397 F.2d at 906; Breathitt, 268 F. Supp. at 65.
\textsuperscript{106} \textit{Id.}, 397 F.2d at 906; Breathitt, 268 F. Supp. at 64.
\textsuperscript{107} Breathitt, 268 F. Supp. at 64-65.
\textsuperscript{108} \textit{Id}. at 64.
raised in Ali’s complaint did not present a “substantial constitutional question” appropriate for judicial review “unless and until [Ali] presents himself at an Induction Station and either submits to induction or refuses to submit to induction.”

Ali filed a similar complaint in the U.S. District Court for the Southern District of Texas, asserting substantially the same legal contentions as those presented in his Kentucky suit.

On April 28, 1967, Ali reported for but declined to submit to induction into the United States Armed Forces. The champ’s refusal instantly made him a politically significant figure at a time when American opinion against the Vietnam War and compulsory system of military service was ever-increasing. On May 1, 1967, the U.S. District Court for the Southern District of Texas denied Ali’s petition for injunctive relief. Judge Allen Hannay held that a registrant who has not received and acted on an order of induction cannot get injunctive relief because he cannot show “irreparable injury.”

Thus, Ali’s legal remedy could only arise after the final step toward military induction, and should Ali refuse this final step, his remedy would lie in whatever defense he claims in the criminal prosecution. Judge Hannay also said that a second remedy available to Ali was that of habeas corpus in the event Ali took the final step toward military induction while claiming that his induction was illegal, unconstitutional, and void.

The state boxing commissions that licensed professional boxers, however, did not wait for the legal process to take its course. Before Ali had been arrested or charged, let alone convicted, the New York State Athletic Commission suspended his boxing license and withdrew its recognition of him as the World Heavyweight Champion. Soon thereafter, all other jurisdictions in the United States followed in New York’s footsteps. Ali’s refusal to accept conscription was clear, and he knew the consequences: “I’m

109. Id. at 65.
110. Clay I, 397 F.2d at 908.
111. Id.; Breathitt, 268 F. Supp. at 65.
112. Cottrell, supra note 67, at 339.
113. Clay I, 397 F.2d at 908.
116. Id.
117. Thomas Hauser, Muhammad Ali: His Life and Times 172 (1991). “One hour after Ali refused induction—before he’d been charged with any crime, let alone convicted—the New York State Athletic Commission suspended his boxing license and withdrew recognition of him as champion.” Id.; see also ALI WITH DURHAM, supra note 4, at 175; COTTRELL, supra note 67, at 339.
118. More than thirty state boxing commissions reportedly had refused to grant Ali a license to fight. See HAUSER, supra note 117, at 172.
giving up my title, my wealth, maybe my future. Many great men have been tested for their religious belief. If I pass this test, I'll come out stronger than ever."\textsuperscript{119}

\textbf{E. Ali Sentenced for Refusing Induction}

After refusing induction, Ali filed another complaint in the U.S. District Court for the Southern District of Texas, on April 29, 1967, seeking similar injunctive relief.\textsuperscript{120} This complaint was likewise denied on May 1, 1967, for the same reasons enunciated previously by Judge Hannay.\textsuperscript{121} The district court also held that Ali's "subsequent refusal of induction did not suffice to create a remedy for injunctive relief."\textsuperscript{122} Seven days later a federal grand jury indicted Ali for draft evasion under 50 U.S.C. App. § 462.\textsuperscript{123} Ali's petition to the U.S. Court of Appeals for the Fifth Circuit to restrain the impending trial was denied on May 15, 1967.\textsuperscript{124} On June 20, 1967, at the height of Ali's professional boxing career, a jury in the U.S. District Court for the Southern District of Texas returned a verdict of guilty against Ali on the charge of violating the Universal Military Training and Service Act because of his refusal to be inducted.\textsuperscript{125} Judge Joe Ingraham sentenced Ali to a term of five years imprisonment and a fine of $10,000.\textsuperscript{126} The U.S. Court of Appeals for the Fifth Circuit affirmed Ali's conviction and Ali petitioned the U.S. Supreme Court for \textit{certiorari}.\textsuperscript{127}

\textbf{F. Ali Becomes Involved in Leading Foreign Intelligence Surveillance Case}

As an additional weave to these already entangled administrative and court proceedings, Ali's conviction also set the scene for another important legal development taking shape at that time: the judicial review of the reasonableness of warrantless foreign intelligence surveillances. While Ali's petition to the U.S. Supreme Court was pending, the United States government

\textsuperscript{119} COTTRELL, \textit{supra} note 67, at 336.
\textsuperscript{120} Clay v. United States (\textit{Clay I}), 397 F.2d 901, 908 (5th Cir. 1968).
\textsuperscript{121} Id.
\textsuperscript{122} Id.
\textsuperscript{123} Id. at 906.
\textsuperscript{124} Id. at 908.
\textsuperscript{125} Id. at 906-07.
\textsuperscript{126} Id. at 907.
\textsuperscript{127} Id. Similar arguments were rejected by the Fifth Circuit in other cases. \textit{See}, e.g., Giordano v. United States, 394 U.S. 310 (1969); Sellers v. McNamara, 398 F.2d 893 (5th Cir. 1968), \textit{cert. denied sub nom.}, Sellers v. Laird, 395 U.S. 950 (1969) (Justice Douglas, joined by Chief Justice Warren and Justice Marshall, dissenting).
revealed that five telephone conversations involving Ali had been electronically "‘overheard’ on FBI wiretaps targeted against persons other than Ali."\(^\text{128}\)

Around this time, an exception to the warrant clause for foreign intelligence gathering was being judicially developed.\(^\text{129}\) While the U.S. Supreme Court had never directly considered such an exception, several lower federal courts had addressed this issue.\(^\text{130}\) Ali was involved in one of the first appellate decisions on this point.\(^\text{131}\)

Prompted by the United States government’s disclosure and Ali’s further submissions, the U.S. Supreme Court vacated the conviction on March 24, 1969, and remanded the case for a determination of whether Ali’s conviction had been tainted by the information obtained as a result of the unlawful electronic surveillance.\(^\text{132}\) On July 14, 1969, Judge Ingraham conducted an *in camera* review of the FBI’s surveillance logs and ordered disclosure to Ali of the records relating to four of the intercepted conversations.\(^\text{133}\) The district court did not require disclosure of the fifth conversation, however, holding it to be the product of "‘a lawful surveillance by the FBI pursuant to the Attorney General’s authorization of a wiretap for the purpose of gathering foreign intelligence.’"\(^\text{134}\) The district court held that the wiretaps did not indicate that the information obtained by the FBI agents had tainted the government’s evidence against Ali.\(^\text{135}\) Accordingly, the court reimposed Ali’s five-year prison sentence and fine.\(^\text{136}\)

Ali again appealed to the U.S. Court of Appeals for the Fifth Circuit challenging the government’s withholding of certain electronic surveillances.\(^\text{137}\) According to the United States, the surveillances were conducted "‘for the purpose of gathering foreign intelligence’ and had no


\(^\text{129}\) Id.

\(^\text{130}\) Id.


\(^\text{132}\) Giordano, 394 U.S. 310 (per curiam), vacating and remanding United States v. Clay (Clay I), 397 F.2d 901 (5th Cir. 1968).

\(^\text{133}\) Clay II, 430 F.2d at 166.

\(^\text{134}\) Id.

\(^\text{135}\) Id. at 166-67.

\(^\text{136}\) Id.

\(^\text{137}\) Id. at 170.
bearing on the criminal prosecution at hand. Relying on the inherent powers of the President as Commander-in-Chief to justify the constitutionality of the wiretap, the Fifth Circuit recognized the overriding need to obtain foreign intelligence information to protect national security. The court relied on the government’s claim that the wiretap was installed “for the purpose of gathering foreign intelligence information,” stating that “[i]t would be ‘intolerable that courts, without the relevant information, should review and perhaps nullify actions of the Executive taken on information properly held secret.’” Despite the court’s assertion that it balanced the rights of the defendant with the national interest, the court omitted any discussion of the Fourth Amendment. The court determined that Ali’s rights were sufficiently protected by the in camera examination of the surveillance and, thus, any further judicial inquiry was improper. The court’s opinion left unscathed the President’s unrestricted power in conducting warrantless surveillances on the grounds of national security. Consequently, the Fifth Circuit once again upheld Ali’s conviction. Ali again petitioned the U.S. Supreme Court for certiorari.

G. Ali Battles New York State Boxing Athletic Commission over Boxing License

While federal courts continued to weigh-in on Ali’s conviction and draft status, Ali applied for renewal of his license to box in New York on September 22, 1969. The New York State Athletic Commission (Commission) unanimously denied his application on October 14, 1969, due to his “refusal to enter the service and [his felony] conviction in violation of Federal law [being] regarded by [the] Commission to be detrimental to the best interests of boxing, or to the public interest, convenience or necessity.” Ali filed a complaint in

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138. Id. at 171; Hardin, supra note 131, at 298.
139. Clay II, 430 F.2d at 171; Hardin, supra note 131, at 297-98.
141. Clay II, 430 F.2d at 171; Hardin, supra note 131, at 298.
142. See Clay II, 430 F.2d at 171; Hardin, supra note 131, at 298.
143. In United States v. Enten, 388 F. Supp. 97 (D.D.C. 1971), the court relied on the holding of Clay to determine the issue of “[w]hether the Attorney General’s authorization of a wiretap for the purpose of gathering foreign intelligence information violates the Fourth Amendment.” Id. at 98. The court did “not believe the judiciary should question the decision of the executive department that such surveillances are reasonable and necessary to the protection of the national interest.” Id.
144. Clay II, 430 F.2d at 168-72.
146. Id.
the U.S. District Court for the Southern District of New York charging that the Commission’s action in denying him a boxing license because of his conviction for refusal to serve in the U.S. Armed Forces violated his First and Fourteenth Amendments rights and constituted cruel and unusual punishment in violation of the Eight Amendment. Judge Frankel dismissed Ali’s complaint on December 24, 1969, explaining that the Commission possessed a statutory right to deny, suspend, or revoke a boxing license because of an applicant’s prior felony conviction. The court also held that Ali’s claims based on freedom of religion and cruel and unusual punishment were meritless. In footnote three of his decision, Judge Frankel noted that Ali broadly claimed arbitrary discrimination in violation of his rights under the Equal Protection Clause without asserting “some semblance of content for the conclusory allegations.” “Out of what may [have been] excessive caution,” however, Judge Frankel granted leave “to replead the broad allegation so that [Ali] may attempt, if he responsibly deems it possible, to supply some concrete and specific content for his charge.”

On January 27, 1970, Ali amended his complaint to charge the Commission with “arbitrarily, capriciously and invidiously” refusing to renew Ali’s boxing license in violation of his right to equal protection of the laws guaranteed by the Fourteenth Amendment. Judge Mansfield, now presiding, concurred with Judge Frankel’s opinion that the Commission had discretion to deny a boxing license to an applicant because of his conviction of a felony or military offense. The question before the district court was whether the Commission could exercise its broad powers to regulate boxing in such a way as to deny to an applicant the equal protection of the state’s laws, which is guaranteed to him by the Fourteenth Amendment. Ali was able to demonstrate at least 244 instances in recent years where the Commission granted, renewed, or reinstated boxing licenses to applicants who had been convicted of one or more felonies, misdemeanors, or military offenses.

147. Id. at 15, 18-19.
148. Id. at 17.
149. Id. at 18 ("The argument that [the Commission’s] refusal of a license for [Ali] to fight impedes on [Ali’s] freedom of religion is not interesting or intelligible enough for long discussion. . . . Plaintiff [Ali] also invokes the Eight Amendment, arguing that the license denial inflicts ‘cruel and unusual punishment.’ Again, a short answer seems enough.").
150. Id. at 15 n.3.
151. Id.
153. Id. at 1249.
154. Id.
involving moral turpitude. Some 94 felons thus licensed include persons convicted for such anti-social activities as second degree murder, burglary, armed robbery, extortion, grand larceny, rape, sodomy, aggravated assault and battery, embezzlement, arson, and receiving stolen property." Under these circumstances, Judge Mansfield concluded that the "deliberate and arbitrary discrimination or inequality in the exercise of [the Commission's] regulatory power, not based upon differences that are reasonably related to the lawful purposes of such regulation," constituted a violation of the Equal Protection Clause of the Fourteenth Amendment. The Commission did not appeal the ruling. Ali had finally won his bout with the Commission.

By summer 1970, American public opinion was turning increasingly against the Vietnam War. The largest-ever anti-war demonstration had taken place in Washington, D.C., and polls showed for the first time that a majority of Americans disapproved of the United States' participation in the Vietnam War. Amid this mounting criticism, Ali's stand seemed less controversial and treasonous. For others, Ali's position remained largely divisive. Consequently, Ali "faced the fact that not a promoter in America could get a fight for [him] legally."

H. Ali's Dramatic Return to Boxing Ring

Having won his legal bout against the Commission, and with his conviction still on appeal before the U.S. Supreme Court, Ali announced on September 11, 1970, that he had signed to fight Jerry Quarry. Quarry was
the “perennial mainstay in the heavyweight division throughout the ‘60’s and ‘70’s” and considered the dominant “White Hope” of the era.\textsuperscript{163} The fight would take place on October 26, 1970, in Atlanta, Georgia, which had no state boxing commission.\textsuperscript{164} However, due to Ali’s continued unpopularity in many parts of the country, the Ali-Quarry match proved very difficult to organize in that state.\textsuperscript{165} Georgia state Senator LeRoy Johnson, the first African-American to be elected to a political office in the southeast and the first African-American elected to Georgia’s Senate since Reconstruction, had been instrumental in bringing the Ali-Quarry fight to Georgia.\textsuperscript{166} Governor Lester Maddox, a segregationist and staunch conservative, opposed the fight proclaiming, “We shouldn’t let him fight for money if he didn’t fight for his country.”\textsuperscript{167} Maddox urged the public to boycott the fight.\textsuperscript{168} Indeed, Maddox had asked then Attorney General Arthur Bolton to search for legal grounds to stop the fight.\textsuperscript{169} Bolton had found none, so, on fight day, Maddox called for “A Day of Mourning.”\textsuperscript{170} Over 600 members of the news media attended the fight, and an estimated 100 million viewers worldwide reportedly watched on closed-circuit television.\textsuperscript{171} The fight was significant for two reasons. First, it signaled Ali’s much anticipated return to the boxing ring after three and a half years of forced exile. As Ali summarized the importance of the fight:

\begin{quote}
People are coming from Pakistan and China. . . . From Philadelphia, from Detroit, from Watts. Satellites are flying around the sky just to take this fight to Africa and Asia and Russia. Millions and millions of people, watching and waiting—
\end{quote}

that day, I’ll face it before denouncing . . . the religion of Islam.


\textsuperscript{165} Ali reportedly canceled an appearance on the popular Tonight Show with host Johnny Carson because the fight promoters feared national attention might provoke a backlash against the fight. \textit{Ali with Durham}, supra note 4, at 286.


\textsuperscript{167} Pomerantz, \textit{supra} note 166.

\textsuperscript{168} \textit{Ali with Durham}, \textit{supra} note 4, at 310.

\textsuperscript{169} \textit{Id.} at 310.

\textsuperscript{170} Pomerantz, \textit{supra} note 166.

\textsuperscript{171} \textit{Id.}
just to see me jump around a ring. . . . I’d better win . . . because as much hell as I catch when I’m winning, I hate to think of what would happen if I lost.172

The fight was also significant because the manner in which Ali beat Quarry showed the world that he was again a major force in boxing.173 For three rounds, Ali was in complete command, peppering Quarry with stinging left jabs and jolting him with left hooks and right combinations.174 As Ali left the ring, he spotted broadcast journalist Howard Cosell of ABC at the television microphone and said, “Do you still think I’m all washed up?”175

Ali went on to defeat Oscar “Ringo” Bonavena on December 7, 1970, setting up the classic confrontation between Ali and Joe “Smokin’ Joe” Frazier.176 Ali was back in the ring, but with his prolonged inactivity between March 1967 and October 1970, Frazier was essentially made heavyweight champion.177 According to Ali: “They say Frazier is the technical champ, but technical stuff doesn’t mean much in the country any more. People are rebelling, fighting, demanding what’s right. No old man on a boxing commission can tell them Frazier’s the champ now. But I’m ready to get on with fighting him.”178

On March 8, 1971, Ali and Frazier fought for the boxing heavyweight title in what is still called “The Fight of the Century.” “The Fight” is considered one of the most famous, widely discussed, eagerly anticipated, and comprehensively covered bouts of all time since it featured two skilled, undefeated fighters, both of whom had reasonable claims to the heavyweight boxing crown.179 Setting the scene, Ali offered one of his classic poems:

Joe’s gonna come out smokin’
But I ain’t gonna be jokin’
I’ll be pickin’ and pokin’
Pouring water on his smokin’
This might shock and amaze ya

172. MCCALLUM, supra note 39, at 337.
173. Id.
174. Id.
175. Id. at 338.
176. Cyber Boxing Zone, supra note 7.
177. MCCALLUM, supra note 39, at 339.
178. Id.
But I’m gonna destroy Joe Frazier\textsuperscript{180}

The fight lived up to the hype, and Frazier floored Ali with a hard left hook in the fifteenth and final round and won a unanimous decision.\textsuperscript{181} This marked Ali’s first professional defeat.\textsuperscript{182} After the fight, both men went to the hospital, and Frazier spent the next three weeks there recovering from Ali’s blows.\textsuperscript{183}

\textbf{I. Ali Prevails in the U.S. Supreme Court as a Conscientious Objector}

Back in the legal arena, on June 21, 1971, three months after his defeat by Frazier, Ali’s sentence was overturned by the U.S. Supreme Court in\textit{ Clay v. United States}.\textsuperscript{184} \textit{Clay} compendiously set forth the standards that a draft registrant must satisfy in order to qualify for conscientious objector classification.\textsuperscript{185} According to \textit{Clay}, registrants must establish that: (a) they are conscientiously opposed to war in any form;\textsuperscript{186} (b) their objection is based on religious, moral, or ethical beliefs;\textsuperscript{187} and (c) their objection is sincere.\textsuperscript{188}

In \textit{Clay}, the federal government conceded, and the U.S. Supreme Court agreed, that the Justice Department’s conclusion that Ali’s beliefs were neither based upon “religious training and belief” nor sincerely held were erroneous as a matter of law.\textsuperscript{189} The government argued, however, that a “basis in fact” existed for finding that Ali was “not opposed to ‘war in any form’ but [was] only selectively opposed to certain wars.”\textsuperscript{190} Indeed, Ali asserted that he was

\begin{thebibliography}{99}
\bibitem{180} Bingham & Wallace, supra note 58, at 233.
\bibitem{182} The case of \textit{Barrett v. Coullet}, 263 So. 2d 764 (Miss. 1972), involved the Ali-Frazier match. There, the complainant Barrett purchased a ticket to a closed circuit telecast of a boxing match between Ali and Frazier and sought to maintain a class action for himself and others similarly situated. \textit{Id.} at 764. Barrett’s chancery suit was for breach of contract and breach of implied warranty based upon a charge that part of the program was not shown and other parts were of poor quality. \textit{Id.} at 764-65. On appeal, the class action was not allowed even though each claim involved grew out of one factual situation common to each member of the potential class. \textit{Id.} at 765. There, each claim related to one occurrence (a telecast), which transpired on a single date. \textit{Id.} at 764-65.
\bibitem{183} Bingham & Wallace, supra note 58, at 234.
\bibitem{184} 403 U.S. 698 (1971); United States v. Clay (\textit{Clay IV}), 446 F.2d 1406 (5th Cir. 1971).
\bibitem{185} \textit{Clay III}, 403 U.S. at 700.
\bibitem{186} \textit{Id.} (citing Gillette v. United States, 401 U.S. 437 (1971)).
\bibitem{187} \textit{Id.} (citing United States v. Seeger, 380 U.S. 163 (1965); Welsh v. United States, 398 U.S. 333 (1970)).
\bibitem{188} \textit{Id.} (citing Witmer v. United States, 348 U.S. 375 (1955)).
\bibitem{189} \textit{Id.} at 702.
\bibitem{190} \textit{Id.} at 701.
\end{thebibliography}
morally opposed to engaging in a war prosecuted by "non believers" based on his allegiance to the Holy Qur'an.191

The Clay Court determined that, even if the government's position was correct, Ali's conviction required reversal for other reasons. There existed three possible reasons for denying Ali's conscientious objection claim, two of which were concededly invalid; since neither the local selective service board nor the Kentucky Appeal Board identified a sound basis for denying Ali's conscientious objection claim, the Court said it was impossible to determine upon which of the three grounds the boards relied.192 Under such circumstances, where the administrative determination might have been the product of a factual finding that was legally insufficient to support the classification, the entire proceedings must be invalidated.193 In other words, Clay signified that draft boards must state, albeit briefly, the reasons for an adverse decision in every case in which a conscientious objector claim is presented.194 Clay addressed the more fundamental legal question of how the courts must respond when confronted with positive evidence that board action was tainted by misapplication of the law.195 In such a context of likely official misfeasance, the Clay Court deemed analysis of the sufficiency of a prima facie showing was unnecessary and inappropriate.196

After the Court's decision was released, a swarm of reporters anxiously waited for Ali's reaction to the news.197 One reporter asked Ali "whether he would take legal action to recover damages" from those who had pushed him out of boxing during the previous three years.198 Ali responded, "No. They only did what they thought was right at the time. I did what I thought was right. That was all. I can't condemn them for doing what they think was

191. The notion of the "jihad," or holy war, was discussed by Justice Douglas in his concurring opinion. See id. 705-10 (Douglas, J., concurring).
192. Id. at 703.
193. Id. at 704.
196. According to Bob Woodward and Scott Armstrong's book, The Brethren: Inside the Supreme Court, the United States Supreme Court originally voted five to three against Ali. Id. at 137. Thurgood Marshall had been Solicitor General earlier in the case and recused himself. Id. Justice Harlan, a member of the majority, sequestered himself with background materials about the Muslims and after studying them, changed his vote. Id. He now thought that the government had mislead the Selective Service and the courts by insisting that Ali's religious beliefs were not authentically anti-war. Id. at 137-38.
197. BINGHAM & WALLACE, supra note 58, at 248.
198. Id.
right."

III. THE RETURN AND RETIREMENT OF THE WORLD HEAVYWEIGHT CHAMPION

For Ali, 1974 was a remarkable year in the boxing ring. First, Ali erased the memory of his defeat by Frazier when the two fought again on January 28, 1974. Although Frazier was no longer the heavyweight champion at the time, the fight is still considered a classic. This time Ali defeated Frazier in the twelfth round. On October 30, 1974, Ali regained the heavyweight crown much the way he initially captured the title against Liston, by knocking out another apparently menacing and indomitable prizefighter, the previously unbeaten heavyweight champion George Foreman. Forman was a large, brooding, hard-hitting, young, ex-Olympic heavyweight champion who previously demolished Frazier, knocking him out in the second round of their championship fight. According to the pundits, Foreman was indestructible. Ali and Foreman would share equally a $10 million purse. By all accounts, “Ali was being tempted to suffer the humiliating blows from Foreman which would blast him out of boxing forever.” Ali, however, never thought about losing the fight and poetically dubbed the legendary fight held in Kinsasha, Zaire (now the Democratic Republic of the Congo), as “The Rumble in the Jungle.” With the boisterous crowd chanting “Ali – boom-aye-yay” (“Ali will kill him”), Ali employed the now famous “Rope-A-Dope” strategy to tire Foreman out before knocking him out

199. Id. at 249.
200. Cyber Boxing Zone, supra note 7.
201. Id.
203. CARPENTER, supra note 202, at 153.
204. Id.; Joyner, supra note 202.
205. CARPENTER, supra note 202, at 153.
206. Id.
208. See Anthony Violanti, A Tale of Two Boxers, BUFFALO NEWS, Apr. 10, 1997, at C1 (referring to the fight as “a battle for freedom, racial equality and honor by America’s foremost black athlete”). When We Were Kings is an award winning documentary that chronicles the famous “Rumble in the Jungle” fight.
in the eighth round.209 According to the strategy, Ali would cover and lean against the ropes, allowing Foreman to connect with a steady rain of body punches for the first seven rounds (all the while Ali would verbally taunt Foreman that he had no power).210 After Foreman punched himself out, both mentally and physically, he became a sitting duck for Ali. In the eighth round, Ali finally came off the ropes and landed a quick succession of punches, including a stiff right that sent Foreman to the canvas where he was counted out seconds before the end of the round. Ali had regained more than just another boxing title; he had won the affinity of the general public. Even then-President Gerald Ford invited the redeemed champion to the White House in what was considered a sign of reconciliation after the Vietnam War ordeal.211

A. The Legal Fallout from the “Rumble”

From a legal prospective, the Ali-Foreman “Rumble” generated a number of legal actions, most notably Monster Communications, Inc. v. Turner Broadcasting Systems Inc.212 Monster Communications involved a copyright dispute over documentary film footage of the “Rumble.”213 There, the plaintiff produced an award-winning, eighty-four-minute film, When We Were Kings (Kings) for theatrical release, which essentially recants the story of the “Rumble.”214 The defendant, Turner Network Television, produced a ninety-four-minute documentary film entitled Ali—The Whole Story (Story) for television about Ali’s life.215 The defendant incorporated between forty-one seconds and two minutes (nine to fourteen film clips) of the same Zaire fight footage.216 Plaintiff brought a copyright infringement action against the defendant on the ground that Story contained some of the same historic film clips that were previously incorporated in Kings.217 The defendant argued that this was fair use and the district court agreed.218 First, the court indicated that fair uses of images captured from historically significant events may be far

209. Mike Littwin, Gast Goes the Distance with Ali Documentary, BALT. SUN, Mar. 11, 1997, at 1D (referring to the “famous 1974 Rumble in the Jungle” as Muhammad Ali’s “gloriously incongruous rope-a-dope victory over George Foreman”).
211. BINGHAM & WALLACE, supra note 58, at 252.
213. Id. at 491.
214. Id.
215. Id.
216. Id.
217. Id.
218. Id. at 493.
broader than uses of other types of visual images. Moreover, analyzing the
footage quantitatively, the court stated that the infringing film clips constituted
no more than two percent of the film. The court also found that the
allegedly infringing film clips are not the focus of the defendant’s film. The two films are quite different: one focuses on the fight in Zaire; the other is
the story of Ali’s whole life. Finally, the court found that disallowing the
use of such film clips might make it impossible for subsequent biographers to
tell Ali’s story through film, which would defeat the entire purpose of the fair
use concept of copyright law.

B. Ali’s Post-fight Jeers Prompt Lawsuit

Back in the ring, Ali fought Chuck “The Bayonne Bleeder” Wepner on
March 24, 1975, in his next title defense. Although he lost, Wepner
became just the fourth fighter ever to knock Ali down. The bout (and
Wepner) purportedly served as the inspiration for the Rocky Balboa character
in Sylvester Stallone’s Rocky. Consequently, Wepner would later earn the
nickname “The Real Rocky.” Further, the Ali-Wepner bout served as the
backdrop for a lawsuit between Ali and a television producer in connection
with a suit brought by the fight’s referee against Ali. In American
Broadcasting Co. v. Ali, the television producer American Broadcasting
Company (ABC) brought action against Ali seeking to set aside a labor
arbitration award in favor of Ali that required ABC to reimburse him for fees
and costs incurred by Ali in his successful defense of a libel action. Not
surprisingly, Ali’s mouth was the source of this action. Four days after the
Ali-Wepner bout, broadcast journalist Howard Cosell of ABC conducted a

219. Id. at 494.
220. Id. at 495.
221. Id.
222. Id.
223. Id. at 494. Other published cases stemming from the “Rumble” include Hutchinson v.
telecast rights for the “Rumble” brought suit against defendant exhibitors for breach of their
agreement. Also, in South Shore Amusements, Inc. v. Supersport Auto Racing Ass’n, 483 N.E.2d 337
(Ill. App. Ct. 1985), the plaintiff brought a breach of contract suit relating to a lease of building to
show the closed circuit telecast of the “Rumble.”
224. Cyber Boxing Zone, supra note 7.
225. See Chuck Wepner Biography, http://www.autographedtobe.com/Chuck%20-Wepner-
biography.htm (last visited on Sept. 29, 2007).
226. Id
227. Id.
videotape interview of Ali.\textsuperscript{229} Ali was a paid commentator on an ABC show.\textsuperscript{230} The Ali-Wepner bout was controversial, and Ali was critical of the performance by the fight’s referee, Anthony Perez.\textsuperscript{231} Ali and Perez “had exchanged derogatory remarks after the contest concerning each other’s performance and alleged professional lapses of the other.”\textsuperscript{232} Cosell “vigorously and provocatively” pursed this subject matter in the taped Ali interview.\textsuperscript{233} Specifically, Cosell invited Ali to “express yourself as volubly as usual if you will” and “continued to prod Ali until the voluble Ali came forth with the comment that precipitated the defamation lawsuit.”\textsuperscript{234} Cosell further pursued “Ali with questions whether Ali was ‘finished with you [sic] tirade’ and whether Ali was ‘embarrassed’ by his showing against Wepner.”\textsuperscript{235}

ABC’s broadcast of the interview precipitated a libel action by referee Perez against ABC in state court.\textsuperscript{236} “Ten days later Perez commenced a libel action in [federal court] against Ali focused on the broadcast” and demanded damages.\textsuperscript{237} “Ali thereupon asserted a third party complaint against ABC in the federal action, claiming indemnity as well as contribution from ABC.”\textsuperscript{238} Ali prevailed on the federal libel suit and claimed “he was entitled to reimbursement from ABC for the fees and costs incurred by him in his successful defense of the libel action.”\textsuperscript{239} Ali further demanded an arbitration of his claim against ABC under a collective bargaining contract between ABC and the labor organization, the American Federation of Television and Radio Artists (AFTRA).\textsuperscript{240} After a “lengthy and sharply contested” arbitration, an arbitration panel awarded Ali $193,352.\textsuperscript{241} ABC then sought to set aside Ali’s arbitration award.\textsuperscript{242} In rejecting ABC’s claim and confirming Ali’s award, the court in \textit{American Broadcasting Co.} found essentially that ABC had failed to edit the controversial videotape interview despite the authority and

\begin{itemize}
\item \textsuperscript{229} \textit{Id.} at 124.
\item \textsuperscript{230} \textit{Id.}
\item \textsuperscript{231} \textit{Id.}
\item \textsuperscript{232} \textit{Id.}
\item \textsuperscript{233} \textit{Id.}
\item \textsuperscript{234} \textit{Id.} at 127.
\item \textsuperscript{235} \textit{Id.}
\item \textsuperscript{236} \textit{Id.} at 124.
\item \textsuperscript{237} \textit{Id.}
\item \textsuperscript{238} \textit{Id.}
\item \textsuperscript{239} \textit{Id.} at 125.
\item \textsuperscript{240} \textit{Id.}
\item \textsuperscript{241} \textit{Id.}
\item \textsuperscript{242} \textit{Id.}
\end{itemize}
Following the Wepner fight in 1975 and through the beginning of 1978, Ali successfully defended his heavyweight title nine times, defeating Ron Lyle (May 16, 1975), Joe Bugner (June 30, 1975), Joe Frazier (October 1, 1975), Jean Pierre Coopman (February 20, 1976), Jimmy Young (April 30, 1976), Richard Dunn (May 24, 1976), Ken Norton (September 28, 1976), Alfredo Evangelista (May 16, 1977), and Earnie Shavers (September 29, 1977).244 Most notable of these fights was Ali's stirring fourteenth round knock-out of Frazier in the epic "Thrilla in Manila."245

C. Ali Champions the Right of Publicity Protection

In January of 1978, Ali again went to court in one of the first cases to recognize a right of publicity protection, and additionally, to apply this right to an athlete.246 That year, Ali sued Playgirl Magazine over the magazine’s unauthorized commercial use of a drawing that evoked his identity.247 Specifically, Playgirl Magazine had allegedly published an impressionistic caricature of a nude African-American man seated on a stool in the corner of a boxing ring with both hands taped and outstretched resting on the ropes on either side.248 Ali sought a preliminary injunction and damages for a common law right of publicity infringement as well as for a violation of New York’s privacy law.249 Ali claimed injury to his public reputation and the economic consequences thereof.250 He further argued that he had expended great time and effort throughout his career to establish a “commercially valuable proprietary interest in his likeness and reputation.”251

The court examined the facts to determine if a preliminary injunction was

243. Id. at 128.
244. Cyber Boxing Zone, supra note 7.
248. Id. at 726.
249. Id.
250. Id. at 729.
251. Id.
When examining the success of Ali's claim on its merits, the court found that although the caricature was captioned "Mystery Man," the striking resemblance to Ali was evident and accompanied with a "verse which refers to the figure as 'the Greatest.'" Relying on the pecuniary value of Ali's "public reputation or 'persona'" and that the interest underlying "the right of publicity is the 'straightforward one of preventing unjust enrichment by the theft of good will,'" the court held Ali had met the criteria for making out a common law right of publicity claim in New York. The district court specifically held that the drawing was not newsworthy, but rather a "dramatization, an illustration falling somewhere between representational art and cartoon, and is accompanied by a plainly fictional and allegedly libelous [sic] bit of doggerel." The defendants in *Playgirl* argued that the statutory right of privacy does not extend to protect Ali, as he is an "athlete ... who chooses to bring himself to public notice, who chooses, indeed ... to rather stridently seek out publicity." The court rejected this argument and stated that

such a contention 'confuses the fact that projection into the public arena may make for newsworthiness of one's activities, and all the hazards of publicity thus entailed, with the quite different and independent right to have one's personality, even if newsworthy, free from commercial exploitation at the hands of another ...'.

The district court ultimately found the establishment of a "likelihood that [Ali would] prevail on his claim that his right of publicity [had] been violated by the publication of the offensive portrait." The court even imposed the harsh remedy of an injunction against any further distribution of the *Playgirl*
In condemning an arguably creative part of the body of a magazine, as opposed to an advertisement, the court broadened the scope of infringing "commercial" uses to apply to works which are merely commercially sponsored or contain paid advertising. This case further expanded the notion of identity that included physical characteristics to identify a person.

D. Ali's Fight with Leon Spinks Incites Antitrust Lawsuit

Although Muhammad Ali was in the twilight of his boxing career, he was still the heavyweight champion. In early 1978, Ali was preparing to defend his heavyweight title against 1974 Olympic gold medalist Leon Spinks. On February 15, 1978, appearing in just his eighth professional bout, Spinks upset Ali in fifteen rounds to win the heavyweight title. An Ali-Spinks rematch was scheduled for September 15, 1978, in New Orleans, Louisiana, which Ali won by unanimous fifteen-round decision. Within weeks before the second bout, the State of Alabama filed an antitrust case concerning the fight on behalf of Alabama residents to obtain injunctive relief to prevent and restrain violations of Section 1 of the Sherman Act. The complaint alleged that the defendants, American Broadcasting Companies, Inc. (ABC), Top Rank, Inc. (Top Rank), and Louisiana Sports, Inc. (LSI), had "by written contracts agreed to restrict the live telecast coverage by a 'blackout' (non-telecast) of a 200-mile radius (400-mile diameter) area around New Orleans, Louisiana," the site of the Ali-Spinks fight. Alabama alleged that the blackout restriction was an unlawful agreement in restraint of trade. Subsequently, other states and entities moved to intervene in the case.

The facts of the case are simple and straightforward. Top Rank, the promoter of the Ali-Spinks match, had sold to LSI its right to receive the live gate proceeds of the Ali-Spinks bout for $3 million. Subsequently, Top Rank assigned to ABC its right to the live telecast of the match for $5.15 million.

261. Id. at 732.
262. Id. at 728-29.
263. See Cyber Boxing Zone, supra note 7.
264. Id.
267. Id. at *1.
268. Id.
269. Id.
270. Id.
The agreement between ABC and Top Rank provided that ABC would not telecast the fight in the state of Louisiana or within a 200-mile radius of the city of New Orleans unless the live gate was sold out. LSI was granted closed circuit TV rights. "This ‘blackout’ provision [was] the seed of [this] controversy." The court first addressed whether the State of Alabama had made out a case for preliminary injunctive relief to enjoin the fight for proceeding as planned. The State argued that the blackout of a 200-mile radius of New Orleans was arbitrary and unreasonable and suggested a 75-mile radius. However, the court found that the State of Alabama failed to prove a substantial likelihood of success on the merits since the State provided insufficient evidence regarding differences in comparable population density or other factors that could affect the reasonableness of a 75-mile blackout radius area. Furthermore, the court found that the possible harm to defendants outweighed the possible threat to the plaintiff since LSI had incurred out-of-pocket costs totaling $4.1 million or more and its revenues from ticket sales were about $3.5 million. Thus, a court order lifting the blackout would probably cause LSI substantial economic loss.

E. The End of a Legendary Career

Far past his prime and lacking the once fatal mix of butterfly and bee, Ali fought twice more and lost. In 1980, he was defeated by Larry Holmes, a former sparring partner and the then-World Heavyweight Champion. Despite the apparent finality of his loss to Holmes and his increasingly suspect medical condition, Ali would fight one more time. On December 11, 1981,

271. Id.
272. Id.
273. Id.
274. Id.
275. Id. at *1-2.
276. Id. at *2-3.
277. Id.
278. Id. at *4.
279. Id.
280. Mark Giles, They Really Shouldn’t Have Done It, TIMES (London), Oct. 14, 2005, at 103. The case of Sunshine Promotions, Inc. v. Ridlen, 483 N.E.2d 761 (Ind. Ct. App. 1985), involved the Ali-Holmes fight in part. There, Sunshine, a promoter of closed circuit telecasts of boxing matches (including the Ali-Holmes fight), brought an action for the refund of a gross receipts tax imposed on ticket sales for telecasts since such a tax was not imposed on subscription cable providers. Id. at 764. The court rejected Sunshine’s claim, finding that an Indiana state statute imposing such a tax on the gross receipts of a closed circuit promoter did not deny the promoter’s equal protection. Id. at 765-67.
Ali lost a ten-round unanimous decision to future heavyweight champion Trevor Berbick in what was billed as “The Drama in the Bahamas.” Following this loss, Ali retired in 1981. Ali was later diagnosed with Parkinson’s Syndrome, following which his motor functions began a slow decline. “I feel fine,” Ali insisted. “I’m older and fatter, but we all change.”

In 1996, Ali carried the torch and ignited the Olympic flame during the opening ceremonies in Atlanta, Georgia. His appearance at the Games moved an international audience.

IV. CONCLUSION

Muhammad Ali continues to be one of the most recognized and admired figures in the world because of his tremendous determination, accomplishment, and perseverance against daunting odds. Ali was not just a sports symbol; he personified the racial and political climate of his generation. Whether calculated or not, Ali also directly and indirectly accomplished many feats in court that remain legal precedent in assorted areas of the American law. In the federal law context, Ali’s struggle for conscientious objector status resulted in a landmark U.S. Supreme Court ruling, which set forth the standards that a draft registrant must satisfy in order to qualify for conscientious objector classification. Further, Ali’s involvement in a leading case on warrantless foreign intelligence surveillance forced the federal appellate courts to consider the President’s Constitutional powers in conducting warrantless surveillances on the grounds of national security. His legendary bouts not only spawned a copyright infringement lawsuit, which addressed the fair uses of images captured from historically significant events, but another suit that delved into television “blackout” rules and antitrust law. Ali’s contribution to state common law was equally significant. Specifically, Ali went to court in one of the first cases to successfully recognize a right of publicity protection, and additionally, to apply this right to an athlete. Ali would also compel courts to consider liability issues concerning libel under a labor collective bargaining contract. Indeed, Ali was, and continues to be, The

284. Id.
285. Id.
286. BINGHAM & WALLACE, supra note 58, at 256-59.
Greatest in court.