

40 Acres and a Mule Denied -By Damien Jackson

Written by Robert ID409

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All the Johnson brothers ever wanted to do was farm. After all, for Leon, Milton and Shade Johnson, it was their birthright. Born on a 44-acre plot in the thriving African American farm community of 1950s Tillery, N.C., the hard-working threesome spent endless days harvesting corn and peanuts alongside their mother and uncle in this cotton-clad northeastern corner of the state. By the early 1970s, Leon – the oldest of the three and the first to have farming aspirations of his own – had accumulated an adjacent 74 acres of land while renting out another 1,200, making him one of the most prominent black landowners in Halifax County. Upon their mother's death in 1974, Milton and Shade went to work for their older brother.

Though he now controlled large amounts of land, one thing Leon could not control was nature. Like many southern farmers, the Johnson brothers were plagued by the relentless drought and low crop yields of the 1970s and 1980s. In 1978, Leon began borrowing money from the Farm Services Agency (FSA) – a local arm of the US Dept. of Agriculture (USDA) – for disaster assistance, operations and equipment.

It was the worst move he ever made.

Despite his large amount of land and collateral – and his uneventful credit history – the Halifax County FSA placed Leon on a "supervised" loan account, a time-consuming status that severely limited the farmer's ability to act in his own best interest. "You'd have to go to the farm supplier and have them write out a bill, and then go back to the FSA to sign a check for it," says brother, Milton. Since the checks were made payable to both Leon and his creditors, the farmer lost entire days in the field running between FSA and suppliers – something, the Johnsons later found, area white farmers with less land and worse credit were not required to do.

The ongoing drought and the mounting debt from supervised and chronically delayed loans -such delays are costly for farming due to its seasonal nature-put Leon in a financial bind. In March of 1983, the desperate farmer sold a bin of corn outside of his supervised arrangement in order to make payments on his home and tractor. "The USDA sent federal marshals to my home and handcuffed me for selling mortgaged crops," recalled Leon, in a 2001 interview with Insight magazine. He was convicted a year later and spent four months in a federal prison, while FSA foreclosed, selling off his property and equipment.

His brothers fared no better. By the time of Leon's conviction, Milton had already purchased and

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lost a large plot of land, his house and equipment after FSA subjected him to supervised loans, high interest rates and an accelerated foreclosure. Shade – who FSA unjustly denied an attempt to buy land in 1979 – was eventually and unsuccessfully brought up on similar charges as Leon.

Unfortunately, the Johnsons' plight was no anomaly. In 1997, they joined black farmers throughout the South and West in a class-action discrimination suit against the USDA, alleging a variety of biased practices including unjust loan denials and delays, high interest rates, accelerated foreclosures and unnecessary supervision. In April of 1999, after admitting to discriminatory practices, the government settled Pigford vs. Glickman and created a two-tiered framework for compensating those affected between 1981 and 1996. Track A provided \$50,000 and possible debt relief for claimants. Track B had a higher burden of proof while offering compensation for actual damages. Judge Paul Friedman wrote that the landmark settlement will "serve as a reminder to the Department of Agriculture that its actions were unacceptable" and "deter it from engaging in the same conduct in the future."

It didn't. Today, five years later and well past the claim-filing deadline, the damage has yet to be undone. A recent national report by the nonprofit Environmental Working Group found that three quarters of the \$2.3 billion agreed to in Pigford had not been paid, and that close to nine out of every ten claimants had been denied, some on such technicalities as incorrect spelling. On Oct. 12, the farmers and attorney James Myart, Jr. were granted a preliminary motion by a U.S. District Court that the lawyer hopes could ultimately get 80,000 denied claims reconsidered. "We'll get justice by any and all means necessary," says Myart. Recent black farmer protests in Alabama and Washington D.C. showed the farmers' willingness to engage both judicial and activist courses. "These farmers are so angry they are ready to engage in civil disobedience all over this country."

USDA spokesperson Ed Lloyd feels this is unnecessary. "The USDA has been moving forward and implementing a lot of initiatives that go beyond Pigford," says Lloyd. He cites a number of recent initiatives including a USDA-brokered arrangement between Marriott International and black producers, and proposed revisions in the election procedures of County Committees, the powerful local bodies administering farm programs.

But the farmers aren't buying it. Myart recently filed a new \$20 billion lawsuit on behalf of 25,000 black farmers affected in the post-Pigford years between 1997 and 2004.

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As for the Johnson brothers, the damage can never be undone. Upon the 1999 settlement, Leon, whose health had deteriorated since losing his farm, filed a claim under Track A. He died two years ago without receiving a penny.

Milton asked for \$695,000 under Track B to cover his liquidated property. Seven months before his brother's death, he received a check for \$140,000, the full amount of his settled case but an amount less than what he still owes the government from their bad loan practices. "They sold my house, they sold my equipment and everything, and they say I still owe them \$162,000," says Milton, of the debt the USDA could have written off in the settlement. "There ain't no way in the world that can be right."

For African American farmers, it hadn't been right for a long time. Along with the decline of agriculture, black migration trends and many farmers poor record-keeping, such unscrupulous government tactics contributed to the sizable loss of African American farmers in the 20th century. In 1910, USDA data had nearly one million black farmers owning 15 million acres of land, or 14 percent of the country's farms. Today, 18,000 black farmers collectively own less than 1 percent of all farms. African American farmers have disappeared at three times the rate of their white peers.

"The bottom line is it's all about the land," says Dexter Davis, a soybean farmer from Soudheimer, Louisiana. "They (white farmers) are getting our land." Davis began farming in the late 1970s, purchasing 80 acres with his father. By 1987, five years after his dad passed, the then 23-year old had accumulated 220 acres. "Farming was real good to me when I first started," recalls Davis.

That would change. In 1988, the black FSA loan officer Davis dealt with was replaced by a white one. "All of my problems began there," he says. Over the next decade, despite his early success, Davis was subjected to exorbitant interest rates, costly loan delays and denials. Then, in 1999, the FSA tried to block his purchase of an additional 360 acres by low-balling its appraised value, a tactic used to make the transaction undesirable for the seller. Upon realizing this, the incensed white female seller sold the property to Davis anyway, ate the lost profit, and composed a written affidavit to accompany the lawsuit Davis was already filing for earlier FSA transgressions. "It was a racial vendetta," he says, one that "totally disrupted my livelihood." The suit is ongoing.

Leonard Cooper, a former USDA county agriculture director, recently echoed Davis's contention

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that, ultimately, its all about the land. "If you've got land, you've got wealth," says Cooper, a longtime farmer. "They (USDA) want to keep black farmers from thriving and owning land. This is their goal." ([Source](#))