

# I. WHO'S WHO

## 1920 - The Alleged Rape, the Mob Violence, and the Trial and Conviction of Max Mason

**Irene Tusken** (born November 1, 1901 – died June 12, 1996): Ms. Tusken was a white woman from West Duluth who claimed that six Black circus laborers raped her on the evening of June 14, 1920. Her story spread quickly, leading to the mob lynching of three young Black men and to criminal charges against others. Little evidence backed her allegations. A family physician examined Tusken shortly after the alleged rape and found no physical evidence of rape or assault. The police were not contacted until hours after the claimed rape occurred, when Tusken's boyfriend reported the rape to his father, who in turn reported it to police.

**James Sullivan** (born September 12, 1902 – died October 16, 1969): Sullivan was the boyfriend of Irene Tusken, who accompanied Tusken to the John Robinson Circus. Sullivan was the first person to report the alleged rape of Tusken, claiming he was held by gunpoint by circus workers while Irene was raped.

**Max Mason** (born April 24, 1899 – died November 14, 1942): Max Mason was a Black circus laborer working for the John Robinson Circus during its performances in Duluth, Minnesota in June 1920. Mason was one of two young Black men tried for the alleged rape of Irene Tusken. Although little evidence linked him to the alleged crime, Mason was convicted of rape. He received an indeterminate sentence of seven to thirty years. He was twenty-one years old at the time of his conviction. Max Mason arrived at Minnesota State Prison, Stillwater in August 1921. He appealed his case to the Minnesota Supreme Court, but the guilty verdict was affirmed. In 1925, the Minnesota Parole Board discharged Mason from prison with the condition that he leave the state.

**William Miller**: William Miller was a Black circus laborer working for the John Robinson Circus during its performances in Duluth, Minnesota in June of 1920. Miller was one of two young Black men tried for raping Irene Tusken. An attorney hired by the NAACP, Charles Scrutchin, represented Miller at trial and convinced the jury to acquit him.

**Elias Clayton** (born 1897 – died June 15, 1920): Born in Virginia, Elias Clayton was a laborer for the John Robinson Circus. He was one of three Black men murdered by a lynch mob in Duluth on June 15, 1920. His age given on his death certificate was "about 23."

**Elmer Jackson** (born April 19, 1897 – died June 15, 1920): Born in Missouri, Elmer Jackson was a resident of Topeka, Kansas before he died. A circus laborer for the John Robinson Circus, he was one of three Black men murdered by the lynch mob in Duluth. He was twenty-three years old at the time. Shortly after the lynchings, his father, Clifford Jackson, unsuccessfully sued the city of Duluth for neglecting to protect his son from the mob.

**Isaac McGhie** (born 1900 – died June 15, 1920): Born in Virginia, Isaac McGhie was a laborer for the John Robinson Circus. He was one of three Black men murdered by the lynch mob on June 15, 1920.

His age given on his death certificate was “about 20.” McGhie was being held in the Duluth Police Department as a material witness.

**J. Louis Ervin:** A Black attorney from St. Paul who conducted a fact-finding investigation in the days following the lynchings. The report was sent to the National Office of the NAACP. Ervin graduated from the College of Law at the University of Minnesota in 1907. He practiced law in Duluth and then moved to St. Paul in 1913. He was a member of the St. Paul Branch of the NAACP.

**Ferdinand L. Barnett, Jr.:** One of the three Black lawyers hired by the NAACP for the Duluth case. Working with R.C. McCullough and Charles Scrutchin, Barnett defended the seven Black men indicted for the alleged rape of Irene Tusken. The team was successful in getting charges against five of the defendants dismissed – only Max Mason and William Miller were tried. Barnett was from Chicago and had worked there for fifteen years as an assistant state attorney. He was the most prominent lawyer on the defense team. His father, Ferdinand Barnett, Sr. was the editor of the *Conservator*, a Black newspaper in Chicago. His stepmother was Ida B. Wells-Barnett, a famous anti-lynching activist and a founder of the National Association for the Advancement of Colored People (NAACP).

**R.C. McCullough:** One of three Black lawyers hired by the NAACP for the Duluth case. He was from Duluth. McCullough later wrote about Max Mason in a letter: “From all the contact, and knowledge I gained of him personally, I found him to be of a well behaved character, earnest, honest and true and from all the inquiry I made concerning him and learned from all who visited him while in jail and from the sheriff and his officers who had immediate care of him informed me that he was a man of good behavior and honest.”

**Charles Scrutchin:** One of three Black lawyers hired by the NAACP for the Duluth case. Scrutchin led the defense team for the William Miller trial and convinced the jury to acquit Miller of rape. A native of Richmond, Virginia, Scrutchin graduated from law school at the University of Michigan in 1893. After a stint as an attorney in Chicago, Scrutchin moved to Bemidji, Minnesota, where he had a law practice.

**Edward H. Barber:** Police Lieutenant Barber was left in charge of the jail on the night of the lynching. After battling the mob outside, Barber retreated inside the jail and pleaded with the mob to stop the assault and let the accused stand trial.

**William Powers:** Reverend Powers was at the scene of the murders and was unsuccessful in pleading with the lynch mob to stop.

**William (“Bill”) Murnian:** Murnian was the Duluth Commissioner of Public Safety. A report by Adjutant General W.F. Rhinow criticized Murnian for allowing the mob to grow and become violent, ordering the police not to use their guns to defend the people being held in the jail, and for his general lack of leadership during the incident.

**Joseph A.A. Burnquist:** Burnquist was the governor of Minnesota from 1915-1921. While governor, he also served as President of the St. Paul Branch of the NAACP. After the lynchings, Burnquist granted approval to use the Minnesota National Guard to secure Duluth from further mob violence. He

commissioned Adjutant General W.F. Rhinow to investigate the inefficient response by the Duluth Police. Despite repeated requests from the NAACP, Burnquist did not commission an independent investigation of the lynchings.

**Clarence Magney:** Mayor of Duluth from 1917-1920, Magney was out of town at the time of the lynchings. On his return, he condemned the murders and supported an investigation of the police department by Adjutant General W.F. Rhinow.

**W.F. Rhinow:** Adjutant General W.F. Rhinow arrived in Duluth the morning after the lynchings, commanding a force of 130 Minnesota National Guard troops from Fort Snelling. Rhinow's investigation of the Duluth Police Department found that the police offered "inconsequential resistance" and that Public Safety Commissioner Murnian displayed a "woeful lack of courage, decision, and competency."

**Lewis S. Nelson:** District court judge who presided over the Max Mason trial.

**W.A. Cant:** District court judge who presided over the William Miller and Carl John Alfred Hammerberg trials. Judge Cant spoke to the mob a few hours before the mob broke into the jail to lynch Clayton, Jackson, and McGhie.

**Louis Dondino:** Convicted of riot for his participation in the mob that led to the lynchings of Elias Clayton, Elmer Jackson, and Isaac McGhie. Dondino was thirty-eight years old and was employed in Duluth as a truck driver. Hours before the lynchings, he drove his truck through downtown Duluth, gathering men to join the mob. The crime of riot held a maximum sentence of five years. Dondino served about a year in Minnesota State Prison, Stillwater. A grand jury issued thirty-seven indictments for the lynching mob. Twenty-five were for rioting and twelve were for murder in the first degree; some men were indicted on both charges. Only Dondino and two others were convicted of rioting; none served more than 15 months in prison. Despite the indictments, no one was ever prosecuted for the murders of Clayton, Jackson, and McGhie.

**Carl John Alfred Hammerberg:** Convicted of instigating a riot for his participation in the mob that led to the lynchings. He was eighteen years old at the time of the lynchings. He was born in Sweden and immigrated to Duluth as a child. He served about 15 months in Minnesota State Reformatory, St. Cloud.

**Gilbert Henry Stephenson:** Convicted of riot for his participation in the mob that led to the lynchings. Thirty-four years old, Stephenson worked in Duluth as a carpentry assistant, foreman, and truck driver. Witnesses placed Stephenson at the crime scene, testifying he helped the mob break into the jail and take the lynching victims from their cells. He served about a year in Minnesota State Prison, Stillwater.

**Nellie Francis:** A Black woman from St. Paul who led the passage of Minnesota's Anti-Lynching Bill, signed into law on April 18, 1921. Francis was the president and founder of the Everywoman Progressive Council and president of Minnesota State Federation of Colored Women. Her husband,

attorney William T. Francis, was active in the Max Mason case and assisted in the effort to pass the anti-lynching bill.

**William T. Francis:** A prominent Black attorney from St. Paul, Francis was associate counsel for Max Mason, making final arrangements to appeal Mason's rape conviction to the State Supreme Court. Francis also helped draft and pass Minnesota's anti-lynching bill, assisting his wife Nellie Francis, who led the campaign. In 1927, Francis was appointed United States Ambassador to Liberia; he died while serving there in 1929.

### **2020 – The Pardon of Max Mason and the Memorial to the Victims of the Lynch Mob**

**Jerry W. Blackwell and Corey L. Gordon:** Mr. Blackwell and Mr. Gordon were the lead lawyers on the Application for Pardon Extraordinary for Max Mason, which they filed with the Minnesota Board of Pardons on January 17, 2020. They are partners at the law firm Blackwell Burke P.A., where they serve as national and trial counsel for several major corporations. Mr. Blackwell is also a founder of the Minnesota Association of Black Lawyers. Mr. Blackwell and Mr. Gordon were chosen as 2020 Minnesota Attorneys of the Year by *Minnesota Lawyer* for their work on the pardon.

**The Minnesota Board of Pardons:** A three-member board consisting of Minnesota Governor Tim Walz, Minnesota Attorney General Keith Ellison, Chief Justice of the Minnesota Supreme Court Lori Gildea (<https://mn.gov/doc/about/pardon-board/board-meetings/>).

**The Pardon Process:** On June 26, 2020, the Minnesota Board of Pardons issued a Pardon Extraordinary for Max Mason for his conviction of rape on November 27, 1920. The Application for the Pardon was supported by almost all of the living former Minnesota governors and former members of the Pardon Board, as well the judges of the United States District Court for the District of Minnesota.

**The Clayton Jackson McGhie Memorial Organization:** On October 10, 2003, a plaza and statues were dedicated in Duluth to the three men murdered by the Lynch mob in Duluth on June 15, 1920, Elias Clayton, Elmer Jackson, and Isaac McGhie. The bronze statues are part of a memorial across the street from the site of the lynchings, and were installed with leadership from CJM Memorial, Inc., a grassroots organization in Duluth. On June 15, 2020, the 100th anniversary of the lynchings, Minnesota Governor Tim Walz visited the memorial and issued a proclamation recognizing the day as Elias Clayton, Elmer Jackson, and Isaac McGhie Commemoration Day. In his proclamation, Walz stated, "The foundational principles of our State and Nation were horrifically and inexcusably violated on June 15, 1920, when Elias Clayton, Elmer Jackson, and Isaac McGhie, three Black men, were wrongfully accused of a crime," and "We must not allow such communal atrocities to happen again. Everyone must be aware of this tragic history." CJM board member Rogier Gregoire spoke in support of the Max Mason pardon at the hearing before the Pardon Board.

**Equal Justice Initiative / The Clayton Jackson McGhie Historical Marker and Duplicate Monument:** The Equal Justice Initiative (EJI) is a nonprofit organization founded in 1989 by Bryan Stevenson, a well-known public interest lawyer and bestselling author of *Just Mercy*. EJI provides legal representation to

people in state jails and prisons, as well as public education on the history of injustice and violence against people of color in America.

- EJI's Community Remembrance Project partners with community coalitions to memorialize documented victims of racial violence throughout history and foster meaningful dialogue about race and justice today (<https://eji.org/projects/community-remembrance-project/>). The Historical Marker Project erects narrative markers in public locations describing the violence that once took place in these locations, in an effort to ensure that it is not forgotten. As part of the Historical Marker Project, the Clayton Jackson McGhie Memorial and the Duluth Chapter of the NAACP, along with city officials and community members, unveiled a historical marker on October 10, 2020, in Duluth, Minnesota, at the site where Elias Clayton, Elmer Jackson, and Isaac McGhie were lynched on June 15, 1920.
- EJI opened The National Memorial for Peace and Justice in Montgomery, Alabama, on April 26, 2018. It is the nation's first memorial dedicated to people terrorized by lynching (<https://museumandmemorial.eji.org/memorial>). The site includes a memorial square with 800 six-foot monuments to symbolize thousands of racial terror lynching victims in the United States and the counties and states where this terrorism took place. With the hope that the National Memorial inspires communities across the nation to enter an era of truth-telling about racial injustice and their own local histories, EJI will, after active Community Remembrance work in a community, collaborate to place a duplicate monument—identical to the monument found at the National Memorial—in the community.