

FOUL BALL

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A WELL-PAID SLAVE: CURT FLOOD'S FIGHT FOR FREE AGENCY IN PROFESSIONAL SPORTS

BY BRAD SNYDER

NEW YORK: VIKING. 480 PAGES. \$26.

During last fall's World Series—the first ever for the Houston Astros—a business columnist at the *Houston Chronicle*, Loren Steffy, wrote a piece on Curt Flood's fight for free agency in the early 1970s. Steffy quoted his father-in-law as saying, "Baseball as I knew it died when Curt Flood won his suit for free agency." Flood, in fact, lost his lawsuit, although it did help crack open the door for players, who up until then had been assumed to be the property of their teams in perpetuity, and help establish what would soon be the most powerful union in sports, if not all of America. But at least Steffy's father-in-law knew who Flood was. In *A Well-Paid Slave*, Brad Snyder digs up a 1994 magazine survey that found only a few major leaguers recognized his name.

The confusion is understandable: Although free agency followed Flood's suit by only a handful of years, the most direct reading of his case is that it accomplished bubkes. Flood was the center fielder for the St. Louis Cardinals throughout the 1960s as they won three pennants and two World Series. After the 1969 season, the Cardinals traded him to Philadelphia; Flood—in a decision that was widely derided at the time—refused to report. He had business interests in St. Louis and was in no mood to be treated like a side of beef. He sued Major League Baseball for his freedom.

Flood's case hinged on the reserve clause, which was in the standard player contract

of the time: The way the team owners read it, the clause meant the contract was renewable every single year. Even though Flood had never signed anything with the Phillies, once the team traded for his contract, he was bound to them.

The Major League Baseball Players Association was only a few years old in 1969 and was concerned mostly with such issues as the players' pension fund. The owners, frequently backed by new commissioner Bowie Kuhn, found ways to keep players under their thumb. After Robert Kennedy was shot in June 1968, five players refused to take the field on the day of national mourning that followed; all five were gone from their teams by the end of the year.

Players-union head Marvin Miller told Flood he had virtually no chance of obtaining the free agency he sought or recouping the \$90,000 in salary he would be forgoing. But Flood, an enterprising and tenacious player who had been somewhat radicalized by the racism he had faced in the minor leagues, insisted. (Snyder's title comes from a much-vilified remark Flood made to Howard Cosell.) "You don't do these things if you scare easily," Flood said of standing down a 1964 racial incident, "and this time I knew I was legally and morally right." Those same words could have applied to his lawsuit half a decade later.

Snyder, a lawyer, makes his book a biography not of Curt Flood but of a legal action

wending its way up the appellate ladder. Flood's suit was finally heard in New York District Court on May 19, 1970. Although the union's player reps had voted to have the MLBPA foot his legal bills, no current players offered to testify or even showed up to offer moral support. Two of the game's greatest mavericks, Jackie Robinson and former owner Bill Veeck, testified on Flood's behalf, but many retired players, including Ted Williams and Joe DiMaggio, made their opposition public. Future *Sale of the Century* host Joe Garagiola actually took the stand to testify against him.

In August 1970, the judge in the case found in favor of Major League Baseball. The following February, as his case worked its way toward the Supreme Court, Flood went to spring training with the Washington Senators, having passed most of 1970 in Denmark drinking vodka and chasing Scandinavian girls. Thirty-three years old and in poor shape, Flood huffed and puffed his way through only a few weeks of the season. His onetime critic Ted Williams served as his manager that spring and told a reporter: "Syphilitic Jesus Christ, that guy can't play a lick." Before April ended, Flood bolted from the team, fleeing to Europe and hiding from the press. Forfeiting half his salary, he wound up tending bar in Majorca.

It wasn't until that fall that the Supreme Court agreed to hear *Flood v. Kuhn*. Former Supreme Court justice Arthur Goldberg argued the case before his old colleagues, and, as Snyder tells it, he choked worse than the 2004 Yankees. In his allotted half hour of oral argument, Goldberg recited a whole slew of trivia that no one disputed, including Flood's year-by-year batting averages. He failed to answer the justices' questions; at one point, the audience actually laughed at him. Snyder gleefully dissects the argument virtually line by delicious line, paus-

ing to note the irritation visible on the faces of Goldberg's erstwhile brethren. As he left the court that morning, Goldberg told an associate, "That was the worst argument I've ever made in my life."

Goldberg, like Flood, had put aside the career he had dreamed of and lived to regret it. After just three years on the Supreme Court, Goldberg was persuaded by Lyndon Johnson to become his ambassador to the UN—which also allowed LBJ's good friend Abe Fortas to join the court. Now in private practice in New York, Goldberg was seeking a way to make himself prominent once again; in the middle of Flood's original suit, Goldberg left the case to run for governor of New York. Like Curt Flood, he lost.

By the time the Supreme Court handed down its 5-3 decision in *Flood v. Kuhn*, Flood's baseball career was over. He remained in Europe for a time, tending bar and going broke; when he was ready to come home, his father had to pay for his ticket. A brief stint as an Oakland A's radio announcer in 1978 (his only postplaying job in pro baseball) provided a bit of relief, but Flood never really came out of his downward spiral until he quit drinking in 1986. By then, the reserve clause was long gone: An arbitrator had ruled in 1975 that the clause was indeed in force for but a single year, and anyone who played out that option year had the right to free agency. By the time Curt Flood died of throat cancer in 1997, any player with ten years' experience, the last five with the same team, had the right to refuse a trade to another team. Curt Flood lost his suit, but within his lifetime, the players had gained everything he had fought for. Flood's defeat was merely the first skirmish in a war the players won in a rout. □

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