

2010 Scholarship Luncheon Remarks - Kathryn Johnson '77

Thank you, Dean Levi, for the introduction.

It is a privilege to be here today to speak for myself and on behalf of the law clerk donors to the Judge Gerald B. Tjoflat Scholarship Fund.

As the Dean has told you, I graduated from the Law School in 1977. I came here on a combination of work/study, loan and scholarship. Duke Law was willing to match what was offered to me by University of Chicago--and that amount went much farther in Durham than it would have gone in Chicago. I have always been grateful to the school for making it possible for me to get my legal degree and ultimately to have the life I now enjoy. (Which, by the way, includes my husband, Bruce, Duke undergraduate '73, B-school and Law '77, whom I met while we were students here.)

After graduation I was honored to be chosen as a law clerk to Judge Tjoflat. He had recently been confirmed as a Fifth Circuit judge (and now I'm showing my age since it was pre the split of the Fifth that created the 11th Circuit, where he became Chief Judge and still serves). I was the Judge's 16th law clerk and the first woman. For (most/many) of you here the status of professional women at that time must be hard to imagine. For example, I pretended that I didn't know how to touch type because I feared that I would be relegated to clerical work. My fears were unfounded: clerking for the Judge was by far the best job I've ever had.

The Judge always treated me as a law clerk, which is to say, in the very best of ways. For all of us the Judge was, and is, a teacher, a mentor and a friend.

We lived in Jacksonville, Florida, where the Judge resides, and we "rode the Circuit" with the Judge: I have many memories--New Orleans most often (grits and "day-brie" and other memorable meals, the King Tut exhibit), Atlanta, Dallas, the long week in Jackson, Mississippi.

The Judge has had 146 law clerks so far during his time on the bench. He has a "Rogues' Gallery" (as he calls it) in his chambers: each one of us has had a photo portrait taken. All the pictures are framed and they are hung throughout his chambers, starting in the reception area and stretching through the library and back again. I like to think that he enjoys being surrounded by us. Or maybe he is intimidating the current clerks?

The Judge writes to us and sends us his thoughts on important issues. He is involved with us on a personal level, sending silver spoons for the births of "his" "grandclerks", of which there are now over 200. I'm certain that I'm not alone in having children who grew up on stories of the Judge--because he has been so important to my life, he has been an influence on my family. My father still talks about the dinner where he mortified my mother by arguing with the Judge. That would be the one argument in his life that my father would acknowledge losing.

I would like to quote to you from Fredonia Broadcasting Corporation, Inc. v. RCA Corporation, 569 F. 2d 251 (5th Cir. 1978), a case decided during my clerkship, in which Judge Tjoflat held that a trial judge should have disqualified himself from the retrial of

the case because his former law clerk, who now was involved in representing the plaintiff, had worked on the case when it was tried the first time. It's a rather long quote, so please bear with me.

"In order to fully appreciate the role of a law clerk and to evaluate the taint of impropriety that occurred in this case, we consider it appropriate to note briefly the role of law clerks in our judicial system. Historically, the practice of employing federal judicial law clerks began in 1882 when Justice Horace Gray was appointed to the Supreme Court. Justice Oliver Wendell Holmes, who continued this practice when he succeeded Justice Gray, termed law clerks 'puisne judges.' Congress has provided that 'district judges may appoint necessary law clerks'. The law clerk has no statutorily defined duties but rather performs a broad range of functions to assist his judge. A judicial clerkship provides the fledgling lawyer insight into the law, the judicial process, and the legal practice. The association with law clerks is also valuable to the judge; in addition to relieving him of many clerical and administrative chores, law clerks may serve as sounding boards for ideas, often affording a different perspective, may perform research, and may aid in drafting memoranda, orders and opinions.

"This general knowledge and experience is an invaluable asset to the law clerk and his subsequent utilization of the knowledge is to be encouraged A law clerk, by virtue of his position, is obviously privy to his judge's thoughts in a way that the parties cannot be."

In his State of the School presentation yesterday, Dean Levi--who has his own first-hand experience--remarked upon the importance of judicial clerkships to the legal profession.

Judge Tjoflat truly lives this tradition; he would gather us in his office to discuss cases, and he encouraged us to reason, to discuss, to debate. In many ways, clerking for the Judge was a continuation of law school, but at an even higher level.

The Judge is fond of referring to us as the "law clerks union", and we have had reunions to honor the Judge over the years. We gather to see each other and reminisce. Someone always cues the "best" stories so that we can all hear them again--and make certain that the more recent clerks are in the know. We will be gathering at Ponte Vedra in Jacksonville next weekend to celebrate the Judge's 40th anniversary in the judiciary. I'm certain someone will arrange for a flip chart so that we can get the Chappaquiddick diagram.

On the occasion of the Judge's 35th anniversary as a federal judge, Jim Stephenson, Duke Law '76, Bob Parrish, Duke undergraduate '73 and Duke Law '78 (and shop steward of our law clerks' union), and Bill Thompson, Duke undergraduate '73 and Duke Law '79, floated the idea of creating a legacy at the law school in the Judge's honor.

Judge Tjoflat has a long and committed history with Duke Law School. He graduated in 1957 (after undergraduate work at the University of Virginia and the University of Cincinnati and serving two years in the Army's Counterintelligence Corps during the Korean War). He was one of the original members of the Board of Visitors when it was formed in the early 1970s and has been a life member since 1996.

Perhaps even more to the point, of the 146 law clerks the Judge has so far employed, 64 of us are Duke alumni. We are spread out across the country and over an ocean. We number professors, state and federal judges, practicing lawyers (in firms large and small), business men and women, volunteers, even a nominee for the Nobel Peace Prize. What we have in common is that we all have gained immeasurably from our association with the Judge.

When Bob Parrish called me with the idea of creating a legacy for the Judge, it seemed natural to honor him by creating a scholarship in his name. To honor the Judge, this great mentor and teacher, by providing the means for worthy law students to be educated at the law school with which he is so entwined--what could be more perfect?

And as the first woman law clerk, I am particularly pleased that the inaugural recipient of the Tjoflat Scholarship was a woman, Laura Hidalgo, Law 2011.

I would like to end with a few words that Bob Parrish wrote to me about Judge Tjoflat and this scholarship:

"I attended [the Scholarship] Luncheon with the Judge and Laura. I have never seen him more excited or quietly pleased--perhaps feeling that . . . he had accomplished something. For all his "bigness," I think he's not very egotistical, but a true devotee to duty and honor. It looked to me on that occasion that he felt just a tiny bit of pride--an emotion I suspect he disdains."

Judge, I certainly hope you are proud--we all think you deserve to be.

And I thank you.